



# City of Killeen

## Agenda City Council Workshop

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Tuesday, March 3, 2015

Utility Collections - Large Conference Room  
210 West Avenue C  
Killeen, Texas 76541

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### IMMEDIATELY FOLLOWING SPECIAL CITY COUNCIL MEETING

#### Items for Discussion at Workshop

- [DS-15-021](#) Discuss Agenda Items and Land Use Cases
- [DS-15-022](#) Project Status Update: Aviation  
*Attachments:* [Presentation](#)
- [DS-15-023](#) Receive a Briefing on Exempt Parking at the Airport  
*Attachments:* [Presentation](#)
- [DS-15-024](#) Discuss 2015 Municipal Election Item Regarding Citywide Recycling  
*Attachments:* [Memorandum](#)
- [DS-15-025](#) Briefing - Mutual Agreements Between the City of Killeen and Local Surrounding Developers for PUDs/MUDs  
*Attachments:* [Memorandum](#)  
[Memorandum Bell County Municipal Utility District 2](#)  
[Ordinance Bell County Municipal Utility District 2](#)  
[Memorandum Heritage Oaks PUD](#)  
[Ordinance Heritage Oaks PUD](#)  
[Memorandum Lakeview Park PUD](#)  
[Ordinance Lakeview Park Subdivision PUD](#)  
[Memorandum The Village at Clear Creek PUD](#)  
[Ordinance The Village at Clear Creek PUD](#)  
[PUD Ordinance](#)
- [DS-15-026](#) Receive Quarterly Financial Report
- [DS-15-027](#) Discuss Recommended Changes to City Council Agenda Format
- [DS-15-028](#) Receive a Legal Briefing Regarding Chisholm Trail and Georgetown Utilities

**Items for Regular City Council Meeting of March 10, 2015****Consent Agenda**

[CA-15-028](#) Consider minutes of Regular City Council Meeting of February 24, 2015.

*Attachments:* [Minutes](#)

[CA-15-029](#) Consider a memorandum/resolution awarding Bid No. 15-10 to D.I.J. Construction, Inc. for thermoplastic materials and to Maxwell Products, Inc. for crack seal material.

*Attachments:* [Council Memorandum](#)  
[Bid Tabulation](#)

[CA-15-030](#) Consider a memorandum/resolution rescheduling the regular City Council meeting of March 24, 2015.

*Attachments:* [Council Memorandum](#)

**Public Hearings/Ordinances**

[PH-15-014](#) HOLD a public hearing and consider an ordinance amending the FY 2015 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing Certificate of Obligation 2011 fund accounts by \$486,503 to finance Stagecoach Road Reconstruction Phase II and Elms Road Extension.

*Attachments:* [Council Memorandum](#)  
[Ordinance](#)

**Adjournment**

*I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on February 27, 2015.*

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*Dianna Barker, City Secretary*

*The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session..*

*This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the*

meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.

### **Future Workshop Items**

*The following items have been scheduled for workshop discussion on the dates shown. The final scheduling of these items is dependent upon the presenters/interested parties being available on the dates projected.*

### **Notice of Meetings**

*The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office.*

- *Girl Scouts Women of Distinction Banquet, March 12, 2015, 6:30 p.m., Central Texas College - Anderson Campus Center*
- *NAACP Freedom Fund Banquet, March 14, 2015, 6:00 p.m., Club Hood*
- *LULAC Banquet, April 18, 2015, 6:30 p.m., Phantom Warrior Club*

**Dedicated Service -- Every Day, for Everyone!**



# City of Killeen

## Legislation Details

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**File #:** DS-15-021    **Version:** 1    **Name:** Discuss Agenda Items and Land Use Cases  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 2/2/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Discuss Agenda Items and Land Use Cases  
**Sponsors:** City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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# City of Killeen

## Legislation Details

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**File #:** DS-15-022    **Version:** 1    **Name:** Project Status Update: Aviation  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 2/12/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Project Status Update: Aviation  
**Sponsors:** City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Presentation](#)

Date	Ver.	Action By	Action	Result
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Killeen Fort Hood Regional  
Airport  
&  
Skylark Field

***Project Update***

# Agenda

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- KFHRA Projects
- ILE Projects
- Summary and Questions

# KFHRA

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- Security and Access Control
  
- Taxiway B / D / E Rehabilitation
  - Design – 2014
  - Construction – 2015
  
- Loop Road Rehabilitation
  - Design – 2014
  - Construction – 2015



# Operations Center



# Operations Center



# Operations Center



# Skylark Field

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## → Airport Master Plan

- Project Start – 2014
- Executive and Steering Committees
- 20% Complete
- Completion – 2015

# Summary

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→ Staffing

→ Airport Projects

➤ KFHRA

➤ Skylark Field

Questions?



# City of Killeen

## Legislation Details

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**File #:** DS-15-023    **Version:** 1    **Name:** Briefing - Exempt Parking at Airport  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 12/9/2014    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Receive a Briefing on Exempt Parking at the Airport  
**Sponsors:** City Manager Department, Aviation Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Presentation](#)

Date	Ver.	Action By	Action	Result
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# Killeen Fort Hood Regional Airport

## ***Exempt Parking Overview***

# Agenda

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- Exempt Parking Background
- Exempt Parking Eligibility
- Ordinance Recommendation



# Exempt Parking Background

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- Texas Transportation Code Section 681.008
  - Privileged Parking
  - 1995 Act Defined Disabled Parking Requirements
- 1999 Act Amendment
  - Disabled Veteran
  - Pearl Harbor Survivor
  - Purple Heart Recipient
  - Congressional Medal of Honor

# Exempt Parking Background

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- **Sec 681.008**

**PARKING PRIVILEGES: CERTAIN VETERANS AND MILITARY AWARD RECIPIENTS.** (a) A vehicle may be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities if the vehicle:

**(1) is being operated by or for the transportation of:**

**(A) the person who registered the vehicle under Section [504.202\(a\)](#) or a person described by Section [504.202\(b\)](#) if the vehicle is registered under that subsection; and**

