

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 2/2/2016, at Kyle City Hall, 100 W. Center St., Kyle, Texas 78640 for the purpose of discussing the following agenda.

Posted this 29th day of January, 2016, prior to 7:00 p.m.

I. Call Meeting To Order

II. Approval of Minutes

1. City Council Regular Meeting - January 5, 2016. ~ *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. Appointments

2. Confirm City Manager's appointment to the Civil Service Commission to fill a vacancy for an unexpired term to expire July 7, 2016. ~ *J. Scott Sellers, City Manager*
 - Aaron Townsend

 [Attachments](#)

V. Consent Agenda

3. (*Second Reading*) An Ordinance calling a Special Election to be held on May 7, 2016 in the City of Kyle, Texas to submit propositions on amendments to the City of Kyle Home Rule Charter; Making provision for the conduct of the election; Resolving other matters incident and related to such election; Providing for severability and setting an effective date. ~ *Frank Garza, City Attorney*

 [Attachments](#)

4. *(Second Reading)* An Ordinance of the City of Kyle, Texas, ordering the May 7, 2016 General Election; Establishing the procedure therefore; and Providing for related matters. ~ *Frank Garza, City Attorney*

 [Attachments](#)

5. Ratify the award of a Purchase Order to ALSAY INCORPORATED of Houston, Texas in the amount of \$27,225.08 for emergency repairs ordered by the Public Works Department to include water pump rebuild and to replace bearing at Well 2 site located at 701 W Moore Street in Kyle, Texas. ~ *Harper Wilder, Director of Public Works*

 [Attachments](#)

6. Approve Change Order No. 2 to CAPITAL EXCAVATION COMPANY, Buda, Texas, in an amount not to exceed \$7,000.00 for a total contract amount of \$3,814,876.00 for additional drainage work required for Marketplace Avenue construction project. ~ *Leon Barba, P.E., City Engineer*

 [Attachments](#)

7. Approve Supplement No. 7 to FREESE AND NICHOLS, INC., Austin, Texas, in an amount not to exceed \$37,180.00 for a total contract amount of \$1,361,175.00 for the purpose of performing additional utility engineering, geotechnical testing, and property acquisition services needed to realign a wastewater line for the Burlison Street project. ~ *Leon Barba, P.E., City Engineer*

 [Attachments](#)

VI. Consider and Possible Action

8. Consider a request by Noe and Maria Briseno (114-A and 114-B Sunrise Circle) for a variance to Chapter 41 (Subdivision) Section 82, Rural Subdivision Standards (e) (2) of the City of Kyle Code of Ordinances, which states all lots in a rural subdivision shall have a minimum width of 130 feet at the front property line. ~ *Howard J. Koontz, Director of Planning and Community Development*

Planning and Zoning Commission voted 6-1 to recommend approval of the request.

• PUBLIC HEARING

 [Attachments](#)

9. *(First Reading)* An ordinance amending Chapter 50 “Utilities”, of the Code of Ordinances of the City of Kyle, Texas, by the addition of Article IX, “stormwater regulations; providing findings and definitions; providing for the regulation non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by both the United States Environmental Protection Agency and the Texas Commission on Environmental Quality; providing for penalties; repealing all ordinances or parts of ordinances in conflict herewith; providing a savings clause; providing for the inclusion in the Code of Ordinances; providing for an effective date associated

training. ~ *Leon Barba, P.E., City Engineer; Kathy Roecker, Stormwater Management Plan Administrator*

 [Attachments](#)

10. Consider and take action to approve Supplement No. 3 to HDR ENGINEERING, INC., Austin, Texas, in an amount not to exceed \$79,600.00 for a total contract amount of \$1,044,754.50 as requested by City Council for the purpose of revising the Lehman Road engineering plans to remove the proposed bridge structure over the tributary to Plum Creek, lowering the profile of the proposed roadway, and reducing construction costs by approximately \$1.0 million. ~ *Leon Barba, P.E., City Engineer*

 [Attachments](#)

11. Discussion on Smoking Ordinance. ~ *Becky Selbera, Council Member*

 [Attachments](#)

12. Update on County Support for Drainage and Stormwater Improvements. ~ *Todd Webster, Mayor*

 [Attachments](#)

13. Discussion and action regarding rescinding approval of ILA with Mountain City and Hays County for annexation and ETJ release and to provide utility services. ~ *Todd Webster, Mayor*

 [Attachments](#)

14. Approve a letter of intent with Mountain City 150, LP. ~ *Todd Webster, Mayor*

 [Attachments](#)

15. Discussion on public transportation in the City of Kyle. ~ *Diane Herval, Council Member*

 [Attachments](#)

VII. City Managers Report

16. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*

- Disposition of Hurlston vs. City of Kyle

 [Attachments](#)

VIII. Executive Session

17. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene

into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - Jesse Espinoza Appeal Update
 - Aqua Lawsuit Update
 - Negotiations for Extension of Wastewater Services.
2. Property acquisitions for road bond projects.Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Economic Development negotiations pursuant to Section 551.087.
 - Negotiations for Extension of Wastewater Services.

 [Attachments](#)

18. Take action on items discussed in Executive Session.

 [Attachments](#)

IX. 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 Meeting Minutes, 1-5-16

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: City Council Regular Meeting - January 5, 2016. ~ *Amelia Sanchez, City Secretary*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- 2016 0105 City Council Minutes

REGULAR CITY COUNCIL MEETING MINUTES

The City Council of the City of Kyle, Texas met in Regular Session on January 5, 2016 at Kyle City Hall with the following persons present:

Mayor Todd Webster	Jerry Kolacny
Mayor Pro Tem David Wilson	Steven Cook
Council Member Diane Hervol	Kate Johnson
Council Member Becky Selbera	Madonna Hayes
Council Member Shane Arabie	Carol McElyea
Council Member Damon Fogley	Jerry McElyea
Scott Sellers, City Manager	Eddie Ethridge
Frank Garza, City Attorney	David Manuel
Jerry Hendrix, Chief of Staff	Sue Ellen Creek
Cindy Stohr, Special Events Coordinator	Dane Jackson
Leon Barba, City Engineer	Linda Tenorio
Diana Torres, Economic Development Director	Tyler Williams
Perwez Moheet, Finance Director	Margaret McGuinness
Howard Koontz, Community Development Director	Kevin Allen
Jeff Barnett, Chief of Police	Crystal Aviles
Harper Wilder, Public Works Director	

I. Call Meeting To Order

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

ROLL CALL

Mayor Webster called for roll call and indicated he had an announcement. Present were Mayor Todd Webster, Mayor Pro Tem David Wilson, Council Member Diane Hervol, Council Member Becky Selbera, Council Member Shane Arabie, and Council Member Damon Fogley. Mayor Webster announced that Council Member Daphne Tenorio was absent due to illness. Mayor Webster asked if there were any objections to excusing Council Member Tenorio's absence. There were none; Mayor Webster asked for the record to show Ms. Tenorio's absence excused.

He announced that former City of Kyle Mayor James Adkins had passed away Sunday afternoon and funeral services would be at True Vine Baptist Church in Tyler, Texas on Saturday at 11:00 a.m. Mayor Webster stated that former Mayor Adkins would do an invocation before each council meeting. Mayor Webster proceeded with a prayer message in former Mayor Adkins' honor.

II. Approval of Minutes

1. City Council Regular Meeting - December 15, 2015. ~ Amelia Sanchez, City Secretary

Item 1 2015 1215 Minutes

Council Member Hervol moved to approve City Council Regular Meeting Minutes for December 15, 2015. Council Member Arabie seconded the motion. Motion carried 6-0.

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.

Mayor Webster opened Citizen Comments at 7:05 p.m. Chief of Staff Jerry Hendrix introduced Cindy Stohr, the new Special Events Coordinator. Jerry Kolacny spoke regarding the lack of planning for the new roads that are going in, specifically the Public Works needing to cut through the road to access the water and sewer lines. He spoke of a new development in which they are cutting the street to put the water and sewer connections in. His concern is for the City to minimize or possibly eliminate the need to cut into the streets on the new 20- or 30-million dollar worth of streets that are going in. He thinks the city should be planning ahead and having taps for sewer, water, fire hydrants and whatever else is needed in the new developments so that we don't have to be cutting into the newly paved streets. He explained that doing so results in potholes and patchwork. Mr. Kolacny would like the Council to consider weight limits on some roads. He stated that the life of the road is impacted by this. Steven Cook, Commander of the VFW in Kyle, was called to speak. He thanked the city for its support and spoke about the many events and contributions the Kyle VFW has made over the last year, including being active during the flood recovery in October, helping a homeless veteran, and maintaining the flags throughout the city. He requested to be able to take over the sign near the VFW, replace the plastic to read VFW, repaint it, and use it to promote VFW events. He also invited the community to the VFW Open House taking place January 28th at 7:00 p.m. Kate Johnson, Chair of the Kyle Train Depot Board, was called to speak. She stated that the Board is working with the Hays County Historical Commission to provide additional volunteers and expertise for the operation of the Depot Visitors Center and Museum. There will be a soft opening held January 23rd from 10:00 a.m. - 12:00 p.m. Betty Harrison has authored a book on the history of Kyle which will be available soon, and a book signing will be held as a featured event of the soft opening. Proceeds will be donated for the upkeep of the Depot. A grand official re-opening will be announced at a later date. Madonna Hayes spoke regarding the CARTS program which ended December 31, 2015. She would like the Council to find an alternative transportation program for the citizens to use that is more affordable. Carol McElyea spoke regarding recent events in our nation allowing for immigration. She requested that our city prepare an impact statement regarding immigrants with respect to social security and jobs. She stated that among these immigrants there will likely be some Jihadists who are out to destroy the United States. Jerry McElyea spoke regarding the Planning and Zoning Commission issuing permits without consideration of water supply. He would like the Council to come up with regulations to require a commitment on water supply before the issuance of a permit. He also spoke regarding Highway 150's heavy traffic. He spoke about visibility due to hills and traffic lights and stated there have been accidents in front of our schools. He stated many residents would like to see the speed limit reduced from Highway 21 to Interstate 35 to 40 miles per hour. He also spoke about the intersection of Highway 150 and the Interstate, giving suggestions for a

CITY COUNCIL MEETING MINUTES

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Kyle City Hall

dedicated right turn lane. With no one else wishing to speak, and no objections to closing citizen comments, Mayor Webster closed citizen comments at 7:30 p.m.

IV. Presentation

2. LAN Transportation Master Plan Update. ~ David Manuel, Senior Planning Manager

Item 2 LAN Transportation Master Plan Update

Eddie Ethridge spoke and introduced David Manuel, who made the presentation. He also announced that the final public meeting will be held at Fuentes Elementary on February 9th. No action was taken.

V. Consent Agenda

Mayor Webster asked if there were any items requested to be pulled from the Consent Agenda. There were none. With no objections, Mayor Webster placed Consent Agenda Item Nos. 3, 4, 5, 6, and 7 on the table for discussion.

3. Authorize award and execution of a Purchase Order to BLUEBONNET MOTORS, New Braunfels, Texas, in the amount of \$29,150.23 for the purchase of one (1) 2016 Ford 150 four- wheel drive truck for the Public Works Department through the Lower Colorado River Authority's (LCRA) Cooperative Government Pricing Contract. ~ Harper Wilder, Director of Public Works Department

Item 3 Authorization to Purchase One 4X4 Truck for Public Works

4. Approve contract Task Order No. 5 to NEPTUNE-WILKINSON ASSOCIATES, INC., Austin, Texas, in an amount not to exceed \$22,500.00 for the purpose of providing engineering services for restoration of the Downtown Elevated Tank located on W. Lockhart Street. ~ Leon Barba, P.E., City Engineer Attachments

Item 4 Downtown Elevated Tank Restroation - Neptune-Wilkinson

5. Approve Amendment No. 3 to LNV, INC., Austin, Texas, in an amount not to exceed \$64,774.00 for the purpose of providing additional acquisition services for the Elliott Branch Wastewater Interceptor Project. ~ Leon Barba, P.E., City Engineer

Item 5 Elliott Branch Acquisition Services (Amendment #3) - LNV, Inc.

6. (First Reading) Approve an Ordinance amending the City's Approved Budget for Fiscal Year 2015-16 by increasing total appropriations for expenditures by \$79,500.00 to complete storm related repairs authorized for various City parks and decreasing fund balance by the same amount in the Park Development Fund. ~ Perwez A. Moheet, CPA, Director of Finance

Item 6 Budget Amendment No. 1 FY 2015-16 Flood Damage Repairs to Parks

7. Declare six 4-drawer CD/DVD cabinets as surplus property and approve the donation of the cabinets from the Kyle Public Library to The Friends of the Kyle Library. ~ Jerry Hendrix, Chief of Staff

Item 7 Library donation of CD-DVD cabinets to Friends of the Library

Council Member Hervol moved to approve Consent Agenda Item Nos. 3, 4, 5, 6, and 7. Council Member Arabie seconded the motion. All votes aye; motion carried 6-0.

VI. Consider and Possible Action

8. (First Reading) An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 1.30 acres of land from Single Family Residential 'R-1' to Residential Townhome 'R-1-T' on property located at 707 Live Oak Street, in Hays County, Texas. (Richard Giberson - Z-15-020). ~ Howard J. Koontz, Director of Planning and Community Development Planning and Zoning Commission voted 5-1 to recommend approval of the request.

Item 8 Richard Giberson - Zoning

PUBLIC HEARING

With no objections, Mayor Webster placed Item No. 8 on the table for discussion. Mr. Koontz presented the item. Mayor Webster opened the Public Hearing at 8:03 p.m. Sue Ellen Creek, a resident of Silverado Subdivision spoke in opposition to the zoning change. She stated her main concern as a resident is the traffic because there is only one outlet: Monterra Street. Ms. Creek stated that building townhomes versus homes will be likely 400 vehicles driving through their main thoroughfare. She also mentioned concerns for the effect on their property values and more kids in the schools, which are already at capacity. Dane Jackson then spoke stating his concerns for the property values of the Silverado Subdivision. He also expressed concerns with traffic flow issues as well as run off. Linda Tenorio stated that she felt it was poor planning on these townhouses, and that there hasn't been enough information provided to either the citizens or the Council. She was concerned with the traffic and the drainage. Mayor Webster then gave an opportunity to the applicant to speak in defense of the proposed zoning change. Tyler Williams spoke about the project describing the townhomes as a buffer between commercial to single family attached to single family detached. He also stated that traffic would not need to flow from the properties through Silverado unless they were visiting friends or family who live in that subdivision, and actually their project would alleviate traffic from San Felipe and Salado by providing an alternate route out of the neighborhood. He also mentioned the requirement by city code to detain runoff for that area, which would be an improvement from leaving it undeveloped. He shared their plan is to connect with Cockerham, with no additional traffic on Live Oak. Dane Jackson returned to the podium stating that there is only one access point, which is Monterra, for entrance and exit to the property. Margaret McGuinness spoke of her concern of Monterra and San Felipe being the main thoroughfare for the trucks and debris from the property. She also stated that traffic is bad now and that they removed the stop sign near her house about six years ago. She

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stated people are driving 40 miles per hour in that area. She stated everyone will be using the fastest way whether commuting to work or returning home. Kevin Allen, a resident of the Silverado Subdivision, then spoke about the homes that are going in on the north side of them which will likely add 200 vehicles to the area, in addition to this project with an estimated 400 vehicles. He said no one wants to see the town's value go down. Crystal Aviles, a resident of Silverado, spoke regarding the flood in October, and traffic issues in the area. She spoke about the children using routes in the neighborhood to get to school. She stated the traffic and flooding is going to get worse. With no one else wishing to speak, and with no objections to closing, Mayor Webster closed the Public Hearing at 8:23 p.m. Discussion continued between the City Council and Planning and Community Development Director Howard Koontz.

Council Member Arabie moved to approve on First Reading An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 1.30 acres of land from Single Family Residential 'R-1' to Residential Townhome 'R-1-T' on property located at 707 Live Oak Street, in Hays County, Texas. (Richard Giberson - Z-15-020). Mayor Webster seconded the motion. Mayor Webster called for a roll call vote. Council Member Selbera voted nay, Mayor Webster voted nay, Council Member Arabie voted aye, Mayor Pro Tem Wilson voted nay, Council Member Hervol voted nay, Council Member Fogley voted nay. Motion failed 1-5.

9. (First Reading) An Ordinance amending Chapter 53 (Zoning) of the City of Kyle, Texas, for the purpose of rezoning approximately 14.083 acres of land from Single Family 'R-1' to Residential Townhome 'R-1-T', on property located at the northwest corner of Live Oak Street and St. Anthony's Drive, in Hays County, Texas. (WS Live Oak Kyle LLC - Z-15-019). ~ Howard J. Koontz, Director of Planning and Community Development Planning and Zoning Commission voted 5-1 to recommend approval of the request.

Item 9 WS Live Oak Kyle - Zoning

PUBLIC HEARING

With no objections, Mayor Webster placed Item No. 9 on the table for discussion. Mayor Webster opened the Public Hearing at 9:00 p.m. Council Member Arabie noted that the comments from the Public Hearing on Item No. 8 will also apply to this item. With no one wishing to speak, Mayor Webster closed the Public Hearing at 9:00 p.m. The applicant withdrew the item.

10. Consider a request by Krishna Kyle, LLC (Hampton Inn Suites - 151 Bunton Creek Road) for a Conditional Use Permit to construct a building with a height greater than 45 feet as required by Chapter 53 (Zoning) Section 1047 - Authorized Conditional Uses (13) of the City of Kyle Code of Ordinances, which states buildings with a height of up to 150 feet may be allowed in the Retail Service District. ~ Howard J. Koontz, Director of Planning and Community Development
Planning and Zoning Commission voted 6-0 to recommend approval of the request.

Item 10 Hampton Inn - Height Waiver

PUBLIC HEARING

With no objections, Mayor Webster placed Item No. 10 on the table for discussion. Mr. Koontz presented the item. Mayor Webster opened the Public Hearing at 9:05 p.m. With no one wishing to speak, Mayor Webster closed the Public Hearing at 9:05 p.m.

Council Member Hervol moved to approve a request by Krishna Kyle, LLC (Hampton Inn Suites - 151 Bunton Creek Road) for a Conditional Use Permit to construct a building with a height greater than 45 feet as required by Chapter 53 (Zoning) Section 1047 - Authorized Conditional Uses (13) of the City of Kyle Code of Ordinances, which states buildings with a height of up to 150 feet may be allowed in the Retail Service District. Council Member Arabie seconded the motion. All votes aye; motion carried 5-0. Council Member Fogley left the dais during this item and did not vote.

11. Consider a request by MNT & S Development (Sonic Drive In) for a waiver to exceed the maximum number of parking spaces per the Code of Ordinances, Chapter 53 (Zoning) Section 53-33 (n) (3) (Maximum Parking) for property located at 400 E. RR 150. ~ Howard J. Koontz, Director of Planning and Community Development

Item 11 Sonic Drive In - Parking Waiver

With no objections, Mayor Webster placed Item No. 11 on the table for discussion. Mr. Koontz presented the item. Council Member Fogley returned to the dais for the presentation of this item.

Council Member Fogley moved to approve a request by MNT & S Development (Sonic Drive In) for a waiver to exceed the maximum number of parking spaces per the Code of Ordinances, Chapter 53 (Zoning) Section 53-33 (n) (3) (Maximum Parking) for property located at 400 E. RR 150. Council Member Selbera seconded the motion. All votes aye; motion carried 4-0. Council Members Hervol and Arabie left the dais during this item and did not vote.

12. Approve a split-funding agreement with VIGILANT SOLUTIONS, INC., Livermore, CA, to install license plate recognition products in three Kyle Police Department vehicles to collect on outstanding municipal warrants and fines for a 25 percent fee of the amount of the fine. ~ Jeff Barnett, Chief of Police

Item 12 License Plate Reader Program

With no objections, Mayor Webster placed Item No. 12 on the table for discussion. Chief Barnett presented the item. Council Member Selbera left the dais during the presentation and did not return or vote on any following items.

Mayor Pro Tem Wilson moved to approve a split-funding agreement with VIGILANT SOLUTIONS, INC., Livermore, CA, to install license plate recognition products in three Kyle Police Department vehicles to collect on outstanding municipal warrants and fines for a 25 percent fee of the amount of the fine. Council Member Hervol seconded the motion. All votes aye; motion carried 5-0.

13. (First Reading) Approve an Ordinance amending the City's Code of Ethics as adopted by Ordinance No. 581, to amend Part G, Section 2(d) items (2) and (3) pertaining to the itemized list of disqualifications from serving on the Ethics Commission as follows; Section 2(d)(2) is amended to read "an elected city official" instead of "an elected public official" and Section 2(d)(3) is amended to read "a candidate for elected city office" instead of "a candidate for elected public office." ~ Frank Garza, City Attorney

Item 13 (First Reading) Approve an Ordinance amending the City's Code of Ethics

With no objections, Mayor Webster placed Item No. 13 on the table for discussion. Mr. Garza presented the item.

Mayor Pro Tem Wilson moved to approve on First Reading an Ordinance amending the City's Code of Ethics as adopted by Ordinance No. 581, to amend Part G, Section 2(d) items (2) and (3) pertaining to the itemized list of disqualifications from serving on the Ethics Commission as follows; Section 2(d)(2) is amended to read "an elected city official" instead of "an elected public official" and Section 2(d)(3) is amended to read "a candidate for elected city office" instead of "a candidate for elected public office." Council Member Fogley seconded the motion. All votes aye; motion carried 5-0.

14. (First Reading) An Ordinance of the City of Kyle, Texas Amending the Membership of Boards; Providing Terms, Appointments, Qualifications for Ex Officio Members; Amending Section 53-5 Definitions of the Code of Ordinances; Providing an Effective Date; and Making Such Other Findings and Provisions Related Hereto. ~ Diana Torres, Director Economic Development

Item 14 (First Reading) Ordinance Amending Boards to include Ex Officio Membership

With no objections, Mayor Webster placed Item No. 14 on the table for discussion. Mr. Garza presented the item.

Council Member Hervol moved to approve on First Reading an Ordinance of the City of Kyle, Texas Amending the Membership of Boards; Providing Terms, Appointments, Qualifications for Ex Officio Members; Amending Section 53-5 Definitions of the Code of Ordinances; Providing an Effective Date; and Making Such Other Findings and Provisions Related Hereto.. Council Member Arabie seconded the motion. Motion carried 4-1 with Mayor Webster dissenting.

15. A Resolution of the City Council of the City of Kyle, Texas Ratifying Ex Officio Membership for the Economic Development & Tourism Board; Providing for an Effective Date. ~ Diana Torres, Director Economic Development

Item 15 ED&T Ex Officio Resolution

Mayor Webster placed Item No. 15 on the table for discussion. Mrs. Torres presented the item.

Mayor Pro Tem Wilson moved to approve a Resolution of the City Council of the City of Kyle, Texas Ratifying Ex Officio Membership for the Economic Development & Tourism Board; Providing for an Effective Date.. Council Member Hervol seconded the motion. All votes aye; motion carried 5-0.

16. Appointment of two (2) Ex-officios and two (2) Citizen Members to the Economic Development and Tourism Board. ~ Brian Ziegler, Economic Development & Tourism Board Chairman Adriana Cruz, Greater San Marcos Partnership President Julie Snyder, Kyle Area Chamber of Commerce CEO Jim Hough, Kyle Resident Jo Fenety, Kyle Resident

Item 16 Appointments to ED&T Board Ex Officios and Citizen Members

With no objections, Mayor Webster placed Item No. 16 on the table for discussion. Mr. Ziegler presented the item.

Mayor Pro Tem Wilson moved to approve appointments of two (2) Ex-officios (Adriana Cruz, Greater San Marcos Partnership President and Julie Snyder, Kyle Area Chamber of Commerce CEO) and two (2) Citizen Members (Jim Hough, Kyle Resident and Jo Fenety, Kyle Resident) to the Economic Development and Tourism Board.. Council Member Fogley seconded the motion. All votes aye; motion carried 5-0.

VII. City Managers Report

17. Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ J. Scott Sellers, City Manager

Item 17 CM Report Cover Sheet

Mr. Sellers spoke about FEMA approval for public assistance for the Halloween flooding event. It will allow the City to recuperate qualifying expenditures. A training meeting is coming up for that to be mostly reimbursed for those costs.

VIII. Executive Session

18. Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.
 1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - Contemplated Litigation - Driskell Property.
 2. Property acquisitions for road bond projects. Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.

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Kyle City Hall

- Property acquisitions for road bond projects.
3. Personnel matters pursuant to Section 551.074.
 4. Economic Development negotiations pursuant to Section 551.087.

Item 18 Convene Executive Session Cover Sheet

Mayor Webster placed Item No. 18 on the table.

Mayor Pro Tem Wilson moved to convene into executive session Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics. Council Member Arabie seconded the motion. All votes aye; motion carried 5-0.

The City Council convened into Executive Session at 9:41 p.m.

19. Take action on items discussed in Executive Session.

Item 19 Reconvene Open Session Cover Sheet

The Council reconvened in Open Session at 10:47 p.m. Council Member Hervol announced that no action took place in Executive Session, and none would be taken now.

IX. ADJOURN

Mayor Pro Tem Wilson moved to adjourn in memory of James Adkins who passed this week in honor of his good service for our community. All Council Members seconded. All votes aye; motion carried 5-0.

With no further business to discuss, the City Council adjourned at 10:48 p.m.

R. Todd Webster, Mayor

Attest: Amelia Sanchez, City Secretary



CITY OF KYLE, TEXAS

Civil Service Appointment

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Confirm City Manager's appointment to the Civil Service Commission to fill a vacancy for an unexpired term to expire July 7, 2016. ~ *J. Scott Sellers, City Manager*

- Aaron Townsend

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

(Second Reading) An Ordinance
calling a Special Election to be held
on May 7, 2016

Meeting Date: 2/2/2016

Date time:7:00 PM

Subject/Recommendation: *(Second Reading)* An Ordinance calling a Special Election to be held on May 7, 2016 in the City of Kyle, Texas to submit propositions on amendments to the City of Kyle Home Rule Charter; Making provision for the conduct of the election; Resolving other matters incident and related to such election; Providing for severability and setting an effective date. ~ *Frank Garza, City Attorney*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Ordinance
- Ordinance - Spanish

ORDINANCE NO. 2016-

AN ORDINANCE CALLING A SPECIAL ELECTION TO BE HELD ON MAY 7, 2016 IN THE CITY OF KYLE, TEXAS TO SUBMIT PROPOSITIONS ON AMENDMENTS TO THE CITY OF KYLE HOME RULE CHARTER; MAKING PROVISION FOR THE CONDUCT OF THE ELECTION; RESOLVING OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION; PROVIDING FOR SEVERABILITY AND SETTING AN EFFECTIVE DATE.

* * * * *

WHEREAS, the City Charter of the City of Kyle (“City”) was adopted in August 2000 and amended in May 2011, and has served the City and its citizens well; and

WHEREAS, in accordance with Section 13.08 of the Kyle City Charter, the City Council appointed a seven (7) member Charter Review Commission to determine whether any Charter provisions require revision; and

WHEREAS, the Charter Review Commission met from April through July to review the City Charter and in July, the Commission finalized its report of its findings in writing, and presented its proposed amendments to the City Council; and

WHEREAS, the City Council has reviewed the changes proposed by the Charter Review Commission and now wishes to submit the proposed charter amendments to the Charter for submission to the qualified voters of the City on the next uniform election date, May 7, 2016; and

WHEREAS, pursuant to Texas Local Government Code Section 9.004(e), more than one amendment may be combined in one ballot proposition as long as the amendments contain only one subject; and

WHEREAS, pursuant to the Texas Local Government Code Section 9.004 a ballot for proposed charter amendments shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments; and

WHEREAS, the City Council hereby finds and determines that propositions to be submitted are in compliance with the Texas Local Government Code and that the holding of this election on the uniform election date set forth below is in conformance with all applicable election laws.

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

SECTION 1. A Special Election shall be held on the 7th day of May, 2016, a uniform election date, in the CITY OF KYLE, TEXAS, (“City”) which date is not less than thirty (30) days from the date of the adoption of this ordinance (the "Ordinance"), for the purpose of submitting the following propositions to the qualified voters of the City to amend the Charter of the City.

SECTION 2. Ballot Propositions. The official ballots shall be prepared in accordance with the Texas Election Code, as amended, so as to permit electors to vote “FOR” or “AGAINST” the aforesaid proposition. Voters should place an “X” in the square beside the statement indicating the way they wish to vote.

SECTION 3. The following measures will be submitted to the qualified voters of the City at the election to be held on the date specified in the previous section in the form of propositions in accordance with Section 9.004 of the Texas Local Government Code and the City Charter.

I. AMENDMENTS

PROPOSITION ONE

Shall Sections 4.03 (g) (o) (p), 5.11 of the City Charter be amended to require submission to the qualified voters of the City to eliminate provisions which have become inoperative because they have been superseded by state law; replace obsolete references; update terminology to current legal usage, and to eliminate obsolete transitional provisions?

FOR _____ AGAINST _____

Article IV Sections 4.03 (g) (o) (p), Article V Section 5.11 of the City Charter shall be amended to eliminate provisions which have become inoperative because they have been superseded by state law; replace obsolete references; update terminology to current legal usage, and to eliminate obsolete transitional provisions so that the paragraphs when amended, shall read as follows:

Sec. 4.03. - The City Council.

(g) Adopt, modify, reject and carry out the plans proposed by the planning commission and other boards and commissions;

(o) For good cause, subject to the provisions in this charter, order a recall election to be held for or with respect to any member of the city council;

(p) Appoint and remove the city attorney, the municipal judge, and the associate municipal judges subject to the provisions in this charter;

Section 5.11. Run-Off Election.

If no candidate for an elective office receives a majority of the votes cast for that position in the regular or special election, a runoff election shall be held between the two (2) candidates who received the greatest number of votes. Such runoff election shall be held in accordance with State election laws ~~on the third Saturday following the election.~~ The candidate receiving the highest number of votes cast for the office in the runoff election shall be declared elected and if the runoff results in a tie vote, the tie shall be broken in a manner that is not inconsistent with the Texas Election Code, or by lot or chance as agreed by and between the candidates.

