

**ORDINANCE NO. 684**

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS, ESTABLISHING A REQUIREMENT THAT A FISCAL NOTE BE PROVIDED BY THE FOR ALL CITY ORDINANCES AND RESOLUTIONS CONSIDERED BY THE CITY COUNCIL REQUIRING EXPENDITURE OR OBLIGATION OF CITY FUNDS AND OR AN INCREASE OR DECREASE IN RATES, FEES AND OTHER CHARGES FOR CITY SERVICES.**

**WHEREAS**, the City Council of the City of Kyle, Texas wants to ensure that when an Ordinance, Resolution, and or any other City business related item proposed for consideration and action by the City Council that a Fiscal Note is to be provided indicating the fiscal impact of the item and to identify the source and availability funds, if applicable;

**WHEREAS**, the City Council of the City of Kyle, Texas understands that the City Charter under Article VIII, Section 8.01 requires the City's Director of Finance to certify the availability of funds for all proposed expenditures, and unless the Director of Finance shall certify that unencumbered balance exists in the appropriations and funds available, no appropriation shall be encumbered and no expenditure shall be made;

**WHEREAS**, the City Council of the City of Kyle, expects that while the implementation of this Ordinance will enhance fiscal accountability and transparency in City government, it will also increase workload for the City Manager and the City's Financial Services Department;

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

**Section 1. Findings.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**Section 2. Fiscal Note Management System.** The City Manager will establish a management system necessary to prepare and provide a Fiscal Note for all proposed Ordinance, Resolution, and or any other City business related item proposed for City Council's consideration and action that requires:

1. The expenditure and or obligation of budgeted City funds;
2. The expenditure and or obligation of non budgeted City funds;
3. A new local tax, fee, license, service charge, or penalty;
4. An increase or decrease in an existing local tax, fee, license, service charge, or penalty;
5. Implementation of a new City program or service.

**Section 3. Fiscal Note Requirements.** The Fiscal Note shall be separate document prepared by the City's Financial Services Department and signed off by the Director of Finance that, at a minimum, provides the following information:

1. Total fiscal impact of the proposed Council action item;
2. Availability of Funds; and

### 3. Source of Funds.

**Section 4. Procedures for City Staff.** The City Manager will ensure that prior to the posting of the Agenda for all regular City Council meetings; the following procedures are adhered to by appropriate City staff in City Departments responsible for an agenda item:

1. Prepare a draft Request for Council Action (RCA) document providing detailed background information including what action is being requested of the City Council and why. Please refer to attached example.
2. Seek City Manager's review and approval to place an item on the agenda for a future City Council meeting.
3. Submit the proposed Request for Council Action (RCA) item **at least ten (10) business days before** the City Manager's internal agenda submission deadline to the Director of Finance to allow for review and preparation of the required Fiscal Note.
4. If appropriate, the Financial Services Department staff will prepare a separate document titled **FISCAL NOTE** (example attached) based on the financial impact of the item to include at least the following information:
  - i. Total fiscal impact of the proposed Council action item;
  - ii. Availability of Funds; and
  - iii. Source of Funds.
5. The City's Director of Finance shall review the Request for Council Action (RCA) Form to determine the accuracy of information provided in the accompanying Fiscal Note and if appropriate, sign-off on the Fiscal Note.
6. The City Manager will ensure that no City Department staff will be allowed to place an agenda item for a City Council meeting without a fully completed and signed Fiscal Note, if one is required. The Fiscal Note **must be** attached to the agenda item at the time the City Council agenda is posted.

**Section 5. Procedures for City Council.** The City Council will postpone (table) consideration of any proposed Ordinance, Resolution, and or any other City business related item that requires the expenditure and or obligation of City funds unless a fully completed and signed Fiscal Note is accompanied with the Request for Council Action (RCA) at the time the agenda is posted along with all supporting documentation.

**Section 6. Other Procedural Considerations.** City Departments shall anticipate when City Council's consideration and approval would be required and accordingly, shall plan ahead on proposed Council agenda items so as to not cause delays while allowing sufficient time for review by City Committees when appropriate as well as for the development of Fiscal Notes. Given the numerous responsibilities including other competing duties assigned to the Director Finance, it is anticipated that the Director of Finance may not be able to complete the required Fiscal Note. Under such circumstances, the agenda item requiring a Fiscal Note shall be deferred to a future City Council meeting when the Fiscal Note can be completed and posted at the time of agenda posting.

**Section 7. Amendment of Conflicting Ordinances.** All Ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or Ordinance of the City, the terms and provisions of this Ordinance shall govern.

**Section 8. Savings Clause.** All rights and remedies of the City of Kyle are expressly saved as to any and all violations of the provisions of any Ordinances affecting rates, fees, and charges within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 9. Severability.** If any section, subsection, sentence or phrase of this Ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance shall not be affected. It is the intent of the City Council in adopting this Ordinance, that no provision or regulation contained herein shall become inoperative, or fail by reason of the unconstitutionality or invalidity of any other section, subsection, sentence or phrase of this Ordinance.

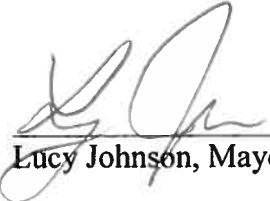
**Section 10. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of Chapter 52 of the Texas Local Government Code.

**Section 11. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

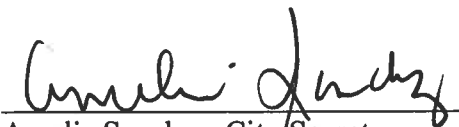
**PASSED AND APPROVED** on this 6th day of December, 2011.