**(B) displays special license plates issued under Section [504.202](#);**

# Exempt Parking Background

- **Sec 681.008 (cont'd)**

- (b) A vehicle on which license plates described by Subsection (a)(2) or issued under Section [504.202](#), Section [504.310](#), [504.315](#), or [504.316](#), or [504.319](#) are displayed **is exempt from the payment of a parking fee collected through a parking meter charged by a governmental authority** other than a branch of the federal government, **when being operated by or for the transportation of:**
- (1) **the person who registered the vehicle** under Section [504.202](#)(a), Section [504.310](#), [504.315](#), or [504.316](#), or [504.319](#);
  - (2) **a person described in Section [504.202](#)(b)** if the vehicle is registered under that subsection;  
or
  - (3) the owner or operator of a vehicle displaying license plates described by Subsection (a)(2).
- (c) This section does not permit a vehicle to be parked at a time when or a place where parking is prohibited.
- (d) **A governmental unit may provide by ordinance or order that the exemption provided by Subsection (b) also applies to payment of a fee or penalty imposed by the governmental unit for parking in a parking garage or lot or in a space with a limitation on the length of time for parking.**

# Exempt Parking Background

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- Sec 504.202 (added by Act in 2003)
  - VETERANS WITH DISABILITIES
    - (a) A person entitled to specialty license plates under this section may register, **for the person's own use**, one vehicle without payment of any fee paid for or at the time of registration except the fee for the license plates. Registration under this section is valid for one year.
- Where can exemptions be valid?
  - Parking meters, public parking lots, public parking facilities
  - Airports
  - Designated space/area for persons with physical disabilities

# Exempt License Plates

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- Amendments Through the Act of 2013
  - Disabled Veteran
  - Congressional Medal of Honor
  - Pearl Harbor Survivor
  - World War II
  - Silver Star
  - Legion of Merit
  - Distinguished Service Medal
  - Defense Superior Service Medal
  - Former Prisoner of War
  - Purple Heart Recipient
  - Legion of Valor
  - Bronze Star (and Valor)
  - Air Medal (and Valor)

# City Parking Ordinance

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## Sec. 28-128. - Disabled parking

Defines disabled parking and what constitutes an offense under the ordinance

## Sec. 28-137. - Parking at Killeen-Fort Hood Regional Airport.

- A. The airport director may establish areas in which the stopping, standing or parking of a motor vehicle is prohibited or restricted.
- B. A person may not park a motor vehicle in a public area of the Killeen-Fort Hood regional airport except:
  - 1. at a place and in a manner expressly authorized by the airport director;
  - 2. as directed by a police officer or an airport official; or
  - 3. in compliance with official posted signs or markings.
- C. A person may not stop, stand or park a motor vehicle in a passenger loading zone except to quickly load or unload passengers and baggage. A motor vehicle may not be left unattended while loading or unloading passengers and/or baggage.
- D. An airport official may tow a motor vehicle parked on airport property in violation of this chapter at the owner or operator's expense.

# Current Procedures

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- Request ID and Registration
  - Verify vehicle is used by or for transportation of the exempt license holder
  - Posted at each parking lot exit station
- Policy in-use since 2004
- Fraud Prevention
- Exemptions listed on website

# Recommended Course of Action

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- Return to Council at next workshop with a draft ordinance
- Include provision for positive identification of individual claiming the exemption



# QUESTIONS ?

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- Exempt Parking Background
- Exempt Parking Eligibility
- Ordinance Recommendation



# City of Killeen

## Legislation Details

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**File #:** DS-15-024    **Version:** 1    **Name:** 2015 Municipal Election Item - Citywide Recycling  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 2/20/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Discuss 2015 Municipal Election Item Regarding Citywide Recycling  
**Sponsors:** City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Memorandum](#)

Date	Ver.	Action By	Action	Result
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TO: MAYOR, COUNCIL, AND CITY MANAGER  
VIA: GLENN MORRISON, CITY MANAGER  
FROM: JONATHAN OKRAY, COUNCIL MEMBER AT-LARGE  
SUBJECT: MAY 2015 MUNICIPAL ELECTION, BALLOT ITEM DISCUSSION  
DATE: 2//2015

Honorable Mayor and Council:

1. I remain steadfast in the opinion that a fundamental question, regarding the Solid Waste Master Plan and Rate Study, should be asked and the answer obtained during the function of the city's May 2015 Municipal Election. I believe we should ask the registered voters of our city, "Should the city add curbside collection of recyclables to the entire city?"

2. I am generally supportive The Plan intent. However, I viscerally loathe the implication or inference of a mandatory recycling program, as set forth in Section 1.4 of The Plan, Recommendation #3.

3. The basis of my insistence that 'the question' be asked by ballot emanates from the individual liberty of our nation, the revolutionary spirit of its founders who were influenced and inspired by John Locke. As we recall, John Locke is one of the most influential thinkers in the tradition of Western liberalism. His ideas, recorded in his Second Treatise of Government, influenced Thomas Jefferson greatly.

3. In his Second Treatise, the portion of the treatise that deals with The Beginnings of Political Societies, he said what follows:

" The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not

of it... When any number of men have so consented to make one body politic, wherein the majority have a right to act and conclude the rest. For when any of men number of men have, by the consent of every individual, made a community one body, with a power to act as one body, by the will and determination of the majority, being only the consent of the individuals in it. And it being necessary to move one way, the body should move the way the greater forces carry it, which is the consent of the majority... they have thereby made that community one body, with the power to act as one body...and it being necessary to that which is one body to move one way...that way whither the greater force carries it, which is the consent of the majority.”

4. Honorable Mayor and fellow council, I ask that we discuss and consent to consider during our next workshop (in concert with the applicable deadline for the final ballot of our May 2015 Municipal Election), to be placed on the ballot a question for the registered voters of our city, the question, “ consider to consent to add to our next council meeting, a that asks the question:

“Should the city consider adding curbside collection of recyclables to the entire City and further evaluate the development of a materials recovery facility (MRF) to be jointly developed and operated by the City with additional participation by other local governments?”

Respectfully submitted,

Jonathan Okray  
Councilmember At-Large



# City of Killeen

## Legislation Details

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**File #:** DS-15-025    **Version:** 1    **Name:** Briefing - PUD and MUD Agreements  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 2/24/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Briefing - Mutual Agreements Between the City of Killeen and Local Surrounding Developers for PUDs/MUDs  
**Sponsors:** City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Memorandum](#)  
[Memorandum Bell County Municipal Utility District 2](#)  
[Ordinance Bell County Municipal Utility District 2](#)  
[Memorandum Heritage Oaks PUD](#)  
[Ordinance Heritage Oaks PUD](#)  
[Memorandum Lakeview Park PUD](#)  
[Ordinance Lakeview Park Subdivision PUD](#)  
[Memorandum The Village at Clear Creek PUD](#)  
[Ordinance The Village at Clear Creek PUD](#)  
[PUD Ordinance](#)

Date	Ver.	Action By	Action	Result
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## Memorandum

**Submitted by: Councilman Steve Harris**

**Date: 22 February, 2015**

**Re: 3 March, 2015 Workshop Agenda Item - - Mutual Agreements Between the City of Killeen and Local/Surrounding Developers for PUD's/MUD'S Full Update Briefing**

**To: Glenn Morrison - City of Killeen City Manager**

**Discussion/Update Item:** Provide full and comprehensive updates, from the beginning, regarding mutual agreements between the city of Killeen and local and, or surrounding developers involving PUD's/MUD's from 2012 to the present. Maps, pictures, initial discussion information and updates on prior and recent negotiations to be included.

