

- G. The City and the Developer are negotiating entering into that certain Development Agreement for Establishing Development Standards for the Kyle Marketplace Subdivision/Development (as the same may be amended from time to time the "Development Agreement") to establish certain development standards for the development of the Property.
- H. The City has found that providing the economic incentives to the Developer in exchange for the Developer's construction of an urban style, mixed-use project and compliance with the other terms and conditions of this Agreement and the Development Agreement (the "Program") will promote local economic development, stimulate business and commercial activity, provided services to the citizens of the City, and will create and retain jobs within the City.
- I. The City has determined that the economic incentives provided herein will directly serve a public purpose, being the promotion of the economic welfare of the City and surrounding areas, and that this Agreement contains controls likely to ensure that the public purpose is accomplished.
- J. Chapter 380 of the Texas Local Government Code provides statutory authority for granting the economic incentives and administering the Program described in this Agreement.
- K. The use of the Eligible Property, and other terms hereof, are consistent with encouraging economic development within the City.
- L. The City has determined that the terms of this Agreement meet the goals of the City and its policies relating thereto.
- M. The City has determined that it is in the public interest to provide the economic incentives set forth herein subject to the terms and conditions of this Agreement.

II. DEFINITIONS

- A. **380 Grant(s)** means the Real Property Tax Rebate Amount, Sales Tax Rebates, and Permit Fee Rebates described in Article VI.
- B. **381 Agreement** has the meaning given in the recitals.
- C. **381 Grant(s)** has the meaning given in the recitals.
- D. **Added Taxable Value** means the taxable value of the Eligible Property, as appraised by the Hays Central Appraisal District, above the Base Year Value.

- E. **Base Year Value** means the taxable value of the Property as appraised by the Hays Central Appraisal District for the tax year 2021.
- F. **Calendar Year** means the twelve month period of time that begins on January 1st and ends on December 31st of the same numbered year.
- G. **Certificate of Occupancy** means a series of certificates of occupancy issued by the City for the Project/Initial Commercial Space. With respect to the Initial Commercial Space, if there are multiple certificates of occupancy issued for the Initial Commercial Space in order to achieve the required minimum of 14,000 square feet of commercial space, the term “Certificate of Occupancy” shall mean all of the certificates of occupancy issued for the Initial Commercial Space. The definition of Certificate of Occupancy does not include a temporary certificate of occupancy.
- H. **Designated Successor or Assign** means (i) an entity to which Developer assigns (in writing) its rights and obligations contained in this Agreement pursuant to Article XX related to all or a portion of the Property, (ii) any entity which is the successor by merger or otherwise to all or substantially all of Developer’s assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital, or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of Developer.
- I. **Development Agreement** has the meaning given in the recitals.
- J. **Documentation** means the reports, records, and documents the Developer is required to submit to the City under this Agreement.
- K. **Eligible Property** means the Property, and all Real Property Improvements, and all business property located thereon.
- L. **Donation Parcel** has the meaning given in the Development Agreement.
- M. **Force Majeure Event** has the meaning ascribed in the Development Agreement.
- N. **Grant Criteria** means the criteria set forth in Article V that the Developer must meet to receive the 380 Grants defined in Article VI.
- O. **Initial Commercial Space** means any of the commercial space in the North MXD Tract or North Commercial Tract as described in the Development Agreement. The Initial Commercial Space shall not be less than 14,000 square feet.
- P. **Maximum Grant Amount** means the maximum amount the City and County will collectively pay to the Developer under this Agreement and the 381 Agreement, if applicable, which includes the Sales Tax Rebate, the Real Property Tax Rebate Amount, and the Permit Fee Rebate, and the 381 Grant, if applicable. If the Developer and the County enter into the 381 Agreement, the 380 Grants paid by the City under this

Agreement, combined with the 381 Grant shall not exceed \$13,000,000.00. If the 381 Agreement is not entered into by March 31, 2022, the Maximum Grant Amount shall be reduced to \$9,000,000.00; provided that if pursuant to the terms of the Development Agreement the City fails to deliver the Bridge Notice (as defined in the “Development Agreement”) and Developer is not required to deposit or is refunded the Development Contribution, then the Maximum Grant Amount shall be reduced to \$6,000,000.00.

- Q. **North Tract Courtyard** means the courtyard on the North Tract as further described in the Development Agreement.
- R. **Ongoing Documentation** means copies of the following documents for the tax year in which a 380 Grant is sought: (i) proof of compliance with Section V.A.2 C and D., and (ii) such additional information as may be reasonably requested by the City to support the information shown in item (i)) above and the Ongoing Grant Criteria.
- S. **Ongoing Grant Criteria** means the criteria the Developer is required to meet for payment of 380 Grants after Year 1, which are set forth in Section V.A(2).
- T. **Performance Deadline** means the date which is twenty-four months after the Effective Date of this Agreement, subject to the right to extend the deadline up to twelve months for Events of Force Majeure (as defined in the Development Agreement) verified by the City Manager in accordance with Section VI.B.2.
- U. **Permit Fee Rebates** means the building permit fees, the adjacent lane mile fees, and the site development fees that are paid to the City for the Project that are rebated to the Developer pursuant to Section VI.
- V. **Project** means the development to be constructed on the Property, in accordance with the Development Agreement, the City-approved plans, and applicable local, state, and federal regulations, together with all other accessory and permitted uses on the Property.
- W. **Property** has the meaning given in the recitals.
- X. **Quarterly Incentive Payment(s)** means the quarterly Sales Tax Rebate for the four calendar quarters in each of the fifteen (15) full Calendar Years that follow the first Sales Tax Rebate Payment.
- Y. **Real Property Improvements** means the improvements to the Property, which shall include the Project as to the Property and any other buildings, structures, or fixtures erected or affixed to the Property that are included in the definition of real property set forth in Section 1.04(2), Texas Tax Code as amended.
- Z. **Real Property Tax Rebate Amount** means the number equal to the percentage of Real Property Taxes received by the City that is paid to the Developer pursuant to Section VI.A and VI.B.