PROPOSITION TWO

Shall Sections 3.05 of the City Charter be amended to require submission to the qualified voters of the City to add causes to remove any elected officer to also include habitual substance abuse and conviction of a misdemeanor involving a crime of moral turpitude which are crimes involving dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on an elected official’s honesty, trustworthiness?

FOR _____ AGAINST _____

Article III Section 3.05, 3of the City Charter shall be amended to allow the removal of any elected officer to also include habitual substance abuse and a conviction of a misdemeanor involving a crime of moral turpitude which are crimes involving dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on an elected official’s honesty, trustworthiness when amended, shall read as follows:

Sec. 3.05. - City Council Judge of its Members.

The council shall be the judge of the election and qualifications of its members, may determine the rules of its proceedings, and shall have power to compel the attendance of absent members and to punish members for disorderly conduct. After due notice and opportunity to be heard, upon not less than six affirmative votes the council shall have the power to remove any elected officer for conviction of a felony, ~~gross immorality, habitual drunkenness, corruption, misconduct or malfeasance in office, conviction of a misdemeanor during their term of office involving a crime of moral turpitude.~~ Misdemeanors involving moral turpitude are those that involve dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on a member’s honesty or trustworthiness, or failing to continuously reside with the city and/or the district from which elected. Officers or employees of the city appointed directly by the council may be removed by majority vote of the council at any time after notice in compliance with the open meetings laws.

PROPOSITION THREE

Shall sections 4.01 and 4.03 of the City Charter be amended to authorize the City Council to recommend and approve appointments to all City Boards and Commissions?

FOR _____ AGAINST _____

Article IV. Sections 4.01 and 4.03 of the City Charter shall be amended to authorize the City Council to recommend and approve appointments to all City Boards and Commissions so that the paragraph when amended, shall read as follows:

Sec. 4.01. - Mayor.

The mayor shall serve as the ceremonial head of the city, preside at all meetings of the council and provide the leadership necessary to good government. He or she shall work with the council to obtain legislation in the public interest and with the city manager to ensure that the same is enforced, and participate in the discussion and vote on all legislative and other matters coming before the council. The mayor shall have signatory authority for all legal contracts and commitments of the city; sign all ordinances and resolutions; ~~recommend appointees for the boards and commissions;~~ work and coordinate with the city manager and the council; and, to the extent provided by state law in time of declared emergency, may take command of the police and govern the city by proclamation, maintain order and enforce all laws.

Sec. 4.03. - The City Council.

The following powers and duties of the council are not exclusive but are enumerated for greater clarity:

(f) Provide for boards and commissions as deemed necessary by the council, and as required by this charter, and appoint and remove all such boards and commissions ~~upon the recommendation of the mayor~~ provided that, if an appointment or removal has been considered at two regular meetings and no recommendation has been made the council may take action by motion and vote;

(t) Recommend appointees for boards and commissions.

PROPOSITION FOUR

Shall section 4.03 (a) of the City Charter be amended to eliminate the requirement of Council confirmation on the dismissal of the Director of Finance?

FOR _____ AGAINST _____

Article IV. Section 4.03 (a) of the City Charter shall be amended to eliminate the requirement of Council approval to remove the dismissal of the Director of Finance, so that the paragraph when amended, shall read as follows:

Sec. 4.03. - The City Council.

The following powers and duties of the council are not exclusive but are enumerated for greater clarity:

(a) Appoint, supervise and remove the city manager ~~and confirm dismissal of the Director of Finance by majority vote of the entire council~~

PROPOSITION FIVE

Shall section 4.05 of the City Charter be amended to clarify that neither the mayor or council shall instruct the City Manager or any city employee to hire or terminate any city employee and require the Mayor and Council to go through the city manager for administrative and management functions of the City?

FOR _____ AGAINST _____

Article IV, Section 4.05 shall be amended to clarify that neither the mayor or council shall instruct the city manager or any city employee to hire or terminate any city employee and require the mayor and council to go through the city manager for administrative and management functions of the City, when amended, shall read as follows:

Section 4.05 Prohibitions

Neither the council nor any of its members shall instruct or request the City Manager or any of the City Manager's subordinates to appoint to or remove from office or employment any person except with respect to those offices which are to be filled by appointment by the council under the provisions of this Charter. Except as provided for in Section 4.03 of this Charter, the City Council shall deal with the administrative and management functions of the city solely through the City Manager and other Council appointees, as appropriate, and shall not give directives to the City Manager's subordinates either publicly or privately.

PROPOSITION SIX

Shall sections 5.02 of the City Charter be amended to move the City's general election date for the Mayor and Councilmembers from May to November and approve a transitional provision extending terms of those elected in May 2016 and those terms expiring in May 2017 and May 2018 to November 2017, November 2018 and November 2019?

FOR _____ AGAINST _____

Article V, Section 5.02 .1 shall be amended to move the City’s general election date for the Mayor and Councilmembers from May to November and approve a transitional provision extending terms of those elected in May 2016 and those terms expiring in May 2017 and May 2018 to November 2017, November 2018 and November 2019 so that said paragraph, so when amended, shall read as follows:

5.02 General Elections

~~The general city election shall be held annually on the first Saturday in May, or if such not be authorized the date nearest thereto as may be established by law. The mayor and councilmembers shall be elected by majority vote.~~

(a). The general city election shall be held annually on the Tuesday in November in accordance with the Texas Election Code, or if such not be authorized the date nearest thereto as may be established by law. The mayor and councilmembers shall be elected by majority vote.

(b). **Transitional Provision:** Councilmembers of Districts 1 and 3 that are elected in May 2016 shall have their terms extended until November 2019. The Mayor and councilmembers of Districts 2 and 4 shall have terms extended until November 2017. Councilmembers of Districts 5 and 6 shall have terms extended until November 2018.

PROPOSITION SEVEN

Shall section 7.10 of the City Charter be amended to clarify that the City Attorney shall report to the City Manager but remain appointed by the Mayor and City Council?

FOR _____ AGAINST _____

Article VII, Section 7.10 shall be amended to clarify that the City Attorney shall report to the City Manager but still appointed by the Mayor and City Council, so when amended, shall read as follows:

Section 7.10. City Attorney.

There shall be a city attorney who shall be appointed and may be removed by the council and reports to the City Manager. The city attorney shall be a competent and duly licensed attorney and shall have not less than five (5) years experience practicing municipal law in Texas. He or she shall receive for his or her services such compensation as may be fixed by the council and shall advise the city on all legal matters and represent the city in all litigation and other legal matters. The city attorney may appoint assistant city attorneys, and the council may retain different or additional attorneys for specific matters when it deems same to be necessary

PROPOSITION EIGHT

Shall section 8.09 of the City Charter be amended to require two authorized signatures, one must be either the City Manager or Finance Director, for checks, vouchers, warrants or withdrawal of funds from city depositories?

FOR _____ AGAINST _____

Article VIII, Section 8.09 shall be amended to require two authorized signatures, for checks, vouchers, warrants or withdrawal of funds from city depositories, so when amended, shall read as follows:

Section 8.09. Depository.

The council shall from time to time select a depository or depositories for city funds on the basis of bids received from such institutions; provided that the council may by resolution invest reserve funds in any state or federally chartered bank or savings institution. All monies received by any person, department or agency of the city for or in connection with affairs of the city shall be promptly deposited in the city depository or depositories. All checks, vouchers, or warrants for the withdrawal of money from the city depositories shall ~~be signed by the city manager and the director of finance~~ require two authorized signatures. Of the two signatures, one must be either the City Manager or Director of Finance. The council may authorize the use of machine imprinted facsimile signatures of such persons on such checks, vouchers and warrants.

PROPOSITION NINE

Shall section 8.11 (e) of the City Charter be added so that any issuance of debt not have a repayment period greater than the life of the asset(s) being funded?

FOR _____ AGAINST _____

Article VIII, Section 8.11 (e) shall be added so that any issuance of debt not have a repayment period greater than the life of the asset(s) being funded, so that the paragraph, when added shall read as follows:

Section 8.11. Bonds and Financial Obligations.

- (e) the issuance of indebtedness of obligation should not have a repayment period greater than the life of the asset(s) as defined by General Accepted Accounting Principles purchased through the issuance of these indebtedness or obligations.

PROPOSITION TEN

Shall section 8.11 (f) of the City Charter be added so that any issuance of debt or instrument of obligation exceeding 5% of the annual assessed valuation of the city shall only be issued with a binding referendum being placed on the ballot and such expenditure approved by the voters?

FOR _____ AGAINST _____

Article VIII, Section 8.11 (f) shall be added so that any issuance of debt or instrument of obligation exceeding 5% of the annual assessed valuation of the city shall not be issued without a binding referendum being placed on the ballot and such expenditure approved by the voters, so that the paragraph, when added shall read as follows:

Section 8.11. Bonds and Financial Obligations.

- (f) no indebtedness or instrument of obligation exceeding 5% of the annual assessed valuation of the city shall be issued without a binding referendum being placed on the ballot approving such expenditure.

PROPOSITION ELEVEN

Shall section 13.10 of the City Charter be added so that all meetings, hearings and workshops of the Council, any Board, Commission or Committee of the City shall comply with the Texas Open Meetings Act and shall provide a time for public comment?

FOR _____ AGAINST _____

Article XIII, Section 13.10 shall be added so that all meetings, hearings and workshops of the Council, any Board, Commission or Committee of the City shall comply with the Texas Open Meetings Act and shall provide a time for public comment, so that the paragraph, when added shall read as follows:

Section 13.10 Open Meeting Compliance.

All meetings, hearings and workshops of the Council, any Board, Commission, or Committee of the City, shall be held in compliance with the Texas Open Meetings Act and shall provide time for public comment.

II. BALLOT PROPOSITIONS

PROPOSITION ONE

Shall Sections 4.03 (g) (o) (p), 5.11 of the City Charter be amended to require submission to the qualified voters of the City to eliminate provisions which have become inoperative because they have been superseded by state law; replace obsolete references; update terminology to current legal usage, and to eliminate obsolete transitional provisions?

FOR _____ AGAINST _____

PROPOSITION TWO

Shall Sections 3.05 of the City Charter be amended to require submission to the qualified voters of the City to add causes to remove any elected officer to also include habitual substance abuse and conviction of a misdemeanor involving a crime of moral turpitude which are crimes involving dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on an elected official’s honesty, trustworthiness?

FOR _____ AGAINST _____

PROPOSITION THREE

Shall sections 4.01 and 4.03 of the City Charter be amended to authorize the City Council to recommend and approve appointments to all City Boards and Commissions?

FOR _____ AGAINST _____

PROPOSITION FOUR

Shall section 4.03 (a) of the City Charter be amended to eliminate the requirement of Council confirmation on the dismissal of the Director of Finance?

FOR _____ AGAINST _____

PROPOSITION FIVE

Shall section 4.05 of the City Charter be amended to clarify that neither the Mayor or Council shall instruct the City Manager or any city employee to hire or terminate any city employee and require the mayor and council to go through the City Manager for administrative and management functions of the City?

FOR _____ AGAINST _____

PROPOSITION SIX

Shall sections 5.02 of the City Charter be amended to move the City’s general election date for the Mayor and Councilmembers from May to November and approve a transitional provision extending terms in May 2017 and May 2018 to November 2017 and 2018?

FOR _____ AGAINST _____

PROPOSITION SEVEN

Shall section 7.10 of the City Charter be amended to clarify that the City Attorney shall report to the City Manager but remain appointed by the Mayor and City Council?

FOR _____ AGAINST _____

PROPOSITION EIGHT

Shall section 8.09 of the City Charter be amended to require two authorized signatures, one must be either the City Manager or Finance Director, for checks, vouchers, warrants or withdrawal of funds from city depositories?

FOR _____ AGAINST _____

PROPOSITION NINE

Shall section 8.11 (e) of the City Charter be added so that any issuance of debt not have a repayment period greater than the life of the asset(s) being funded?

FOR _____ AGAINST _____

PROPOSITION TEN

Shall section 8.11 (f) of the City Charter be added so that any issuance of debt or instrument of obligation exceeding 5% of the annual assessed valuation of the city shall only be issued with a binding referendum being placed on the ballot and such expenditure approved by the voters?

FOR _____ AGAINST _____

PROPOSITION ELEVEN

Shall section 13.10 of the City Charter be added so that all meetings, hearings and workshops of the Council, any Board, Commission or Committee of the City shall comply with the Texas Open Meetings Act and shall provide a time for public comment?

FOR _____ AGAINST _____

SECTION 4. City Council shall adopt an Ordinance calling for a Special Election and such ordinance will include the requirements for calling an election.

Necessary Action. That the Mayor and the City Secretary of the City, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Code in carrying out and conducting the election, whether or not expressly authorized herein.

SECTION 5. Severability. That should any part, section, subsection, paragraph, sentence, clause or phrase contained in this ordinance be held to be unconstitutional or of no force and effect, such holding shall not affect the validity of the remaining portion of this ordinance, but in all respects said remaining portion shall be and remain in full force and effect.

SECTION 6. Effective Date. This Ordinance shall be in force and effect from and after the date of its adoption, and it is so ordained.

PASSED and APPROVED this _____ day of February 2016.

R. Todd Webster, Mayor

ATTEST:

Amelia Sanchez, City Secretary

APPROVED AS TO LEGAL FORM:

Frank J. Garza, City Attorney

ORDENANZA No. 2016

UNA ORDENANZA QUE CONVOCA UNA ELECCIÓN ESPECIAL QUE SE LLEVARÁ A CABO EL 7 DE MAYO DE 2016 EN LA CIUDAD DE KYLE, TEXAS PARA PRESENTAR PROPUESTAS DE ENMIENDAS A LOS ESTATUTOS DE LA CIUDAD DE KYLE; HACIENDO PROVISIÓN PARA LA REALIZACIÓN DE LA ELECCIÓN; RESOLVIENDO OTROS ASUNTOS INHERENTES Y RELACIONADOS CON DICHA ELECCIÓN; PROVEYENDO UNA PRESTACIÓN DE DIVISIBILIDAD Y FIJANDO UNA FECHA DE VIGENCIA.

* * * * *

MIENTRAS QUE, que Los Estatutos de la Ciudad de Kyle ("Ciudad") fue adoptada en agosto de 2000 y modificada en mayo de 2011, y ha servido bien a la ciudad y a sus ciudadanos; y

MIENTRAS QUE, conforme a la Sección 13.08 de Los Estatutos de la Ciudad de Kyle, el Concejo Municipal de la Ciudad nombró una Comisión de Revisión de la Carta Municipal de siete (7) miembros para determinar si las disposiciones de la Carta requieren revisión; y

MIENTRAS QUE, la Comisión de Revisión de la Carta se reunió desde abril hasta julio para revisar Los Estatutos de la Ciudad y en julio, la Comisión concluyó su informe de sus hallazgos en la escritura, y presentó sus propuestas de enmienda al Concejo Municipal de la Ciudad; y

MIENTRAS QUE, el Concejo Municipal de la Ciudad ha revisado los cambios propuestos por la Comisión de Revisión de la Carta y ahora desea presentar las enmiendas propuestas a Los Estatutos de la Ciudad para presentarlas a los votantes calificados de la Ciudad en la próxima fecha uniforme de elecciones el 7 de mayo de 2016; y

MIENTRAS QUE, conforme con la Sección 9.004(e) del Código del Gobierno Local de Texas, más de una enmienda se pueden combinar en una propuesta de votación, siempre y cuando las enmiendas contengan un solo tema; y

MIENTRAS QUE, conforme con la Sección 9.004 del Código de Gobierno Local de Texas se preparará una papeleta de votación con las enmiendas propuestas a Los Estatutos de la Ciudad para que un votante pueda aprobar o desaprobar cualquier uno o más de las enmiendas sin tener que aprobar o rechazar todas las enmiendas; y

MIENTRAS QUE, el Concejo Municipal de la Ciudad por este medio encuentra y determina que las proposiciones que se presentarán están conforme con el Código de Gobierno Local de Texas y que la celebración de estas elecciones en la fecha de elección uniforme se establece a continuación está en conformidad con todas las leyes electorales vigentes.

AHORA ENTONCES SEA DECRETADO POR EL CONCEJO MUNICIPAL DE LA CIUDAD DE KYLE, TEXAS QUE:

SECCIÓN 1. Una elección especial se llevará a cabo el día 7 de mayo de 2016, una fecha uniforme de elecciones, en la ciudad de KYLE, TEXAS, ("Ciudad") que la fecha es no menor de treinta (30) días a partir de la fecha de la aprobación de esta ordenanza (la "ordenanza"), con el propósito de presentar las siguientes proposiciones a los votantes calificados de la Ciudad para enmendar la Carta de la Ciudad.

SECCIÓN 2. Proposiciones de votación. Las papeletas oficiales deberán ser preparadas de acuerdo con el Código Electoral de Texas, según enmendada, a fin de permitir a los electores de votar "A FAVOR" o "EN CONTRA" a la proposición mencionada. Los votantes deben colocar una "X" en la caja junto a la declaración que indique la forma en que desean votar.

SECCIÓN 3. Las siguientes medidas serán presentadas a los votantes calificados de la Ciudad en las elecciones que se celebrarán en la fecha indicada en la sección anterior en forma de proposiciones conforme con la Sección 9.004 del Código de Gobierno Local de Texas y con Los Estatutos de la Ciudad.

I. ENMIENDAS

PROPOSICIÓN UNO

¿Deberán las Secciones 4.03 (g) (o) (p), 5.11 de Los Estatutos de la Ciudad ser enmendadas para requerir su presentación a los votantes calificados de la Ciudad para eliminar las provisiones que se han vuelto inoperantes porque han sido sustituidas por la ley estatal; reemplazar las referencias obsoletas; actualizar la terminología al uso legal actual, y para eliminar las provisiones transitorias obsoletas?

A FAVOR DE ____ CONTRA ____

Artículo IV Secciones 4.03 (g) (o) (p), el artículo V Sección 5.11 de Los Estatutos de la Ciudad se modificarán para eliminar las provisiones que se han vuelto inoperantes porque han sido sustituidas por la ley estatal; reemplazar las referencias obsoletas; actualizar la terminología al uso legal actual, y para eliminar las provisiones transitorias obsoletas para que los párrafos cuando sean enmendados, queden redactados como sigue:

Sección 4.03. – El Concejo Municipal de la Ciudad.

(g) Adoptar, modificar, rechazar y llevar a cabo los planes propuestos por la comisión de planificación y otras juntas y comisiones;

(o) Por una buena causa, con sujeción a las provisiones de la presente Carta, ordenar una elección de destitución que se celebrará para o con respecto a cualquier miembro del Concejo Municipal de la Ciudad;

(p) Nombrar y remover al abogado de la ciudad, al juez municipal, y a los jueces municipales asociados con la sujeción a las provisiones de la presente Carta;

Sección 5.11. Elección de Desempate.

Si ningún candidato para un cargo electivo recibe la mayoría de los votos emitidos para esa posición en la elección regular o especial, una elección de desempate se llevará a cabo entre los dos (2) candidatos que hayan recibido el mayor número de votos. Dicha elección de desempate se llevará a cabo conforme con las leyes electorales estatales ~~el tercer sábado después de la elección.~~ El candidato que reciba el mayor número de votos emitidos para el cargo en la elección de desempate será declarado electo y si los resultados de la elección de desempate resultan empatados, el empate se romperá de una manera que no sea incompatible con el Código Electoral de Texas, o por lote o por un chance como hayan acordado y entre los candidatos.

PROPOSICIÓN DOS

¿Deberán las Secciones 3.05 de Los Estatutos de la Ciudad ser enmendadas para requerir su presentación a los votantes calificados de la Ciudad para agregar causas para eliminar cualquier funcionario electo para también incluir el abuso de sustancias habituales y convicción de un delito menor que implique un delito de vileza moral, que son delitos de falsedad, el fraude, el engaño, la tergiversación, la violencia deliberada, o que reflejen negativamente en la honestidad y honradez de un funcionario electo?

A FAVOR DE CONTRA

El Artículo III Sección 3.05, 3 de Los Estatutos de la Ciudad se modificará para permitir la remoción de cualquier funcionario electo para también incluir el abuso de sustancias habituales y convicción de un delito menor que implique un delito de vileza moral, que son delitos de falsedad, fraude, engaño, tergiversación, violencia deliberada, o que reflejen negativamente en la honestidad y la honradez de un funcionario electo, cuando sea enmendado, quede redactado como sigue:

Sección 3.05. – El juicio de los miembros del Concejo Municipal de la Ciudad.

El Concejo será el juez de las elecciones y la cualificación de sus miembros, podrá determinar las reglas de sus procedimientos, y tendrá el poder de obligar la asistencia de los miembros ausentes y castigar a los miembros por conducta desordenada. Después de la debida notificación y la oportunidad de ser escuchados, a no menos de seis votos afirmativos el Concejo tendrá la facultad de remover a cualquier funcionario electo por una condena por un delito grave, ~~inmoralidad, la embriaguez habitual, la corrupción, la mala conducta o un crimen en el cargo, la convicción de un delito menor durante su mandato que implique un delito de vileza moral. Los delitos menores que involucren bajeza moral son los que implican la deshonestidad, el fraude, el engaño, la falsedad, la violencia deliberada, o que influya negativamente en la honestidad o la~~

~~honradez de un miembro,~~ o en su falla de residir de forma continua en la ciudad y/o el distrito en el cual fue elegido. Oficiales o empleados de la ciudad nombrados directamente por el Concejo de la Ciudad podrán ser removidos por mayoría de votos del concejo, en cualquier momento después de ser notificados conforme con las leyes de reuniones abiertas.

PROPOSICIÓN TRES

¿Deberán las secciones 4.01 y 4.03 de Los Estatutos de la Ciudad ser enmendadas para autorizar al Concejo de la Ciudad para recomendar y aprobar el nombramiento de todas las Juntas y Comisiones de la Ciudad?

A FAVOR DE CONTRA

El Artículo IV. Secciones 4.01 y 4.03 de los Estatutos de la Ciudad se modificarán para autorizar al Concejo de la Ciudad para recomendar y aprobar las asignaciones a todas las Juntas y Comisiones de la Ciudad para que el párrafo cuando sea enmendado, quede redactado como sigue:

Sección. 4.01. - Alcalde.

El alcalde actuará como jefe ceremonial de la ciudad, presidirá en todas las reuniones del concejo y proporcionará el liderazgo necesario para un buen gobierno. Él o ella trabajará con el concejo para obtener la legislación en el interés público y con el administrador de la ciudad para asegurar que el mismo se haga cumplir, y participará en la discusión y voto en todas las cuestiones legislativas y otras que vengan ante el concejo. El alcalde tendrá autoridad signataria de todos los contratos legales y los compromisos de la ciudad; firmará todas las ordenanzas y resoluciones; ~~recomendará designados para las juntas y comisiones;~~ trabajará y coordinará con el administrador de la ciudad y el concejo; y, en la medida prevista por la ley estatal en tiempos de emergencia declarada, puede tomar el mando de la policía y gobernar la ciudad por proclamación, mantener el orden y hacer cumplir todas las leyes.

Sección. 4.03. – El Concejo de la Ciudad

Los siguientes poderes y deberes del concejo no son excluyentes, sino que se enumeran para mayor claridad:

(f) Proveer para juntas y comisiones que se consideren necesarias por el Concejo, y como requerido por el presente estatuto, y nombrar y remover todas las juntas y comisiones ~~por recomendación del alcalde~~ a condición de que, si un nombramiento o eliminación se ha considerado en dos reuniones ordinarias y ninguna recomendación se ha hecho el Concejo podrá tomar medidas por movimiento y voto;

(t) Recomendar designados para juntas y comisiones.

PROPOSICIÓN CUATRO

¿Deberá la sección 4.03 (a) de los Estatutos de la Ciudad ser enmendada para eliminar el requisito de la confirmación del Concejo sobre el despido del Director de Finanzas?

A FAVOR DE ___ CONTRA ___

El Artículo IV. Sección 4.03 (a) de los Estatutos de la Ciudad se modifica para eliminar el requisito de la aprobación del Concejo para eliminar el despido del Director de Finanzas, por lo que el párrafo cuando sea enmendado, quede redactado como sigue:

Sección. 4.03. – El Concejo de la Ciudad

Los siguientes poderes y deberes del concejo no son excluyentes, sino que se enumeran para mayor claridad:

(a) Designar, supervisar y quitar al administrador municipal ~~and confirmar el despido del Director de Finanzas por mayoría de votos de todo el Concejo~~

PROPOSICIÓN CINCO

¿Deberá la sección 4.05 de Los Estatutos de la Ciudad ser enmendada para aclarar que ni el alcalde ni el concejo deberán instruir al Administrador de la Ciudad o a cualquier empleado de la ciudad para contratar o despedir a cualquier empleado de la ciudad y exigir que el Alcalde y el Concejo pasen a través del Administrador de la Ciudad para las funciones administrativas y de gestión de la Ciudad?

A FAVOR DE ___ CONTRA ___

El Artículo IV, Sección 4.05 se modifica para aclarar que ni el alcalde ni el concejo deberán instruir al Administrador de la Ciudad o a cualquier empleado de la ciudad para contratar o cancelar a cualquier empleado de la ciudad y exigir que el alcalde y el concejo pasen a través del Administrador de la Ciudad para las funciones administrativas y de gestión de la ciudad, cuando sea enmendado, quede redactado como sigue:

Sección 4.05 Prohibiciones

Ni el Concejo ni cualquiera de sus miembros deberán instruir o solicitar al Administrador de la Ciudad o a cualquiera de los subordinados del Administrador de la Ciudad de nombrar o despedir de su cargo o empleo a cualquier persona, excepto en lo que respecta a los puestos que han de ser ocupados por nombramiento por el Concejo conforme a las provisiones de este Estatuto. Excepto como dispuesto en la Sección 4.03 de este Estatuto, el Concejo de la Ciudad deberá hacer frente a las funciones administrativas y de gestión de la ciudad únicamente a través del Administrador de la Ciudad y otros funcionarios

nombrados por el Concejo, según proceda, y no dará instrucciones a los subordinados del administrador de la ciudad, ya sea públicamente o privadamente.

PROPOSICIÓN SEIS

¿Deberá la sección 5.02 de Los Estatutos de la Ciudad ser enmendada para mover la fecha de la elección general de la Ciudad para Alcalde y miembros del Concejo de mayo a noviembre y aprobar una provisión transitoria extendiendo los plazos de los elegidos en mayo de 2016 y los puestos que se expiran en mayo de 2017 y en mayo de 2018 para noviembre de 2017, noviembre de 2018 y noviembre de 2019?

A FAVOR DE ____ CONTRA ____

El Artículo V, Sección 5.02 0.1 se modificará para mover la fecha general de las elecciones de la Ciudad para Alcalde y miembros del Concejo de mayo a noviembre y aprobar una provisión transitoria para extender los plazos de los elegidos en mayo de 2016 y los puestos que se vencen en mayo de 2017 y mayo de 2018 para noviembre de 2017, noviembre de 2018 y noviembre de 2019 de manera que dicho párrafo, cuando sea enmendado, quede redactado como sigue:

Sección 5.02 Elecciones Generales

~~Las elecciones generales de la ciudad se celebrarán anualmente el primer sábado de mayo, o si tal no se otorga la fecha más próxima a la misma que se establezcan por ley. El alcalde y los miembros del Concejo serán elegidos por mayoría de votos.~~

(a). Las elecciones generales de la ciudad se celebran anualmente el primer martes de noviembre, de acuerdo con el Código Electoral de Texas, o si tal no se otorgara la fecha más próxima a la misma que se establezca por ley. El alcalde y los miembros del Concejo serán elegidos por mayoría de votos.

(b). **Provisión Transitoria:** Los miembros del Concejo de los Distritos 1 y 3 que son elegidos en mayo de 2016 tendrán sus términos extendidos hasta noviembre de 2019. El alcalde y los miembros de los distritos 2 y 4 tendrán sus términos extendidos hasta noviembre de 2017. Los miembros del Concejo de los distritos 5 y 6 tendrán sus términos extendidos hasta noviembre de 2018.

PROPOSICIÓN SIETE

¿Deberá la sección 7.10 de Los Estatutos de la Ciudad ser enmendado para aclarar que el Abogado de la Ciudad se reportará al Administrador de la Ciudad, pero permanecerá designado por el Alcalde y por el Concejo de la Ciudad?

A FAVOR DE ___ CONTRA ___

El Artículo VII, Sección 7.10 se modificará para aclarar que el Abogado de la Ciudad se reportará al Administrador de la Ciudad, pero aún nombrado por el Alcalde y el Concejo de la Ciudad, así que cuando sea enmendado, quede redactado como sigue:

Sección 7.10. Abogado de la Ciudad.

Habrá un abogado de la ciudad que será nombrado y puede ser removido por el Concejo y se reporta al Administrador de la Ciudad. El abogado de la ciudad será un abogado competente y debidamente autorizado y deberá tener no menos de cinco (5) años de experiencia práctica de la ley municipal en Texas. Él o ella recibirá por sus servicios una compensación que se establecerá por el consejo y asesorará a la ciudad en todos los asuntos legales y de representar a la ciudad en todos los litigios y otros asuntos legales. El abogado de la ciudad podrá nombrar abogados asistentes de la ciudad, y el concejo puede retener diferentes o adicionales abogados para asuntos específicos cuando estime el mismo ser necesario.

PROPOSICIÓN OCHO

¿Deberá la sección 8.09 de Los Estatutos de la Ciudad ser enmendado para requerir dos firmas autorizadas, uno debe ser el Administrador de la ciudad o el Director de Finanzas, para cheques, comprobantes, mandamientos judiciales o retiro de fondos de los depositarios de la ciudad?