**Rationale:** Due to current differing accounts of PUD agreements involving mutual agreements between the city of Killeen and local developers, this is a submission for the city council to be fully briefed on the creations, negotiations and final agreements to date for all mutual agreements between the CoK and local and, or surrounding developers in regards to the developments of PUD's/MUD's. Since some councilmembers were not yet present on the council at that time, it would be of a benefit to each of them as well as a good reminder to those councilmembers who were present; and, the citizens that have moved into Killeen a bit before or after these agreements were made.

This update will enable the city the opportunity to definitively make available all terms and actions taken concerning these type of agreements: hence, hopefully eliminating all concerns of confusion amongst both city officials and our citizens. It will also aide the city in helping to create a better image of transparency.



## INTEROFFICE MEMORANDUM

**TO:** Glenn Morrison, City Manager

**VIA:** KATHY DAVIS, CITY ATTORNEY  
John Sutton, Assistant City Manager – External Services

**FROM:** Scott Osburn, Exec. Director of Public Works

**DATE:** FEBRUARY 26, 2015

**SUBJECT:** COUNCIL MEMBER HARRIS' FEBRUARY 22<sup>ND</sup> REQUEST FOR INFORMATION REGARDING MUTUAL AGREEMENTS BETWEEN THE CITY AND DEVELOPERS (PUDs AND MUD)

The purpose of this memorandum is to respond to Council Member Harris' request for a comprehensive update regarding mutual agreements between the City of Killeen and local developers, specifically including Planned Unit Development (PUD) agreements and the Bell County Municipal Utility District No. 2 (BCMUD2). As the Planning Department will provide information relating to PUD agreements, this memorandum will solely focus on BCMUD2.

### **Background/Discussion:**

Throughout late 2012 and early 2013, the City explored its options regarding a development proposed to be located just outside the City limits bordering and spanning south from Chaparral Road, just east of State Highway (SH) 195. The development was originally presented as a master-planned community. As part of the City's exploration, the City first considered the development as a potential candidate for a planned unit development ("PUD"). In late 2012, City Council determined that the level of cost participation required of the City, and the risk associated with the same, relating to the annexation of the property and the development of a PUD was not in the City's best interest and terminated negotiations with W&B Development (Whitis).

Following this action, the City considered entering into a development and consent agreement with Whitis that would have been part of the creation of Bell County Municipal Utility District No. 2 ("MUD") through legislation enacted by the Texas Legislature. The catalyst to the commencement of those negotiations was the City's receipt of Whitis' "Notice of Intent to Introduce a Bill" and a copy of the draft MUD creation bill. The Notice of Intent letter included an explanation of the



intent to have a bill filed by the Texas Legislature to legislatively create the MUD. The language of the bill to create the MUD required the City's consent to the MUD's creation. On January 22, 2013, City Council passed Ordinance 13-012 conditionally consenting to the creation of the MUD, subject to successful negotiation of the consent and development agreement. Ultimately, however, these initial negotiations were terminated on March 5, 2013 due to a failure to reach a mutually beneficial development and consent agreement.

Following this action, Whitis abandoned the effort to create the MUD legislatively and began the process to establish the MUD administratively through the Texas Commission on Environmental Quality ("TCEQ"). As the first step in that process, Whitis submitted a Petition for Consent to the Creation of a Municipal Utility District (the "First Petition") to the City on May 9, 2013. City Council considered numerous options in response, but ultimately directed staff to reengage in negotiations with Whitis to attempt to come to mutually agreeable terms. These negotiations continued until July 30, 2013 when City Council approved the consent and development agreement via Ordinance 13-058 (attached).

Following this consent, the MUD was administratively released by the TCEQ and became official following a vote for confirmation held on November 4, 2014. The consent and development agreement was then ratified by the District's Board of Directors on November 17, 2014.

**The consent and development agreement generally provides:**

1) City consent to the creation of the MUD; 2) the MUD may divide into successor MUDs to facilitate build out and financing after City consent; 3) the City will not annex the MUD until certain conditions precedent are satisfied; 4) the City will provide retail water and sewer services at the same rates provided within the City and, further, that the City will acquire the necessary water CCN from WBCWSC or through a CCN decertification process at the TCEQ; 5) that Whitis will construct all water and sewer infrastructure necessary to serve the property at his expense; 6) that the City commits to providing adequate water and sewer service to the entire development, including a commitment to provide fire flow; 7) that all infrastructure will be built in accordance with the City's design standards and the City will be afforded inspection opportunities; 8) that, upon completion, all water and sewer infrastructure will be given to the City to provide services and accept the perpetual obligation for the infrastructure's operation and maintenance; 9) that the property will be built in accordance with an associated land and road plan, and also in accordance with stated design standards; 10) that, at a minimum, twenty-five percent (25%) of the land will be dedicated to open space and park land to be owned and operated by a Homeowner's Association; 11) that the land will be developed with an integrated storm water system and enhanced regional water quality system conforming to agreed to





drainage standards; 12) that the City may provide solid waste services to the area; 13) a commitment from Whitis to reimburse the City in the amount of \$4,100,000 for the cost of reconstructing Chaparral Road from SH 195 to the entrance of the subdivision and a commitment of a \$1,250,000 reimbursement for the construction of an elevated storage tank, and, further, that Whitis would dedicate necessary right-of-way from the property for these purposes; 14) that the extension of Trimmier Road south would consist of a four lane road (where deemed necessary by engineering standards) designed to a 40 m.p.h. roadway; and 15) various other terms relating to the relationship between the City, Whitis and, ultimately, the MUD.

At this time, the project is progressing.