AA. Real Property Taxes means the ad valorem tax assessed on the Added Taxable Value of the Eligible Property or a portion thereof, as appropriate, appraised by the Hays Central Appraisal District.

BB. Sales Tax means, as of the Effective Date, the levied 1.5% sales tax for commercial activity in the Property less the 0.5% sales tax enacted by the City of property tax reduction, equaling a total of 1.0% sales tax.

CC. Sales Tax Rebate means the percentage of Sales Tax received by the City and paid to the Developer pursuant to Section VI.A.1.b.

DD. Threshold Documentation means (i) the Certificate of Occupancy, (ii) documentation acceptable to the City demonstrating that the Certificate of Occupancy was issued by the Performance Deadline, (iii) the deed for the Donation Parcel, (iv) documentation acceptable to the City demonstrating that the North Tract Courtyard has been completed to the City's reasonable satisfaction by the Performance Deadline; and (v) such additional information as may be reasonably requested by the City to support the information shown in items (i) – (v) above and the Threshold Grant Criteria.

EE. Threshold Grant Criteria means the criteria the Development is required to meet for payment of 380 Grants to be paid in Year 1, which are set forth in Section V.A.1.

FF. Transfer has the meaning given in Article XXI.

GG. Transferee has the meaning given in Article XXI.

HH. Year 1 means the tax year (which is anticipated to be 2023) following the date on which the Threshold Grant Criteria is met.

III. GENERAL PROVISIONS

- A. The Eligible Property is not an improvement project financed by tax increment bonds.
- B. The Eligible Property is not, as of the effective date of this Agreement, owned or leased by any member of the City Council or any member of the Planning and Zoning Commission of the City.
- C. It is acknowledge and agreed by the parties that the completion of the Project is consistent with the purposes of encouraging state and local economic development and to stimulate business and commercial activity within the City.

IV. REPRESENTATIONS AND WARRANTIES

- A. The City hereby represents and warrants to the Developer that the City has full constitutional and lawful right, power, and authority, under current applicable law, to

execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings, and actions. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of the City, is enforceable in accordance with its terms and provision, represents a proprietary action of the City, and does not require the consent of any other governmental authority.

- B. The Developer hereby represents and warrants to the city that the Developer has full constitutional and lawful right, power, and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all the foregoing have been or will be duly and validly authorized and approved by all actions necessary. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of the Developer, is enforceable in accordance with its terms and provisions, and does not require the consent of any other authority or entity.

V. PERFORMANCE CRITERIA

A. Grant Criteria

1. **Threshold Grant Criteria.** In order for the Developer to receive the 380 Grant described in Article VI, the following are required; (i) Developer completes and obtains the Certificate of Occupancy for the Initial Commercial Space on or before the Performance Deadline, (ii) the Developer completes and obtains City acceptance of the North Tract Courtyard on or before the Performance Deadline; (iii) Developer shall have dedicated the Donation Parcel in fee simple, free and clear of any liens or encumbrances, to the City on or before the Performance Deadline; and (iv) the Developer shall be in compliance with Sections V.B-D.

2. **Ongoing Grant Criteria.** After the first 380 Grant payment is made to the Developer, the Developer must comply with Section V.B-D for each year in which the Development seeks a 380 Grant payment.

- B. The Developer or its Designated Successors and Assigns shall not allow the ad valorem taxes owed to the City, County or Hays Consolidated Independent School District (the "District") on any real property owned by Developer or its Designated Successors and Assigns and located within the City of Kyle to become delinquent beyond the last day they can be paid without assessment of penalty.
- C. The Developer agrees to develop the Property and the Project in compliance with the Development Agreement including any benchmarks or deadlines for building improvements, the City-approved plans, and the applicable local, state, and federal regulations.
- D. The Developer timely deposits the Developer Contribution (as that term is defined in the Development Agreement) into escrow within the time frame set forth in and under the terms of the Development Agreement. It being acknowledged that if the City does not deliver the Bridge Notice pursuant to the terms of the Development Agreement,

the deposit of the Developer Contribution shall not be part of the Ongoing Grant Criteria.

- E. The Developer covenants and certifies that it does not and will not knowingly and directly employ an undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government code. In accordance with Section 2264.052 of the Texas Government Code, if the Developer is convicted of a violation under 8 U.S.D. Section 132(a)(f), Developer shall repay to the City the full amount of 380 Grants made under Article V of this Agreement. Repayment shall be paid within 120 days after the date following an un-appealable conviction of Developer, provided, however, that Developer shall not be liable for a violation by a subsidiary, parent entity, affiliate, or franchisee of the Developer or by a person which whom Developer contracts.