A FAVOR DE ___ CONTRA ___

Artículo VIII, Sección 8.09 se modifica para requerir dos firmas autorizadas, de cheques, comprobantes, mandamientos judiciales o retiro de fondos de los depositarios de la ciudad, así que cuando sea enmendada, quede redactado como sigue:

Sección 8.09. Depositario.

El concejo de vez en cuando seleccionará un depositario o depositarios para los fondos de la ciudad, sobre la base de las ofertas recibidas de dichas instituciones; siempre que el Consejo pueda, mediante resolución, invertir los fondos de reserva en cualquier estado o en el banco o en una agencia de la ciudad. Todo el dinero recibido por cualquier persona, departamento o agencia de la ciudad de o en conexión con asuntos de la ciudad se depositará rápidamente en el depósito o depositarios de la ciudad. Todos los cheques, comprobantes, o mandamientos judiciales para un retiro de dinero de los depositarios de la ciudad serán firmados por el administrador de la ciudad y por el director de finanzas requieren dos firmas autorizadas. De las dos firmas, una debe ser el Administrador de la ciudad o el Director de Finanzas. El Consejo podrá autorizar las firmas facsímiles de la máquina impresa firmas facsímil de dichas personas en tales cheques, comprobantes y mandamientos judiciales.

PROPOSICIÓN NUEVE

¿DEBERÁ LA SECCIÓN 8.11 (e) de los Estatutos de la Ciudad ser añadida para que cualquiera emisión de deuda no tenga un plazo de amortización más grande de la vida útil de la posesión capital que se está financiando?

A FAVOR DE ____ CONTRA ____

El Artículo VIII, Sección 8.11 (e) se añadirá de forma que cualquiera emisión de deuda no tenga un plazo de amortización más grande de la vida útil de la posesión capital que se está financiando, para que el párrafo, cuando se añade quede redactado como sigue:

Sección 8.11. Bonos y Obligaciones Financieras.

- (e) la emisión de deuda de la obligación no debe tener un plazo de amortización más grande de la vida útil de la posesión capital según la definición de los Principios de Contabilidad Generalmente Aceptados comprados a través de la emisión de estas deudas u obligaciones.

PROPOSICIÓN DIEZ

¿Deberá la sección 8.11 (f) de los Estatutos de la Ciudad ser añadida para que cualquier emisión de deuda o instrumento de obligación superior al 5% de la valoración anual de tasación de la ciudad, se le expedirá un referéndum vinculante que se coloque en la papeleta y dicho gasto será aprobado por los votantes?

A FAVOR DE ____ CONTRA ____

El Artículo VIII, Sección 8.11 (f) se añade de forma que cualquier emisión de deuda o instrumento de obligación superior al 5% de la valoración anual de tasación de la ciudad no se expedirá sin un referéndum vinculante que se coloque en la papeleta y dicho gasto será aprobado por los votantes, por lo que el párrafo, cuando se añade quede redactado como sigue:

Sección 8.11. Bonos y Obligaciones Financieras.

- (f) ninguna deuda o instrumento de obligación superior al 5% de la valoración anual de tasación de la ciudad, se expedirán sin un referéndum vinculante que se coloque en la papeleta que aprueba dichos gastos.

PROPOSICIÓN ONCE

¿Deberá la sección 13.10 de los Estatutos de la Ciudad ser añadida para que todas las reuniones, audiencias y talleres del Concejo, cualquier Junta, Comisión o Comité de la Ciudad deberá cumplir con la Ley de Reuniones Abiertas de Texas y deberá proporcionar un tiempo para comentarios del público?

A FAVOR DE ___ CONTRA ___

El Artículo XIII, Sección 13.10 se añade de forma que todas las reuniones, audiencias y talleres del Concejo, cualquier Junta, Comisión o Comité de la Ciudad deberá cumplir con la Ley de Reuniones Abiertas de Texas y deberá proporcionar un tiempo para comentarios del público, por lo que el párrafo, cuando se añade quede redactado como sigue:

Sección 13.10 Reunión Abierta de Cumplimiento.

Todas las reuniones, audiencias y talleres del Consejo, cualquier junta, comisión o comité de la Ciudad, se llevará a cabo conforme a la Ley de Reuniones Abiertas de Texas y proporcionará un tiempo para comentarios del público.

II. PROPUESTAS ELECTORALES

PROPOSICIÓN UNO

¿Deberán las Secciones 4.03 (g) (o) (p), 5.11 de Los Estatutos de la Ciudad ser enmendadas para requerir su presentación a los votantes calificados de la Ciudad para eliminar las provisiones que se han vuelto inoperantes porque han sido sustituidas por la ley estatal; reemplazar las referencias obsoletas; actualizar la terminología al uso legal actual, y para eliminar las provisiones transitorias obsoletas?

A FAVOR DE ___ CONTRA ___

PROPOSICIÓN DOS

¿Deberán las Secciones 3.05 de Los Estatutos de la Ciudad ser enmendadas para requerir su presentación a los votantes calificados de la Ciudad para agregar causas para eliminar cualquier funcionario electo para también incluir el abuso de sustancias habituales y convicción de un delito menor que implique un delito de vileza moral, que son delitos de falsedad, el fraude, el engaño, la tergiversación, la violencia deliberada, o que reflejen negativamente en la honestidad y honradez de un funcionario electo?

A FAVOR DE ___ CONTRA ___

PROPOSICIÓN TRES

¿Deberán las secciones 4.01 y 4.03 de Los Estatutos de la Ciudad ser enmendadas para autorizar al Concejo de la Ciudad para recomendar y aprobar el nombramiento de todas las Juntas y Comisiones de la Ciudad?

A FAVOR DE ____ CONTRA ____

PROPOSICIÓN CUATRO

¿Deberá la sección 4.03 (a) de los Estatutos de la Ciudad ser enmendada para eliminar el requisito de la confirmación del Concejo sobre el despido del Director de Finanzas?

A FAVOR DE ____ CONTRA ____

PROPOSICIÓN CINCO

¿Deberá la sección 4.05 de Los Estatutos de la Ciudad ser enmendada para aclarar que ni el alcalde ni el concejo deberán instruir al Administrador de la Ciudad o a cualquier empleado de la ciudad para contratar o despedir a cualquier empleado de la ciudad y exigir que el Alcalde y el Concejo pasen a través del Administrador de la Ciudad para las funciones administrativas y de gestión de la Ciudad?

A FAVOR DE ____ CONTRA ____

PROPOSICIÓN SEIS

¿Deberá la sección 5.02 de Los Estatutos de la Ciudad ser enmendada para mover la fecha de la elección general de la Ciudad para Alcalde y miembros del Concejo de mayo a noviembre y aprobar una provisión transitoria extendiendo los plazos de los elegidos en mayo de 2016 y los puestos que se expiran en mayo de 2017 y en mayo de 2018 para noviembre de 2017, noviembre de 2018 y noviembre de 2019?

A FAVOR DE ____ CONTRA ____

PROPOSICIÓN SIETE

¿Deberá la sección 7.10 de Los Estatutos de la Ciudad ser enmendado para aclarar que el Abogado de la Ciudad se reportará al Administrador de la Ciudad, pero permanecerá designado por el Alcalde y por el Concejo de la Ciudad?

A FAVOR DE ____ CONTRA ____

PROPOSICIÓN OCHO

¿Deberá la sección 8.09 de Los Estatutos de la Ciudad ser enmendado para requerir dos firmas autorizadas, uno debe ser el Administrador de la ciudad o el Director de Finanzas, para cheques, comprobantes, mandamientos judiciales o retiro de fondos de los depositarios de la ciudad?

A FAVOR DE ___ CONTRA ___

PROPOSICIÓN NUEVE

¿DEBERÁ LA SECCIÓN 8.11 (e) de los Estatutos de la Ciudad ser añadida para que cualquiera emisión de deuda no tenga un plazo de amortización más grande de la vida útil de la posesión capital que se está financiando?

A FAVOR DE ___ CONTRA ___

PROPOSICIÓN DIEZ

¿Deberá la sección 8.11 (f) de los Estatutos de la Ciudad ser añadida para que cualquier emisión de deuda o instrumento de obligación superior al 5% de la valoración anual de tasación de la ciudad, se le expedirá un referéndum vinculante que se coloque en la papeleta y dicho gasto será aprobado por los votantes?

A FAVOR DE ___ CONTRA ___

PROPOSICIÓN ONCE

¿Deberá la sección 13.10 de los Estatutos de la Ciudad ser añadida para que todas las reuniones, audiencias y talleres del Concejo, cualquier Junta, Comisión o Comité de la Ciudad deberá cumplir con la Ley de Reuniones Abiertas de Texas y deberá proporcionar un tiempo para comentarios del público?

A FAVOR DE ___ CONTRA ___

SECCIÓN 4. El Concejo de la Ciudad aprobará una ordenanza llamando una elección especial y tal ordenanza incluirá los requisitos para llamar una elección.

Acción necesaria. Que el Alcalde y la Secretaria Municipal de la Ciudad, en consulta con el abogado de la ciudad, por este medio se autoriza y ordena tomar cualquier y todas las acciones necesarias para cumplir con las provisiones del Código en la llevada a cabo y en la realización de las elecciones, sea o no expresamente autorizado en el presente documento.

SECCIÓN 5. Divisibilidad. Que si cualquier parte, sección, subsección, párrafo, oración, cláusula o frase contenida en esta ordenanza se declara inconstitucional o sin vigencia y efecto, dicha consideración no afectará la validez de la parte restante de esta ordenanza, pero en todos aspectos dicha porción restante será y permanecerá en pleno vigor y efecto.

SECCIÓN 6. Fecha de Vigencia. Esta Ordenanza entrará en vigencia y en efecto desde y después de la fecha de su adopción, y queda así ordenado.

PASADO Y APROBADO este día _____ de febrero de 2016.

R. Todd Webster, Alcalde

DECLARADO:

Amelia Sánchez, Secretaria de la Ciudad



CITY OF KYLE, TEXAS

(Second Reading) An Ordinance of the City of Kyle, Texas, ordering the May 7, 2016 General Election

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: *(Second Reading)* An Ordinance of the City of Kyle, Texas, ordering the May 7, 2016 General Election; Establishing the procedure therefore; and Providing for related matters. ~ *Frank Garza, City Attorney*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Ordinance Calling Election
- Order of Election
- Ordinance - Spanish

ORDINANCE _____

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ORDERING THE
MAY 7, 2016 GENERAL ELECTION; AND ESTABLISHING THE
PROCEDURE THEREFORE; AND PROVIDING FOR RELATED
MATTERS**

WHEREAS, on May 7, 2016, there shall be elected the following officials for the City of Kyle, Texas (the “City”): Councilmember, Place 1; and Councilmember, Place 3;

WHEREAS, the *Texas Election Code* (the “Code”) and City Charter are applicable to the General Election (hereinafter collectively referred to as the “election”) and this ordinance establishes procedures consistent with the Code and the City Charter; and

WHEREAS, the City has made provision to contract with Hays County to conduct the City's election, pursuant to *Chapter 31, Tex. Elec. Code*, and *Chapter 791, Tex. Gov't Code* (the “Election Agreement” or “contract”), and such contract provides for political subdivisions subject to the contract that hold election on the same day in all or part of the same territory to hold a joint election as authorized in *Chapter 271, Tex. Elec. Code*;

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

SECTION 1. The General Election of the City shall be held on Saturday, May 7, 2016, to elect the Councilmember's for Place 1 and Place 3, to serve a term of three (3) years each. Candidates at the election for the above offices shall file their application to become candidates with the City Secretary of the City, at Kyle City Hall, 100 West Center Street, Kyle, Texas, between 8:00 a.m. on January 20, 2016 and 5:00 p.m. on February 19, 2016. All applications for candidacy shall be on a form as prescribed by the *Tex. Elec. Code*. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by a drawing conducted by the City Secretary.

SECTION 2. Notice of the election shall be given and the election shall be held in compliance with the provisions of the *Tex. Elec. Code* in all respects. The ballots for the General Election shall comply with the *Tex. Elec. Code* and be in the form provided by the City to the Hays County Election Officer for use on the voting devices and ballots used by Hays County.

SECTION 3. The Hays County Election Officer and his/her employees and appointees, and the election judges, alternate judges and clerks properly appointed for the election, shall hold and conduct the election in the manner provided by the Election Agreement, the City Charter, and the law governing the holding of general and special elections; and the official ballots, together with such other election materials as are required by the *Tex. Elec. Code*, shall be prepared in both the English and Spanish languages and shall contain such provisions, markings and language as is required by law.

SECTION 4. Early voting, both by personal appearance and by mail, will be conducted by the Hays County Election Officer, who is designated and appointed as the Early Voting Clerk, in accordance with the *Texas Election Code*. Early voting by personal appearance shall be conducted at places and locations authorized by state law and the designated by the Hays County Election Officer. Early voting shall commence on Monday, April 25, 2016, through Tuesday, May 3, 2016, at Kyle City Hall, 100 W Center St. Kyle, TX, HCISD, 21003 N IH 35, Kyle TX, and Buda Elementary Upper Campus, 300 San Marcos St., Buda, TX. The early voting polls shall remain open for the time specified by the *Texas Election Code*.

SECTION 5. The election precincts for the election shall be the election precincts established by the Hays County Election Officer in accordance with applicable law and the City Charter. The polling places for Election Day shall be: Kyle City Hall, 100 W. Center St., Kyle, Texas; Wallace Middle School 1500 W Center Street, Kyle, Texas; and Chapa Middle School, 3311 Dacy Lane, Kyle, Texas. Residents of the election precincts shall vote at the aforementioned polling places as assigned by the Hays County Election Officer in accordance with applicable law and the City Charter. The polls shall remain open on the day of the election from 7:00 a.m. to 7:00 p.m. The returns will be provided by precinct and the Hays County Election Officer shall tabulate and provide the election returns for the election.

SECTION 6. The City agrees to conduct a joint election with other political subdivisions within Hays County, provided that such political subdivision holds an election on May 7, 2016 in all or part of the same territory as the City (the "Political Subdivisions"). Any joint election shall be conducted in accordance with state law, this Ordinance, the City Charter and the contract for election services with Hays County.

SECTION 7. The City Secretary, or designee, is instructed to aide the Hays County Election Officer in the acquisition and furnishing of all election supplies and materials necessary to conduct the election as provided by the Election Agreement. The City Secretary is further authorized to give or cause to be given notices required for the election, and to take such other and further action as is required to conduct the election in compliance with the *Tex. Elec. Code*; provided that, pursuant to the Election Agreement between Hays County and the City, the Hays County Election Officer shall have the duty and be responsible for organizing and conducting the election in compliance with the *Tex. Elec. Code*; and for providing all services specified to be provided in the Election Agreement. The Hays County Election Officer shall give the notices required by the *Tex. Elec. Code* to be given for the election not required to be given by the City under the Election Agreement.

SECTION 8. The presiding judges, alternate presiding judges and clerks for the election shall be selected and appointed by Hays County and its appointees in compliance with the requirements of state law, and such judges and clerks so selected by Hays County and its appointees are hereby designated and appointed by the city council as the election officers, judges and clerks, respectively, for the holding of said election. The presiding judges, alternate presiding judges and clerks shall perform the functions and duties of their respective positions that are provided by state law. The city council will further confirm and appoint the election judges and alternate election judges that are appointed by Hays County for the election.

SECTION 9. Notice of the election shall be given by posting a notice containing a substantial copy of this Ordinance on the bulletin board used for posting notice of meetings of the governing body at the City Hall and at the aforesaid election day polling places, as required by state law, not later than the twenty-first (21st) day before the election, and by publishing said Notice of Election at least one time, not earlier than thirty (30) days nor later than ten (10) days prior to said election, in a newspaper of general circulation in the City. The notice that is posted, and the notice that is published in a newspaper of general circulation within the city, will be written in both English and Spanish.

SECTION 10. The election shall be held and conducted by the Hays County Election Officer in compliance with state law, the City Charter, and the Election Agreement. And, this Ordinance shall be in force and effect from and after its passage on the date shown below.

SECTION 11. This ordinance is effective immediately upon adoption in accordance with state law and the City Charter.

SECTION 12. It is hereby officially found and determined that this meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Act, *Chapter 551, and Texas Government Code.*

PASSED AND APPROVED on First Reading this the ____ day of _____, 2016.

PASSED AND APPROVED on Second Reading this the ____ day of _____, 2016.

CITY OF KYLE, TEXAS

R. Todd Webster, Mayor

ATTEST:

Amelia Sanchez, City Secretary

ORDER OF ELECTION
(ORDEN DE ELECCION)

An election is hereby ordered to be held on May 7, 2016 for the purpose of voting in the General Election to elect a Council Member District 1, and a Council Member District 3.

(Por la presente se ordena que se llevará a cabo una elección general el 7 de mayo, 2016, con el propósito de votar en la elección general para elegir a un miembro del Consejo de Distrito 1, y un miembro de Consejo de Distrito 3.

Early voting by personal appearance will be conducted at:
(La votación adelantada en persona se llevará a cabo en :)

Kyle City Hall, 100 W Center St., Kyle, Texas
Hays Administration Building, 21003 IH35, Kyle, Texas
Buda Elementary School, 300 San Marcos Street, Buda, Texas

Between the hours of 8:00 am to 5:00 pm on April 26, 2016 through April 29, 2016, and on May 3, 2016. On April 25, 2016 and on May 2, 2016, between the hours of 7:00 am to 7:00 pm and on Saturday April 30, 2016 between the hours of 10:00 am to 2:00 pm.

(Entre las 8:00 de la mañana y las 5:00 de la tarde el 26 de abril, 2016, hasta el 29 de abril, y 3 de mayo, y entre las 7:00 de la mañana y las 7:00 de la tarde el 25 de abril, y 2 de mayo, 2016, y entre las 10:00 de la mañana y las 2:00 de la tarde el 30 de abril, 2016.

Applications for ballot by mail shall be mailed to;
(Las solicitudes para boletas que se votarán en ausencia por correo deberán enviarse a :)

Joyce Cowan
(Name of Early Voting Clerk)
(Nombre de Secretario (a) de Votación Adelantada)

712 South Stagecoach Trail, Ste. 1045
(Address) *(Dirección)*

San Marcos, Texas 78666
(City) (Ciudad) (Zip Code) (Zona Postal)

Applications for ballots by mail must be received no later than the close of business on April 26, 2016.
(La solicitudes para boletas que se votarán en ausencia por correo deberán recibirse para el fin de las horas de negocio el 22 de abril, 2016.

Issued this the 19th day of January, 2016
(Emitida este día 19 de enero, 2016)

Signature of Mayor (Firma de Alcalde)

Instruction Note: A copy of this election order must be delivered to the County Clerk/Elections Administrator and Voter Registrar not later than 60 days before Election Day.

(Nota de instrucción: Se deberá entregar una copia de esta orden de elección al/a la Secretario (a) del Condado/Administrador (a) de Elecciones y el /la Registrador (a) de Votantes a más tardar 60 días antes del día de elección.)

ORDENANZA No. _____

UNA ORDENANZA DE LA CIUDAD DE KYLE, TEXAS, ORDENANDO UNA ELECCIÓN GENERAL QUE SE LLEVARÁ A CABO EL 7 DE MAYO DE 2016, Y ESTABLECIENDO EL PROCEDIMIENTO DE LA ELECCIÓN; Y PROVEYENDO PARA CUALQUIERA SUSTANCIA RELACIONADA.

MIENTRAS QUE, el 7 de mayo de 2016 serán elegidos los siguientes oficiales Concejo Municipal, para el puesto 1 del Concejo Municipal y el puesto 3 del Concejo Municipal;

MIENTRAS QUE, el Código de Elecciones del Estado de Texas es aplicable a dicha elección, y esta ordenanza establece los procedimientos consistentes con el Código y nombra los locales de votación para la elección; y

MIENTRAS QUE, la Ciudad de Kyle, Texas (de aquí en adelante «la Ciudad») ha hecho provisiones para contratarse con el Condado de Hays para conducir la elección de la ciudad conforme al *Capítulo 31, del Código de Elecciones de Texas*, y el *Capítulo 791, del Código Gubernamental de Texas* (el «Contrato de Elecciones» o «contrato»), y dicho contrato provee para subdivisiones políticas sujetas al contrato que se llevan a cabo el mismo día en todo o parte del mismo territorio para llevar a cabo una elección conjunta como autorizada en el *Capítulo 271, del Código de Elecciones de Texas*;

AHORA ENTONCES SEA DECRETADO POR EL CONCEJO MUNICIPAL DE LA CIUDAD DE KYLE, TEXAS QUE:

SECCIÓN 1. La elección general será llevada a cabo el sábado, 7 de mayo de 2016, para elegir a los Miembros del Concejo Municipal para el Puesto 1 del Concejo Municipal y el Puesto 3 del Concejo Municipal, para servir un período de tres (3) años cada uno. Los candidatos para dichos cargos deberán presentar sus aplicaciones de candidatura con la Secretaria de la Ciudad, en el Palacio Municipal, 100 W. Center Street, Kyle, Texas 78640, entre el 20 de enero de 2016 y el 19 de febrero de 2016 entre 8:00 a.m y las 5:00 p.m. Todas las aplicaciones para la candidatura serán en una forma según prescrita por el *Código de Elecciones de Texas* y los Estatutos de la Ciudad. El orden en el cual los nombres de los candidatos para cada cargo serán imprimidos en la papeleta será determinado por un sorteo conducido por la Secretaria de la Ciudad.

SECCIÓN 2. Se dará un anuncio de la elección y la elección se llevará a cabo según las provisiones del Código de Elecciones de Texas en todo respecto. Un anuncio de la elección se dará al anotar un anuncio conteniendo la información requerida por el Código de Elecciones de Texas en el tablero que se usa para anotar anuncios de las reuniones del cuerpo gobernador en el Palacio Municipal no después del veintiún (21) día antes de la elección, y al publicar dicho anuncio de la elección por lo menos una vez, no antes de los treinta (30) días ni después de diez (10) días antes de dicha elección, en un periódico de

circulación general de la Ciudad. El anuncio que se anote, y el anuncio que se publique en un periódico de circulación general de la Ciudad, serán escritos en inglés y en español. Las papeletas para la elección serán conformes al Código de Elecciones de Texas y estarán en la forma provista por la Ciudad a la Administradora de Elecciones del Condado de Hays para ser usados en los dispositivos de votación y papeletas usadas por el Condado de Hays, y las papeletas oficiales, juntas con cualquier otros materiales de elección como son requeridos por el Código de Elecciones de Texas, se prepararán en inglés y español y contendrán tal provisiones, marcas y lenguaje como requerido por ley.

SECCIÓN 3. Los precintos de votación para la elección serán los precintos establecidos por el Condado de Hays, provisto que cada uno contenga e incluya un area geográfica que esté dentro de la Ciudad y que los precintos de votación estén conformes a Los Estatutos de la Ciudad. Los centros de votación para el día de elecciones serán: El Palacio Municipal de la Ciudad, 100 W. Center Street, Kyle, Texas, la escuela intermedia de Wallace, 1500 West Center Street, Kyle, Texas y la escuela intermedia Chapa, 3311 Dacy Lane, Kyle, Texas. Los centros de votación se quedarán abiertos el día de la elección de las 7:00 a.m. hasta las 7:00 p.m. Los resultados electorales para los precintos en el Condado de Hays serán provistos por precinto y la Administradora de Elecciones de Condado de Hays tabulará y proveerá los resultados electorales de la elección.

SECCIÓN 4. La votación adelantada en persona y por correo, será conducida por la Administradora de Elecciones de Condado de Hays como requerido por el Código de Elecciones de Texas. Los centros de votación para la elección adelantada en persona serán: El Palacio Municipal de la Ciudad, 100 W. Center Street, Kyle, Texas, la Oficina de Administración de HCISD, 21003 IH 35, Kyle, Texas; y la escuela Elemental Upper Campus en la Calle San Marcos No. 300, Buda, Texas; y cualquier otros lugares y sitios autorizados por ley estatal y por la Administradora de Elecciones del Condado de Hays. La votación adelantada en persona será llevada a cabo en lugares y sitios autorizados por ley estatal y nombrados por la Administradora de Elecciones de Condado de Hays.

SECCIÓN 5. La Secretaria de la Ciudad queda ordenada en ayudar a la Administradora de Elecciones de Condado de Hays en la adquisición y en proveer cualquier materiales y provisiones que sean necesario para conducir la elección. La Secretaria de la Ciudad queda aún más autorizada en dar o causar en dar anuncios requeridos para la elección, y de tomar cualquiera y aún más acción según sea requerido para conducir una elección según el Código de Elecciones de Texas y el Capítulo 9, del Código de Gobiernos Locales de Texas; provisto que, conforme al Contrato de Servicios de Elecciones entre el Condado de Hays y la Ciudad, la Administradora de Elecciones del Condado de Hays tendrá el deber y será responsable de organizar y conducir la elección según el *Código de Elecciones de Texas*; y de proveer todos los servicios especificados de ser provistos en el Contrato de Servicios de Elecciones. La Administradora de Elecciones del Condado de Hays dará los anuncios requeridos por el *Código de Elecciones de Texas* para ser dados para la elección.

SECCIÓN 6. La Administradora de Elecciones del Condado de Hays y sus empleados y sus personas designadas para la elección, y sus jueces de elecciones, los jueces suplentes, y los escribanos propiamente nombrados para la elección, llevarán a cabo y conducirán la

elección en la manera prescrita por contrato con la ciudad y la ley que gobierna la celebración las elecciones por los estatutos de autonomía del Estado de Texas, y las papeletas oficiales, juntas con cualquier otro material de elecciones como sean requeridos por el *Código de Elecciones de Texas*, serán preparados en inglés y en español y tendrán tal proviciones, marcas y lenguaje como sea requerido por ley.

SECCIÓN 7. Los jueces presidentes de sala, los jueces suplentes de sala y los escribanos para la elección serán nombrados y designados por el Condado de Hays y sus personas designadas según los requisitos de la ley estatal, y tal jueces y escribanos nombrados por el Condado de Hays y sus personas designadas, quedan por este medio nombradas y designadas por el Concejo Municipal de la Ciudad como oficiales de elecciones, jueces y escribanos, respectivamente, para llevar a cabo dicha elección especial. Los jueces presidentes de sala, los jueces suplentes de sala y escribanos llevarán a cabo las funciones y deberes de sus posiciones respectivas que sean provistas por ley estatal. El Concejo Municipal de la Ciudad por este medio confirma y designa a los jueces presidentes de sala y los jueces suplentes de sala previamente designados a la Ciudad por forma escrita por el Condado de Hays que sean nombrados por el Condado de Hays para la elección, y como posteriormente substituidos como provisto por ley.

SECCIÓN 8. La Ciudad está de acuerdo en conducir una elección mutua con otras subdivisiones políticas dentro del Condado de Hays, provisto que tales subdivisiones políticas lleven a cabo una elección el 7 de mayo de 2016 en todo y parte del mismo condado como la Ciudad (las «Subdivisiones Políticas»). La elección mutua para Subdivisiones Políticas en el Condado de Hays será conducida según la ley estatal, esta ordenanza, los Estatutos de la Ciudad y el Contrato de Elecciones.

SECCIÓN 9. La elección se llevará a cabo y se conducirá por la Administradora de Elecciones de Condado de Hays según la ley estatal, el Contrato de Servicios de Elecciones, y esta Ordenanza se quedará impuesta y efecta de y después de su aprobación en la fecha que sigue.

SECCIÓN 10. Por este medio se queda oficialmente descubierto y determinado que esta reunión estuvo abierta al público, y un anuncio de la hora, lugar y propósito de tal reunión se dio, todo según requerido por la Ley de Reuniones Abiertas, *Capítulo 551, del Código Gubernamental de Texas*.

PASADO Y APROBADO este día ____ de febrero de 2016.

PASADO Y FINALMENTE APROBADO este día ____ de febrero de 2016.

CIUDAD DE KYLE, TEXAS

R. Todd Webster Alcalde

DECLARADO:

Amelia Sanchez, Secretaria de la Ciudad



CITY OF KYLE, TEXAS

Ratification of Emergency Repairs by Public Works

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Ratify the award of a Purchase Order to ALSAY INCORPORATED of Houston, Texas in the amount of \$27,225.08 for emergency repairs ordered by the Public Works Department to include water pump rebuild and to replace bearing at Well 2 site located at 701 W Moore Street in Kyle, Texas. ~ *Harper Wilder, Director of Public Works*

Other Information:

Legal Notes:

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- Justification, Invoice & Requisition
- Fiscal Note



PURCHASE REQUISITION FORM

VENDOR:

Alsay Incorporated - San Antonio Division
 Office Manager
 3359 S. E. Loop 410
 San Antonio, TX 78222

REQUESTING DEPT:

Public Works
 Jason Biemer
 Utility Coordinator
 512-262-3024 X 4012
 512-749-6916

BILL TO:

City of Kyle
 Public Works Department
 520 E. FM 150
 Kyle, TX 78640

VENDOR NO.	VENDOR PHONE NUMBER	TERMS	DATE	REQUIRED DELIVERY DATE
	210-628-1090	30 Days	12/31/2016	1/16/2015

SHIPPING INSTRUCTIONS

ITEM	QTY	DESCRIPTION OF GOODS/SERVICES	BUDGET AVAIL?	ACCOUNT CODES	UNIT PRICE	AMOUNT
	1.00	Rebuilding of pump for well 2 as well as production line and bearing replacement,	Yes	310-820-54152	27,225.08	27,225.08

SUBTOTAL: 27,225.08
 TAX: Not Applicable 0.00
 SHIPPING: 0.00

TOTAL: 27,225.08

 AUTHORIZED SIGNATURE

IMPORTANT: PLEASE CHECK THAT THE BUDGET IS AVAILABLE TO MAKE THIS PURCHASE

Purchase Justification

Staff,

This emergency purchase order request is for the emergency repairs to well pump number 2. This well is the primary producer of Edwards Aquifer water for the city, and vital to our water portfolio management.

A handwritten signature in black ink, appearing to be the initials 'AB' or similar, written in a cursive style.