Scott Osburn  
Exec. Director of Public Works

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN CONSENTING TO AND AUTHORIZING THE CREATION OF BELL COUNTY MUNICIPAL DISTRICT NO. 2 SUBJECT TO THE TERMS AND CONDITIONS OF A CONSENT AND DEVELOPMENT AGREEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City of Killeen is authorized and empowered by the laws of the State of Texas to promote and protect the general health, safety and welfare of persons residing in and adjacent to the City in the City's extraterritorial jurisdiction; and

**WHEREAS**, WBW Land Investments, L.P., a Texas limited partnership ("Whitis"), has petitioned the City to consent to the creation of a municipal utility district ("MUD") over approximately 1,373 acres of land in the City's extraterritorial jurisdiction; and

**WHEREAS**, the City's consent will allow the MUD to move forward with the MUD administrative creation process provided under state law and, ultimately if so created, hold a confirmation election confirming the creation of the MUD; and

**WHEREAS**, in accordance with Section 54.016 of the Texas Water Code and Section 42.042 of the Texas Local Government Code, land within the City's extraterritorial jurisdiction may not be included within a district without the City's formal consent; and

**WHEREAS**, Whitis has provided the City with a petition requesting the City's consent to the administrative creation of the MUD through the Texas Commission on Environmental Quality ("TCEQ"); and

**WHEREAS**, the City and Whitis have negotiated a mutually beneficial consent and development agreement as provided by law that will regulate the development of the District to

ensure that the general health, safety and welfare of persons inside the City and District are protected and promoted.

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

**SECTION I.**

**Part 1.** The City Council of the City of Killeen consents to and authorizes the creation of Bell County Municipal District No. 2 (the “District”) over approximately 1,373 acres of land located in the City’s extraterritorial jurisdiction, more specifically described in Exhibit A of the Consent and Development Agreement (the “Agreement”).

**Part 2.** The City Council of the City of Killeen, after due deliberation and negotiation, hereby authorizes the City Manager to finalize and execute the Agreement, which is attached hereto and incorporated herein as if fully stated in this part for all intents and purposes, on behalf of the City of Killeen.

**Part 3.** The City Council of the City of Killeen hereby declares that should the Agreement be terminated, as provided therein for any reason, that the City’s consent to the District is void.

**SECTION II.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

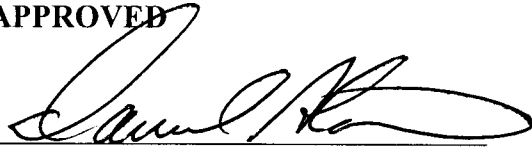
**SECTION III.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V.** That this ordinance shall be effective after its passage and publication according to law.

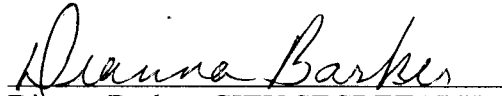
**PASSED AND APPROVED** at a special meeting of the City Council of the City of Killeen, Texas, this 30th day of July, 2013, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**



Daniel A. Corbin, MAYOR

**ATTEST:**



Dianna Barker, CITY SECRETARY

**APPROVED AS TO FORM:**



Kathryn H. Davis, CITY ATTORNEY

ORD 13-058  
Date: 7-30-13



**CONSENT AND DEVELOPMENT AGREEMENT**

**[BELL COUNTY MUNICIPAL UTILITY DISTRICT NO. 2]**

**THE STATE OF TEXAS**           §  
  §  
**COUNTY OF BELL.**               §

This **CONSENT AND DEVELOPMENT AGREEMENT** (this "Agreement") is between the **City of Killeen, Texas**, a home-rule city located in Bell County, Texas ("the City"), and **WBW Land Investments, LP**, a Texas limited partnership (the "Developer"), effective as of \_\_\_\_\_, 2013 (the "Effective Date"). Upon confirmation of the creation of **Bell County Municipal Utility District No. 2**, a proposed municipal utility district to be created as contemplated by this Agreement (the "District"), by the voters within the District, the District will join in and agree to be bound by certain provisions of this Agreement.

**INTRODUCTION**

The Developer has petitioned the City for its consent to the creation of the District over approximately 1373 acres of land located within the extraterritorial jurisdiction of the City, as more particularly described by metes and bounds on the attached **Exhibit A** (the "Land"). The Developer intends to develop the Land as part of a master-planned, mixed-use community (the "Project") that will include a mix of residential uses, together with commercial and civic uses and private park, recreational, and other facilities to serve the community. Because the Project is a significant development that will occur in phases under a master development plan, the Developer and the City intend that this Agreement constitute a regulatory development agreement and provide certainty with regard to the regulatory requirements applicable to the Land.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I.  
DEFINITIONS**

**Section 1.01 Definitions.** In addition to the terms defined elsewhere in this Agreement, the following terms and phrases, when used in this Agreement, will have the meanings set out below:

Agreement: This Consent and Development Agreement between the City, the Developer, and the District.

Applicable Rules: The City's ordinances, rules, and regulations in effect on the Effective Date, subject to any variances or exceptions approved in this Agreement.

CCN: A certificate of convenience and necessity issued by the Commission.

City: The City of Killeen, Texas, a home-rule city located in Bell County, Texas.

City Manager: The City Manager of the City.

Commission: The Texas Commission on Environmental Quality, or its successor agency.

**Constructing Party:** The Developer or the District, whichever has contracted for and is causing the construction of any On-Site Water and Wastewater Facilities or Major Water and Wastewater Facilities as provided in this Agreement.

**Design Standards:** The design standards applicable to the Land, a copy of which is attached as **Exhibit B**, as amended from time to time in accordance with this Agreement.

**Developer:** WBW Land Investments, LP, a Texas limited partnership, or its successors and assigns under this Agreement.

**District:** Bell County Municipal Utility District No. 2, a political subdivision of the State of Texas, to be created over the Land, as contemplated by this Agreement.

**Drainage Facilities:** Any drainage improvements designed and constructed to serve the Project, or that naturally receive and convey drainage through the Project, including water quality and flood mitigation facilities, storm drain systems, drainage ditches, open waterways, and other related facilities that convey or receive drainage.

**Drainage Standards:** The drainage standards applicable to the Land, a copy of which is attached as **Exhibit C**, as amended from time to time in accordance with this Agreement.

**Land:** Approximately 1373 acres of land located in the City's extraterritorial jurisdiction, described by metes and bounds on **Exhibit A**, together with any additional land which may in the future be added to the Project with the consent of the City.

**Land Plan:** The master development plan for the Land, a copy of which is attached as **Exhibit D**, as amended from time to time in accordance with this Agreement.