VI. ECONOMIC DEVELOPMENT GRANTS

A. 380 Grants

1. Subject to the terms and limitations of this Agreement, and the Developer's full and timely performance of, and compliance with, each of the applicable Grant Criteria set forth in Article V above, the City agrees to pay to the Developer annual 380 Grants as provided in this Article VI. The annual amount of the 380 Grants shall be equal to the sum of (a) below, calculated on an annual basis, and (b) calculated on a quarterly basis, and commencing in Year 1 and expiring upon the earlier of: (i) the fifteenth (15th) anniversary of the date the first 380 Grant payment is made or (ii) the Developer is paid 380 Grant payments equal to the Maximum Grant Amount (the "Grant Period").
 - a) An amount equal to fifty percent (50%) of Real Property Taxes for the Property received by the City on an annual basis.
 - b) Fifty percent (50%) of the Sales Tax received by the City on a quarterly basis.
 - c) The Permit Fee Rebates described in subpart (c) below.

2. The Parties acknowledge and agree that, given that one hundred percent (100%) of the ad valorem taxes for the Property are paid into the Zone Tax Increment Fund, the Real Property Taxes are used solely for the purpose of calculating the amount of the Real Property Tax Rebate Amount. The Real Property Tax Rebate Amount shall be paid from other funds available to the City and appropriated for that purpose. At no time that the Zone is in effect or the City is obligated under the ordinances, resolutions, and other documents and applicable law establishing and governing the Zone to pay the ad valorem taxes for the Property into the Zone Tax Increment Fund shall the Real Property Tax Rebate Amount be paid from the ad valorem taxes for the Property.

3. The City acknowledges and agrees that should any portion of the Project be sold or assigned to another entity or entities during the Grant Period, the City's obligations to pay the 380 Grant to the Developer shall be unaffected.

B. Payment of the 380 Grants.

1. The City shall pay the Real Property Tax Rebate Amount annually and the Sales Tax Rebate quarterly as provided in this Subsection B. 380 Grants shall be payable annually for the period of time indicated above, commencing in Year 1; provided that the terms of V.A.1 or V.A.2, as applicable, are met. To be eligible to receive the 380 Grant in the years following Year 1, the terms of V.A.2 must be met each year. The Developer will not be paid the 380 Grant payment for those tax years in which the Ongoing Grant Criteria are not met; provided that in the event that the Developer is not in compliance with the Ongoing Grant Criteria described in Section V.C due to a Force Majeure Event, the Developer shall have up to twelve months to comply if Developer receives City-approval of an extension to come into compliance in accordance with Section VI.B.2.
2. In the event a Force Majeure Event prevents the Developer from complying with the Development Agreement and certifying compliance with this Agreement by April 30 of a year in which a 380 Grant is sought, the Developer may request that the City Manager approve up to a twelve-month extension to come into compliance by submitting a written request (the "***Extension Request***") to the City Manager describing the Force Majeure Event and the extension period (the "***Cure Period***"). The Developer shall provide the City Manager or designee any information reasonably requested to verify the Force Majeure Event. The City Manager, at his or her reasonable discretion, may approve the Cure Period, which may not extend past April 30 of the following year. If the Extension Request is granted, the 380 Grant for that year will be suspended and paid the next year, provided that compliance with the Development Agreement is achieved during the Cure Period and the Developer is otherwise in compliance with this Agreement. If the non-compliance described in the Extension Request is not cured within the Cure Period, the 380 Grant for the year in which the non-compliance occurred will be forfeited.
3. Each year on or before April 30, the Developer shall provide the City the Documentation described in Article VII. The City shall pay the Real Property Tax Rebate Amount annually upon the later to occur of: (i) thirty (30) days following the date the Documentation is received by the City; or (ii) within thirty (30) days following the date the Real Property Taxes are received by the City and the Developer has notified the City that the taxes have been paid; provided that the applicable Grant Criteria as set forth in Article V have been met. The Developer will not be paid the 380 Grant payments for those years in which the Ongoing Grant Criteria, as applicable, have not been met.

4. After receipt for the Documentation for a particular year, the City shall pay the Developer the Sales Tax Rebates for the Calendar Year in which the Documentation was provided; provided that the applicable Grant Criteria as set forth in Article V have been met. The Sales Tax received by the City for the sixty (60) calendar quarters of the fifteen Calendar Years following Year 1 will be deposited and paid out to the Developer, in arrears. The City shall pay each respective Quarterly Incentive Payment to the Developer on or before the thirtieth (30th) day of the month that follows the receipt by the City from the State of Texas of the Sales Tax for the previous calendar quarter within each Calendar Year each year in which the applicable Grant Criteria are met, provided that the Quarterly Incentive Payment for the first calendar quarter each year shall be the deadline set forth in Section VI.B.2.
5. Once the applicable performance criteria provided in Article V for a particular tax year are met, the City's commitment to pay the 380 Grant for that tax year from the City ad valorem taxes on the Property actually received by the City is an unconditional obligation of payment by the City. Such payments of the 380 Grant are not subject to any reduction, whether offset or otherwise except as explicitly provided herein.