Alsay Incorporated
 6615 Gant Rd
 Houston, TX 77066
 Phone: (281) 444-6960
 Fax: (281) 444-7081

INVOICE

INVOICE #	DATE
574	12/31/2015

RECEIVED

JAN 11 2016

Kyle Public Works

SOLD TO:

CITY OF KYLE
 300 W. CENTER ST.
 KYLE, TX 78640

ACCOUNT NUMBER	JOB NUMBER	PO NUMBER	PROJECT	TERMS	DUE DATE
KYLE	29866		Well#2	Net 30	1/30/2016

ITEM NO	QUANTITY	DESCRIPTION	UNIT PRICE	EXTENDED
	14	Hours- Mobilize to jobsite and pull 330' of 8" water lube pump	225.00	3,150.00
	5	Hours-Trucking to pick up pump and return to shop	150.00	750.00
	3	Hours- Tear down and inspect pump	75.00	225.00
	1	Camera Survey	1,750.00	1,750.00
	32	Clean and straighten shafts	75.94	2,430.08
	1	Sand blast and paint discharge head	1,400.00	1,400.00
	1	Bowl shaft	948.00	948.00
	1	Suction Bearing	59.50	59.50
	1	Discharge bearing	134.75	134.75
	5	Intermediate bearings bronze	36.75	183.75
	4	Intermediate bearings rubber	36.75	147.00
	32	8" Column pipe 10'	357.00	11,424.00
	1	8" Column pipe 5'	208.00	208.00
	33	B inserts/ 1 1/2" busings	21.00	693.00
	1	1 1/4" SS Shaft 12 thread left hand both sides with coupling	122.00	122.00
	16	Hours- Install	225.00	3,600.00

TOTAL AMOUNT 27,225.08

City of Kyle, Texas
 Approved For Payment

[Signature] 1/16/16
 Signature Date

Regulated by: Texas Department of Licensing & Regulation
 PO Box 12157
 Austin, TX 78157
 1-800-803-9202, 1-512-463-7880

Invoices Unpaid Within Terms Listed Will Be Subject To Interest Charges Of 1.5% Per Month.

Item # 5

City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: February 2, 2016
CONTACT CITY DEPARTMENT: Public Works Department
CONTACT CITY STAFF: Harper Wilder, Director

SUBJECT:

Ratify the award of a Purchase Order to ALSAY INCORPORATED of Houston, Texas in the amount of \$27,225.08 for emergency repairs ordered by the Public Works Department to include water pump rebuild and to replace bearing at Well 2 site located at 701 West Moore Street in Kyle, Texas.

CURRENT YEAR FISCAL IMPACT:

This Purchase Order to ALSAY INCORPORATED will require expenditure of funds from the Fiscal Year 2015-16 approved budget of the Public Works Department as follows:

1. City Department:	Public Works Department
2. Project Name:	Emergency Repairs – Pump Motor
3. Budget/Accounting Code(s):	310-820-54152
4. Funding Source:	Water Utility Fund
5. Current Appropriation:	\$ 55,000.00
6. Unencumbered Balance:	\$ 28,730.04
7. Amount of This Action:	<u>\$ (27,225.08)</u>
8. Remaining Balance:	<u>\$ 1,504.96)</u>

FUNDING SOURCE OF THIS ACTION:

The funding source for this Purchase Order will be provided from the Fiscal Year 2015-16 approved budget of the Public Works Department.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A.

 1/27/2016

Perwez A. Moheet, CPA - Date
Director of Finance



CITY OF KYLE, TEXAS

Approve Change Order No. 2 for
Marketplace Extension Avenue.

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Approve Change Order No. 2 to CAPITAL EXCAVATION COMPANY, Buda, Texas, in an amount not to exceed \$7,000.00 for a total contract amount of \$3,814,876.00 for additional drainage work required for Marketplace Avenue construction project. ~ *Leon Barba, P.E., City Engineer*

Other Information: An addition to the project was requested for the placement of a french drain near the Burseson Street intersection. The french drain will address some ground water issues and allow for the continued construction of the subgrade and base foundation.

Legal Notes: N/A

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- Justification for CO 2
- Fiscal Note

Kyle Marketplace - Ground Water Issue at South End of Project

Reed Hoysradt <rhoysradt@capitalexcaavation.com>

Mon 1/25/2016 2:07 PM

To: Jo Ann Garcia <jgarcia@cityofkyle.com>;

Cc: Jimmy Haverda <jimmyh@cityofkyle.com>; Ben Veloz <bveloz@capitalexcaavation.com>; Chase Botkin <CBOTKIN@capitalexcaavation.com>;

Jo Ann,

We have continued to deal with some ground water issues at the south end of the project. For the most part we have dried everything out with the exception of a location that we have water coming up to the surface from the rock subgrade. After discussing the issue with Jimmy, we plan to install a French drain in this area behind the curb, in the subgrade to capture the ground water and keep it away from the roadway base. It will consist of some slotted PVC drain pipe extending from inlet to inlet and gravel. The total length will be about 150'.

We plan to track all costs and will submit as force account work once completed. We've already started as we will need to get this completed along with the Flex Base prior to starting the roundabout work.

Thank you,

Reed Hoysradt
Project Coordinator



2967 Business Park Drive
Buda, TX 78610
(512) 486-3649 (Office)
(512) 214-2518 (Cell)
rhoysradt@capitalexcaavation.com

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Item # 6

RE: Kyle Marketplace - Ground Water Issue at South End of Project

Reed Hoysradt <rhoysradt@capitalexcavation.com>

Wed 1/27/2016 3:20 PM

To: Jo Ann Garcia <jgarcia@cityofkyle.com>;

Cc: Jimmy Haverda <jimmyh@cityofkyle.com>; Ben Veloz <bveloz@capitalexcavation.com>; Chase Botkin <CBOTKIN@capitalexcavation.com>;

Jo Ann,

You can assume \$7000 as a not to exceed.

Thank you,

Reed Hoysradt
Project Coordinator



[2967 Business Park Drive](#)

[Buda, TX 78610](#)

(512) 486-3649 (Office)

(512) 214-2518 (Cell)

rhoysradt@capitalexcavation.com

From: Jo Ann Garcia [mailto:jgarcia@cityofkyle.com]

Sent: Tuesday, January 26, 2016 8:30 AM

To: Reed Hoysradt

Cc: Jimmy Haverda; Ben Veloz; Chase Botkin

Subject: Re: Kyle Marketplace - Ground Water Issue at South End of Project

Morning

Reed do you all have a ballpark estimate in mind or an amount not to exceed certain amount figure, I'm lining up items for next council meeting (I have to have them input by Friday morning for Feb. 2nd meeting). Otherwise will need to line up for Feb. 19 meeting.

1452274938436_PastedImage

Jo Ann E. Garcia

Item # 6

City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: February 2, 2016
CONTACT CITY DEPARTMENT: Engineering Services
CONTACT CITY STAFF: Leon Barba, P.E., City Engineer

SUBJECT:

Approve Change Order No. 2 to CAPITAL EXCAVATION COMPANY, Buda, Texas, in an amount not to exceed \$7,000.00 for a total contract amount of \$3,814,876.00 for additional drainage work required for Marketplace Avenue construction project.

CURRENT YEAR FISCAL IMPACT:

This road construction bid award will require expenditure of funds from the General Obligation Bonds, Series 2015 issued for the construction of the five (5) roadway improvement projects.

1. City Department:	Engineering Services
2. Project Name:	Construction - Marketplace Avenue
3. Budget/Accounting Code(s):	192-683-57222
4. Funding Source:	2013 & 2015 GO Bond Fund (Road Bonds)
5. Current Appropriation:	\$ 4,895,726.00
6. Unencumbered Balance:	\$ 432,650.00
7. Amount of This Action:	<u>\$(7,000.00)</u>
8. Remaining Balance:	<u>\$ 425,650.00</u>

FUNDING SOURCE OF THIS ACTION:

The funding for this construction bid award will be provided from the General Obligation Bonds, Series 2015 issued for the construction of the five (5) roadway improvement projects.

ADDITIONAL INFORMATION/COUNCIL ACTION:

N/A.

 1/28/2016

Perwez A. Moheet, CPA - Date
Director of Finance



CITY OF KYLE, TEXAS

Approve Supplement No. 7 for Burluson Street.

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Approve Supplement No. 7 to FREESE AND NICHOLS, INC., Austin, Texas, in an amount not to exceed \$37,180.00 for a total contract amount of \$1,361,175.00 for the purpose of performing additional utility engineering, geotechnical testing, and property acquisition services needed to realign a wastewater line for the Burluson Street project. ~
Leon Barba, P.E., City Engineer

Other Information: During review of the project plans it was determined additional construction and maintenance issues were to be encountered if the Engineer's design remained as presented at the low water crossing on Burluson Street. In order to facilitate maintenance, staff needs to have a section of the proposed wastewater alignment adjusted. Additional survey data will need to be collected, the soils will need to be tested to design the necessary foundation(s). Additional permits and a utility easement may be necessary, depending on the selection of waste water line placement. This particular extension will allow for seven, (7) new connections to the City's waste water system.

Legal Notes: N/A

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- Scope of Work Supp. WA 7
- Supp. WA 7 Fees
- Geotech Fees
- Surveyor Fees
- Fiscal Note

SERVICES TO BE PERFORMED BY THE ENGINEER

Assumptions

1. Freese and Nichols, Inc. (FNI) standard CAD and sheet setup will be used.
2. Any floodplain or TXDOT permitting application fees will be paid for by the City.
3. No stormwater modeling services of Plum Creek will be performed.
4. The City will coordinate access onto the private landowner's site.

Basic Services:

Design Phase

1. Perform additional topographic survey of the area between Burleson Street and Interstate 35 along Plum Creek, including survey up to the manhole located within I-35 Right of Way. **See *McGray and McGray Land Surveyors, Inc. proposal for more details.***
2. Perform one site visit to Plum Creek to verify and analyze survey data. Determine the appropriate location for the aerial sewer crossing. Determine location of two (2) additional geotechnical bore locations, if required.

Bidding Phase

1. None

Construction Phase

1. None

Additional Services (Dependent on location of Crossing):

Design Phase

1. Stake two (2) additional geotechnical bore locations. **See *McGray and McGray Land Surveyors, Inc. proposal for more details.***
2. Provide field notes for one (1) additional easement for the proposed sewer line. **See *McGray and McGray Land Surveyors, Inc. proposal for more details.***
3. Provide field notes for one (1) additional easement for the existing sewer line. **See *McGray and McGray Land Surveyors, Inc. proposal for more details.***
4. Provide two (2) additional geotechnical bores and bore logs. **See *Arias and Associates proposal for more details.***
5. Design structural support of aerial crossing, incorporating data from geotechnical bore logs.
6. Design and produce one new plan and profile sheet of the realignment of the sewer crossing over Plum Creek.
7. Design and produce one new detail sheet with aerial creek crossing details.
8. Produce additional specifications as needed for the aerial creek crossing and structural support. **Item # 7**

9. Coordinate with the City of Kyle and Hayes County floodplain managers for permitting of the aerial crossing in the floodplain.
10. Coordinate with TXDOT if sewer alignment is within TXDOT ROW, including permit preparation and submittal.
11. Conduct internal QC process for additional deliverables.
12. Produce 99% Plan sheets, Quantities, and Specifications for review by the City for the aerial creek crossing.
13. Incorporate City comments into the plans, specifications, and quantity adjustments.
14. Incorporate changes into Issued for Bid Plans and Specifications for the Burleson St. Improvements project.

Bidding Phase

1. None

Construction Phase

1. Review additional submittals associated with the aerial creek crossing and pipeline appurtenances (3 submittals max).
2. Review additional RFI's associated with the aerial creek crossing (2 RFI's max).

City of Kyle N Burleson St - Additional Services for Aerial Sewer Crossing for Plum Creek 1/22/2016 Detailed Cost Breakdown													Project Fee Summary		
													Basic	\$	9,841
													Special	\$	27,339
													Total Project	\$	37,180

Additional Services																	
Phase	Task	Employee	Jessica Rodriguez	Sean Barry	Kimberly Patak	Scott Hubley	Anne Carrel Hoskins	Rebecca Musk	Jim Baddaker	Davin Halley	Billy Metzger	Peter Bartels	Total Hours	Total Labor Effort	Total Expense Effort	Total Sub Effort	Total Effort
		Project Role	Project Manager	Project Engineer	PE	QC	Senior Project Engineer	Project Engineer	QC	CAD Designer	Project Admin	Structural PE					
		Hourly Bill Rate	\$231.06	\$142.52	\$184.82	\$198.33	\$179.79	\$140.20	\$234.12	\$131.15	\$119.15	\$190.20					
UTIL	101	Final Design Phase															
UTIL	101	Stake two (2) additional geotechnical bore locations.												\$ -	\$ -	\$ -	\$ -
UTIL	101	Provide field notes and easement documents for one (1) additional easement for the proposed sewer line.	1										1	\$ 232	\$ 9	\$ 2,144	\$ 2,385
UTIL	101	Provide field notes and easement documents for one (1) additional easement for the existing sewer line.	1										1	\$ 232	\$ 9	\$ 2,144	\$ 2,385
UTIL	101	Perform two (2) additional geotechnical bores and bore logs.	1										1	\$ 232	\$ 9	\$ 6,600	\$ 6,841
UTIL	101	Design structural support of aerial crossing, incorporating data from geotechnical bore logs.						1				8	9	\$ 1,662	\$ 77	\$ -	\$ 1,739
UTIL	101	Design and produce one new plan and profile sheet of the aerial sewer crossing over Plum Creek.					2	3		13		2	20	\$ 2,866	\$ 170	\$ -	\$ 3,036
UTIL	101	Design and produce one new detail sheet with creek crossing details.					1	2		8		2	13	\$ 1,890	\$ 111	\$ -	\$ 2,001
UTIL	101	Produce additional specifications as needed for the creek crossing.					1	2				2	5	\$ 841	\$ 43	\$ -	\$ 884
UTIL	101	Coordinate with the City of Kyle and Hayes County floodplain managers for permitting of the aerial crossing in the floodplain.			2			2		2			6	\$ 913	\$ 51	\$ -	\$ 964
UTIL	101	Coordinate with TXDOT if sewer alignment is within TXDOT ROW, including permit preparation and submittal.	1				2	6		2			11	\$ 1,695	\$ 94	\$ -	\$ 1,789
UTIL	101	Conduct QC process for additional deliverables.						1	1	1		1	4	\$ 696	\$ 34	\$ -	\$ 730
UTIL	101	Produce 99% Plan sheets, Quantities, and Specifications for review by the City for the aerial creek crossing.					1	3		2		1	7	\$ 1,053	\$ 60	\$ -	\$ 1,113
UTIL	102	Incorporate City comments into the plans, specifications, and quantity adjustments.					1	2		4		2	9	\$ 1,366	\$ 77	\$ -	\$ 1,443
UTIL	102	Incorporate changes into Issued for Bid Plans and Specifications for the Burleson St. Improvements project.						1		4			5	\$ 665	\$ 43	\$ -	\$ 708
UTIL	102	Construction Phase												\$ -	\$ -	\$ -	\$ -
UTIL	102	Review additional Shop Drawings/ Record Data submittals associated with the aerial creek crossing (3 Max)					1	2				1	4	\$ 651	\$ 34	\$ -	\$ 685
UTIL	102	Review additional RFI's associated with the aerial creek crossing (2 Max)						2		1		1	4	\$ 602	\$ 34	\$ -	\$ 636
Total Special Services Hours			4		2		9	27	1	37		20	100	\$ 15,596	\$ 855	\$ 10,888	\$ 27,339
Total Special Services Labor Effort			\$ 924	\$ -	\$ 370	\$ -	\$ 1,618	\$ 3,785	\$ 234	\$ 4,853	\$ -	\$ 3,804					

Phase	Task	Expenses	Tech Charge	Print Shop - Binding	Print Shop - Plotter - Other	Miles	Other	Other	Other	Other	Other	Other	Total Exp Effort
UTIL	101	Final Design Phase											\$ -
UTIL	101	Stake two (2) additional geotechnical bore locations.											\$ -
UTIL	101	Provide field notes and easement documents for one (1) additional easement for the proposed sewer line.	1										\$ 9
UTIL	101	Provide field notes and easement documents for one (1) additional easement for the existing sewer line.	1										\$ 9
UTIL	101	Perform two (2) additional geotechnical bores and bore logs.	1										\$ 9
UTIL	101	Design structural support of aerial crossing, incorporating data from geotechnical bore logs.	9										\$ 77
UTIL	101	Design and produce one new plan and profile sheet of the aerial sewer crossing over Plum Creek.	20										\$ 170
UTIL	101	Design and produce one new detail sheet with creek crossing details.	13										\$ 111
UTIL	101	Produce additional specifications as needed for the creek crossing.	5										\$ 43
UTIL	101	Coordinate with the City of Kyle and Hayes County floodplain managers for permitting of the aerial crossing in the floodplain.	6										\$ 51
UTIL	101	Coordinate with TXDOT if sewer alignment is within TXDOT ROW, including permit preparation and submittal.	11										\$ 94
UTIL	101	Conduct QC process for additional deliverables.	4										\$ 34
UTIL	101	Produce 99% Plan sheets, Quantities, and Specifications for review by the City for the aerial creek crossing.	7										\$ 60
UTIL	102	Incorporate City comments into the plans, specifications, and quantity adjustments.	9										\$ 77
UTIL	102	Incorporate changes into Issued for Bid Plans and Specifications for the Burleson St. Improvements project.	5										\$ 43

Item # 7

City of Kyle N Burleson St - Additional Services for Aerial Sewer Crossing for Plum Creek 1/22/2016													Project Fee Summary		
Detailed Cost Breakdown													Basic	\$ 9,841	
													Special	\$ 27,339	
													Total Project	\$ 37,180	
UTIL	102	Construction Phase												\$ -	
UTIL	102	Review additional Shop Drawings/ Record Data submittals associated with the aerial creek crossing (3 Max)	4											\$ 34	
UTIL	102	Review additional RFI's associated with the aerial creek crossing (2 Max)	4											\$ 34	
Total Special Services Items			100											\$ -	
Total Special Services Expenses Effort			\$ 850	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 855

Phase	Task	Subconsultants	McGray & McGray	Arias											Total Sub Effort
UTIL	101	Final Design Phase													\$ -
UTIL	101	Stake two (2) additional geotechnical bore locations.													\$ -
UTIL	101	Provide field notes and easement documents for one (1) additional easement for the proposed sewer line.	1,949												\$ 2,144
UTIL	101	Provide field notes and easement documents for one (1) additional easement for the existing sewer line.	1,949												\$ 2,144
UTIL	101	Perform two (2) additional geotechnical bores and bore logs.		6,000											\$ 6,600
UTIL	101	Design structural support of aerial crossing, incorporating data from geotechnical bore logs.													\$ -
UTIL	101	Design and produce one new plan and profile sheet of the aerial sewer crossing over Plum Creek.													\$ -
UTIL	101	Design and produce one new detail sheet with creek crossing details.													\$ -
UTIL	101	Produce additional specifications as needed for the creek crossing.													\$ -
UTIL	101	Coordinate with the City of Kyle and Hayes County floodplain managers for permitting of the aerial crossing in the floodplain.													\$ -
UTIL	101	Coordinate with TXDOT if sewer alignment is within TXDOT ROW, including permit preparation and submittal.													\$ -
UTIL	101	Conduct QC process for additional deliverables.													\$ -
UTIL	101	Produce 99% Plan sheets, Quantities, and Specifications for review by the City for the aerial creek crossing.													\$ -
UTIL	102	Incorporate City comments into the plans, specifications, and quantity adjustments.													\$ -
UTIL	102	Incorporate changes into Issued for Bid Plans and Specifications for the Burleson St. Improvements project.													\$ -
UTIL	102	Construction Phase													\$ -
UTIL	102	Review additional Shop Drawings/ Record Data submittals associated with the aerial creek crossing (3 Max)													\$ -
UTIL	102	Review additional RFI's associated with the aerial creek crossing (2 Max)													\$ -
Total Special Services Subconsultants Cost			\$ 3,897	\$ 6,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Total Special Services Subconsultants Effort			\$ 4,287	\$ 6,600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,888

Item # 7



13581 Pond Springs Road, Suite 210, Austin, Texas 78729 • Phone: (512) 428-5550 • Fax: (512) 428-5525

December 29, 2015 (revised)
Arias Project No. 2013-756

Via Email: Jessica.Rodriguez@freese.com

Ms. Jessica Rodriguez, P.E.
Senior Project Manager
Freese and Nichols, Inc.
10431 Morado Circle
Building 5, Suite 300
Austin, Texas 78759

RE: Proposal for Geotechnical Engineering Services
Elevated Wastewater Line at Plum Creek and IH-35 SB Frontage Road
North Burleson Street Improvements
Kyle, Texas

Dear Ms. Rodriguez:

Arias & Associates, Inc. (Arias) is pleased to provide this proposal for geotechnical engineering services for the above referenced project. Our understanding of the project is based on the information provided by you. We have received an aerial image showing the survey limits and approximate locations of existing and proposed wastewater lines. We have also discussed the project with you. The following sections present our understanding of the project, proposed scope of services, fee compensation requirements and schedule.

Project Information

As part of the North Burleson Street Improvements, we understand that a new wastewater line is being constructed along Plum Creek and will extend to an existing wastewater line near IH-35 southbound (SB) frontage road. We understand that the new utility crossing will be elevated above the creek and potentially beneath the frontage road. Along the elevated portion, the pipeline will be supported by 24-inch diameter concrete columns and drilled shafts.

The purpose of the requested geotechnical scope is to determine the depth to the desired bearing stratum, likely consisting of chalk of the Pecan Gap formation. Because the project is in the early stages of design, the alignment of the proposed crossing and associated structural loading have not been determined at this time.

Item # 7

Proposed Investigation

As requested, we propose to drill 2 borings to depths extending through surficial alluvial soil, fill material, and fat clay and penetrate at least 5 feet into the desired bearing stratum. Based on published geology and our local experience, the site is likely underlain by Pecan Gap chalk. We have estimated boring depths of 40 feet each, but they may be less. The proposed drilling scope is summarized in the following table.

Proposed Drilling Scope	Boring Depth, ft	No. of Borings	Total Footage
One boring on either side of IH-35 SBFR Bridge at Plum Creek	40	2	80
		Total	80

The borings will be advanced using augering and sampling techniques. Arias will retain a subcontract driller to perform drilling. Arias personnel will locate the borings, direct the sampling efforts, visually classify recovered samples, and obtain necessary permits for drilling in TxDOT Right of Way. We request the assistance of the design team to coordinate with the proper TxDOT representative to expedite the permitting and approval processes prior to drilling.

Soils will be sampled by either pushing a thin-walled tube (ASTM D1587) of cohesive soils, and a split barrel sampler while performing the Standard Penetration Test (ASTM D1586) for cohesionless soils. The bearing stratum (chalk or shale) will be sampled as above, and no rock coring is planned. This proposal assumes that a truck-mounted drill rig can access the boring locations and that no site clearing or grading will be required. We have assumed that the borings will be located in areas that will not require traffic control, and that borings can be drilled during the normal business hours during the normal work week (i.e. night-time drilling is not planned). Traffic control has not been included in this budget.

If groundwater is encountered, the groundwater levels within the open borehole will be recorded at the time of drilling and immediately following drilling. The boreholes will be backfilled with cuttings generated by drilling operations after completion of drilling.

Laboratory testing will be performed on recovered samples selected by the geotechnical engineer to aid in soil classification and to measure engineering properties. Laboratory testing is expected to include moisture content, Atterberg limits, fines content (percent passing the No. 200 sieve), and unconfined compression strength testing. The actual laboratory program will depend upon the type of soils encountered.

Reporting

We will issue an electronic copy of our engineering report prepared by a licensed professional engineer in the State of Texas that will include:

- Description of the field exploration program;
- Description of the laboratory testing program;
- Soil boring plan that depicts borehole locations on a base map provided by Client;
- Soil boring logs with soil classifications based on the Unified Soil Classification System (ASTM D 2487);
- Generalized site stratigraphy and engineering properties developed from field and laboratory data at the explored locations;
- Depth where groundwater, if encountered, and its potential impact on construction; and
- Recommendations for design and construction of foundations, including allowable bearing pressures, skin friction, and bearing elevations, with comments regarding to settlement/heave potential; and
- Lateral resistance and LPILE parameters.

Our report will not include global stability evaluations for site slopes or retaining walls. We would be pleased to provide this service if desired and project conditions dictate.

Proposed Fee

We propose that the fee for the performance of the scope of work for this project as described in this proposal be **\$6,000**. The work will be performed as outlined in the General Conditions of our current contract. A Geotechnical Cost Breakdown is summarized in the following table.

Scope Item	Cost
Planning, Coordination, Permitting	\$1,500
Mobilization and Drilling (2 borings, estimated 80 feet total drilling footage)	\$2,950
Laboratory Testing (soil classification, compression tests)	\$400
Engineering and Report	\$1,150
TOTAL	\$6,000

Upon completion of the field investigation, we will issue a partial invoice for the amount of **\$4,450**.

We have prepared our scope and fee with the understanding that no special access will be required beyond the listed TxDOT ROW permit and no traffic control, site clearing or grading will be required to drill the borings during normal business hours.

Schedule

Upon receiving written authorization, and weather and site conditions permitting, we can perform our field investigation within 2 weeks. Drilling of the boreholes will take 1 to 2 days. Laboratory testing and reporting will take another 2 to 3 weeks. We will submit a final written report within five (5) weeks of formal authorization. We will keep you verbally informed of our findings as they become available.

Delays sometime occur due to adverse weather, utility clearance requirements, site clearing requirements for drill rig access, obtaining Right of Entries and other factors outside of our control. In this event, we will communicate the nature of the delay with you and provide a revised schedule at the earliest possible date.

Proposal Acceptance

Please let us know if this proposal meets your expectations. If acceptable, we can perform our services in accordance with the Subconsultant Authorization, Attachment D, of our current contract with FNI, with additional authorized budget.

Should you have any questions, please do not hesitate to contact us. The undersigned with manage and perform the work. Thank you for this opportunity.

Sincerely,

ARIAS & ASSOCIATES, INC.
TBPE Registration No: F-32



Rebecca A. Russo, P.E.
Senior Geotechnical Engineer



John S. Landwermeyer, P.E.
Managing Principal, Austin Operations

McGRAY & McGRAY LAND SURVEYORS, INC.

3301 HANCOCK DRIVE, SUITE 6
AUSTIN, TEXAS 78731
[512] 451-8591 FAX [512] 451-8791

TRANSMITTAL

TO: Freese & Nichols, Inc.
Attn: Jessica Rodriguez
10431 Morado Cir.
Bldg. 5, Ste. 300
Austin, TX 78759
PHONE: (512) 617-3141

DATE: December 30, 2015
FROM: Karen Ruppert for Judy McGray
RE: Revised Proposal for Additional Surveying
Services for N. Burluson Rd from Miller St to
IH 35 Frontage Rd, Kyle, Hays County, TX
EMAIL: jessica.rodriguez@freese.com

WE ARE SENDING YOU X Attached _____ Under separate cover the following items:

COPIES

DESCRIPTION

1 Proposal

For Your Approval

For Your Information

As Requested

For Review and Comment

REMARKS: Thanks,
Judy

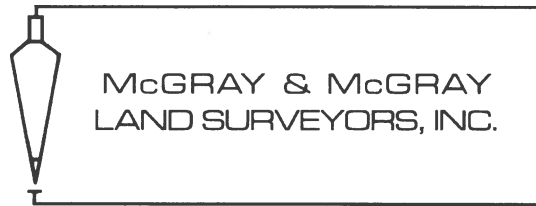
TBPLS Firm #10095500

SENT VIA: Delivery Service FedEx Mail Fax Email Other:

Item # 7

If you received this message incomplete or illegible, or if enclosures are not as noted, please notify us at once

December 30, 2015



Jessica Rodriguez
Freese & Nichols, Inc.
10431 Morado Cir
Bldg. 5, Suite 300
Austin, TX 78759
(512) 617-3141

VIA EMAIL:
Jessica.rodriguez@freese.com

RE: Revised Proposal for Additional Surveying Services for N. Burleson Street from Miller Street to IH 35 Frontage Road in Kyle, Hays County, Texas.

Dear Ms. Rodriguez:

We appreciate the opportunity to present you with this revised proposal for the above referenced project. The following represents our understanding of the area to survey, scope of services, and our fee proposal.

Area to Survey:

- See attached exhibit.

Scope of Services:

- Perform topographic survey of additional area between N. Burleson St. and IH-35 ROW (approximately 110' x 150').
- Provide flowline data for two (2) additional manholes on the 21" sewer line.
- Provide flowline data and Ordinary High Watermark elevation on Plum Creek.
- Stake two (2) geotechnical bores (locations to be determined following receipt of survey).
- Provide field notes for one (1) additional 20' wide easement (location to be determined following receipt of survey).

Fees:

Design Survey (Non-taxable):

2 Man Crew:	18 hrs @	\$146.00 /hr.=	\$	2,628.00
RTK Crew:	4 hrs @	\$220.00 /hr.=	\$	880.00
GPS Processing:	1 hrs @	\$105.00 /hr.=	\$	105.00
Field Coordinator:	1 hrs @	\$95.00 /hr.=	\$	95.00
Sr. Tech:	8 hrs @	\$93.00 /hr.=	\$	744.00
Tech:	18 hrs @	\$72.00 /hr.=	\$	1,296.00
RPLS:	2 hrs @	\$140.00 /hr.=	\$	280.00
		TOTAL =	\$	6,028.00

Item # 7

- **Easement (Taxable): \$ 1,800.00** per parcel plus 8.25% sales tax for a total of **\$1,948.50**.

Summary

Design Survey Total \$	6,028.00
Easement Total \$	<u>1,800.00</u>
GRAND TOTAL \$	7,828.00

Optional Grand Total (with 8.25% sales tax)*

Easement Total \$	<u>1,948.50</u>
*GRAND TOTAL \$	7,976.50

*Since this project includes taxable services, we will need to receive a Texas Sales and Use Tax Resale Certificate for those services prior to starting the project. If one is not available, sales tax will be charged.