**Major Water and Wastewater Facilities:** The off-site water and wastewater improvements and capacity improvements to serve the Project, as reflected on the Utility Plan.

**On-Site Water and Wastewater Facilities:** All water and wastewater facilities and capacity in facilities internal to the Project that are necessary to serve the Land.

**Road Improvements:** The roadways required for the development of the Project.

**Roadway Plan:** The plan depicting the roadways serving the Land, a copy of which is attached as **Exhibit E**, as amended from time to time in accordance with this Agreement.

**Utility Plan:** The conceptual utility plan for the routing of the Major Water and Wastewater Facilities, a copy of which is attached as **Exhibit F**, as amended from time to time in accordance with this Agreement.

## **ARTICLE II. CREATION OF DISTRICT; DIVISION; CITY ANNEXATION**

**Section 2.01 Consent to Creation of District.** Subject to the terms of this Agreement, the City hereby consents to the creation of the District over the Land. As a material part of the consideration of this Agreement, the City will promptly after the Effective Date further evidence its consent to the creation of the District by resolution or ordinance as required by Section 54.016 of the *Texas Water Code* and Section 42.042 of the *Texas Local Government Code* (the "**Consent Ordinance**"). The City agrees that the Consent Ordinance will further evidence the City's consent to the creation of the District within its extraterritorial jurisdiction.

If the District desires to annex additional territory into its boundaries, such annexation will be subject to the City's review and approval by resolution or ordinance, which review and approval will not be unreasonably withheld, conditioned, or delayed. Finally, the Developer hereby covenants and agrees to cause the District to approve, execute, and deliver this Agreement to the City within ninety (90) days following the District's confirmation date.

**Section 2.02 Division of District.** In order to allow for the orderly development of the Land and annexation of the Land by the City, the District may be divided into two or more successor districts pursuant to a plan of division approved by the City, which approval will not be unreasonably withheld, conditioned, or delayed. Each district created by division of the District (a "Successor District") will be bound by the terms of this Agreement and, at the organizational meeting of its board of directors, must join in this Agreement for purposes of evidencing its agreement to be bound by the terms hereof. The City will not be responsible for any costs incurred by the Developer in connection with the creation of the District or any subsequent division thereof. The City acknowledges that minor adjustments (defined as adjustments containing no more than twenty (20) acres of land) to the boundaries of the Successor Districts may be necessary to accommodate the final development plan for the Project. Accordingly, the City agrees that areas of the Land within the Successor Districts may be excluded from a Successor District and added to another Successor District in order to avoid having lots and development areas located in multiple districts. The City consents to any such minor annexation or exclusion adjustments and agrees that no further City consent thereto will be required; however, the City agrees to promptly provide a resolution evidencing its consent if requested by a Successor District or the Developer to do so.

**Section 2.03 City Annexation.**

(a) The City agrees not to annex or dissolve the District, in whole or in part, until: (1) at least 100% by dollar amount of the total water, wastewater, and drainage facilities for which the District's bonds have been authorized ("requisite percentage of District facilities") have been constructed, and (2) either (i) the Developer has been fully reimbursed by the District for the requisite percentage of District facilities in accordance with the rules of the Commission; or (ii) the City has expressly assumed the obligation to reimburse the Developer for such facilities at the time of annexation as required by Section 43.0715, *Texas Local Government Code*. At any time following the satisfaction of the conditions in clauses (1) and (2) above, the annexation process may be completed and the District included within the corporate boundaries of the City. The District will be dissolved on the date and in the manner specified in the City ordinance completing such annexation, but in no event more than 90 days after the effective date of such annexation. Upon the dissolution of a District, the City will immediately succeed to all properties, powers, duties, assets, debts, liabilities, and obligations of the District. Upon annexation of the District, the City will zone the Land consistently with the land uses then in existence, or, for undeveloped land, as shown on the Land Plan, as authorized by Section 212.172, *Texas Local Government Code*. The Developer and the District, including their respective heirs, successors and assigns (including, without limitation, ultimate consumers and subsequent developers) hereby irrevocably and unconditionally consent to the annexation of the Land into the corporate limits of the City in accordance and subject to the terms of this Agreement and hereby waive any and all objections and protests to such annexation, it being understood and agreed that this Agreement shall serve as the petition of the Developer and District, their respective heirs, successors, and assigns, to annexation of the Land in accordance with this Agreement and state law.

(b) The City and the Developer acknowledge and agree that the Land lies wholly within the City's extraterritorial jurisdiction ("ETJ"). The Parties further acknowledge and agree that the creation of the District, and the City's consent thereto, are for purposes that include

promoting the orderly development and extension of the City services to the Land upon annexation.

(c) In furtherance of the purposes of this Agreement, the District and the Developer, on behalf of themselves and their respective successors and assigns, covenant and agree that, except upon written consent of the City, neither the District nor the Developer will: (1) seek or support any effort to incorporate the Land or any part thereof; (2) sign, join in, or direct to be signed any petition seeking to incorporate the Land or seeking to include the Land within the boundaries of any other municipality or any other incorporated entity other than the City.

(d) Within thirty (30) days following the date of the confirmation of the creation of the District, the District shall file in the real property records of Bell County, Texas a notice in the form required by Section 49.452 of the Texas Water Code, as amended.