C. Permit Fee Rebates.

1. Beginning in Year 1, if the Threshold Grant Criteria are met and for every year after the Ongoing Grant Criteria are met, the City shall rebate to the Developer the following fees (the "Permit Fees"):
 - a) Building permit fees provided for in Section 8-100 through 8-105 of the City Code.
 - b) "Adjacent Lane Mile" or "ALM" fees, or fees of a similar nature, promulgated in the City's approved fee schedule; provided that the ALM Fees shall only be rebated if Hays County approves and enters into the 381 Agreement granting the 381 Grant.
 - c) Site development fees provided for in Section 8-112 of the City Code.
2. The Developer and/or the owner of each lot, tract, parcel, or building site within the Property shall pay the Permit Fees as and when required by the City Code. All such Permit Fees shall be deposited by the City into a segregated account held by the City.
3. The City shall rebate to the Developer all collected Permit Fees concurrently with the annual Real Property Tax Rebate Amount.

- D. Maintenance of Books and Records. The City shall maintain complete books and records showing ad valorem taxes received by the City on the Eligible Property and disbursements to the Development, which books and records shall be deemed complete if kept in accordance with generally accepted accounting principles as

applied to Texas municipalities. Such Books and records shall be available for examination by the duly authorized officers or agents of the Developer during normal business hours upon request made not less than five (5) business days prior to the date of the examination. The City shall maintain such books and records throughout the term of this Agreement and store the same for four (4) years thereafter.

VII. REPORTS, AUDITS, AND INSPECTIONS

- A. Annual Certification and Reports. The Developer shall certify in writing annually to the City that the Developer is in compliance with the terms of this Agreement, and shall provide the City with reports and records reasonably necessary to demonstrate fulfillment of the performance criteria set forth in Article V for each year of the Agreement, as follows.
1. **Certification**. The Developer shall complete and certify a 380 Grant Certification to be provided by the City for each year of this Agreement, to be due annually not later than April 30, (in the form substantially similar to **Exhibit B**, attached hereto), which shall include the Threshold Documentation in the first year that a 380 Grant is sought, and the applicable Ongoing Documentation for subsequent years for which 380 Grants are sought.
 2. **Additional Reports**. Additionally, throughout the term of this Agreement, the Developer shall furnish the City with any additional records and information reasonably requested to support the reports required by this Agreement. The Developer shall further furnish the City with copies of or access to additional information reasonably required to verify the information set forth in the Threshold Documentation.
 3. **Sales Tax Reports**. The Developer shall provide or cause to be provided to the City any required permission to access information filed with the State of Texas related to sales taxes collected and remitted to the State of Texas by entities conducting commercial activity on the Property promptly upon request by the City to allow the City to verify the amount of Sales Tax Rebate to be paid to the Developer under this Agreement. The City shall not be required to pay the Sales Tax Rebate until the City has received all permissions required to access such information, and the Sales Tax Rebate shall be calculated solely on sales tax receipts that can be verified based on records held by the State of Texas.
- B. Right to Audit Books and Records. The City shall have the right to audit the books and records related to the design and construction of the items required by the Development Agreement throughout the development of the Project and one year from the completion of construction. The City shall notify the Developer in advance in writing of their intent to audit in order to allow the Developer adequate time to make such books and records available.

- C. Inspection. At all times throughout the term of this Agreement, the City shall have reasonable access to the Property upon providing at least 48 hours' written notice to the Developer.

VIII. BREACH

- A. Breach. The following conditions shall constitute a breach of this Agreement:
1. The Developer falsely certifies that it has met the performance criteria submitted to the City under Article VI.
 2. The Developer fails to meet the performance criteria as specified in Article V above, subject to extensions for Force Majeure Events granted in connection with Section VI.B.2.
 3. The City fails to timely make payments to the Developer under the terms of this Agreement.
- a. Notice of Breach. Notwithstanding anything herein to the contrary, no Party shall be deemed to be in default under this Agreement until the passage of thirty (30) business days after receipt by such Party of notice of default from the other Party (the "Cure Period"), which notice shall specify, in reasonable detail, the nature of the default. Upon the passage of the Cure Period without cure of the default, such Party shall be deemed to have defaulted for purposes of this Agreement; provided that, if the nature of the default is such that it cannot be reasonably cured within the Cure Period, the Party receiving the notice of default may, during such Cure Period, give the other Party written notice that it has commenced curing the default within the Cure Period and will diligently and continuously prosecute the cure to completion as soon as reasonably possible, and such written notice together with diligent and continuous prosecution of the cure shall extend the Cure Period for up to an additional ninety (90) calendar days so long as the cure is being diligently and continuously pursued during such time; and provided further that, if the cure cannot be reasonably accomplished within the additional ninety (90) calendar day period but the applicable facts, circumstances, and progress establish that a cure will be obtained within a reasonable period of time following the expiration of the ninety (90) calendar day period, the time for cure will be extended for an additional period of time as mutually agreed by the Parties (such agreement not to be unreasonably withheld); provided, further, that if a default is not cured within the applicable Cure Period, or, as applicable, written notice having been given and cure being commenced and diligently and continuously prosecuted, within the additional ninety (90) calendar days after the giving of the written notice, or, as otherwise applicable within the time mutually agreed by the Parties due to the defaulting Party not being able to obtain a cure within the additional ninety (90) calendar days after the defaulting Party gives written notice that it is commencing the cure, then the non-defaulting Party may pursue the remedies set forth in this Agreement, as well as any other remedies available in equity or law, subject to Article IX below.