We will proceed as soon as we receive notice to proceed. We estimate it will take approximately 3 to 4 weeks (weekends and holidays excluded) from notice to proceed to complete this project, excluding additional services, weather and circumstances beyond our control permitting. Please let us know if we need to accelerate this schedule.

We will invoice time and materials actually used for this survey. As we get into this survey we may allocate our resources slightly differently, but we will not exceed the proposed fee without authorization from you.

Thank you for including us on this project. We look forward to the opportunity to work with you. If you think we have omitted any service you require or misinterpreted your request, please let me or Chris Conrad know.

Sincerely,



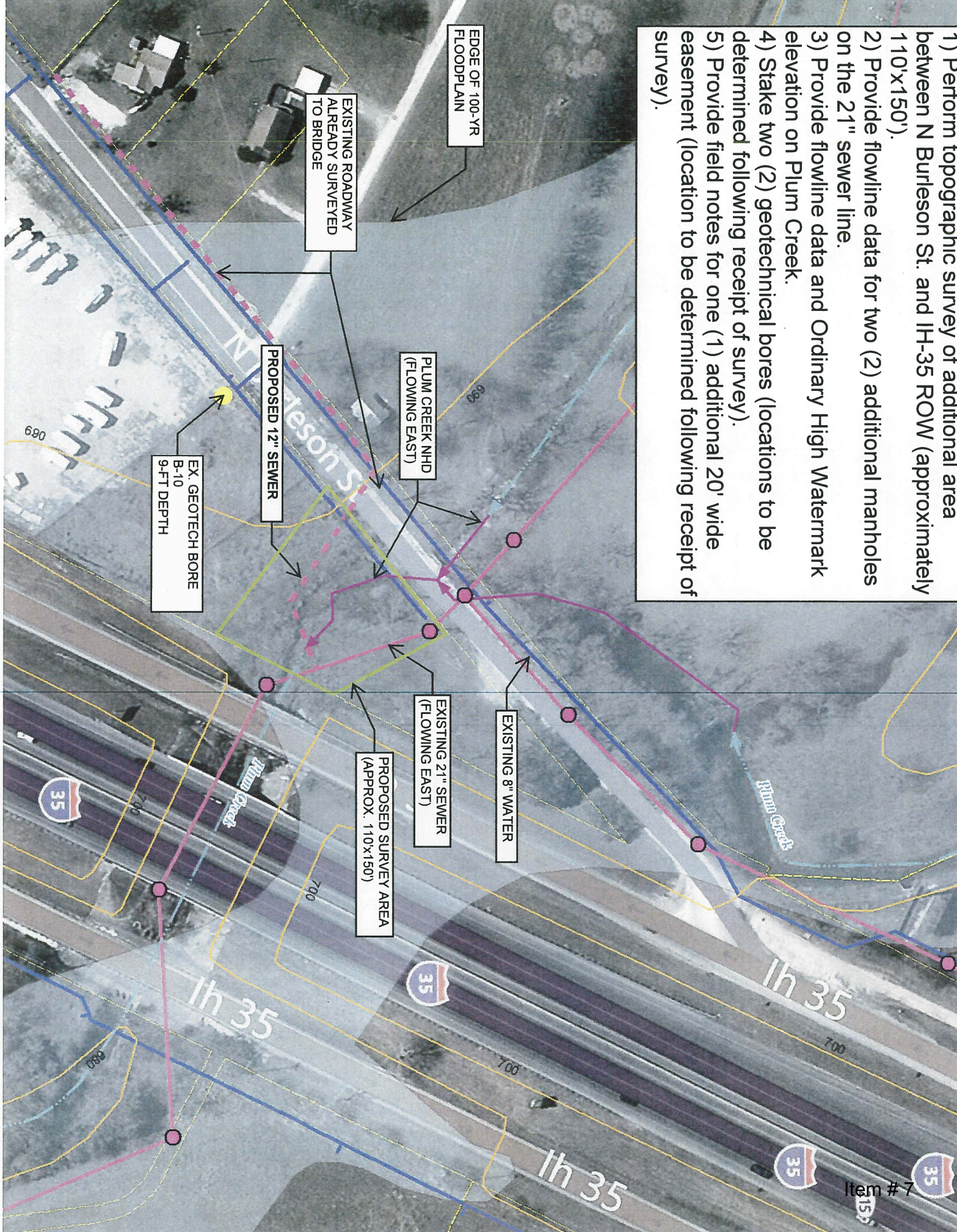
Judith J. McGray, RPLS
President
TBPLS Firm #10095500

Authorized to Proceed by:

_____	_____
Signature	Date
_____	_____
Print Name	Title

JJM:CIC:klr
encl.

- 1) Perform topographic survey of additional area between N Burleson St. and IH-35 ROW (approximately 110'x150').
- 2) Provide flowline data for two (2) additional manholes on the 21" sewer line.
- 3) Provide flowline data and Ordinary High Watermark elevation on Plum Creek.
- 4) Stake two (2) geotechnical bores (locations to be determined following receipt of survey).
- 5) Provide field notes for one (1) additional 20' wide easement (location to be determined following receipt of survey).



City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: February 2, 2016
CONTACT CITY DEPARTMENT: Engineering Services
CONTACT CITY STAFF: Leon Barba, P.E., City Engineer

SUBJECT:

Approve Supplement No. 7 to FREESE AND NICHOLS, INC., Austin, Texas, in an amount not to exceed \$37,180.00 for a total contract amount of \$1,361,175.00 for the purpose of performing additional utility engineering, geotechnical testing, and property acquisition services needed to realign a wastewater line for the Burleson Street project.

CURRENT YEAR FISCAL IMPACT:

This engineering services contract amendment for FREESE & NICHOLS, INC., will require expenditure of funds from the General Obligation Bonds, Series 2015 issued for engineering, design, and related services for the five (5) roadway improvement projects.

1. City Department:	Engineering Services
2. Project Name:	N. Burleson St – Supplement #7
3. Budget/Accounting Code(s):	192-680-57222
4. Funding Source:	2013 & 2015 GO Bond Funds (Road Bonds)
5. Current Appropriation:	\$ 9,444,236.11
6. Unencumbered Balance:	\$ 8,105,470.00
7. Amount of This Action:	\$ (37,180.00)
8. Remaining Balance:	<u>\$ 8,068,290.00</u>

FUNDING SOURCE OF THIS ACTION:

The funding for this amendment to the professional services agreement with FREESE & NICHOLS, INC., for the additional utility engineering services and necessary documents will be provided from the General Obligation Bonds, Series 2015 issued for engineering, design, and related services for the five (5) roadway improvement projects.

ADDITIONAL INFORMATION/COUNCIL ACTION:

- If approved by City Council, this contract Supplement No. 7 in the amount of \$37,180.00 for the purpose of performing additional utility engineering, geotechnical testing, and property acquisition services needed to realign a wastewater line will bring the total contract award to \$1,361,175.00 for FREESE & NICHOLS, INC., for the North Burleson Street improvement project.

- On January 2, 2016, City Council approved Supplement No. 6 in the amount of \$25,605.00 for additional utility right of way acquisition services and necessary documents bringing the total contract award to \$1,323,995.00 for FREESE & NICHOLS, INC., for the North Burleson Street improvement project.
- On July 27, 2015, City Council approved Supplement No. 5 in the amount of \$34,246.00 for additional utility engineering services and necessary documents bringing the total contract award to \$1,298,390.00 for FREESE & NICHOLS, INC., for the North Burleson Street project.
- On July 27, 2015, City Council approved Supplement No. 4 in the amount of \$25,611.00 for designing drainage improvements and necessary documents bringing the total contract award to \$1,264,144.00 for FREESE & NICHOLS, INC., for the North Burleson Street project.
- On February 3, 2015, City Council approved Supplement No. 3 in the amount of \$110,273.00 for the purpose of providing additional utility engineering services and documents necessary for the development of project plan sheets, estimates, and specifications for inclusion in bidding documents for N. Burleson Road bringing the total contract award to \$1,238,533.00 for FREESE & NICHOLS, INC., for the North Burleson Street project.
- On December 16, 2014, City Council approved contract Supplement No. 2 in an amount not to exceed \$47,846.00 for conducting a regional drainage study for areas contributing runoff to N. Burleson Road and the city's open channel in the vicinity of St. Anthony's street bringing the total contract award to \$1,128,260.00 for FREESE & NICHOLS, INC., for the North Burleson Street project.
- On December 2, 2014, City Council approved contract Supplement No. 1 in the amount of \$120,722.00 for right-of-way acquisition services bringing the total contract award to \$1,080,414.00 for FREESE & NICHOLS, INC., for the North Burleson Street project.
- On March 18, 2014, City Council approved a professional services agreement for engineering services with FREESE & NICHOLS, INC., in an amount not to exceed \$959,692.00 for engineering services for the North Burleson Street project.

 1/28/2016

Perwez A. Moheet, CPA
Director of Finance

- Date



CITY OF KYLE, TEXAS

Briseno - Variance

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Consider a request by Noe and Maria Briseno (114-A and 114-B Sunrise Circle) for a variance to Chapter 41 (Subdivision) Section 82, Rural Subdivision Standards (e) (2) of the City of Kyle Code of Ordinances, which states all lots in a rural subdivision shall have a minimum width of 130 feet at the front property line. ~ *Howard J. Koontz, Director of Planning and Community Development*
Planning and Zoning Commission voted 6-1 to recommend approval of the request.

- **PUBLIC HEARING**

Other Information: The site is located at 114-A & 114-B Sunrise Circle, which is at the western terminus of Sunrise Circle northwest of its intersection with Sunrise Drive. The property is located in Hays County, outside the city limits but within the city's extraterritorial jurisdiction. The applicant seeks to plat a re-subdivision of the existing Lot 33, which has been split into 'A' and 'B' lots via metes & bounds, sold, and developed with a single family detached structure.
Please see the attached staff memo for additional information.

Legal Notes: N/A

Budget Information: N/A

ATTACHMENTS:

Description

- Staff Memo
- Letter of Request
- Project Location Map
- Plat

Variance Application Number: VR-15-002

Property Location 114-A&B Sunrise Circle

**Property Owner Noe Briseno & Maria Martinez
114-B Sunrise Circle
Kyle, Texas 78640**

Variance Request Applicant seeks a variance to the minimum lot width of 130 feet at the front property line.

Vicinity Map



The site is located at 114-A & 114-B Sunrise Circle, which is at the western terminus of Sunrise Circle northwest of its intersection with Sunrise Drive. The property is located in Hays County, outside the city limits but within the city's extraterritorial jurisdiction. The applicant seeks to plat a re-subdivision of the existing Lot 33, which has been split into 'A' and 'B' lots via metes & bounds, sold, and developed with a single family detached structure.

Site Plan Analysis

Lot 33 in Sunrise Acres is 126,977.4 square feet (2.915 acres), having 74.62 feet of frontage along the cul-de-sac, and was originally developed with a collection of manufactured home structures located in the middle of the rear of the lot. The lot is flat

and is not bordered by any natural features. The property is surrounded on all sides by similar buildings and land uses, a mix of stick built and manufactured home sites. The request by the applicant is to formally record the subdivision of the property into two lots, one north and one south -including the existing buildings- sectioning the lot via property line down the middle, so that a sewer septic system permit can be obtained from the county for the newly created southern lot.

Kyle's current subdivision regulations do not allow for this subdivision, as the resultant lot would be non-conforming with regard to lot frontage by the strict letter of the regulations (§41-82(e)(2)). The division of the lot has already occurred in the field, and a structure has already been constructed on the lot.

For further information related to the specific request, please see the supplemental drawings submitted by the applicant, attached.

Conditions of the Zoning Ordinance

Article 1, §41-10 identifies the following criteria for evaluation that should be examined when determining the appropriateness of a variance:

§41-10. - Exceptions.

- (a) It is the expressed intent of this chapter that all sections and parts should be complied with, except in those instances when the provisions of this section are applicable. It is further the intent of this chapter that the granting of an exception to this chapter (i.e., a variance from the requirements hereof) shall not be a substitute for the amending of this chapter.
- (b) The planning and zoning commission may recommend to the council that an exception from these regulations be granted when, in its opinion, undue hardship will result from requiring strict compliance. In considering, recommending and granting an exception, either the planning and zoning commission or the council shall prescribe such conditions that it deems necessary or desirable in the public interest. In making the findings required in subsection (c) of this section, both bodies shall take into account, at least, the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such exception upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
- (c) No exception shall be granted unless the following conditions are met:
 - (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of his land;
 - (2) That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
 - (3) That the granting of the exception will not have the effect of preventing the orderly subdividing of other land in the area in accordance with the provisions of this chapter.

- (d) Such findings of the planning and zoning commission and council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the meeting at which such exception is recommended and granted.
- (e) Exceptions may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice served.

§41-82. - Rural subdivision standards.

- (a) Purpose. The provisions of this section are designed and intended to permit development of undeveloped agricultural land while preserving the rural character of the area until such time as development of a more intensive urban nature is appropriate and can be supported by the necessary public facilities and services. These design standards modify, and/or reinforce other requirements found in these regulations. By qualifying other particular requirements of these regulations, these rural subdivision design standards ensure minimum conditions for establishing a low density rural living environment while providing the necessary foundation upon which more intensive urban development can occur in the future.
- (b) Applicability. The requirements contained in this section shall apply to all land within the jurisdictional limits of the city that is outside the utility service area of the city for water and/or wastewater services, and for which the provision of such services will be accommodated through the use of individual, privately owned systems. No land or property within the city's certificated service area shall be entitled to be developed pursuant to this section, except upon a waiver given by the city council. Further, except as specifically qualified in this section, all other standards, terms, conditions and provisions of this chapter shall apply to such rural subdivisions.
- (c) Streets. All streets within rural subdivisions shall be designed and constructed in accordance with the requirements for rural streets set forth in the city's construction standards and specifications for roads, streets, structures, and utilities. The right-of-way required shall be the same as for all other subdivisions.
- (d) Blocks. Blocks in rural subdivisions shall not exceed 1,500 feet in length and shall adequately accommodate two tiers of lots arranged back to back.

(e) Lots. All lots in rural subdivisions shall:

- (1) Be greater than one acre in area;
 - (2) Have a minimum width at the front property line of 130 feet; and
 - (3) Be designed so that all access is provided from a local street except access may be permitted from a major thoroughfare or street; state highway, farm to market road or ranch road; or numbered/or named county roadway if a minimum driveway centerline spacing of 200 feet is provided between driveways.
- (f) Easements and dedications. In addition to all other right-of-way dedications and/or easements required by this chapter, all rural subdivisions shall be

required to dedicate not less than an additional ten feet of right-of-way along that portion of all property abutting:

- (1) Major thoroughfares;
- (2) State highways, farm to market or ranch roads; or
- (3) Numbered county roads.

(g) Utilities.

(1) Wastewater collection systems. For all rural subdivisions where public wastewater utility services are not available, the city reserves the right to require the installation of improvements required for nonrural subdivisions in accordance with the provisions of these subdivision regulations, when public wastewater services are available within one-quarter mile of the subdivision, the city is coordinating with the private sector to extend a public wastewater system to within one-quarter mile of the subdivision within two years, or the extension of urban services to within one-quarter mile of any portion of the subdivision is scheduled in the city's capital improvements program to occur within five years from the date of preliminary plan approval.

(2) Water distribution system. To enhance the overall efficiency and service level for water distribution in rural subdivisions, the city will cooperate with existing non-municipal water utility providers in the city's extraterritorial jurisdiction. Through joint coordination and planning both the city and the non-municipal water utilities will work towards ensuring the availability throughout the jurisdiction of this chapter of a water distribution system that satisfies the fire flow requirements.

a. Rural subdivisions designed for other than single-family detached residential development shall satisfy the applicable state and city fire flow standards;

b. All single-family detached residential rural subdivisions shall install water distribution system improvements meeting the design requirements of this chapter, and:

1. Where a public water system capable of providing required fire flows to the development is located within one-quarter mile of any part of the subdivision, then it shall be the responsibility of the developer to extend service and connect to the public utility in order to provide fire protection to the development; or

2. For all rural subdivisions, which are not to be served by a public water supply, the subdivider must show proof of a safe and adequate water supply.

(h) Additional provisions. In addition to any and all other provisions of this chapter, prior to any resubdivision of a rural subdivision being approved by the city, the level of improvements and urban services required by this chapter for nonrural subdivisions shall be available to and satisfied by the resubdivided property.

Planning Commission

At their regular January meeting, the Planning Commission voted to approve the requested variance by a margin of 6-1 (Ellison dissent).

Attachments

1. Original application and request by the applicant.
2. Proposed amended plat – dated February 16, 2015, drawn by William C. Stewart of Ranger Land Surveying, Leander, Texas.

October 12, 2015

To whom it may concern,

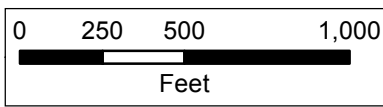
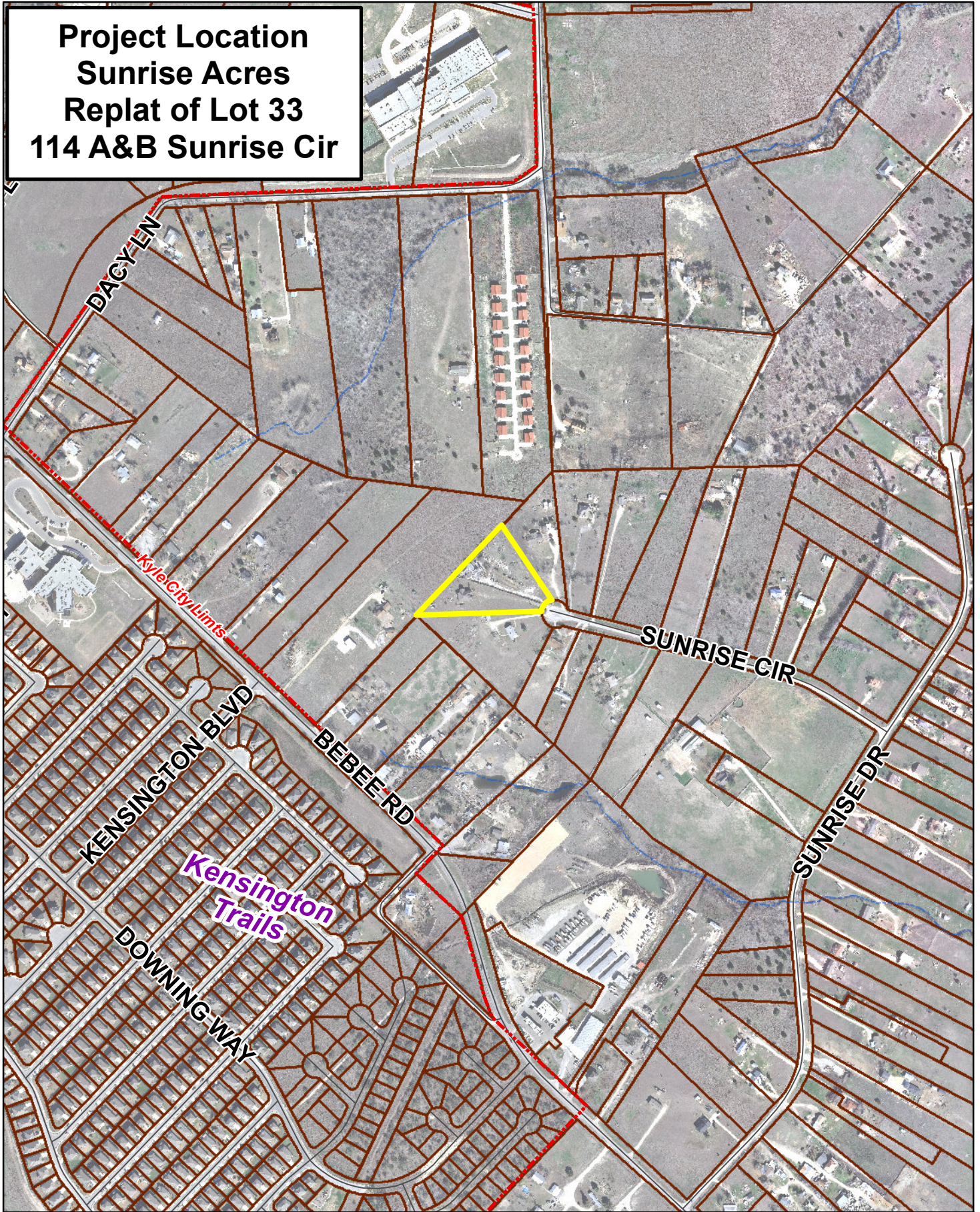
On November 30, 2009, Jesse Frias Jr and Juan Riojas split their property into the addresses 114-A Sunrise Cir, Kyle, Texas 78640 and 114-B Sunrise Cir, Kyle, Texas 78640. At that time, they sold the property 114-B Sunrise Cir, Kyle, Texas 78640 to Noe Briseno and Maria Martinez Briseno. At the time of sale Noe Briseno and Maria Martinez Briseno bought the property in good faith and with the understanding that the sellers, Jesse Frias Jr and Juan Riojas, believed the property to be in compliance with all municipal codes.

Sincerely,


A handwritten signature in cursive script that reads "Maria Martinez Briseno". The signature is written in black ink and is positioned to the right of the typed name.

Maria Martinez Briseno

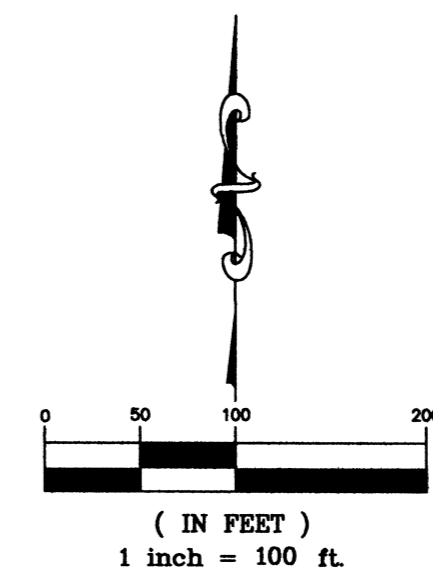
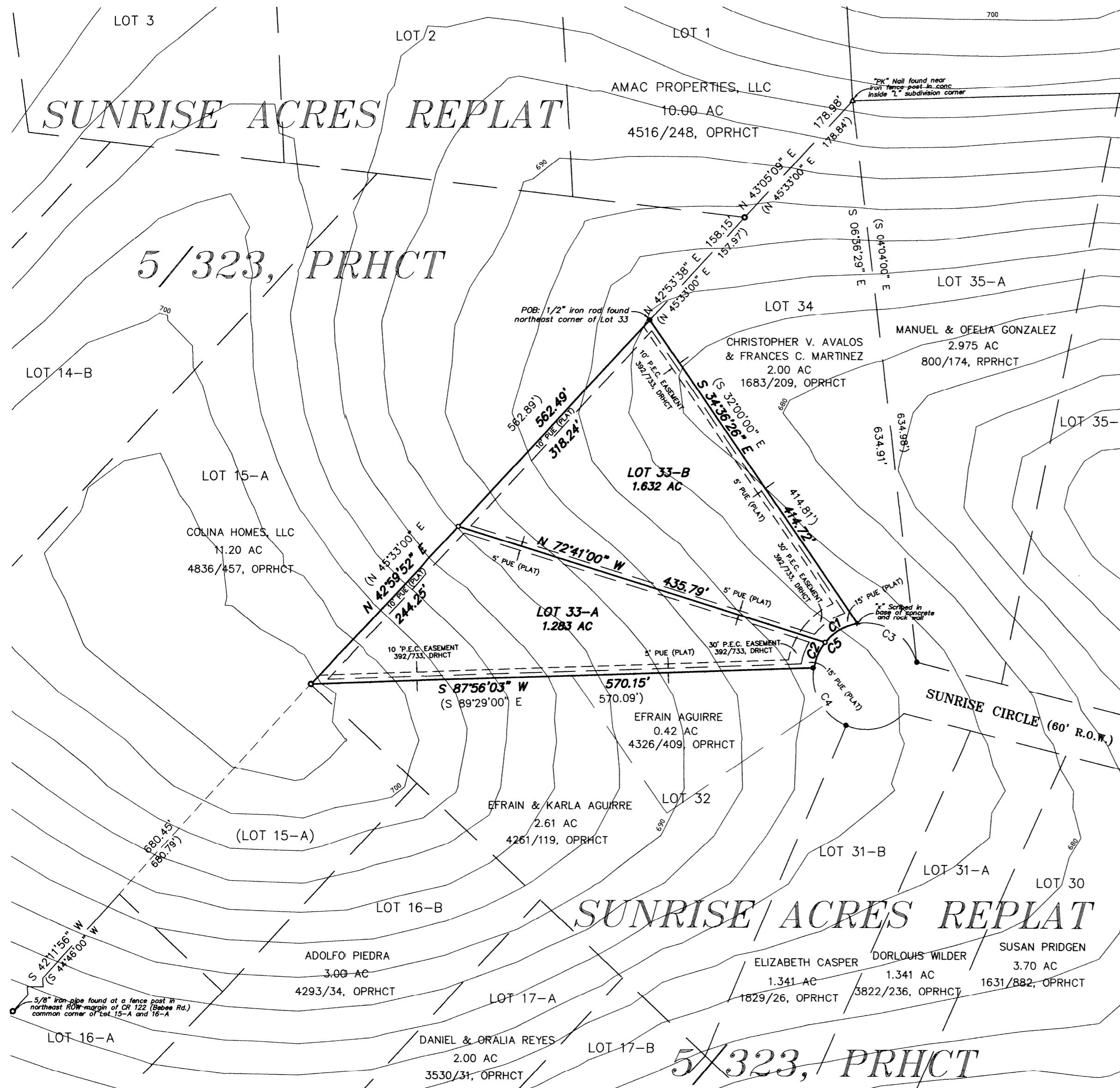
**Project Location
Sunrise Acres
Replat of Lot 33
114 A&B Sunrise Cir**



 Property Boundary

 Parcel Lines # 8

AMENDED PLAT OF LOT 33, SUNRISE ACRES REPLAT, ESTABLISHING LOTS 33-A and 33-B



- LEGEND**
- = IRON ROD FOUND
 - = IRON PIPE FOUND
 - = IRON ROD SET (RLS)
 - △ = CALCULATED POINT
 - BL = BUILDING SET BACK LINE
 - PUE = PUBLIC UTILITY EASEMENT
 - DRHCT = DEED RECORDS OF HAYS COUNTY, TEXAS
 - RPRHCT = REAL PROPERTY RECORDS OF HAYS COUNTY, TEXAS
 - PRHCT = PLAT RECORDS OF HAYS COUNTY, TEXAS
 - OPRHCT = OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS
 - XXXX/XXX = VOLUME/PAGE
 - () = RECORDED INFORMATION
 - POB = POINT OF BEGINNING

FIELD NOTE DESCRIPTION FOR 2.915 ACRES:

BEING 2.915 ACRES OF LAND OUT OF THE ELISHAH PRUETT SURVEY, ABSTRACT NO. 376, IN HAYS COUNTY, TEXAS, AND BEING THE SAME TRACT OF LAND KNOWN AS LOT 33, SUNRISE ACRES REPLAT, A SUBDIVISION OF RECORD IN VOLUME 5, PAGE 323, OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS, SAID LOT 33 CONVEYED TO JUAN RIOJAS AND JESSEE FRIAS, JR. BY WARRANTY DEED RECORDED IN VOLUME 2984, PAGE 36, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS.

BEGINNING at a 1/2" iron rod found in a fence line marking the north most corner of said Lot 33 for the north most corner hereof from which a 5/8" iron pipe found in the northwesterly line of lot 34 of the said subdivision marking the south most corner of Lot 1 and north most northeast corner of Lot 15-A of the said subdivision bears North 42°53'38" East, at 158.156 feet, from which a "PK" nail found next to an iron fence post in concrete marking an interior "L" corner of the said subdivision bears 43°05'09" East, at 178.98 feet;
 THENCE South 34°36'26" East, at 414.72 feet to an "x" scribed in the base of a concrete and rock wall in the curving right-of-way margin of Sunrise Circle, a dedicated cul-de-sac with a 60-foot wide right-of-way marking the southwest corner of Lot 34 of the said subdivision for the southeast corner of said Lot 33 and hereof from which a 1/2" iron rod found in the said curving right-of-way margin marking the southwest corner of Lot 35-A of the said subdivision and the southeast corner of said Lot 34 bears a chord of South 29°19'33" East, with a chord distance of 79.85 feet and a radius of 60.00 feet with an arc distance of 87.37 feet;
 THENCE with the said curving right-of-way margin and a chord bearing South 44°55'05" West, at a chord distance of 69.90 feet and the said radius with an arc distance of 74.62 feet to a 1/2" iron rod found marking the north most corner of lot 32 of the said subdivision for the southeast corner of said Lot 33 and the southeast corner hereof from which a 1/2" iron rod found in the said curving right-of-way margin marking the northwest corner of Lot 31-B of the said subdivision and the east most corner of said Lot 32 bears a chord of South 29°19'33" West, at a chord distance of 74.96 feet and the said radius with an arc distance of 80.96 feet;
 THENCE with the north line of said Lot 32 and the south line of said Lot 33 South 87°56'03" West, at 570.15 feet to 5/8" iron pipe found near a fence post marking an interior "L" corner of the aforementioned Lot 15-A and west most line of said Lot 33 from which a 5/8" iron pipe found at a fence post in the northeasterly right-of-way margin of County Road No. 122, also known as Bebee Road marking the south most common corner of Lot 15-A and 16-A, of said SUNRISE ACRES REPLAT bears South 42°11'56" West, at a distance of 680.45 feet;
 THENCE with the northwest line of said Lot 33 North 42°59'52" East, at a distance of 562.49 feet to the POINT OF BEGINNING and containing 2.915 acres of land, more or less.