### **ARTICLE III. WATER AND WASTEWATER FACILITIES AND SERVICES**

**Section 3.01 City To Provide Retail Water and Wastewater Utility Services.** Except as provided in this Section 3.01, the City will be the sole provider of retail water and wastewater services within the District and will provide water and wastewater service to customers within the District in the same manner, at the same in-City rates, on the same terms and conditions, and subject to the same regulations and ordinances, as amended, as the City provides service to other retail customers inside its corporate limits. If the City fails to provide retail water and wastewater service as required under this Agreement, then, in addition to any other rights and remedies available at law or in equity, the District will have the right to be added to the water and/or wastewater CCN of other providers and obtain water and wastewater services from other providers. The City will, at its expense, use good faith and commercially reasonable efforts to cause any areas of the District located within the CCN of any water and/or wastewater utility provider other than the City (a "CCN Holder") to be excluded from the CCN of the CCN Holder and/or added to the water and/or wastewater CCN of the City. The City must obtain the consent of each CCN Holder to such exclusion prior to June 1, 2014 and must submit the appropriate application(s) or documentation, including application(s) or documentation on behalf of the Developer to the Commission within two months after obtaining such consent. The Developer will cooperate with the City in this regard and will provide the City with any information or documentation in its possession reasonably requested by the City in support thereof. The Developer will also cooperate in good faith with Central Texas Water Supply Corporation ("CTWSC") regarding an easement for those portions of CTWSC's existing water transmission line crossing the Yowell Ranch subdivision that are not currently within an appropriate easement. If all of the areas of the District located within the CCN of a CCN Holder have not been excluded from the CCN of such CCN Holder by January 1, 2015, then the District will have the right to obtain water and wastewater services from other providers for the non-released areas. Areas within the District excluded from the CCN of all other CCN Holders as described herein are referred to as the "City Service Areas", and areas within the District not excluded from the CCN of all other CCN Holders as described herein are referred to as "Non-City Service Areas". Except as otherwise provided in this Agreement, the City's water and wastewater ordinances, standard water and wastewater rates, charges, and other fees, including engineering review and inspection fees, that are applicable within the City's corporate limits will be applicable to facilities constructed, connections made, and services provided within City Service Areas. All fees, rates, and charges for water and wastewater service within City Service Areas will be billed and collected by the City. Except as authorized above for Non-City Service Areas or as otherwise contemplated in this Section 3.01, the District will not contract with any



retail public utility other than the City for water or wastewater services and will not provide any retail or wholesale water or wastewater services.

**Section 3.02 Water and Wastewater Facilities.** The Developer or the District will construct or acquire capacity in all Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities that are necessary to serve the Land. All On-Site Water and Wastewater Facilities will be constructed within designated easements or dedicated lands or rights-of-way in accordance with the Applicable Rules. All Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities serving City Service Areas will be designed and constructed in accordance with the Applicable Rules and the regulations of any other governmental entities with jurisdiction and pursuant to plans and specifications approved by the City. The routing of all Major Water and Wastewater Facilities serving City Service Areas will be consistent with the Utility Plan. The initial points of connection to the City's water and wastewater systems for the City Service Areas are shown conceptually on the Utility Plan. All other points of connection to the City's water and wastewater systems for City Service Areas will be subject to approval by the City. If the City requires the Developer to connect any Major Water and Wastewater Facilities serving City Service Areas to a location other than the connection points shown on the Utility Plan, the Developer will not be obligated to pay any costs in excess of the amount that would have been required to construct those facilities as shown on the Utility Plan. In addition, neither the Developer nor the District will be required to pay for or construct any improvements to the City's existing utility systems or other off-site improvements required to serve the Land, except as provided for herein.

**Section 3.03 Service Level.** Except for any Non-City Service Areas, the City agrees and commits to (a) provide sufficient water and wastewater service for the full build-out of all of the Land within the District; (b) provide written confirmation of the availability of service upon the District's request if required in connection with any District bond sale; and (c) provide service as required for development within the Land, including water service at flow rates and pressures sufficient to meet the minimum requirements of the Commission and to provide sufficient domestic fire flows. Upon full execution of this Agreement, the Developer will provide the City with a preliminary development schedule for the Land (the "Preliminary Development Schedule") in order to assist the City with projecting an allocation of the City's water and wastewater resources for the District. It is anticipated that the Preliminary Development Schedule will target 300 lot sales per year; however, the Preliminary Development Schedule will be subject to change and will not be binding on the Developer or the District.

**Section 3.04 Water Storage Tank.** In order to provide the necessary water capacity and volume to satisfy the City's commitment to provide water capacity and fire flow volume to the Land in excess of that required for an estimated 1,554 single-family residences, a water storage tank will be necessary. In order to meet this need, the City will design and construct, at a minimum, a one million (1,000,000) gallon storage tank and associated appurtenances (the "Water Storage Tank") to provide the additional necessary capacity and volume to serve the Land. To facilitate the construction of the Water Storage Tank, the Developer shall grant and convey to the City, without charge, a sufficient amount of property at a location mutually-agreeable to the parties within the Land prior to the City's commencement of engineering design of the Water Storage Tank. The City shall use commercially reasonable and diligent efforts to complete construction of the Water Storage Tank by the time that the connection of the 1,500<sup>th</sup> single-family home within the Land to retail water and wastewater service occurs (the "Water Storage Tank Trigger Date"). Notwithstanding the foregoing, but subject to compliance with applicable law, the City shall not be committed to commencing construction of the Water Storage Tank at an accelerated rate in the event that single-family home connections within the Project exceed 300 per year, said connections estimated by the Developer to commence on or around the second-year anniversary of the Effective Date. In this

event, (i) the City shall be obligated to commence construction of the Water Storage Tank no later than the six-year anniversary of the Effective Date, and (ii) the City will not delay, withhold, or deny any development approvals related to the Project because construction of the Water Storage Tank has not previously commenced or been completed. Following commencement of construction of the Water Storage Tank, the City will use commercially reasonable and diligent efforts to complete the same. Upon receipt of all supporting documentation and evidence of payment by the City, the Developer will be obligated to reimburse the City, as a contractual capacity charge, for the lesser of one-half (1/2) of the City's actual cost of the design and construction of the Water Storage Tank or \$1,250,000 on the schedule and as provided for in this Section 3.04 (the "WST Capacity Charge"). The Developer will pay the WST Capacity Charge in installments annually based upon the following schedule: The first payment shall become due and payable (i) 30 days after the date that the Water Storage Tank is completed and is fully operational and the City has provided written notice of same to the Developer; or (ii) on the first anniversary of the Water Storage Tank Trigger Date, whichever event occurs later (the "WST Payment Commencement Date"). Subsequent payments shall become due and payable each following year on the anniversary of the WST Payment Commencement Date until the WST Capacity Charge has been paid in full; provided, however, that any outstanding balance of the WST Capacity Charge shall become due and payable in full on the tenth (10<sup>th</sup>) anniversary of the WST Payment Commencement Date. Annual payments shall be equal to five hundred dollars (\$500.00) multiplied by the number of water utility connections made in the preceding three hundred sixty-five (365) days. Payments not received when due shall accrue interest at the maximum rate provided by law from the applicable date due until paid. In consideration of the WST Capacity Charge, the Developer will acquire on behalf of the District, and is hereby conveyed, a guaranteed reservation of capacity in the Water Storage Tank based on the number connections for which the WST Capacity Charge has been paid. In consideration of the District's capacity interest, the Developer will be entitled to reimbursement from the District for the WST Capacity Charge as permitted by applicable law.