- b. Repayment of 380 Grants. In the event that the Developer commits a breach of this Agreement according to Section VIII.A.1, the Developer shall pay back to the City the 380 Grant for the tax year for which false certification was submitted within thirty (30) days of written demand by the City.
- c. Tax Lien Not Impaired. It is expressly agreed and acknowledged between the Parties that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the Property established by Section 32.01 of the Texas Tax Code. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the Property. Any such lien may be fully enforced pursuant to the provisions of the Code.
- d. Limitations on Liability. The City shall not be liable for consequential damages, specifically lost profits, and any damages claimed against the City shall be limited to amounts recoverable under Section 271.153 of the Texas Local Government Code. The Parties agree that this Agreement shall not be interpreted as or otherwise claimed to be a waiver of sovereignty on the part of the City for any cause of action not directly related to this Agreement and the enforceability thereof.
- e. Personal Liability of Public Officials; No Debt Created. No employee of the City, nor any councilmember or agent of the City, shall be personally responsible for any liability arising under or growing out of this Agreement. The 380 Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision.

IX. TERMINATION

Furthermore, the City may terminate the Agreement in the event that, on or before the Performance Deadline, the Developer fails to: (a) complete and obtain a Certificate of Occupancy for the is Initial Commercial Space; (b) complete the North Tract Courtyard to the City's reasonable satisfaction; or (c) convey the Donation Parcel to the City pursuant to this Agreement and applicable terms of the Development Agreement. Either party may terminate this Agreement in the event the Development Agreement is not entered by March 1, 2022.

X. INDEMNIFICATION

DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS,

LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE BROUGHT BY ANY THIRD PARTY AND RELATED TO DEVELOPER'S ACTIONS DURING CONSTRUCTION OF THE PROJECT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON THE CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO DEVELOPER OR DEVELOPER'S AFFILIATE'S NEGLIGENCE, WILLFUL MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY SUCH ACTS OR OMISSIONS OF DEVELOPER OR DEVELOPER'S AFFILIATE, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF DEVELOPER OR DEVELOPER'S AFFILIATE, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER AND EXCEPT AS PROVIDED OTHERWISE, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY, RELATED TO OR ARISING OUT OF DEVELOPER OR DEVELOPER'S TENANTS' ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT DEVELOPER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT BE AN INDEMNITY EXTENDED BY DEVELOPER TO INDEMNIFY, PROTECT, AND HOLD HARMLESS CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE OR INTENTIONAL MISCONDUCT. THE INDEMNITY PROVIDED FOR THIS PARAGRAPH SHALL APPLY ONLY, TO THE EXTENT OF ANY COMPARATIVE NEGLIGENCE STATUTES AND FINDINGS, WHEN THE NEGLIGENT ACT OF CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, , AND IT SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF CITY IS THE SOLE CAUSE

OF THE RESULTANT INJURY, DEATH, OR DAMAGE. DEVELOPER FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF CITY AND IN THE NAME OF CITY ANY CLAIM OR LITIGATION BROUGHT AGAINST CITY (AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES), IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.

IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY AND THE DEVELOPER SHALL SURVIVE THE TERMINATION AND OR EXPIRATION OF THIS AGREEMENT AND SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND/OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND ELECTED OFFICIALS PERMITTED BY LAW.

XI. NOTICE

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail postage prepaid or by hand deliver:

If to Developer: CSW KC II, LLC
Attn: Robert O'Farrell; Kevin Hunter
1703 W. 5th Street, Suite 850
Austin, Texas 78703

With a Copy to: Steven Metcalfe
Metcalfe Wolff Stuart & Williams
221 W. 6th Street, Suite 1300
Austin, Texas 78701

If to City: City of Kyle, Texas
Attn: Scott Sellers, City Manager
100 W. Center Street
Kyle, Texas 78640

With a Copy to: Paige H. Saenz
The Knight Law Firm, LLP
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

XII. CITY COUNCIL AUTHORIZATION

This Agreement was authorized by motion and vote of the City Council recorded in the minutes authorizing the City Manager or their designee to execute this Agreement on behalf of the City.

XIII. SEVERABILITY

In the event any section, subsection, paragraph, sentence, phrase, or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase, or word.

XIV. ESTOPPEL CERTIFICATE

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of the Developer, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the eligible grants and such other matters reasonably requested by the Party(ies) to receive the certificates.

XV. DEVELOPER'S STANDING

Developer, as part of this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same, and Developer shall be entitled to intervene in said litigation.

XVI. APPLICABLE LAWS

This Agreement shall be construed under the laws of the State of Texas without regard to its conflicts of laws provisions. Venue for any action under this Agreement shall be the State's District Court of Hays County, Texas. This Agreement is performance in Hays County, Texas.

XVII. FORCE MAJEURE

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the requirements of this Agreement is delayed by reason of way, act of god, fire, pandemic, material or labor shortage, strike, civil unrest, governmental action, or any other reason beyond the reasonable control of Developer, or other casualty or event of a similar nature.

XVIII. OTHER AGREEMENTS

This Agreement and the Development Agreement embody all the agreements of the parties relating to their subject matters as specifically set out therein and herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified, or supplemented only by an instrument or instruments in writing executed by the parties.

XIX. RECORDATION OF AGREEMENT

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Hays County, Texas.

XX. HEADINGS

The headings in this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXI. SUCCESSORS AND ASSIGNS

- A. The Parties each bind themselves and their successors, executors, administrators, and assigns of such other Party in respect to all covenants of this Agreement.