SURVEYOR'S NOTES:

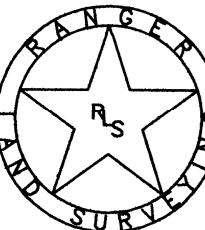
The basis for the bearings and coordinates shown hereon is the Texas State Plane Coordinate System, South Central Zone, NAD 83 (2003). All distances shown hereon are surface values using a scale factor of 0.99999634.

All research shown hereon was performed by the surveyor whose seal and signature is affixed to this plat. Additional research provided by Title GF # 0911532-MCM. All easements servitude to the original subdivision were reviewed to determine their affect if any to this subdivision.

HORIZONTAL DATUM: NORTH AMERICAN DATUM 1983 (NAD 83)
 VERTICAL DATUM: NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 88)
 PROJECTION: TEXAS STATE PLANE - SOUTH CENTRAL ZONE (4203)
 UNITS: US SURVEY FEET

CURVE DATA

NO.	RADIUS	ARC	CHORD	CH BEARING
C1	60.00'	43.12'	42.20'	S 59°57'22" W
C2	60.00'	31.50'	31.14'	S 24°19'41" W
C3	60.00'	87.37'	79.85'	S 29°19'33" E
	(60.00')	(87.58')	(80.01')	(S 27°00'00" E)
C4	60.00'	80.96'	74.96'	S 29°19'33" E
	(60.00')	(81.02')	(75.00')	(S 27°00'00" E)
C5	60.00'	74.62'	69.90'	S 44°55'05" W
	(60.00')	(74.73')	(70.00')	(S 47°22'00" W)



Ranger Land Surveying
 Land, Construction & Residential Surveying
 P.O. Box 1542, Leander, TX 78646
 Office: (512) 567-3511
 Field: (512) 417-7335
 www.rangerlandsurveying.com

Item # 8



CITY OF KYLE, TEXAS

(First Reading) Stormwater Ordinance

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: *(First Reading)* An ordinance amending Chapter 50 “Utilities”, of the Code of Ordinances of the City of Kyle, Texas, by the addition of Article IX, “stormwater regulations; providing findings and definitions; providing for the regulation non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by both the United States Environmental Protection Agency and the Texas Commission on Environmental Quality; providing for penalties; repealing all ordinances or parts of ordinances in conflict herewith; providing a savings clause; providing for the inclusion in the Code of Ordinances; providing for an effective date associated training.
~ Leon Barba, P.E., City Engineer; Kathy Roecker, Stormwater Management Plan Administrator

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Ordinance (Draft)
- Appendix A

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 50 “UTILITIES”, OF THE CODE OF ORDINANCES OF THE CITY OF KYLE, TEXAS, BY THE ADDITION OF ARTICLE IX, “STORMWATER REGULATIONS; PROVIDING FINDINGS AND DEFINITIONS; PROVIDING FOR THE REGULATION NON-STORMWATER DISCHARGES TO THE STORM DRAINAGE SYSTEM TO THE MAXIMUM EXTENT PRACTICABLE AS REQUIRED BY BOTH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING FOR PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City of Kyle to utilize its police power in order to protect the public health, safety and welfare of its citizens; and

WHEREAS, it is the intent of the City of Kyle to comply with the regulations mandated by both the United States Environmental Protection Agency and the Texas Commission on Environmental Quality through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law; and

WHEREAS, this ordinance establishes methods for controlling the introduction of pollutants into the municipal storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System permit process; and

WHEREAS, Texas Local Government Code Section 51.001 provides that the governing body of a municipality may adopt, publish or repeal an ordinance that is for the good government, peace, or order of the municipality.

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

SECTION 1. Article IX, Stormwater Regulations, Sections 50-400 to 50-424 are hereby added to Chapter 50 “Utilities” of the Code of Ordinances, and is hereby amended to read and be as follows:

ARTICLE IX. STORMWATER REGULATIONS

Sec. 50-400. - Purpose and intent.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Kyle through the regulation of non-stormwater discharges to the Municipal Separate Storm Sewer System (MS4) of any land within the city limits, ETJ to the maximum

extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- (b) To prohibit illicit connections and discharges to the MS4.
- (c) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

Sec. 50-401. - Definitions.

For the purposes of this ordinance, the following shall mean:

Best Management Practices (BMPs) means any activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Business Day means any day of the week, excluding Saturdays, Sundays, and legal holidays.

Calendar Day means any day of the week, including Saturdays, Sundays, and legal holidays, with no days being exempted.

Clean Water Act means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Common Plan of Development means a construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development (also known as a “common plan of development or sale”) is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities. A common plan of development does not necessarily include all construction projects within the jurisdiction of the city. Construction of roads or buildings in different parts of the city would be considered separate “common plans,” with only the interconnected parts of a project being considered part of a “common plan” (e.g., a building and its associated parking lot and driveways, building complex, etc.). Where discrete construction projects occur within a larger common plan of development or sale but are located ¼ mile or more apart, and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale, provided that any interconnecting road, pipeline or utility project that is part of the same “common plan” is not included in the area to be disturbed.

Construction Activity means the disturbance of soils associated with, but not limited to, clearing, grubbing, grading, excavating, and demolition activities or other construction

activities.

Conveyance means any of the following by way of illustration and not limited to: stream channel, drainage way, drainage/dry well, ephemeral stream, floodplain, karst feature, storm drainage system, drainage system appurtenance, waterbody, watercourse, waterway, curbs, gutters, man-made channels and ditches, drains, pipes, or other constructed features designed or used for flood control, or to otherwise transport stormwater runoff.

Discharge means any addition or introduction of any pollutant, stormwater, or any other substance whatsoever into the Municipal Separate Storm Sewer System (MS4), storm drain system, or conveyances.

Discharger means any person who causes, allows, permits, or is otherwise responsible for a discharge, including and without limitation, any person or operator of a construction site and/or industrial facility.

Final Stabilization means a construction site status where all soil disturbing activities at the site have been completed and a uniform (that is, evenly distributed, without large bare areas) perennial vegetative cover with a density of at least 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Hazardous Materials means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Connection means any connection defined as either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the storm drain system including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the city or,
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by the city.

Illicit Discharge means any direct or indirect non-stormwater discharge to the storm drain system, MS4, or conveyances, except as specifically exempted in this ordinance.

Industrial Activity means any activities subject to National Pollutant Discharge Elimination

System (NPDES) Industrial Stormwater Permits as defined in 40 CFR, Section 122.26 (b) (14) or Texas Pollutant Discharge Elimination System (TPDES) Industrial Stormwater Permits as defined in the TPDES Multi-Sector Industrial General Permit for Stormwater TXR050000.

Municipal Separate Storm Sewer System (MS4) means the system of conveyances by which stormwater is collected and/or conveyed, including but not limited to sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, inlets, pumping facilities, retention and detention basins, natural and/or human-made drainage channels, reservoirs, storm drains and/or other drainage structures that are not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means any permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater Discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

Operator means the person or persons associated with a large or small construction activity that is either a primary or secondary operator as defined below:

Primary Operator means the person or persons associated with a large or small construction activity that meets either of the following two criteria:

- (a) the person or persons have on-site operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- (b) the person or persons have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a Stormwater Pollution Prevention Plan (SWP3) for the site or other permit conditions (for example, they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).

Secondary Operator means the person or entity, often the property owner, whose operational control is limited to:

- (a) the employment of other operators, such as a general contractor, to perform or supervise construction activities; or
- (b) the ability to approve or disapprove changes to construction plans and specifications, but who does not have day-to-day on-site operational control over construction activities at the site.

Secondary operators must either prepare their own SWP3 or participate in a shared SWP3 that covers the areas of the construction site where they have control over the plans and specifications. If there is not a primary operator at the construction site, then the secondary operator is defined as the primary operator and must comply with the requirements for primary operators.

Person means any individual, association, homeowners association, organization, partnership, co-partnership, firm, company, corporation, trust, estate, operator, governmental entity, or any other legal entity, or their legal representatives, agents, lessees, or assigns. This term shall also include all federal, state, and local governmental entities.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; silt, sediment, sand, soil; and noxious or offensive matter of any kind. The term "pollutant" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Repeat violation means the same violation is documented two (2) times within the most recent 5-year period at the same premises, including the notification for the current violation.

Storm Drainage System means see definition for *Municipal Separate Storm Sewer System (MS4)*.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan (SWP3) means a plan required by either the construction general permit, TXR150000, or the industrial general permit, TXR050000, which describes BMPs and ensures the implementation of such BMPs used by a person or business to reduce pollutants to the Maximum Extent Practicable in stormwater discharges associated with construction and/or industrial activity for a specific location.

Texas Pollutant Discharge Elimination System (TPDES) means the state program for issuing, amending, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under the Clean Water Act §§ 307, 402, 318 and 405, Texas Water Code, and Texas Administrative Code regulations.

Violator means any individual, association, homeowners association, organization, partnership, co-partnership, firm, company, corporation, trust, estate, operator, governmental entity, or any other legal entity, or their legal representatives, agents, lessees, or assigns who knowingly or unknowingly commits an offense of this ordinance. This term shall also include all federal, state, and local governmental entities.

Wastewater means all liquids and waterborne waste, drainage water, and sewage, whether treated or untreated, from residential dwellings, commercial buildings, or industrial or manufacturing facilities and institutions.

Watercourse means see definition for *Conveyance*.

Sec. 50-402. - Applicability.

This ordinance shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by the city. This ordinance applies to developed and/or undeveloped lands within the city limits, ETJ or any property owned by the City.

Sec. 50-403. - Responsibility for administration.

The city shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the city may be delegated by the city manager to persons or entities acting in the beneficial interest of or in the employ of the city.

Sec. 50-404 - Compatibility with other regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Sec. 50-405. - Minimum standards.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance with this ordinance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants. Additionally, no inference is intended that compliance with this article will serve to extend any deadline established by a state or federal standard requirement, nor is any inference intended that compliance with this ordinance will relieve a person of liability for any violation or continuing violation.

Sec. 50-406. - Prohibitions.

(a) *Prohibition of Illicit Discharges.*

No person within the city limits, extraterritorial jurisdiction, or property of the city shall dump, spill, leak, pump, pour, emit, empty, leach, dispose, or otherwise introduce, discharge, cause, allow, or permit to be introduced any materials, including but not limited to pollutants or waters containing any pollutants, into the city's MS4 or conveyances.

(b) *Prohibition of Illicit Connections.*

- (1) The construction, use, maintenance or continued of a new or existing illicit connection(s) to the storm drain system, MS4, or any conveyances is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a

line conveying sewage to the MS4, or allows such a connection to continue.

- (4) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm drain system, shall be located by the owner or occupant of that property upon written notice from the city requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm drain, sanitary sewer or other, and that the outfall location or point of connection to the storm drain system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the city.

(c) *Allowable Discharges.*

- (1) A discharge authorized by, and in full compliance with, a TPDES permit;
- (2) a discharge or flow resulting from firefighting by the Fire Department;

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- (3) a discharge or flow of fire protection water that does not contain oil or hazardous substances;
- (4) agricultural stormwater runoff;
- (5) a discharge or flow from water line flushing, but not including a discharge from water line disinfection by super chlorination or other means unless the total residual chlorine (TRC) has been reduced to less than 1.0 mg/l and it contains no harmful quantity of chlorine or any other chemical used in line disinfection;
- (6) a discharge or flow from lawn watering, or landscape irrigation, or other irrigation water;
- (7) a discharge or flow from a diverted stream or natural spring;
- (8) a discharge or flow from uncontaminated pumped groundwater or rising groundwater;
- (9) uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
- (10) uncontaminated discharge or flow from a foundation drain, crawl space pump, footing drain, or sump pump;
- (11) a discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
- (12) a discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
- (13) a discharge or flow from individual residential car washing;
- (14) a discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
- (15) stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant;
- (16) swimming pool water that has been dechlorinated so that total residual chlorine (TRC) is less than 1.0 mg/l and that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.

Sec. 50-407. - Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 50-408. - Industrial activity discharges.

Any person subject to an industrial activity NPDES/TPDES stormwater discharge permit shall comply with all provisions of such permit. The city can enforce compliance with said permit regarding discharges to the MS4.

Sec. 50-409. - Construction activity discharges.

Any person subject to a TPDES Construction General Permit (CGP) shall comply with all provisions of such permit. The city can enforce compliance with said permit regarding discharges to the MS4.

- (a) Upon determination made by the city, erosion and sedimentation controls may be required for all construction, development and redevelopment, regardless of how much land will be disturbed, conducted with or without a permit, including without limitation to commercial, multi-family, single-family, and duplex construction, roads, utilities, parks, golf courses, water quality basins, detention basins, and all other activities utilizing clearing, trenching, grading or other construction techniques.

Sec. 50-410. - Erosion and sediment controls (ESCs).

- (a) ESCs shall be designed, installed and maintained to minimize the discharge of pollutants.
- (b) Soil stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days.
- (c) Best Management Practices (BMPs) shall be designed, installed, implemented, and maintained to minimize the discharge of pollutants to the small MS4. At a minimum, such BMPs must be designed, installed, implemented and maintained to:
 - (1) minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters;
 - (2) minimize the off-site vehicle tracking of sediments and the generation of dust;
 - (3) minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and
 - (4) minimize the discharge of pollutants from spills and leaks.
- (d) Temporary ESCs:
 - (1) are required for all construction activities until permanent revegetation or final stabilization has been established; and
 - (A) must be removed after all soil disturbing activities at the site have been completed and final stabilization has been achieved.
 - (B) for individual lots in a residential construction site, temporary ESCs must be removed after all soil disturbing activities at the site have been completed and final stabilization has been achieved by either:
 - (i) the homebuilder completing final stabilization as specified in condition (A) above; or
 - (ii) the homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefits of, final stabilization. If temporary stabilization is not feasible, then the homebuilder may fulfill this requirement by retaining perimeter controls or BMPs, and informing the homeowner of the need for removal of temporary controls and the establishment of final stabilization.
- (e) Modification of ESCs.

- (1) The city may require modifications to ESCs:
 - (A) if the modification is a minor change to upgrade erosion controls or reflect construction progress; or
 - (B) the city determines that the erosion and sediment controls are inappropriate or inadequate.
- (f) A person commits an offense if the person allows sediment from a construction site to enter a waterway or migrate off-site by failing to maintain ESCs.
 - (1) If the temporary or permanent controls fail such that construction sediment evades the controls and migrates off the site, it shall be the responsibility of the contractor to:
 - (A) retrieve the fugitive sediment to the satisfaction of the city;
 - (B) restore the off-site areas impacted by fugitive sediment to pre-disturbance conditions determined by the city; and
 - (C) revise or repair ESCs within 48 hours of failure to the satisfaction of city.
- (g) The city can proceed with enforcement immediately in the following situations:
 - (1) starting construction prior to the preconstruction meeting.
 - (2) initiating construction without having installed temporary controls.
 - (3) significant or irreparable damage is determined to be occurring on a construction site.

Sec. 50-411. - Overland flow.

- (a) Drainage patterns must be designed to:
 - (1) prevent erosion;
 - (2) maintain infiltration and recharge of local seeps and springs;
 - (3) attenuate the harm of contaminants collected and transported by stormwater; and
 - (4) where possible, maintain and restore overland sheet flow, maintain natural drainage features and patterns, and disperse runoff back to sheet flow.
- (b) The applicant shall design an enclosed storm drain to mitigate potential adverse impacts on water quality by using methods to prevent erosion and dissipate discharges from outlets. Applicant shall locate discharges to maximize overland flow through buffer zones or grass-lined swales wherever practicable.

Sec. 50-412. - Long-term maintenance of post-construction stormwater control measures.

Maintenance performed by the owner or operator of a new development or redeveloped site shall have a maintenance plan. The maintenance plan must be filed in the real property records of the county in which the property is located. The owner or operator of any new development or redeveloped site shall develop and implement a maintenance plan addressing maintenance requirements for any structural control measures installed on site. Operation and maintenance performed shall be documented and retained on site, such as at the offices of the owner or operator, and made available for review by the city.

Sec. 50-413. - Low impact development.

The city encourages the use of Low Impact Development. See Appendix A – Low impact development.

Sec. 50-414. - Compliance monitoring.

- (a) *Right of Entry: Inspection and Sampling.*

This section applies to all facilities that have stormwater discharges associated with

industrial activity and/or construction activity. The city shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance and have the right to enter the premises of any person or entity discharging stormwater to the MS4 or to waters of the United States to determine if the discharger is complying with all requirements of this ordinance.

- (1) The city shall have immediate access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES/TPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - (2) If a discharger has security measures in force which require proper identification and clearance before entry into/onto its premises, the person shall make the necessary arrangements to allow city staff access, upon presentation of identification, without delay for the purposes of performing the city's responsibilities.
 - (3) The city shall have the right to set up on any discharger's property, or require installation on the discharger's property, such devices as the city deems necessary to conduct monitoring, sampling, and/or metering of the discharger's operations.
 - (4) The city may require the discharger to conduct specific sampling, testing, analysis, and other monitoring of its stormwater discharges at the discharger's expense, and may specify the frequency and parameters of any such monitoring.
 - (5) The city may require the discharger to install monitoring equipment as necessary at the discharger's expense. All equipment used to measure flow and quality of discharges shall be maintained at all times in a safe and proper operating condition and calibrated to ensure accuracy at the discharger's expense.
 - (6) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the city and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - (7) Unreasonable delays in allowing the city access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with an NPDES/TPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the city reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
 - (8) Unreasonable delays in allowing the city access to the discharger's premises shall be deemed a violation of this ordinance.
- (b) *Search Warrants.*
If the city has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 50-415. - Requirement to prevent, control, and reduce stormwater pollutants by the use of BMPs.

The city will require BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the city's storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES/TPDES permit authorizing the discharge of stormwater associated with industrial activity and/or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a SWP3 as necessary for compliance with requirements of the NPDES/TPDES permit.

Sec. 50-416. - Notifications of spills.

- (a) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or person responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting, may result, or has resulted in an illicit discharge or pollutants discharging into stormwater, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such discharge.
- (1) In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
 - (2) In the event of a release of non-hazardous materials, said person shall notify the city's Stormwater Management Plan Administrator in person, by phone or facsimile no later than the next business day.
 - (3) A written notification of any and all discharges shall be confirmed, addressed and mailed to the city's Stormwater Management Plan Administrator within three (3) business days, of the date of the discharge.
 - (4) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for a minimum of three (3) years.
 - (5) Failure to provide notification of a release as provided above is a violation of this ordinance.

Sec. 50-417. - Enforcement.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the city is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The city is authorized to seek costs of the abatement as outlined in this ordinance.

(a) *Notice of Violation (NOV).*

(1) Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the city may order compliance by written NOV to the responsible person. Such notice may require without limitation:

- (A) the performance of monitoring, analyses, and reporting;
- (B) the elimination of illicit connections or discharges;
- (C) that violating discharges, practices, or operations shall cease and desist;
- (D) the abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (E) payment of a fine to cover administrative and remediation costs;
- (F) the implementation of source control or treatment BMPs.

(2) Within ten calendar days from the date of the NOV, the alleged violator shall submit to the Stormwater Management Plan Administrator, a written description of actions taken, including supporting documentation, to correct and prevent the reoccurrence of the alleged violation. Submission of corrective actions taken shall in no way relieve the alleged violator of liability for any alleged violation occurring before or after receipt of the NOV. Nothing herein shall limit the authority of the city to take action, including emergency action or any other enforcement action, in the absence of the issuance of an NOV.

(b) *Repeat violations.*

Civil penalties may be imposed if the same violation is documented two (2) times within the most recent 5-year period, including the notification for the current violation.

(c) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore the affected property within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(d) *Compensatory Action.*

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the city may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(e) *Suspension of MS4 Access.*

(1) *Emergency Cease and Desist Orders*

When the city finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has/have caused or contributed to an actual or potential discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (A) immediately comply with all ordinance requirements; and
- (B) take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(2) Any person notified of an emergency cease and desist order shall immediately comply

and stop or eliminate the discharge. In the event of a violator's failure to immediately comply voluntarily with the emergency order, the city may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The city may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless further termination proceedings are initiated against the violator under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the discharge and the measures taken to prevent any future occurrence, to the city's Stormwater Management Plan Administrator within three (3) calendar days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

(f) *Suspension due to Illicit Discharges in Emergency Situations.*

The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or potential discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(g) *Suspension due to the Detection of Illicit Discharge.*

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The city will notify a discharger of the proposed termination of its MS4 access. The discharger may petition the city for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the city.

Sec. 50-418. - Civil Penalties.

In the event a person fails to take the remedial measures set forth in the NOV, otherwise fails to resolve the violations within the specified deadlines, or receives a repeat violation at the same premises, the city may impose a penalty not to exceed **\$2,000.00** per violation per calendar day the violation(s) remains unresolved after receipt of the NOV or upon the second time the person receives a repeat violation.

Sec. 50-419. - Criminal Prosecution.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of **\$2,000.00** per violation per calendar day and/or imprisonment for a period of time not to exceed **10 calendar days**. Each act of violation and each day upon which any violation occur shall constitute a separate offense. The city may recover all attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Sec. 50-420. - Appeal of NOV.

Any person receiving an NOV may appeal the determination of the city. The notice of appeal must be received within 10 calendar days from the date of the NOV. Hearing on the appeal shall take place within 30 calendar days from the date of receipt of the notice of appeal. The decision of the city manager or their designee shall be final.

Sec. 50-421. - Enforcement measures after appeal.

If the violation has not been corrected pursuant to the requirements set forth in the NOV, or in the event of an appeal, within 10 calendar days of the decision of the municipal authority upholding the decision of the city, then representatives of the city shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Sec. 50-422. - Cost of abatement of the violation.

Within 30 calendar days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 calendar days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments.

Sec. 50-423. - Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the discharger's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Sec. 50-424. - Remedies not exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 2. SEVERABILITY CLAUSE: If any section, subsection, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be stricken from the ordinance, and such holding shall not affect the validity of the remaining portions thereof. The balance of the ordinance shall be construed as one instrument and as if the offending portion had not been included.

SECTION 3. SAVINGS CLAUSE: All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed. The balance of such ordinance is hereby saved from repeal.

SECTION 4. EFFECTIVE DATE: Effective immediately following the publication of this ordinance in the local newspaper as required by Section 51.052 of the Texas Local Government Code, the provisions of this ordinance will apply within the corporate city limits of Kyle, Texas.

PASSED AND ADOPTED this ____ day of _____, 2016.

R. Todd Webster, Mayor

ATTEST:

Amelia Sanchez, City Secretary

APPROVED AS TO LEGAL FORM:

Frank J. Garza, City Attorney

APPENDIX A - LOW IMPACT DEVELOPMENT

INTRODUCTION

This document is intended to provide a set of guidelines for the use of Low Impact Development (LID) and Green Infrastructure (GI) techniques. Over the last couple of years there has been an increased public interest in the regulatory adoption of LID and GI techniques as a potential land development option to address drainage and stormwater quality requirements.

These criteria do not require new development or re-development projects to follow these LID requirements at this time, nor do they intend for every project to be a LID project. However, these requirements should apply to any new development or re-development project choosing to incorporate LID practices for detention, infrastructure, stormwater quality, or other applicable requirements.

These criteria are not are not all encompassing for LID and GI techniques and requirements.

BACKGROUND

Increased impervious area changes the natural flow of water and decreases the quantity of water that infiltrates into the ground. Increased runoff increases sediment transport and decreases water quality. LID seeks to restore pre-development infiltration rates at the project site through one or more LID Integrated Management Practices (IMPs).

DEFINITION OF LOW IMPACT DEVELOPMENT

LID is a stormwater management strategy designed to maintain site hydrology and mitigate the adverse impacts of stormwater runoff and nonpoint source pollution. LID actively manages stormwater runoff by mimicking a project site's pre-development hydrology using design techniques that infiltrate, store, and evaporate runoff close to its source of origin. LID strategies provide decentralized hydrologic source control for stormwater runoff. In short, LID seeks to manage the rain, beginning at the point where it falls. The LID features are distributed small scale controls that closely mimic hydrological behavior of the pre-project sites for a design storm event.

DESIGN OBJECTIVES

Establishing Pre-Development Condition

The overall design objective for each applicable project is to maintain predevelopment hydrology and prevent any net increase in stormwater runoff. The City of Kyle ("city") defines predevelopment hydrology as the pre-project hydrologic conditions of temperature, rate, volume, and duration of stormwater flow from the project site. The analysis of the predevelopment hydrology must include site-specific factors (such as soil type, ground cover, and ground slope) and use modeling or other recognized tools to establish the design objective for the water volume to be managed from the project site. Designs must document the existing features that comprise the existing development condition. Manage the increase in runoff between pre and post-development conditions on the project site, to the maximum extent technically feasible, through interception, infiltration, storage, or evapotranspiration processes. Other design requirements may need to be considered. Calculations must be performed indicating the difference between the

post-development hydrology and pre-development hydrology for the design storm event. Calculations must demonstrate “No net increase” in stormwater runoff where technically feasible.

Design Storm Event

The design storm event is the 95th percentile rainfall depth and is based on the 24-hour (daily) rainfall depth averaged over a minimum of 10 years, ideally 30 years where 30 or more years of rainfall records are available. To calculate the 95th percentile rainfall depth based on rainfall records, rainfall records can be obtained from NOAA at:

<http://www.ncdc.noaa.gov/?datasetabbv=SOD&countryabbv=&georegionabbv=>

Maximum Extent Technically Feasible (METF)

Evaluate project site options to achieve the design objective to the maximum extent technically feasible. The “maximum extent technically feasible” criterion requires full employment of accepted and reasonable stormwater retention and reuse technologies subject to in-situ site conditions and applicable regulatory constraints (e.g., site size, soil types, vegetation, demand for recycled water, existing structural limitations and state or local prohibitions on water collection).

DOCUMENTATION

The following documentation should be developed at the pre-final design stage:

- Pre-development condition (i.e., soil conditions, groundwater table of the project site, description of typical surrounding natural lands, and a brief history of existing development; including impervious area, lawns, meadows, forested area, wetlands, and water bodies).
- Calculations for pre-development and post-development runoff volumes and rates using the 95th percentile rainfall event to identify the volume of stormwater requiring management and the extent to which the design objective was met.
- Documentation of technical constraints, if applicable.
- Stormwater management practices used to meet the design objective and whether they were located on-site, off-site or both.
- Provide post-construction validation documentation indicating that the LID features have been constructed according to plans and specifications.

DESIGN OPTIONS FOR LID FEATURES

LID implementation is achieved by selecting a set of LID features that can closely maintain or replicate hydrological behavior of the pre-project site for the design storm event. Most LID features are distributed small-scale controls that increase rainfall interception and slow the time of concentration (T_c). Some LID features provide greater benefits (i.e. groundwater recharge, reduced T_c) than others. Give priority to those LID features that are proven for the Central Texas area, provide the most benefits in relation to replicating pre-project hydrology, and have the lowest lifecycle costs. LID features typically include natural features with low maintenance costs. Selecting appropriate LID features with the lowest long-term maintenance cost will extend the useful life of the LID features. Highly developed sites, sites with a high ratio of impervious to pervious area and (i.e., industrial sites) may require more costly, higher maintenance LID

features in order to meet the design objective within the constraint of maximum extent technically feasible (see paragraph titled Maximum Extent Technically Feasible (METF)).

Verify with the city the capability to maintain LID features prior to selecting for use on-site. LID features that cannot be maintained by the city or the owner with current capability may not be used. LID features can generally be categorized into the following categories:

Engineered Natural Treatment

Engineered natural treatment provides depression storage, infiltration, and evapotranspiration. These design options are typically the least costly and easiest to accomplish if site availability, soils and groundwater table are conducive. Site features such as bioretention, vegetated swales, rain gardens, vegetated filter strips, downspout disconnection, reduced impervious area, tree preservation or re-vegetation using native plants, soil amendments, and open space fall under this general category and are advisable due to lower lifecycle costs.

Engineered Subsurface Treatment

Engineered subsurface treatment provides infiltration and prevents concentrated flow. Site features may include permeable pavements and infiltration trenches. Engineered subsurface treatment may be the next most lifecycle cost effective method, as compared to engineered natural treatment, in meeting the design objective. These design options may be limited by wheel loading, traffic, ability to provide maintenance and foreign object debris danger. Avoid locating infiltration trenches and similar features under pavements wherever possible.

Non-Potable Rainwater Harvesting

Rainwater harvesting systems store stormwater for non-potable uses, such as irrigation or toilet flushing. Site features may include LID features like cisterns and rain barrels. This design option may be used if adequate demands for reuse water exist. Certain types of facilities, such as a warehouse, may not have adequate water demand to make reuse lifecycle cost effective. Consider freeze protection for winter months.

Green (Vegetative) Roofs

Vegetative roofs decrease the T_c and increase seasonal evapotranspiration. They do not assist in infiltrating water into the ground at the source and have high initial and maintenance cost. Because of the high cost and limited technical advantages, vegetative roofs are the least preferred design option. Vegetative roofs are a design option where other design options do not meet the design objective. Vegetative roofs should be assessed with consideration of other benefits such as lower energy costs and noise reduction.

OFF-SITE OPTIONS

If the design objectives cannot be met within the project footprint, LID measures may be applied at nearby locations on city property (e.g., downstream from the project) to manage the remaining design water volume within available resources. Off-site options are generally less desirable than

on-site options, as many of the benefits of managing the stormwater close to the source may be lost.

PLANNING COMPONENT

Successful implementation of LID begins during the planning process, which is one of the first steps. During the planning phase, the exact configuration of LID features and the ways in which LID will shape the site design is not expected to be determined. This section provides the organizational tools and steps to build upon in considering LID in the final project.