**PASSED AND FINALLY APPROVED** on second reading on this 3rd day of January, 2012.

**CITY OF KYLE, TEXAS**

  
\_\_\_\_\_  
Lucy Johnson, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Amelia Sanchez, City Secretary



## **REQUEST FOR COUNCIL ACTION**

Meeting Date: 2/1/2011  
Meeting Time: 7:00 PM

### **Subject/Recommendation:**

Authorize award and execution of Contract Amendment No. 1 to the construction contract with T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$527,649.41 to construct all Lake Kyle Project improvements included in the specifications, for a total amended contract amount not to exceed \$1,291,171.26 ~ Kerry Urbanowicz, Director of Parks & Recreation

### **City Council Action Requested:**

This City Council action authorizes three related items associated with the contract amendment; (1) award and execution of Contract Amendment No.1, (2) amendment of certain provisions of the Construction Contract dated 10/1/2011, and (3) the reallocation of project budgets previously approved by City Council.

In addition to increasing the amount of total contract award to T.F. HARPER AND ASSOCIATES, LP, this Contract Amendment No. 1 will also amend certain provisions of the Standard General Conditions of the Construction Contract dated October 1, 2010 as accepted by the City.

This City Council action will also authorize the reallocation of project budgets previously approved by City Council for total project costs and related grant funding for the three City park improvement projects to reflect as shown below under budget information.

### **Background Information:**

On \_\_\_\_\_, the City Council awarded a construction contract to T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$763,521.85 to construct all improvements at the City's Gregg-Clarke Park. All improvements constructed by T.F. HARPER AND ASSOCIATES at the Gregg-Clarke Park have been completed to City's satisfaction and have been accepted by the City. Upon final payment to the contractor, a total of \$45,584.37 will remain unexpended from the original \$763,521.85 contract award for the Gregg-Clarke Park Project. The \$45,584.37 unexpended amount will become available for the Lake Kyle Project improvements.

This Contract Amendment No. 1 will add \$527,649.41 to the original contract award of \$763,521.85 with T.F. HARPER & ASSOCIATES, LP for the construction of all improvements included in the specifications for the Lake Kyle Project. Contract Amendment No. 1 will increase the total contract award (cumulative) to T.F. HARPER & ASSOCIATES, LP by \$527,649.41 for a total amended contract amount not to exceed \$1,291,171.26.

The total construction budget for the completion of Lake Kyle Project improvements is \$573,233.78 of which \$45,584.37 is available in the original construction contract with T.F. HARPER AND ASSOCIATES, LP, therefore requiring a net increase in contract

award of \$527,649.41 to pay for the cost of all Lake Kyle Project improvements. The total budget authorization for the Lake Kyle Project improvements is comprised of the following:

Unexpended Contract Balance:	\$ 45,584.37
Contract Amendment No. 1:	<u>\$527,649.41</u>
Total Authorization for Lake Kyle:	<u>\$573,233.78</u>

**Budget Information:**

See Fiscal Note Attached.

SAMPLE

City of Kyle, Texas  
FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:  
CONTACT CITY DEPARTMENT:  
CONTACT CITY STAFF:

February 1, 2011  
Parks & Recreation  
Kerry Urbanowicz, Director

SUBJECT: Authorize award and execution of Contract Amendment No. 1 to the construction contract with T.F. HARPER & ASSOCIATES, LP, Austin, Texas, in an amount not to exceed \$527,649.41 to construct all Lake Kyle Project improvements included in the specifications, for a total amended contract amount not to exceed \$1,291,171.26

**CURRENT YEAR FISCAL IMPACT:**

This Contract Amendment No. 1 to the construction contract with T.F. HARPER AND ASSOCIATES, LP will increase the total contract award by \$527,649.41 for a total amended contract amount (cumulative) not to exceed \$1,291,171.26.

1. City Department::	Parks and Recreation
2. Project Name:	Lake Kyle CIP
3. Budget/Accounting Code(s):	410-723-57222
4. Funding Source:	Grants: Hays County and Texas Parks & Wildlife
5. Current Appropriation:	\$1,700,000.00
6. Unencumbered Balance:	\$ 563,977.93
7. Amount of This Action:	\$ (527,649.41)
8. Remaining Balance:	\$ 36,328.52

**FUNDING SOURCE OF THIS ACTION:**

The source of funds for Contract Amendment No. 1 in the amount of \$527,649.41 is provided from two different grants as follows:

Hays County Parks Grant:	\$380,170.63
Texas Parks & Wildlife Dept.	<u>\$147,478.78</u>
Total Contract Amendment:	<u>\$527,649.41</u>

**ADDITIONAL INFORMATION/COUNCIL ACTION:**

This City Council action will also authorize reallocation of budget authorizations previously approved by City Council for total project costs and related grant funding for the three City park improvement projects to reflect as follows:

**Total Grant Funding:**

1. Hays County Parks Grant:	\$1,200,000.00
2. Texas Parks & Wildlife:	<u>\$ 500,000.00</u>
Total Grants:	<u>\$1,700,000.00</u>

**Project Expenditure Budget:**

1. Gregg-Clarke Park:	\$ 717,937.48	(Hays County Parks Grant)
2. Lake Kyle Park:	\$ 445,734.00	(Hays County Parks Grant)
3. Lake Kyle Park:	\$ 500,000.00	(Parks & Wildlife Grant)
4. City Square Park:	<u>\$ 36,288.89</u>	(Hays County Parks Grant)
Total Budget:	<u>\$1,699,960.37</u>	