- B. This Agreement and the rights and obligations of Developer hereunder may be assigned by Developer, upon fifteen (15) days prior written notice to City, to any entity which is (i) an affiliate of Developer, (ii) the successor by merger or otherwise to all or substantially all of Developer's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital, or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of Developer without the consent of the City, provided that the assignee assumes all of the obligations of the Developer hereunder. Developer intends to assign this Agreement to CSW KC II, L.P. It is hereby acknowledged that CSW KC II, L.P. is an affiliate of Developer and a permitted assignee.

- C. For all other assignments not covered by Subsection B above, the Developer may assign this Agreement from time to time to any party that (i) does not owe delinquent taxes or fees to the City, (ii) is not in material default (beyond any applicable notice and cure period) under any development or financial incentive agreement with the city and (iii) has the experience, expertise, and the financial capacity and ability to perform the duties or obligations so assigned under this Agreement. Developer shall provide the City thirty (30) days prior written notice of any such assignment. If the City has objections to such assignment satisfying the requirements described above, the City shall provide written notice of such objections to the Developer within ten (10) days of receiving the assignment notice from Developer. Developer will not be released from its obligations under this Agreement if the City objects to the assignment as

described above and such objections are not resolved by and between the Developer and the City; provided, however, the City shall not unreasonably withhold Developer's release from its obligations under this Agreement.

- D. Upon any assignment, Developer shall be deemed to be automatically released of any obligations under this Agreement.
- E. Any assignment must be in writing, set forth the assigned rights and obligations and be executed by the proposed assignee. A copy of the assignment document must be delivered to the City.
- F. Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a sale or assignment to a Designated Successor or Assign unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.

XXII. EXCLUSIVE RIGHTS OF DEVELOPER

- A. Developer's right, title, and interest into the payments of the 380 Grants, as described herein, shall be the sole and exclusive property of Developer (of its Transferee), and no other owner of any portion of the Property or third party shall have any claim or right to such funds unless Developer transfers its rights to the 380 Grants to a Transferee in writing and otherwise in accordance with the requirements set forth herein.
- B. Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part, all or any portion of Developer's right, title, or interest in and to payment of the 380 Grants (a "Transfer", and the person or entity to whom the Transfer is made, a "Transferee"). Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer is provided to the City.
- C. The Developer agrees that the City may rely conclusively on any written notice of a Transfer provided by the Developer without any obligation to investigate or confirm the Transfer.
- D. Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a Transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed a Transfer.

XXIII. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which may be executed by any one or more of the parties hereto, but all of which shall constitute one instrument, and shall be binding and effective when all the parties hereto have executed at least one counterpart.

XXIV. NO THIRD-PARTY BENEFICIARIES

For purposes of this Agreement, including its intended operation and effect, the parties specifically agree that: (1) the agreement only affects matters/disputes between the parties of this Agreement, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with the City or Developer or both; and (2) the terms of this Agreement are no intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Developer.

XXV. REMEDIES

Except as providing in this Agreement, no right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the consent of the Parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

XXVI. BOYCOTTS AND FOREIGN BUSINESS ENGAGEMENTS

- A. Israel Boycotts. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.
- B. Foreign Business Engagements. The Developer represents that neither it nor any of its respective parent companies, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas

Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and its respective parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

- C. Firearm Entity Boycotts. To the extent this Agreement constitutes a contract for the purchase of goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, the Developer hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,
1. do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
 2. will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

- D. Energy Company Boycotts. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, the Developer hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall have the meaning

assigned to the term "boycott energy company" in Section 809.001, Texas Government Code. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

XXVII. 1295 COMPLIANCE

Section 2252.908 of the Texas Government Code requires that for certain types of contracts, you must fill out a conflict of interest form ("Disclosure of Interested Parties") at the time you submit your signed contract to the District. For further information please go to the Texas Ethics Commission website via the following link. https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The City has no obligation under this Agreement until such form is accurately completed and properly submitted, and any City obligation is conditioned on such proper completion and submission.

XXVIII. EFFECTIVE DATE

This Agreement shall be effective on 12/16/2021(the "Effective Date").

XXIX. EXHIBITS

- Exhibit A - Property
- Exhibit A-1 - South Tract
- Exhibit A-2 - North MXD Tract
- Exhibit A-3 - North Commercial Tract
- Exhibit B - Form of 380 Grant Report Certification

{Signatures on the following page}

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

DEVELOPER

CSW KC II, LLC

a Texas limited liability company

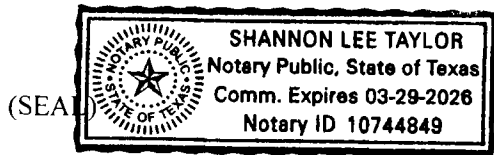
By: [Signature]

Name: Kevin Hunter

Title: Manager

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

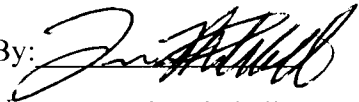
This instrument was acknowledged before me on this 1st day of March, 2022, by Kevin Hunter, Manager of CSW KC II, LLC, a Texas limited partnership, on behalf of said company.