Organizing the Planning Process and Timeline

- 1) Identify the LID objectives and legal requirements for the project (e.g., stormwater permits, erosion control, and flood requirements). Estimate runoff volume, peak runoff rate, duration, frequency, and water quality.
- 2) Make assumptions on existing stormwater infrastructure in terms of how well it functions with respect to each of these aspects.
- 3) Evaluate the goals and feasibility for control of runoff volume, duration, and water quality, as well as on-site use of stormwater (e.g. irrigation).
- 4) Prioritize and rank basic objectives.
- 5) Identify all applicable regulations or codes.
- 6) Determine typical LID features required to meet objectives as best as possible (i.e. infiltration, filtration, discharge frequency, volume of discharges, and groundwater recharge) taking into consideration available space, underground utilities, soil infiltration characteristics, slope, drainage patterns, groundwater table protected areas, setbacks, easements, topographic features, and other site features that should be protected such as floodplains, steep slopes, and wetlands.

Consider non-structural site planning techniques:

- Minimize total site impervious area.
- Use alternative roadway layouts that minimize imperviousness.
- Reduce road widths and drive aisles where safety considerations allow.
- Limit sidewalks to one side of roads.
- Reduce on-street parking.
- Use permeable paving materials where it does not reduce the functionality and is permitted.
- Minimize directly connected impervious areas.
- Disconnect roof drains and direct drainage to vegetated areas.
- Site layout to direct flows from paved areas to stabilized vegetated areas.
- Site layout to break up flow directions from large paved surfaces.
- Site development to encourage sheet flow through vegetated areas.
- Locate impervious areas so that they drain to permeable areas.
- Maximize overland sheet flow.
- Maximize use of open swale systems.
- Increase (or augment) the amount of vegetation on the site.
- Use site fingerprinting. Restrict ground disturbance to the smallest possible area.
- Reduce construction on highly permeable soils.
- Locate impervious areas to avoid removal of existing trees.

- Maintain existing topography and associated drainage divides to encourage dispersed flow paths.
- Locate new buildings, parking, and ponds in areas that have lower hydrologic function, such as clayey or disturbed soils.

STORMWATER MANAGEMENT (SWM)

Human development increases impervious surfaces. Buildings, roads, sidewalks, and parking lots quickly shed rainwater and increase the percentage of rainfall that ends up as runoff. The resulting increase in runoff volume and the peak flows create negative consequences such as stream degradation and flooding risk. The principal objective of LID is to retain this increase in runoff on-site. LID techniques allow the developed site to mimic the pre-development hydrologic conditions.

LID builds on the conventional SWM philosophies and carries them a step further. LID processes begin at the point where the rain falls. Consideration for incorporating LID concepts, tools, and approaches requires assessment of the following at a minimum:

- Will the concept closely mimic the hydrology of pre-development condition?
- Will the concept mitigate adverse effects from increased stormwater runoff from the project?
- Can the drainage conveyance structures be optimized and reduce the overall cost of the project?
- What might be the hurdles for public acceptance? If required for the project to move forward, can these be reasonably achieved?

Conventional SWM Vs. LID

Conventional SWM facilities are primarily designed to temporarily store runoff, control flooding and downstream impacts due to increased runoff. These SWM facilities also provide water quality benefits. Whereas decentralized LID features include infiltration, increasing the length and time of flow over pervious areas, and disconnecting impervious areas that drain to stormwater collection systems. This helps to retain the increase in runoff from new development on-site.

Water Quality and Pollution Prevention

Use LID features that are distributed small-scale controls, closely maintaining or replicating the hydrology of pre-development site conditions. LID features may address additional regulatory requirements or other resource protection goals. Similarly, in meeting the regulatory requirements, BMPs can be designed to act as effective, practicable means of minimizing the impacts of development associated with water quality and quantity control.

Because of the very nature of decentralized hydrologic source control, the nonpoint source pollution is greatly reduced, thereby, increasing the water quality of the receiving water bodies.

First-Flush Water Quality Volume

Many localities have adopted the conventional approach of collecting and treating the first-flush or water-quality depth of rainfall. The city defines the first flush as the depth generated during the first one inch of rainfall. The water quality volume is equated to the volume of stormwater

runoff generated by the first-flush rainfall depth. It may be practical to design LID features to handle the first-flush rainfall depth. Additionally, conventional SWM practices may also be required.

Design Storage of LID Features

For the selected design storm event, the LID volume is equal to or greater than the total net increase in runoff from the pre- to post-development states. Typically, the total volume of stormwater runoff generated during the post-development conditions exceeds the total volume of stormwater runoff generated from the site during the predevelopment conditions. The design storage volume of LID features would be the difference in total volume of stormwater runoff generated between pre- and post-development conditions.

Develop Operation and Maintenance Procedures

Development of Operation and Maintenance Support Information (OMSI) is critical to ensure LID features are properly maintained in order to function properly. LID features should be viewed as environmental systems that have specific maintenance requirements. O&M procedures for each of the LID practices implemented in a site plan should be developed as part of the OMSI documents. Different types of LID features will have different maintenance requirements, but some general principles will apply:

- 1) Keep LID features and flow paths clear of debris.
- 2) Regular trash pickup will be required.
- 3) Use native, drought-tolerant plantings that can tolerate periods of saturation. If required, water vegetation regularly during dry periods. Use special care in selecting plants in areas of tidal influence.
- 4) Consider impact on plants by road salts.
- 5) Grassed areas should be mowed regularly using a longer length cut.
- 6) Plantings should be pruned as needed.
- 7) Deep raking and tilling of depression storage should be done on a yearly basis or as indicated.

CONCLUSIONS

The methods for calculating, modeling, and sizing stormwater runoff are based on the design storm. The design storm is a designation that defines a unit depth of rainfall in order to quantify the volume of rainfall generated for a given site. This data is needed in order to calculate the impact of development on a particular piece of land.

By design, LID methods do not control runoff in excess of the pre-development condition, but are intended to bypass larger storm volumes to flood control measures as defined by the conventional stormwater management techniques. LID is in addition to the requirements of the stormwater permits required. There are other regulatory requirements that also affect the design of stormwater management, quality, and control that are specific to local regions and areas not covered in this document.

The application of LID to infrastructure development program is practical and achievable, but it will require a change of thinking on the part of the site designer. The LID features fall into five categories, as follows:

- 1) Site Utilization:
Begin the site process by reducing the impervious footprint if possible. Narrower streets, vertical construction, parking structures, and the removal of curb, gutter, and paved swales are a few of the ways to reduce impervious surfaces. It is crucial to mimic the pre-development hydrologic conditions in order for LID to be effective. Choose rougher surfaces, disconnect impervious areas, and increase the time of concentration (T_c). Retain as much of the natural tree cover as practical, and place the impervious structures in areas of the poorest soil types where possible.
- 2) Filtration:
Include filtration practices in the site design. Vegetative buffers, filter strips, vegetative swales, check dams, sediment traps, and overland flow will provide natural water quality treatment and increase T_c .
- 3) Interception and Infiltration:
The infiltration techniques of LID are the backbone of the runoff volume reduction. Depression storage, bio-infiltration, pervious pavements, open pavers, rain gardens, infiltration trenches, and tree boxes are gaining wide acceptance as tools in the SWM toolbox. Interception can also play a major role in reducing runoff volumes. Interception techniques include deep mulch beds, tree cover, and soil amendments.
- 4) Retention of Stormwater Volumes:
Retention can play an important part in successful LID implementation. Retention seeks to hold runoff from localized impervious surfaces for subsequent treatment after the rainfall event. Rain barrels, cisterns, and parking lot storage that slowly infiltrates into the ground are examples of retention techniques.
- 5) Structural Solutions:
Structural solutions represent the last line of defense in LID features. Structural solutions will increase the facility construction cost and must be balanced with mission requirements. In urban and industrial areas, sensitive environments, or known contaminated sites, structural solutions are often the only solution. These techniques are engineered solutions for the particular facility and can include green roofs, rainwater reuse systems, parking structures, and irrigation storage systems.

The site designer is encouraged to contact the city to coordinate LID and GI requirements with applicable stormwater programs.



CITY OF KYLE, TEXAS

Approve Supplement No. 3 for Lehman Road.

Meeting Date: 2/2/2016

Date time:7:00 PM

Subject/Recommendation: Consider and take action to approve Supplement No. 3 to HDR ENGINEERING, INC., Austin, Texas, in an amount not to exceed \$79,600.00 for a total contract amount of \$1,044,754.50 as requested by City Council for the purpose of revising the Lehman Road engineering plans to remove the proposed bridge structure over the tributary to Plum Creek, lowering the profile of the proposed roadway, and reducing construction costs by approximately \$1.0 million. ~ *Leon Barba, P.E., City Engineer*

Other Information: A project alternative is being presented as requested by City Council on the Lehman Road project for the purpose of revising the Lehman Road engineering plans to remove the proposed bridge structure over the tributary to Plum Creek and lowering the profile of the proposed roadway. This change in plan will reduce estimated right of way and construction costs by approximately \$1.0 million.

Legal Notes: N/A

Budget Information: A Fiscal Note is attached.

ATTACHMENTS:

Description

- Supp. WA 3 Scope
- Supp. WA 3 Fees
- Alternate Comparison
- Fiscal Note

EXHIBIT A

SUPPLEMENT NO. 3

TO CONTRACT AGREEMENT FOR PROFESSIONAL SERVICES FOR LEHMAN ROAD IMPROVEMENTS

SERVICES TO BE PROVIDED BY THE ENGINEER

WORK DESCRIPTION:

The work to be performed by ENGINEER under Supplement No. 3 to the Contract Agreement for Professional Services for the Lehman Road Improvements project for the plan revisions requested by the CITY to lower the proposed profile to more closely follow the existing roadway profile removing the proposed bridge structure over the tributary to Plum Creek at Lake Kyle Park such that additional ROW will not be required from Parcels 5 & 6 opposite the park.

The scope of work for the aforementioned requested plan revisions include:

PROJECT MANAGEMENT

- Internal project coordination and oversight of design revisions.
- Meetings with City Manager, Asst. City Manager, and staff (4 mtgs).
- Attending City Council sessions (2 sessions).
- Meetings with NRCS / PCCD (2 mtgs).
- QA/QC of revised 90% submittal.
- QA/QC of revised final submittal.
- Revise preliminary opinion of estimated project cost.
- Revise ENGINEER's opinion of project ROW costs.

ENVIRONMENTAL STUDIES

- Revise environmental documentation to reflect changes in proposed project scope.
- Revise construction impacts to the Tributary to Plum Creek.
- QA/QC of document revisions.

UTILITY COORDINATION

- Evaluate proposed changes in project scope for impacts to utilities located within the corridor and update project conflict tracking report and summary binder.
- Coordination with utilities located with project corridor impacted by proposed plan revisions.
 - Centerpoint Gas.
 - Texas Gas Service.
 - City of Kyle Public Works Department.
 - Pedernales Electric Cooperative.
 - ATT.

- Time Warner Cable.

DESIGN SURVEYING

- No additional services identified at this time.

GEOTECHNICAL

- No additional services anticipated at this time.

PLANS, SPECIFICATIONS & ESTIMATE

ROADWAY GEOMETRICS

- Revise Lehman Road profile from approximately Sta. 108+00 to Sta. 129+00.
- Revise Masonwood intersection profile.
- Revisions will be required to the following plan sheets:
 - Typical Sections sheet.
 - Plan and Profile sheets (Sta. 108+00 to 129+00)
 - Roadway Cross-Sections..
 - Update / revise roadway standard detail sheets.

DRAINAGE

- Revise hydraulic model for the Tributary to Plum Creek
- Revise hydraulic model for revisions to internal drainage patterns along Lehman Road from Sta. 108+00 to 129+00 due to profile and potential cross-section changes.
- Revisions will be required to the following plan sheets:
 - Interior Drainage Area Map sheets.
 - Hydrologic Data sheet.
 - Hydraulic Data sheet.
 - Storm Sewer Plan and Profile sheets.
 - Culvert A Layout.
 - Driveway Culvert sheet.
 - Box Culvert Supplement sheet.
- Prepare new culvert layout detail sheet at the Tributary to Plum Creek.

SIGNING, PAVEMENT MARKING, AND ILLUMINATION

- Revise signing and pavement marking sheets for Sta. 108+00 to 129+00 to reflect removal of the bridge and addition of culvert crossing along with associated pavement marking and object marker revisions.

MISCELLANEOUS ROADWAY

- Revise ENGINEER's opinion of probable construction cost.
- Revisions will be required to the following plan sheets:
 - Title Sheet.
 - Supplementary Index of sheets.
 - Project Layout sheets.
 - Traffic Control Plan – Phase 3 sheets.
 - Revise Temporary Erosion Control – Phase 3 sheets.
 - Quantity summary sheets.

- Driveway Summary sheet.
- Driveway Profiles sheet.
- Driveway Culvert sheet.
- Masonwood Intersection detail sheet.

TRAFFIC CONTROL PLANS

- Revisions will be required to the following plan sheets:
 - Traffic Control Plan Narrative sheet.
 - Traffic Control Plan Sections sheet.
 - Traffic Control Plan – Phase 3 sheets.

BRIDGES AND DRAINAGE STRUCTURES

- Remove Tributary to Plum Creek Bridge from plan set and DGN files.
- Prepare new culvert layout detail sheet at the Tributary to Plum Creek.
- Revisions will be required to the following plan sheets:
 - Culvert A Layout.
 - Box Culvert Supplement sheet.

NRCS STRUCTURE MITIGATION

- Revise SCS #2 mitigation sheet.

RIGHT OF WAY

- No additional services anticipated at this time.

SURVEY (SEE ATTACHED TWG PROPOSAL)

No additional services anticipated at this time.

ADDITIONAL SERVICES (NOT INCLUDED IN THIS SCOPE OF SERVICES)

The ENGINEER shall, at the request of the CITY, provide the following additional services. Any additional services requested will require a Supplemental Agreement to this Work Authorization.

- Services resulting from significant changes in the general project scope, extent or character of the project or scope of work, and revising previously accepted studies, reports, design documents, or contract documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports, or documents, or are due to any other causes beyond the ENGINEER’s control.
- Preparing to serve or serving as an Engineer or witness for the CITY in any litigation, arbitration, or other legal or administrative proceeding.
- Additional storm sewer system or inlets beyond those currently included in 90% plan set submitted to the CITY for review on December 14, 2015.
- Any other services not specifically stated within this scope of work.
- Additional Section 404 permitting if impacts to waters of the US exceed the current permitting threshold (Nationwide Permit 14 without Pre-construction Notification).

Project Description: Prepare Environmental Document, Utility Relocation, and PS&E package for Lehman Road from FM 150 to CR 157 (Goforth Rd.).

Project Length: Approximately 8,500 LF (1.60 miles)

<u>1 - PROJECT MANAGEMENT</u>		<u>\$14,864.00</u>
<u>2 - PRELIMINARY ENGINEERING</u>		
2A	ENVIRONMENTAL	\$5,052.00
2B	UTILITY COORDINATION	\$5,372.00
		\$0.00
		\$0.00
		\$0.00
		\$0.00
<u>SUBTOTAL PRELIMINARY ENGINEERING</u>		<u>\$10,424.00</u>
<u>3 - PLANS, SPECIFICATIONS AND ESTIMATES (PS&E)</u>		
3A	ROADWAY GEOMETRICS (P & P SHTS: 1" = 50')	\$10,738.50
3B	ROADWAY DRAINAGE	\$15,243.00
3C	SIGNING, PAVEMENT MARKING, & ILLUMINATION	\$1,198.00
3D	MISCELLANEOUS ROADWAY	\$10,702.50
3E	TRAFFIC CONTROL PLANS	\$4,438.00
3F	UTILITY ENGINEERING - 12" WATER LINE RELOCATION	\$387.00
3G	DRAINAGE STRUCTURE / BRIDGE DESIGN	\$7,939.00
3H	NRCS STRUCTURE MITIGATION	\$3,355.00
<u>SUBTOTAL PS&E PLAN PREPARATION</u>		<u>\$54,001.00</u>
<u>4 - RIGHT OF WAY ACQUISITION SERVICES</u>		<u>\$0.00</u>
<u>5 - DIRECT EXPENSES</u>		<u>\$311.00</u>
<u>6 - SUBCONSULTANT FEES</u>		
	AMATERRA ENVIRONMENTAL, INC. (CULTURAL RESOURCES)(DBE)	\$0.00
	THE WALLACE GROUP	\$0.00
	ATRIUM REAL ESTATE SERVICES	\$0.00
	GRAM TRAFFIC COUNTS	\$0.00
	PAVETEX ENGINEERING AND TESTING, INC. (DBE)	\$0.00
	MACIAS & ASSOCIATES, INC. (QUALITY LEVEL B/A SUE AS NEEDED BY SUPPLEMENT)(DBE)	\$0.00
<u>SUBTOTAL - SUBCONSULTANT FEES</u>		<u>\$0.00</u>
<u>TOTAL HDR LABOR FEE, SUBCONSULTANTS, AND DIRECT EXPENSES</u>		<u>\$79,600.00</u>

DBE % = 0%

Project Description: Plum Creek Conservation District Coordination for Lehman Rd.		Project Length: 1.60 miles 8,500 LF													
TASK NO.	TASK DESCRIPTION	SENIOR PROJ. MGR.	ROW. / ENV. MGR.	SR. ENGR.	SR. ENV. SCIENTIST	JR. ENV. SCIENTIST	GIS TECH.	DESIGN ENGR.	EIT	UTILITY DESIGN COORD	CADD TECH.	ARCH/ HISTORIAN/ PI SPECIALIST	BRIDGE CAD TECH	ACCOUNTING CLERICAL/ STENO	TOTAL
COST COMPONENT, HOURS															
1A	PROJECT MANAGEMENT														
	INTERNAL PROJECT MANAGEMENT AND OVERSIGHT	8													8
	PREPARATION OF PROJECT INVOICES / PROCESSING OF SUPPLEMENTAL	4												2	6
	MEETINGS WITH CITY MANAGER, ASST CITY MANAGER, AND STAFF (4 MTGS)	6		6										2	14
	UPDATE MEETINGS WITH NRCS AND PCCD (2)	4												2	6
	REVISE PRELIMINARY OPINION OF ESTIMATED PROJECT COST	2		2				4							8
	QA/QC REVIEW OF REVISED 90% SUBMITTAL	8		2				6			6				22
	QA/QC REVIEW OF FINAL SUBMITTAL	6		2				4			4				16
															0
	SUBTOTAL PROJECT MANAGEMENT	38	0	12	0	0	0	14	0	0	10	0	0	6	80
2A	ENVIRONMENTAL														
	UPDATE ENVIRONMENTAL DOCUMENTS FOR PROPOSED PROJECT REVISIONS		2		4	12	4								22
	UPDATE CONSTRUCTION IMPACTS TO THE TRIBUTARY TO PLUM CREEK		2			12	4								18
	SUBTOTAL ENVIRONMENTAL	0	4	0	4	24	8	0	0	0	0	0	0	0	40
2B	UTILITY COORDINATION														
	UPDATE UTILITY CONFLICT TRACKING REPORT AND SUMMARY BINDER	1	2					4			8				15
	COORDINATION WITH UTILITIES IMPACTED BY PROPOSED PLAN REVISIONS	2	2								8				12
	REVISE ENGINEER'S OPINION OF REIMBURSABLE UTILITY RELOCATION COSTS	1		2							8				11
	SUBTOTAL UTILITY COORDINATION	4	4	2	0	0	0	4	0	24	0	0	0	0	38
2H	SURVEYING AND PHOTOGRAMMETRY	SEE BAKER-AICKLEN FEE (ATTACHED).													
	TOTAL HDR HOURS	42	8	14	4	24	8	18	0	24	10	0	0	6	158
COST COMPONENT, DOLLARS		HOURLY RATES INCLUDING OVERHEAD AND PROFIT													
		\$ 234.50	\$ 205.00	\$ 187.00	\$ 141.00	\$ 109.00	\$ 131.50	\$ 156.00	\$ 119.00	\$ 109.00	\$ 100.00	\$ 87.50	\$ 112.50	\$ 87.50	
1A	PROJECT MANAGEMENT	\$8,911.00	\$0.00	\$2,244.00	\$0.00	\$0.00	\$0.00	\$2,184.00	\$0.00	\$0.00	\$1,000.00	\$0.00	\$0.00	\$525.00	\$14,864.00
2A	ENVIRONMENTAL	\$0.00	\$820.00	\$0.00	\$564.00	\$2,616.00	\$1,052.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,052.00
2B	UTILITY COORDINATION	\$938.00	\$820.00	\$374.00	\$0.00	\$0.00	\$0.00	\$624.00	\$0.00	\$2,616.00	\$0.00	\$0.00	\$0.00	\$0.00	\$5,372.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
	TOTAL HDR LABOR FEE	\$9,849.00	\$1,640.00	\$2,618.00	\$564.00	\$2,616.00	\$1,052.00	\$2,808.00	\$0.00	\$2,616.00	\$1,000.00	\$0.00	\$0.00	\$525.00	\$25,288.00
COST COMPONENT DIRECT EXPENSES		UNIT COST	UNIT			QTY									
EXP	MILEAGE	\$0.565	MILE			200									\$113.00
EXP	COPIES (8.5" x 11")	\$0.05	EA			200									\$10.00
EXP	COPIES (11" x 17")	\$0.10	EA			0									\$0.00
EXP	COPIES (8.5" X 11")(COLOR)	\$0.15	EA			50									\$7.50
EXP	COPIES (11" X 17")(COLOR)	\$0.30	EA			0									\$0.00
EXP	ROLL PLOTS	\$0.20	SF			0									\$0.00
EXP	HAZARDOUS MATERIALS DATABASE SEARCH	\$500.00	EA			0									\$0.00
EXP	COURT REPORTER (PUBLIC INVOLVEMENT)	\$35.00	HR			0									\$0.00
EXP	ADDITIONAL TURNING MOVEMENT DATA COLLECTION (GRAM TRAFFIC COUNTS)	\$3,500.00	EA			0									\$0.00
	TOTAL DIRECT EXPENSES														\$130.50
TOTAL HDR LABOR FEE AND EXPENSES		\$25,418.50													

Project Description: Plum Creek Conservation District Coordination for Lehman Rd.		Project Length: 1.60 miles 8,500 LF														
TASK NO.	TASK DESCRIPTION	SENIOR PROJ. MGR.	ROW. / ENV. MGR.	SR. ENGR.	SR. ENV. SCIENTIST	JR. ENV. SCIENTIST	GIS TECH.	DESIGN ENGR.	EIT	UTILITY DESIGN COORD	CADD TECH.	ARCH/HISTORIAN/PI SPECIALIST	BRIDGE CAD TECH	ACCOUNTING CLERICAL/STENO	TOTAL	
COST COMPONENT, HOURS																
3A	ROADWAY GEOMETRICS (P & P SHTS: 1" = 50')															
	REVISE ROADWAY TYPICAL SECTIONS 91 SHT)			1				2			2				5	
	REVISE PLAN AND PROFILE SHEETS (3 SHTS)	1		4				24			8				37	
	REVISE ROADWAY CROSS SECTIONS	1		4				16			4				25	
	UPDATE STANDARD DETAIL SHEETS	1									4				5	
															0	
	SUBTOTAL ROADWAY GEOMETRICS	3	0	9	0	0	0	42	0	0	18	0	0	0	72	
3B	ROADWAY DRAINAGE															
	REVISE HYDRAULIC MODEL FOR TRIBUTARY TO PLUM CREEK			2				8	2						12	
	REVISE HYDRAULIC MODEL FOR INTERNAL DRAINAGE ALONG LEHMAN ROAD	1		2				4							7	
	REVISE INTERIOR DRAINAGE AREA MAP SHEETS	1		2				12			6				21	
	REVISE HYDROLOGIC DATA SHEET	1		2				2			1				4	
	REVISE HYDRAULIC DATA SHEET	1		2				4							8	
	REVISE SCS MITIGATION SHEET	1		1				4	4		4				14	
	REVISE STORM SEWER PLAN AND PROFILE SHEETS	1		8				16			6				31	
	REVISE DRIVEWAY CULVERT SHEET			1				1							2	
	SEE BRIDGES FOR CULVERT LAYOUT AND DATA SHEETS														0	
															0	
	SUBTOTAL ROADWAY DRAINAGE	6	0	18	0	0	0	51	6	0	18	0	0	0	99	
3C	SIGNING, PAVEMENT MARKING, & ILLUMINATION															
	REVISE SIGNING AND STRIPING SHEETS FROM STA. 108+00 TO 129+00			2				4			2				8	
															0	
	SUBTOTAL SIGNING, PAVEMENT MARKING, ILLUMINATION & SIGNALIZATION	0	0	2	0	0	0	4	0	0	2	0	0	0	8	
3D	MISCELLANEOUS ROADWAY															
	REVISE TITLE SHEET	1		1							2				4	
	REVISE INDEX OF SHEETS	1		1							2				3	
	REVISE PROJECT LAYOUT AND CONTROL SHEETS (1 SHT)			1				2			1				4	
	REVISE DRIVEWAY SUMMARY SHEET			1				2			1				4	
	REVISE DRIVEWAY PROFILES SHEET	1		1				4							6	
	REVISE DRIVEWAY CULVERTS SHEET			1				1			1				3	
	REVISE MASONWOOD INTERSECTION DETAIL SHEET			1				4			1				6	
	UPDATE QUANTITY SUMMARY SHEETS (9 SHTS)	1		1				8			4				14	
	REVISE PHASE 3 TEMPORARY EROSION CONTROL / SWPPP SHEETS (10 SHTS)	1		1				10			10				22	
	PREPARE ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST	1		1				4							6	
															0	
	SUBTOTAL MISCELLANEOUS ROADWAY	5	0	10	0	0	0	35	0	0	22	0	0	0	72	
3E	TRAFFIC CONTROL PLANS															
	TRAFFIC CONTROL PLAN NARRATIVE SHEET			1							1				2	
	TRAFFIC CONTROL PLAN SECTIONS SHEET			1				2			2				5	
	TRAFFIC CONTROL PLAN - PHASE 3 SHEETS (10 SHTS)	2		2				16			4				24	
															0	
	SUBTOTAL OF TRAFFIC CONTROL PLANS	2	0	3	0	0	0	18	0	0	6	0	0	0	29	
3F	UTILITY ENGINEERING - 12" WATER LINE RELOCATION															
	REMOVE WATER LINE RELOCATION FROM PLAN SET AND DGN FILES			1							2				3	
															0	
	SUBTOTAL UTILITY COORDINATION	0	0	1	0	0	0	0	0	0	2	0	0	0	3	
3G	DRAINAGE STRUCTURE / BRIDGE DESIGN															
	REMOVE TRIBUTARY TO PLUM CREEK BRIDGE FROM PLAN SET AND DGN FILES			2				2			2				6	
	PREPARE CULVERT LAYOUT SHEET AT TRIBUTARY TO PLUM CREEK	2		2				6	6				24		40	
	REVISE CULVERT A LAYOUT SHEET			2				2				4			8	
	REVISE CULVERT SUPPLEMENT SHEET			1				2				2			5	
															0	
															0	
	SUBTOTAL BRIDGE DESIGN	2	0	7	0	0	0	12	6	0	2	0	30	0	59	
3H	NRCS STRUCTURE MITIGATION															
	REVISE SCS #2 MITIGATION SHEET	2		4				4	6		8				24	
															0	
	SUBTOTAL NRCS STRUCTURE MITIGATION	2	0	4	0	0	0	4	6	0	8	0	0	0	24	
	TOTAL HDR HOURS	20	0	54	0	0	0	166	18	0	78	0	30	0	366	
COST COMPONENT, DOLLARS		\$ 234.50	\$205.00	\$187.00	\$141.00	\$109.00	\$131.50	\$156.00	\$119.00	\$109.00	\$100.00	\$87.50	\$112.50	\$87.50		
3A	ROADWAY GEOMETRICS (P & P SHTS: 1" = 50')	\$703.50	\$0.00	\$1,683.00	\$0.00	\$0.00	\$0.00	\$6,552.00	\$0.00	\$0.00	\$1,800.00	\$0.00	\$0.00	\$0.00	\$10,738.50	
3B	ROADWAY DRAINAGE	\$1,407.00	\$0.00	\$3,366.00	\$0.00	\$0.00	\$0.00	\$7,956.00	\$714.00	\$0.00	\$1,800.00	\$0.00	\$0.00	\$0.00	\$15,243.00	
3C	SIGNING, PAVEMENT MARKING, & ILLUMINATION	\$0.00	\$0.00	\$374.00	\$0.00	\$0.00	\$0.00	\$624.00	\$0.00	\$0.00	\$200.00	\$0.00	\$0.00	\$0.00	\$1,198.00	
3D	MISCELLANEOUS ROADWAY	\$1,172.50	\$0.00	\$1,870.00	\$0.00	\$0.00	\$0.00	\$5,460.00	\$0.00	\$0.00	\$2,200.00	\$0.00	\$0.00	\$0.00	\$10,702.50	
3E	TRAFFIC CONTROL PLANS	\$469.00	\$0.00	\$561.00	\$0.00	\$0.00	\$0.00	\$2,808.00	\$0.00	\$0.00	\$600.00	\$0.00	\$0.00	\$0.00	\$4,438.00	
3F	UTILITY ENGINEERING - 12" WATER LINE RELOCATION	\$0.00	\$0.00	\$187.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$200.00	\$0.00	\$0.00	\$0.00	\$387.00	
3G	DRAINAGE STRUCTURE / BRIDGE DESIGN	\$469.00	\$0.00	\$1,309.00	\$0.00	\$0.00	\$0.00	\$1,872.00	\$714.00	\$0.00	\$200.00	\$0.00	\$3,375.00	\$0.00	\$7,939.00	
3H	NRCS STRUCTURE MITIGATION	\$469.00	\$0.00	\$748.00	\$0.00	\$0.00	\$0.00	\$624.00	\$714.00	\$0.00	\$800.00	\$0.00	\$0.00	\$0.00	\$3,355.00	
	TOTAL HDR LABOR FEE	\$4,690.00	\$0.00	\$10,098.00	\$0.00	\$0.00	\$0.00	\$25,896.00	\$2,142.00	\$0.00	\$7,800.00	\$0.00	\$3,375.00	\$0.00	\$54,001.00	
COST COMPONENT DIRECT EXPENSES																
EXP	MILEAGE	\$0.540	UNIT		QTY										\$108.00	
EXP	COPIES (8.5" x 11")	\$0.05	EA		150										\$7.50	
EXP	COPIES (11" x 17")	\$0.10	EA		650										\$65.00	
EXP	COPIES (8.5" X 11")(COLOR)	\$0.15	EA		0										\$0.00	
EXP	COPIES (11" X 17")(COLOR)	\$0.30	EA		0										\$0.00	
EXP	MYLARS (11" X 17")	\$2.00	EA		0										\$0.00	
EXP	OVERNIGHT DELIVERIES	\$25.00	EA		0										\$0.00	
	TOTAL DIRECT EXPENSES														\$180.50	
	TOTAL HDR LABOR FEE AND EXPENSES														\$54,181.50	



CITY OF KYLE, TEXAS

LEHMAN ROAD IMPROVEMENT PROJECT

ENGINEER'S OPINION OF TOTAL PROJECT COST

Project Activity	Authorized Budget Amounts	Current Design	Revised Design
Design			
Roadway Design	\$ 703,788.00	\$ 791,823.00	\$ 877,823.00
Utility Design**	\$ -	\$ 35,817.50	\$ 35,817.50
Construction			
Roadway Construction	\$ 4,209,598.00	\$ 5,589,388.00	\$ 5,107,988.07
18" to 30" Sewer Line Upgrade**	\$ -	\$ 410,020.00	\$ 410,020.00
12" Water Line Relocation**	\$ -	\$ 308,000.00	\$ -
Reimbursable Utility Relocations	\$ 646,510.00	\$ 210,800.00	\$ 110,000.00
SCS #2 Mitigation	\$ 116,620.00	\$ 385,536.00	\$ 134,937.60
Right of Way (ROW)			
ROW Acquisition Services	\$ 81,000.00	\$ 76,700.00	\$ 76,700.00
ROW Appraisals	\$ 40,000.00	\$ 39,000.00	\$ 33,000.00
ROW Survey	\$ 25,000.00	\$ 21,814.00	\$ 21,814.00
ROW Acquisition	\$ 300,000.00	\$ 260,000.00	\$ 172,000.00
Contingency			
	\$ 977,484.00	\$ 391,258.00	\$ 500,000.00
Project Total	\$ 7,100,000.00	\$ 8,520,156.50	\$ 7,480,100.17

** - Add on work not in initial project scope. Project Cost not including this work is approximately \$7.8M.
Sewer line upgrade initially estimated at \$300,000 which resulted in total project cost of \$7,400,000.