**Section 3.05 Responsibility for Design, Financing, and Construction.** Unless otherwise specifically provided in this Agreement, the District or the Developer will design, finance, construct, and convey to the City, or other applicable provider, all Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities required to provide retail water and wastewater services to the District, all at no cost to the City. All water and wastewater facilities required to serve the City Service Areas will be designed in accordance with applicable City requirements and design standards as well as any applicable regulations of other governmental entities with jurisdiction. The plans and specifications for such facilities will be subject to review and approval by the City prior to the commencement of construction, which review and approval will not be unreasonably withheld, conditioned, or delayed, and the City will collect all applicable review fees in accordance with its policies and procedures, subject to the terms of this Agreement.

**Section 3.06 Easements and Land.** All On-Site Water and Wastewater Facilities in City Service Areas will be constructed within dedicated utility easements, lands, or public rights-of-way, and all required easements will be dedicated at the earlier of the City's approval of construction plans or a final plat for the land within which the facilities will be constructed. Land and easements required for Major Water and Wastewater Facilities will be conveyed to the City, or other applicable provider, by the Developer or the District at the earlier of the City's approval of construction plans or a final plat for the land within which the facilities will be constructed, but the Developer will be entitled to reimbursement for such lands and easements from the District as permitted under the rules of the Commission. The Developer and the District agree to use reasonable, good faith efforts to acquire all land and easements required for Major Water and Wastewater Facilities located outside the Project through negotiation;

however, if the Developer and the District are unable to obtain any required easement by agreement, the City agrees, upon request, to promptly request City Council approval to acquire the easement in question utilizing the City's power of eminent domain and, upon such approval, to promptly initiate and diligently pursue the condemnation of the easement in question. If the City Council does not approve proceeding with condemnation of any required easement within 60 days of the Developer or the District requesting, in writing, that the City staff initiate a Council action item for such condemnation, then the Developer or the District may request approval of an alternative routing for the facility in question, and the City agrees that its approval of such alternative routing will not be unreasonably withheld, conditioned, or delayed. The City's actual and reasonable cost of acquiring any required easement by eminent domain will be reimbursed by the Developer within 30 days of receipt of an invoice, including all supporting documentation, from the City. The Developer will be entitled to reimbursement by the District for all costs paid by the Developer for offsite easement acquisition as permitted by the rules of the Commission.

**Section 3.07 City's Responsibility for Oversizing.** In the event that the City requests oversizing, the City will be responsible for the cost of oversizing any Major Water and Wastewater Facilities or On-Site Water and Wastewater Facilities in accordance with the Applicable Rules and will reimburse the Developer for such costs within 30 days after substantial completion of the facilities in question.

**Section 3.08 Commencement of Construction; Notice; Inspections.** Following City release of the plans and specifications for each water and wastewater utility project in City Service Areas and prior to the commencement of construction, the Constructing Party will give twenty (20) days' advanced written notice to the City in order to allow the City to assign an inspector. The City will inspect all Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities in City Service Areas for compliance with the released plans and specifications. The City will also, for each connection in City Service Areas, conduct the series of plumbing inspections required by the Texas Plumbing License Law and the Applicable Rules and issue a customer service inspection certificate when all inspections are satisfactorily completed. The City will provide the inspections contemplated by this Section for the standard fees charged by the City for inspections inside the City limits, which fees will be collected by the City from the customer requesting the inspection. The City will retain copies of all inspection reports for the City's applicable records retention period, and provide them to the District upon request.

**Section 3.09 Conveyance to City; Ownership, Operation, and Maintenance of On-Site Water and Wastewater Facilities and Major Water and Wastewater Facilities.** Upon completion of construction of any Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities constructed by or on behalf of the District in City Service Areas, (a) the City will accept such facilities for operation and maintenance, as documented in a letter from the City to the Developer and the District in accordance with the Applicable Rules, including, without limitation, pre-acceptance final inspections and a one (1) year maintenance bond requirement on all facilities offered for dedication; and (b) the Constructing Party will promptly convey those facilities to the City, subject to (i) the City's obligation to provide service to the District as provided in this Agreement, (ii) a reservation of all capacity in those facilities, excepting capacity associated with oversizing, if any, for the benefit of the District, and (iii) the Developer's right to reimbursement from the District for the cost of those facilities, in consideration of the District's capacity interest, and in accordance with the rules of the Commission. Any such conveyance will not affect the Developer's right to reimbursement from the District for the cost of any facilities or capacity in facilities constructed or financed by the Developer. The Constructing Party will also assign all contract rights, warranties, guarantees, assurances of performance, and bonds related to the facilities conveyed

to the City. The City agrees that its acceptance of such facilities and the related assignments will not be unreasonably withheld, conditioned, or delayed as long as the facilities have been constructed in accordance with the plans and specifications released by the City and otherwise conform to the requirements of this Agreement. Upon any such conveyance and acceptance, the City agrees to operate and maintain such facilities to provide service to the District in accordance with this Agreement.

#### **ARTICLE IV. DEVELOPMENT**

##### **Section 4.01 General Development Matters.**

**(a) Development in Accordance with Land Plan, Design Standards, and Roadway Plan.** The Developer will develop the Land in accordance with the Land Plan, the Design Standards, and the Roadway Plan. The Design Standards shall be incorporated into the Restrictive Covenants (defined below) and shall also identify the City as a third-party beneficiary to such covenants, conditions, and restrictions. The City hereby confirms its approval of the Land Plan, the Design Standards, and the Roadway Plan, including the land uses and densities shown thereon, as applicable. Due to the fact that the Project includes a significant land area and its development will occur in phases over a number of years, the City and the Developer acknowledge that changes to the Land Plan may become desirable due to changes in market conditions or other factors. Variations of a preliminary plat or final plat from the Land Plan that do not increase the allowable density of development of the Project or significantly alter the dispersion of the depicted Parkland and Open Space (as such terms are defined in Section 4.02(b)) will not require an amendment to the Land Plan. Further, the City will approve any minor deviations from the Land Plan called for by technical, site planning, or engineering considerations that promote flexibility in design and are consistent with the intent of the Project. Other changes to the Land Plan, as well as any changes to the Design Standards and the Roadway Plan, will be subject to review and approval by the City, which approval will not be unreasonably withheld, conditioned, or delayed. Although the Land Plan, Design Standards, and Roadway Plan cover the entire Project, revisions of the Land Plan, Design Standards, and/or Roadway Plan that only affect the land within one of the Successor Districts within the Project will only require the consent of the affected district and the City, as applicable.