Shannon L. Taylor
Notary Public, State of Texas

CITY OF KYLE, TEXAS

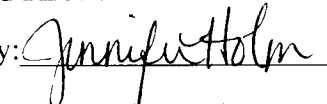
a home rule city and
municipal corporation

By: 

Name: Travis Mitchell

Mayor

ATTEST:

By: 

Name: Jennifer Holm

City Secretary



Exhibit A
Property

TRACT 1:

LOT 1, BLOCK A, KYLE MARKETPLACE SECTION 2, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 14, PAGES 330-333, PLAT RECORDS OF HAYS COUNTY, TEXAS. (6.0119 ACRES)

For Information Purposes Only:
APN: R130276

TRACT 2:

LOT 2, BLOCK A, KYLE MARKETPLACE SECTION 2, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 14, PAGES 330-333, PLAT RECORDS OF HAYS COUNTY, TEXAS. (19.1216 ACRES)

For Information Purposes Only:
APN: R130277

TRACT 3:

LOT 7, BLOCK G, KYLE MARKETPLACE SECTION 2, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 14, PAGES 330-333, PLAT RECORDS OF HAYS COUNTY, TEXAS. (1.3905 ACRES)

For Information Purposes Only:
APN: R130305

TRACT 4:

LOT 6A, BLOCK G, KYLE MARKETPLACE SECTION 2, REPLAT OF LOTS 5 AND 6, BLOCK G, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 19, PAGES 36-37, PLAT RECORDS OF HAYS COUNTY, TEXAS. (2.17 ACRES)

For Information Purposes Only:
APN: R146392

TRACT 5:

LOT 1B, BLOCK F, KYLE MARKETPLACE SECTION 2 AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (1.5938 ACRES)

For Information Purposes Only:
APN: R131692

TRACT 6:

LOT 1C, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (1.6839 ACRES)

For Information Purposes Only:
APN: R131693

TRACT 7:

LOT 1, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK

F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (3.7667 ACRES)

For Information Purposes Only:
APN: R130295

TRACT 8:

LOT 2, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (7.9054 ACRES)

For Information Purposes Only:
APN: R130296

TRACT 9:

LOT 3, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (2.2861 ACRES)

For Information Purposes Only:
APN: R130297

TRACT 10:

LOT 4, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (2.2501 ACRES)

For Information Purposes Only:
APN: R130298

Exhibit A-1
South Tract

TRACT 5:

LOT 1B, BLOCK F, KYLE MARKETPLACE SECTION 2 AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4,
BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F,
ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (1.5938 ACRES)

TRACT 6:

LOT 1C, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4,
BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F,
ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (1.6839 ACRES)

TRACT 7:

LOT 1, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (3.7667 ACRES)

TRACT 8:

LOT 2, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (7.9054 ACRES)

TRACT 9:

LOT 3, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, AMENDED PLAT OF LOTS 1, 2, 3 AND 4, BLOCK F, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (2.2861 ACRES)

TRACT 10:

LOT 4, BLOCK F, KYLE MARKETPLACE SECTION 2, AMENDING PLAT OF THE REPLAT OF LOTS 1, 2, 3 & 4, BLOCK F, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 17, PAGE 200, PLAT RECORDS OF HAYS COUNTY, TEXAS. (2.2501 ACRES)

Exhibit A-2
North MXD Tract

EXHIBIT " "

(Zoning Exhibit)
John King Survey, Abstract No. 276

Legal Description

BEING A DESCRIPTION OF A TRACT OF LAND CONTAINING 8.0605 ACRES (351,114 SQUARE FEET) OUT OF THE JOHN KING SURVEY NO. 20, ABSTRACT NO. 276, IN HAYS COUNTY, TEXAS, BEING A PORTION OF LOT 2, BLOCK "A" OF KYLE MARKETPLACE SECTION 2, RECORDED IN VOLUME 14, PAGE 330 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS (P.R.H.C.T.) CONVEYED TO DDR DB KYLE LP IN VOLUME 3493, PAGE 17 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (O.P.R.H.C.T.), SAID 8.0605 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:



PO Box 90876
Austin, TX 78709
512.531.2384
www.4wards.com

BEGINNING, at a 1/2-inch iron rod with "Doucet and Assoc" cap found on a curve in the west right-of-way line of Market Place Avenue (right-of-way varies), at the common corner of Lot 2 and Lot 3, Block "A" of said Kyle Marketplace Section 2, and the POINT OF BEGINNING hereof, from which a 1/2-inch iron rod with "Chaparral" cap was found at the end of said curve to the left, whose radius is 1055.00 feet, whose arc length is 116.26 feet and whose chord bears S20°00'49"W, a distance of 116.20 feet;

THENCE, N60°06'03"W, with the common line of said Lot 2 and Lot 3, a distance of 461.07 feet to a 1/2-inch iron rod found on the north line of said Lot 3, at the common corner of said Lot 2 and Lot 1, Block "A" of said Kyle Marketplace Section 2, for the southwest corner hereof, from which a 1/2-inch iron rod with "Doucet and Assoc" cap found at the southwest corner of said Lot 1 and the northwest corner of said Lot 3, being in the east right-of-way line of the Missouri Pacific Railroad recorded in Volume N, Page 158 of the Deed Record of Hays County Texas (D.R.H.C.T.) bears, N60°06'03"W a distance of 308.04 feet;