Deductions	Original	New Value	Deduct	Unit Cost	New Cost
Embankment	30448	9134.4	21313.6	\$12.00	-\$255,763.20
Bridge Deck	9990	4440	5550	\$15.00	-\$83,250.00
Bridge Beams	740.74	0	740.74	\$150.00	-\$111,111.00
Bridge Abutment	109	27.6	81.4	\$900.00	-\$73,260.00
Bridge Bents	109.7	27.2	82.5	\$1,000.00	-\$82,500.00
Bridge Joint	150	60	90	\$90.00	-\$8,100.00
Drilled Shafts (18")	100	0	100	\$150.00	-\$15,000.00
Drilled Shafts (24")	440	440	0	\$175.00	\$0.00
Drilled Shafts (36")	460	0	460	\$200.00	-\$92,000.00
Bridge Sidewalk	3240	1440	1800	\$10.00	-\$18,000.00
Cement Stabilized Backfill	173	42	131	\$150.00	-\$19,650.00
Approach Slab	134.9	54.4	80.5	\$400.00	-\$32,200.00
Additions					
Box Culverts	0	200.0	200.0	\$350.00	\$70,000.00
Excavation	24263	24687.2	424.2	\$10.00	\$4,242.28
Flex Base	7163	7288.2	125.2	\$26.00	\$3,256.29
Lime	742	755.0	13.0	\$145.00	\$1,881.16
Lime Treat	25788	26238.9	450.9	\$2.50	\$1,127.23
Prime Coat	4407	4484.1	77.1	\$4.50	\$346.74
D-GR HMA TY-B PG64-22	4090	4161.5	71.5	\$75.00	\$5,363.39
D-GR HMA TY-D PG70-22	6316	6426.4	110.4	\$80.00	\$8,834.60
Concrete Sidewalks	4475	4775.0	300.0	\$45.00	\$13,500.00
Culvert Wingwalls	1	5.0	4.0	\$15,000.00	\$60,000.00
Geogrid	33652	34240.4	588.4	\$1.50	\$882.59
Additional Storm Sewer					\$125,000.00
Rodriguez Driveway	0	1.0	1.0	\$15,000.00	\$15,000.00
Total Construction Cost Change					-\$481,399.93

City of Kyle, Texas
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION: February 2, 2016
CONTACT CITY DEPARTMENT: Engineering Services
CONTACT CITY STAFF: Leon Barba, P.E., City Engineer

SUBJECT:

Consider and take action to Approve Supplement No. 3 to HDR ENGINEERING, INC., Austin, Texas, in an amount not to exceed \$79,600.00 for a total contract amount of \$1,044,754.50 as requested by City Council for the purpose of revising the Lehman Road engineering plans to remove the proposed bridge structure over the tributary to Plum Creek and lowering the profile of the proposed roadway.

CURRENT YEAR FISCAL IMPACT:

This engineering services amendment to the agreement with HDR ENGINEERING, INC., will require expenditure of funds from the General Obligation Bonds, Series 2015 issued for engineering, design, and construction services for the five (5) roadway improvement projects.

1. City Department:	Engineering Services
2. Project Name:	Lehman Road – Supplement #3
3. Budget/Accounting Code(s):	192-682-57313
4. Funding Source:	2013 & 2015 GO Bond Fund (Road Bonds)
5. Current Appropriation:	\$ 7,601,519.60
6. Unencumbered Balance:	\$ 6,634,014.76
7. Amount of This Action:	\$ (79,600.00)
8. Remaining Balance:	\$ <u>6,557,114.76</u>

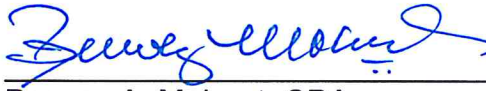
FUNDING SOURCE OF THIS ACTION:

The funding for this professional services agreement amendment for additional engineering services by HDR ENGINEERING, INC., will be provided from the General Obligation Bonds, Series 2015 issued for engineering, design, and construction services for the five (5) roadway improvement projects.

ADDITIONAL INFORMATION/COUNCIL ACTION:

- If approved by City Council, Supplement No. 3 in the amount of \$79,600.00 will increase the total contract award to \$1,044,754.50 for HDR ENGINEERING, INC., for the Lehman Road improvement project.
- On August 4, 2015, City Council approved Supplement No. 2 in the amount of \$72,596.00 increasing the total contract award to \$965,154.50 for HDR ENGINEERING, INC., for the Lehman Road improvement project.

- On November 5, 2014, City Council, approved Supplement No. 1 in the amount of \$195,558.50 which increased the total contract award to \$892,558.50 to HDR ENGINEERING, INC., for the Lehman Road improvement project.
- On March 18, 2014, City Council approved a professional services agreement for engineering services with HDR ENGINEERING, INC., in an amount not to exceed \$697,000.00 for engineering services for the Lehman Road project.

 1/28/2016

Perwez A. Moheet, CPA - Date
Director of Finance



CITY OF KYLE, TEXAS

Smoking Ordinance Discussion

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Discussion on Smoking Ordinance. ~ *Becky Selbera, Council Member*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Drainage and Stormwater Improvements Update

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Update on County Support for Drainage and Stormwater Improvements. ~ *Todd Webster, Mayor*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Rescind ILA with Mountain City and Hays County

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Discussion and action regarding rescinding approval of ILA with Mountain City and Hays County for annexation and ETJ release and to provide utility services. ~ *Todd Webster, Mayor*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- ILA Mountain City Hays

STATE OF TEXAS §

KNOW ALL BY THESE PRESENTS:

COUNTY OF HAYS §

**INTERLOCAL AGREEMENT BY AND BETWEEN
HAYS COUNTY, THE CITY OF MOUNTAIN CITY & THE CITY OF KYLE**

THIS INTERLOCAL COOPERATIVE AGREEMENT (hereinafter “Agreement”) is entered into, in duplicate originals, and effective on the date shown at the end of this instrument by and between HAYS COUNTY, TEXAS, a political subdivision of the State of Texas acting by and through its Commissioners’ Court (hereinafter “County”), the CITY OF MOUNTAIN CITY, a Texas general law municipality incorporated under the laws of the State of Texas (hereinafter “Mountain City”), and the CITY OF KYLE, a Texas Home Rule municipality (“Kyle”), together the “Parties,” to establish the terms and compensation for County assistance in the construction, improvement and/or repair to public roads/streets located within Hays County, Texas and within the municipal boundaries of the City of Mountain City, Texas and the release and acquisition of extra territorial jurisdiction (“ETJ”) within Hays County.

RECITALS

WHEREAS, legal authority for this Agreement is derived from, and the parties intend this Agreement to be in compliance with, Chapter 791 of the Texas Government Code, cited as the Interlocal Cooperation Act (the “Act”) and Title 6, Chapter 251 of the Texas Transportation Code, as a contract for the provision of road/street design, construction, improvement, repair and/or maintenance;

WHEREAS, the functions and services specified in this Agreement are governmental functions or services that either party to the contract is authorized to perform individually;

WHEREAS, the Parties desire and agree that the County will pay for and provide the proper machinery, equipment and/or labor to assist in the construction, improvement, and/or repair of roads/streets within Mountain City;

WHEREAS, the Parties desire and agree that Mountain City will pay for and provide all necessary materials, plans, designs, and maintenance for the roads/streets that the County assists in constructing, improving, and/or repairing within the Mountain City;

WHEREAS, Mountain City is a general law municipality with its municipal boundaries located within the County;

WHEREAS, the County and Mountain City will receive benefits as a result of the road/street design, construction, improvement, repair, and/or maintenance;

WHEREAS, the County will receive benefits as a result of the construction, improvements, and/or repairs to the roads/streets located within Mountain City’s boundaries;

WHEREAS, the County and Mountain City have, in a separate document, authorized the Parties’ respective representative to enter and sign this Agreement;

WHEREAS, during the performance of the governmental functions and the payment for the performance of those governmental functions, the Parties will make the performance and payment from current revenues legally available to that party;

WHEREAS, a proposed residential development called “Anthem” has expressed an interest in receiving water utilities from Kyle, if Mountain City is willing to relinquish sufficient ETJ to allow for Kyle’s annexation of Anthem; and

WHEREAS, Anthem (and its proposed Municipal Utility District) is currently located within the ETJ of Mountain City;

WHEREAS, Kyle proposes to annex the Anthem residential development located within Mountain City’s ETJ and extend utilities to such property;

WHEREAS, Mountain City has agreed, if certain conditions described herein are met, to relinquish its ETJ encompassing the Anthem residential development;

WHEREAS, Kyle has agreed to subsequently incorporate the Anthem residential development into its ETJ;

WHEREAS, the Anthem residential development is or will be contiguous to Kyle;

WHEREAS, Section 791.032 of the Texas Government Code authorizes the County to enter into an agreement with a municipality “to finance the construction, improvement, maintenance, or repair of streets or alleys in the municipality, including portions of the municipality’s streets or alleys that are not an integral part of or a connecting link to other roads or highways;”

WHEREAS, the Parties have determined it to be in the best interest of the Parties’ respective residents and community to enter into this Agreement; and

WHEREAS, the Parties recognize that there are many forms of consideration in this Agreement which, if taken together, benefit all Parties hereto;

NOW, THEREFORE, in consideration of the mutual benefits and advantages each to the other and the mutual covenants and obligations contained herein, the receipt of which is hereby acknowledged, the Parties hereto agree as follows:

I. Purpose and Scope of Services

1.01 Purpose.

(A) The Parties acknowledge that the intent and purpose of this Agreement, in part, is for the County, at its sole discretion, to provide machinery, equipment and/or labor services at its own expense up to, but not exceeding, \$22,000.00 per public project each County fiscal year for each year this Agreement is in full force and effect, to assist the City in the construction, improvement, and/or repair of a road/street located within the corporate limits of the City, subject to the approval procedure set forth in Section II.

(B) The Parties acknowledge that the intent and purpose of this Agreement, in part, is for Mountain City to pay for and provide all necessary materials, plans, designs, and maintenance for the roads/streets that the County constructs, improves, and/or repairs within Mountain City.

(C) “Public Project” is defined as a project to construct, improve, and/or repair public road(s)/street(s) being within the municipal boundaries of Mountain City and within the County.

(D) The Parties acknowledge that the intent and purpose of this Agreement, in part, is for Mountain City to release those portions of its ETJ that encompass the Anthem Residential Development and for Kyle to incorporate such property into its ETJ, while maintaining a 1’ (one foot) ETJ from Mountain City’s current ETJ along East RM 150 to its Western ETJ.

(E) The Parties acknowledge that the intent and purpose of this Agreement, in part, is for Kyle to provide water and wastewater utilities to 45 acres of commercially zoned property within the city limits of Mountain City and to provide master meters to Mountain City.

1.02 Responsibilities.

(A) *County Responsibility.* The County shall:

- (1) Furnish machinery, equipment, and/or labor pursuant to the terms and conditions, below, and the procedures detailed in Section II.
- (2) Communicate, via its Director of Transportation (“Transportation Director”), with Mountain City regarding the scheduling of projects under this Agreement
- (3) Cooperate with Mountain City to provide notice of project commencement to affected residents at least seven (7) days’ prior to any project start date.

(B) *Mountain City Responsibility.* Mountain City shall:

- (1) Furnish all materials for the project and pay trucking charges;

- (2) Furnish a site for dumping waste materials generated during the Public Project;
- (3) Furnish all right of ways, plan specifications, and engineering drawings, if any;
- (4) Furnish any and all necessary traffic controls including Type A barricades to redirect traffic flow to alternate lanes or routes during all phases of the Public Project;
- (5) Provide temporary driving lane markings;
- (6) Coordinate and be responsible for the replacement of any and all signal related devices;
- (7) Provide the County with a hydrant meter and all the water necessary for the Public Project at no cost to the County;
- (8) Adjust, move, replace or alter all utilities, manholes, and valve boxes;
- (9) Agree that the road can be closed to through traffic during working hours;
- (10) Pursuant to Texas Local Government Code § 42.025 will release those portions of the Anthem residential development within its ETJ; and
- (11) Mountain City will grant and Kyle will preserve a 1' (one foot) of ETJ from Mountain City's current ETJ along East RM 150 to its Western ETJ. See attached hereto and incorporated by reference as Exhibit "B", the proposed 1' (one foot) of ETJ.

(C) *Kyle Responsibility.* Kyle shall:

- (1) Preserve at a minimum the existing obligations of the Development Agreement between Anthem and Mountain City, attached hereto and incorporated by reference as Exhibit "A";
- (2) Subsequent to the above release of ETJ by Mountain City, Kyle will pursuant to Texas Local Government Code § 42.021 adopt a Resolution incorporating such portions released by Mountain City of the Anthem residential development into its ETJ;
- (3) Extend water and wastewater utilities to Mountain City's commercially zoned 45 acres along FM 2770;
- (4) Make available water and wastewater master meters to Mountain City, billable at the out-of-city rates as defined in Kyle's Code of Ordinances, which will allow Mountain City to develop its own water and/or wastewater utilities to service its citizenry; and
- (5) Preserve a 1' (one foot) of ETJ from Mountain City's current ETJ along East RM 150 to its Western ETJ. See attached hereto and incorporated by reference as Exhibit "B", the proposed 1' (one foot) of ETJ.

1.03 Work and Payments.

(A) Mountain City shall reimburse the cost of any work performed or obtained by or from the County, which is determined to be beyond the scope of this agreement, to the County.

(B) The County work authorized by this Agreement may be done:

- (1) By the County through use of County machinery, equipment and/or employees; or
- (2) By an independent contractor with whom the County has contracted for the provision of certain services or materials, conditioned upon Mountain City providing a purchase order to such independent contractor for the full amount of such services or materials.

(C) Mountain City shall pay each vendor directly for the materials used or purchased to be used within the approved Public Projects.

(D) At the end of every fiscal year, Mountain City shall submit a copy of any and all vendor invoices from approved Public Projects to the Hays County Auditor.

(E) Notwithstanding the foregoing, each Party paying for the performance of governmental functions, services, goods, or materials shall make those payments from current fiscal year revenues available to the paying party.

II. Approval Procedure

2.01 (A) Prior to the commencement of any Public Project, any and all Public Projects within the provisions of this Agreement must be approved according to the following process:

(1) During the term of this Agreement, after establishing an agreed Public Project with the Hays County Commissioner for Precinct 2 (the "Precinct 2 Commissioner") and the Transportation Director, and when County work is requested, the Mayor of Mountain City shall develop a detailed Project Proposal, describing the type of project to be undertaken, identifying the location of the project, containing the plans for completing the project, and estimating the cost for completing the project.

(2) The Mayor of Mountain City shall then present such Project Proposal to the Transportation Director.

(3) The Transportation Director and the Precinct 2 Commissioner shall confirm that there is sufficient scheduling availability and budget to perform the proposed project.

(4) After confirmation, the Precinct 2 Commissioner may then execute and present the “Approval of Project Proposal” to the Mayor of Mountain City.

(5) The Mayor of Mountain City shall then cause such Project Proposal and a Project Agreement to be submitted, considered and voted for approval by Mountain City’s governing body.

(6) If approval is granted by Mountain City’s governing body, and a signed Project Agreement is received from Mountain City, the Transportation Director may then schedule the work to be performed by the County.

(B) It is expressly understood by the Parties that the County shall have no authority or obligation to provide any service or work on any City road/street or alley not so agreed to in writing.

(C) Prior to the County assisting in the improvement, construction and/or repair of any road/street under this Agreement, the County shall ensure that its employees, equipment, and materials are not necessary for the maintenance, improvement, construction, or repair of any County road and that such Public Project under this Agreement shall not interfere with the County’s work schedule.

(1) Mountain City hereby agrees to collaborate with the County to formulate a written schedule that will coincide with the County’s construction, maintenance, or improvement work schedule.

III. Term, Default, and Termination

3.01 Term. The term of this Agreement will begin on the Effective Date and shall be in full force and effect until three (3) years from date hereof.

3.02 Termination. This agreement may be terminated at will by either party upon written notice by certified mail sixty (60) days in advance of the desired effective date of termination

3.03 Default. If either Party breaches any term, or terms, of this Agreement, then the breaching party shall have thirty (30) days from the date that it receives written notification of the breach from the other Party to commence good faith efforts to cure such breach. If the breach has not been cured within a reasonable period of time, then the non-breaching Party may terminate this Agreement by providing thirty (30) days written notice of its intent to terminate.

IV. Miscellaneous Provisions

4.01 No Waiver of Immunity. This Agreement does not waive County rights under a legal theory of sovereign immunity. This Agreement does not waive City rights under a legal theory of sovereign immunity. Nothing herein shall be deemed to alter or change the legal responsibility of either Party under existing law for road repairs, nor will this agreement cause either Party to incur additional liability other than liability it would have under existing law without the existence of this Agreement.

Since the County shall be performing governmental functions on behalf of Mountain City, Mountain City shall further assist the County in asserting any and all sovereign governmental immunity rights or limitations in defending any claims made against the County related to any work performed on behalf of Mountain City.

4.02 Employment Discrimination. The Parties shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal, or laying off of any individual due to race, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

4.03 Independent Contractor. The County, its employees, officers, agents, and assigns are employees of the County and not employees of Mountain City.

4.04 Partnership/Joint Venture. Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall become liable for any representation, act, or omission of any other Party contrary to the terms of this paragraph.

4.05 No Warranties. County, as the entity performing the services, states that it offers no warranties of any kind express or implied including, but not limited to, fitness for use.

4.06 Indemnification and Hold Harmless. County will not indemnify, defend or hold harmless, in any fashion, Mountain City from any claims arising from any failure, regardless of the language in any attachment or other document that Mountain City may provide. The County shall have no liability as to any action in the furtherance of this Agreement unless otherwise specified under Texas law. To the extent permitted by law, City does hereby release and hold harmless County from any and all claims, damages or cause of action, for damage to underground utilities caused by County while performing work pursuant to this Agreement and City does hereby assumes full responsibility for such damage. To the extent permitted by law, City further does hereby agree to hold County harmless from and against any and all claims, losses, damages, causes of action, suits and liabilities of every kind for injury or death to any person or damage to property arising out of or in connection with the work to be performed under this Agreement. The parties shall maintain typical and appropriate insurance including employer's liability, comprehensive general liability, automobile, and errors and omissions insurance in amounts sufficient to provide the indemnification provided for herein during the term of the Agreement. Except for employee's liability insurance and errors and

omissions insurance, the Parties shall name each other as additional insureds on each other's policies obtained herein.

4.07 Entire Contract. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior Agreements, understandings and arrangements, oral or written, between the parties thereto with respect to the subject matter hereof. The Agreement may not be in anywise modified except by a separate writing mutually approved and signed by the Parties.

4.08 Interpretation of Agreement. This Agreement or any portion thereof shall not be interpreted by a court of law to the detriment of a Party based solely upon that Party's authorship of the Agreement or any portion thereof.

4.09 Assignment. No assignment of this Agreement, in whole or in part for any purpose shall be made by either Party without the prior written consent of the other Party. Subject to this limitation, this Agreement shall bind and inure to the benefit of the successors and assigns of the Parties.

4.10 Notices. All written notices required by the terms of this Agreement shall be in writing and deposited in the United States mail addressed to such Party at the address set forth below:

If to Mountain City:

Tiffany Curnutt, Mayor
4600 Jack C Hays Trail
Mountain City, Texas 78640

If to Kyle:

Scott Sellers, City Manager
100 W. Center Street
Kyle, TX 78640

If to the County:

Mark Jones, Commissioner – Precinct 2
5458 FM 2770 (at Crystal Meadow Drive)
Kyle, Texas 78640

With Copy to:

General Counsel – Mark Kennedy (or successor)
111 E. San Antonio Street, Suite 202
San Marcos, TX 78666

These addresses may be changed by either Party by notice in writing to the other Party.

4.11 Severability. If for any reason, any one or more paragraphs of this Agreement are held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining paragraphs of the Agreement as a whole, but shall not be confined to the specific paragraphs, clauses, or paragraphs of this Agreement held legally invalid.

4.12 Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Texas and the venue for any cause of action shall be brought in Hays County, Texas.

4.13 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

4.14 No Waivers. The waiver by any party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

4.15 Modifications to Agreement and Scope of Work. No amendments to this Agreement shall be considered valid by either Party unless they are in writing and approved by each Party's respective governing body.

4.16 Current Revenues Available and No Tax Revenue. Both parties agree that any payments that are made under this Agreement for governmental functions or services will be made from current revenues available to the paying Party. Tax revenue may not be pledged to the payment of amounts agreed to be paid under this Agreement.

4.17 No Third Party Beneficiaries. Nothing in this Agreement shall entitle any third party to any claim, cause of action, remedy, or right of any kind, it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

4.18 Force Majeure. If by reason of Force Majeure, the County shall be rendered unable in whole or in part to carry out its obligations under this Agreement in accordance with the terms and conditions of this Agreement, it shall not be considered a breach of this Agreement. The term "Force Majeure" as used in this Agreement shall mean acts of God, strikes, lock-outs, or other industrial disturbances, acts of the public enemy, orders of any kind of the federal or state government, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or any other causes not reasonably within the control of County.

4.19 Fair Compensation. All parties find that all payments described in this Agreement are in an amount that fairly compensates the performing party for the services or functions performed under this Agreement.

4.20 Authority to Agreement. The Parties, individually, hereby affirms that it has the authority to enter into this Agreement pursuant to a duly adopted resolution and/or ordinance of its governing body and that its representative has the authority to execute this Agreement. Each party certifies that the services specified above are necessary and essential for activities that are properly within the statutory functions of each party and serve the interest of efficient and economical administration of each entity.

4.21 Effective Date. This Agreement shall not be binding upon the Parties until it has been properly approved and signed by the authorized representatives of the governing bodies of the respective Parties. The Effective Date of this Agreement shall be effective on the date of execution by all Parties.

(SIGNATURES FOLLOW ON THE NEXT 3 PAGES)

Executed on this _____ day of _____, 2015

CITY OF KYLE, TEXAS

By: _____
Todd Webster, Mayor

Attest:

By: _____
Name: Amelia Sanchez
Title: City Secretary

ACKNOWLEDGMENTS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on _____, by
TODD WEBSTER, Mayor of the CITY OF KYLE, TEXAS, a Texas municipal corporation, on
behalf of said corporation.

Notary Public, State of Texas

Executed on this _____ day of _____, 2015

CITY OF MOUNTAIN CITY, TEXAS

By: _____
Tiffany Curnutt, Mayor

Attest:

By: _____
Name: Ellis Craig
Title: City Secretary

ACKNOWLEDGMENTS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on _____, by
TIFFANY CURNUTT, Mayor of the CITY OF MOUNTAIN CITY, TEXAS, a Texas municipal
corporation, on behalf of said corporation.

Notary Public, State of Texas

HAYS COUNTY, TEXAS

By: _____
Bert Cobb, M.D., County Judge

Attest:

By: _____
Name: Liz Q. Gonzalez
Title: County Clerk

ACKNOWLEDGMENTS §
 §
COUNTY OF HAYS §

This instrument was acknowledged before me on _____, by
BERT COBB, M.D., County Judge of the HAYS COUNTY COMMISSIONERS' COURT, a
political subdivision of the State of Texas, on behalf of said political subdivision.

Notary Public, State of Texas



CITY OF KYLE, TEXAS

Letter of Intent

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Approve a letter of intent with Mountain City 150, LP. ~ *Todd Webster, Mayor*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

- Letter of Intent

January 29, 2016

Mr. Scott Sellers
City Manager, City of Kyle
City of Kyle

Re: LOI between Mountain City 150, LP and City of Kyle (City) for provision of Retail Water and Wastewater Services to the proposed Anthem Development Project

Dear Mr. Sellers:

Mountain City 150, LP (MC 150) and its successors and assigns is pleased to present this non-binding Letter of Intent (LOI) setting forth general terms for the extension of retail water and wastewater service to the proposed Anthem subdivision located on FM 150, approximately one mile northwest of the Intersection of FM 150 and RR 2770 in Hays County, Texas.

1. Proposed Project. The proposed project is approximately 673 acres located within the extraterritorial jurisdiction of the City of Mountain City. MC 150 plans to develop this project pursuant to a Development Agreement entered into with the City of Mountain City on December 15, 2014. While the property is within City of Mountain City ETJ, Mountain City is not able to provide water and/or wastewater services to the project. *See*, Attachment A
2. Conservation and Reclamation District. The City and MC 150 agree and acknowledge that MC 150 plans to create a conservation and reclamation district over the property pursuant to Article XVI, Section 59, *Texas Constitution*. The parties acknowledge and agree that it is both parties' intent to assign this agreement to that conservation and reclamation district when it is created and all obligations of MC 150 will be assigned to and assumed by that district.
3. Service Needs. The December 15, 2014 Development Agreement contemplates up to 2,200 Living Unit Equivalents (LUEs) for the project. However, MC 150 anticipates its service needs will be approximately 1,900.
4. Service Request.
 - A. MC 150, at its own cost and expense, will construct a potable water distribution system and all related facilities for the project (the "Water Facilities") to allow the City to provide retail water service to the Customers. The Water system shall meet all applicable City and TCEQ standards and reviews.
 - B. MC 150 at its own cost and expense will construct wastewater improvements and all necessary facilities for the project ("Wastewater Facilities") to allow the City to provide retail wastewater service to the Customers. The wastewater system shall meet all

applicable City and TCEQ standards and reviews.

C. MC 150 will pay to the City funds to assist in financing offsite improvements, including expansion of the City's wastewater treatment plant. These funds may also be credited as prepayment of impact fees. The amount, timing of payment and all details shall be included in a binding retail water and wastewater services agreement.

This LOI is not intended to be exhaustive. We anticipate that both the City and MC 150 will enter into a binding retail water and wastewater agreement that will include specific terms for the provision of retail utility service.

Very Truly Yours,

MOUNTAIN CITY 150, LP

Acknowledged And Agreed:
CITY OF KYLE

By: _____

Name: _____

Title: _____



CITY OF KYLE, TEXAS

CARTS

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Discussion on public transportation in the City of Kyle. ~ *Diane Hervol, Council Member*

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

City Managers Report

Meeting Date: 2/2/2016

Date time:7:00 PM

Subject/Recommendation: Update on various capital improvement projects, road projects, building program, and/or general operational activities where no action is required. ~ *J. Scott Sellers, City Manager*

- Disposition of Hurlston vs. City of Kyle

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Convene-Executive Session

Meeting Date: 2/2/2016

Date time:7:00 PM

Subject/Recommendation: Pursuant to Chapter 551, Texas Government Code, the City Council reserves the right to convene into Executive Session(s) from time to time as deemed necessary during this meeting. The City Council may convene into Executive Session pursuant to any lawful exception contained in Chapter 551 of the Texas Government Code including any or all of the following topics.

1. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071.
 - Jesse Espinoza Appeal Update
 - Aqua Lawsuit Update
 - Negotiations for Extension of Wastewater Services.
2. Property acquisitions for road bond projects.Possible purchase, exchange, lease, or value of real estate pursuant to Section 551.072.
3. Personnel matters pursuant to Section 551.074.
4. Economic Development negotiations pursuant to Section 551.087.
 - Negotiations for Extension of Wastewater Services.

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available



CITY OF KYLE, TEXAS

Reconvene

Meeting Date: 2/2/2016

Date time: 7:00 PM

Subject/Recommendation: Take action on items discussed in Executive Session.

Other Information:

Legal Notes:

Budget Information:

ATTACHMENTS:

Description

No Attachments Available