THENCE, N00°16'12"E, with the common line of said Lot 1 and Lot 2, a distance of 610.83 feet to a calculated point for an angle point hereof, from which a 1/2-inch iron rod with "4WARD BOUNDARY" cap set at an angle point in said common line of Lot 1 and Lot 2 bears, N00°16'13"E a distance of 213.65 feet;

THENCE, Departing said line, and over and across said Lot 2 the following nine (9) calls and distances;

- 1) S89°54'27"E, a distance of 21.67 feet to a calculated point for an angle point hereof;
- 2) S78°03'03"E, a distance of 89.52 feet to a calculated point for a point of curvature hereof;
- 3) Along the arc of a curve to the right, whose radius is 100.00 feet, whose arc length is 31.06 feet and whose chord bears S69°09'10"E, a distance of 30.94 feet to a calculated point for a point of tangency hereof;
- 4) S60°15'17"E, a distance of 351.66 feet to a calculated point for a point of curvature hereof;
- 5) Along the arc of a curve to the right, whose radius is 100.00 feet, whose arc length is 10.45 feet and whose chord bears S57°15'42"E, a distance of 10.44 feet to a calculated point for a point of tangency hereof;

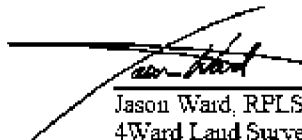
- 6) S54°16'06"E, a distance of 36.10 feet to a calculated point for a point of curvature hereof;
- 7) Along the arc of a curve to the left, whose radius is 100.00 feet, whose arc length is 10.50 feet and whose chord bears S57°16'37"E, a distance of 10.50 feet to a calculated point for a point of tangency hereof;
- 8) S60°17'07"E, a distance of 212.81 feet to a calculated point on the west right-of-way line of said Market Place Avenue, being the east line of said Lot 2, from which a 1/2-inch iron rod found at the south end of a curve return at the intersection of the west right-of-way line of said Market Place Avenue and the south right-of-way line of Kyle Parkway (F.M. 1626 – right-of-way varies), bears N29°54'00"E a distance of 549.04 feet;

THENCE, With the west right-of-way line of said Market Place Avenue, being the east line of said Lot 2 the following two (2) courses and distances:

- 1) S29°54'00"W, a distance of 448.15 feet to a calculated point for a non-tangent point of curvature hereof;
- 2) Along the arc of a curve to the left, whose radius is 1055.00 feet, whose arc length is 123.25 feet and whose chord bears S26°31'27"W, a distance of 123.18 feet to the POINT OF BEGINNING and containing 8.0605 Acres (351,114 Square Feet) more or less.

NOTE:

Surveyed on the ground July 21, 2021. All bearings are based on the Texas State Plane Coordinate System, Grid North, South Central Zone (4204), all distances were adjusted to surface using a combined scale factor of 1.0000101329451. See attached survey map (reference drawing: 00977_Zoning.dwg)


 11/15/21
 Jason Ward, RPLS #5811
 4Ward Land Surveying, LLC
 TBPLS Firm #10174300

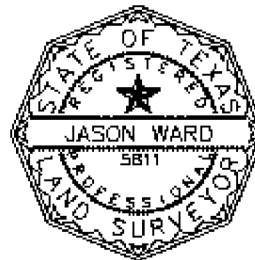


Exhibit A-3
North Commercial Tract

TRACT 1:

LOT 1, BLOCK A, KYLE MARKETPLACE SECTION 2, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 14, PAGES 330-333, PLAT RECORDS OF HAYS COUNTY, TEXAS. (6.0119 ACRES)

TRACT 2:

LOT 2, BLOCK A, KYLE MARKETPLACE SECTION 2, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 14, PAGES 330-333, PLAT RECORDS OF HAYS COUNTY, TEXAS. (19.1216 ACRES)

Save and except the north MXD Tract (Exhibit A-2).

Exhibit B
Form of 380 Grant Certification

CITY OF KYLE
ANNUAL CHAPTER 380 AGREEMENT (THE “AGREEMENT”)
GRANT REPORT FORM

Chapter 380 Grant Certification – Tax Year _____

PROJECT STATUS – THRESHOLD GRANT CRITERIA – Fill this section out for Tax year 1 only; this section may be deleted for subsequent years.

Certificate of Occupancy for the Project issued_____.

Please provide each of the following documents as an attachment to this Certification

__ - Certificate of Occupancy

ONGOING GRANT CRITERIA

__ - Proof of payment of the ad valorem and business taxes for the Property. Records acceptable to the City showing the amount paid.

CERTIFICATION

I certify that to the best of my knowledge and belief, the information and attached documents provided in this Chapter 380 Grant Certification are true and accurate and in compliance with the terms of this Chapter 380 Agreement with the City of Kyle, Texas. I further certify that to the best of my knowledge and belief, the requirements of the Threshold Grant Criteria have been met, as those terms are defined in the Agreement.

Printed Name and Title of Certifying Officer

Signature of Certifying Officer

Date

Telephone Number

Email Address

NOTE: This Chapter 380 Grant Certification shall be filed annually on or before April 30 of each calendar year beginning with 202_ (unless required earlier by the Agreement) and each year thereafter so long as the Chapter 380 Agreement is in existence.

**THE STATE OF TEXAS
COUNTY OF HAYS**

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Hays County, Texas.

22011274 AGREEMENT
03/07/2022 11:21:14 AM Total Fees: \$142.00

Elaine H. Cárdenas, MBA, PhD, County Clerk
Hays County, Texas