**(b) Plat and Plan Review.** Plats and construction plans for development within the Land will be subject to review and approval by the City, which review and approval will not be unreasonably withheld, conditioned, or delayed, and the City will collect all applicable plat application and plan review fees in accordance with its policies and procedures for the standard fees charged by the City for development inside the City limits, subject to the terms of this Agreement.

**(c) Development and Construction Standards.** The Developer agrees that the Restrictive Covenants (defined in Section 4.02(a)) will require (i) that all builders comply with the building and construction standards contained in the Applicable Rules; (ii) that a minimum of three inspections (foundation, mechanical/framing, and final) will be performed by a certified independent third-party inspector to confirm compliance with such building and construction standards; and (iii) that the builders will provide the City with a copy of such inspections upon request. If a builder fails to comply with these requirements, the City will not be obligated to provide a water service connection for the structure in question until the non-compliance is corrected.

(d) **Fees.** The City will not charge any fees, including impact fees or capital recovery fees, to the Developer or the District that are not specifically set forth in this Agreement.

(e) **Variations.** The City agrees that this Agreement constitutes approval of variations necessary to develop the Project as contemplated herein.

#### **Section 4.02 Park and HOA Matters.**

(a) **Restrictive Covenants.** The Developer agrees that restrictive covenants enhancing and protecting the standard of development within the Project ("Restrictive Covenants") will be imposed against the land within each phase of development at the time development within that phase is commenced. In order to provide the City with an opportunity to confirm that the Restrictive Covenants are consistent with the requirements of this Agreement, the Restrictive Covenants will be subject to the review and approval of the City prior to recordation, which approval will not be unreasonably withheld, conditioned, or delayed.

(b) **Open Space, Park Land and Improvements.** The Project will be developed as a master-planned community with parkland, open space, greenbelts, trails, common area landscaping, and park improvements (collectively, "Open Space"), as generally depicted on the Land Plan. At least twenty-five percent (25%) of the Land will be comprised of Open Space. No parkland dedication or park fees will be required from the Developer for the Land. Parkland (defined as usable Open Space landscaped for informal, open play areas, or Open Space land developed for active and/or passive recreational uses) and Open Space within the Project will be a collection of privately owned, privately maintained common open space lots designed to (a) serve the recreational needs of the residents of the Project; (b) provide places and opportunities for interaction within the Project; and (c) provide opportunities for interaction with the natural environment. All Open Space and Parkland, including the landscaping for the "Parkway" and "Boulevard" roadways shown on the Roadway Plan, will be owned and maintained by the homeowner's association established under the Restrictive Covenants (the "HOA").

#### **Section 4.03 Drainage; Other Utilities and Services.**

(a) **Drainage.** The Land will be developed with an integrated storm water system and enhanced regional water quality system that will comply with the requirements of the Drainage Standards. The Drainage Facilities within the District (including Drainage Facilities located within the Parkland) will be owned, financed, operated, and maintained by the District and will be constructed within property owned or to be owned by the District or within assignable easements held by the District or dedicated by plat; therefore, customers and developers within the District will not be assessed any City drainage or water quality fees or charges prior to full purpose annexation.

(b) **Other Utilities.** Subject to Section 4.04(a), the Developer will have the right to select the providers of cable television, gas, telephone, telecommunications, and all other utilities and services, or to provide "bundled" utilities within the Land.

(c) **Solid Waste and Recycling Service.** The City shall be granted the exclusive right by the District and Developer to provide solid waste and recycling services within the District provided that it does so for all of the District's residences and for the same in-City rates, in the same manner, on the same terms and conditions, and subject to the same regulations and ordinances, as amended, that the City provides solid waste and recycling services to residences located within the City limits. The District will have no liability for such

charges except for services and charges incurred in the District's name. For City Service Areas, the City's charges for solid waste and recycling services will be included on the City's regular monthly water and wastewater bills to customers within the City Service Areas. Notwithstanding the foregoing, until the City exercises its right to become the exclusive provider of solid waste and recycling services within the District, the District may provide such services as permitted by applicable law.

**(d) Street Lighting.** The Developer will construct street lighting within the boundaries of the District in compliance with the Applicable Rules. Either the District, and each Successor District, or the HOA will operate and maintain the street lighting.

#### **Section 4.04 Roadway Matters.**

**(a) Public Streets and Rights-of-Way Administration.** If permitted by applicable law, the City may administer, manage, regulate, and control the use and the occupation by third parties of the public streets and rights-of-way within the District for the purpose of providing any service or product to adjoining or abutting property or to any other property within the District or the City. No third party may use or occupy any public street or right-of-way within the District for the purpose of providing any abutting, or adjoining property, or any other property within the City or the District, with any utility service, public service, data, voice or video transmission service, cable television, taxi or solid waste collection service, or any similar service or product, without first having obtained a franchise or license from the City, except as otherwise provided by state law. The City may require each such third party to obtain a franchise, license, or permit from the City; pay franchise and license fees to the City; and, as applicable, pay the fees established and collected by the State of Texas to be payable in lieu of a franchise fee for the use and occupancy of the streets; and to cause such fees to be paid to the City. Franchise, license, and use fees payable and paid by such third parties will be the sole consideration receivable by and payable to the City for the services to be provided by the City under this Section. The City will cause the above referenced third parties to repair all cuts, excavations, and damages by them to the streets and rights-of-way within the District. Neither the Developer nor the District is responsible for enforcing this Section. This Section does not apply to any improvements or facilities that are constructed, installed, maintained, or operated by or on behalf of the District.

**(b) Chaparral Road Improvements.** In order to facilitate access to the Land and the District, the City will make certain improvements to Chaparral Road from State Highway 195 east to northeastern boundary of the Land, as generally depicted on **Exhibit G** (the "Chaparral Road Improvements"). The Chaparral Road Improvements will include a minimum of four lanes. The City will acquire all right-of-way necessary for construction of the Chaparral Road Improvements (including, if necessary, utilizing the City's power of eminent domain) and, subject to reasonable force majeure events, will commence construction of the Chaparral Road Improvements by the one-year anniversary of the connection of the 1,000<sup>th</sup> single-family home within the Land to retail water and wastewater service (the "Chaparral Trigger Date"). Notwithstanding the foregoing, the City shall not be committed to commencing construction of the Chaparral Road Improvements at an accelerated rate in the event that single-family home connections within the Project exceed 300 per year, said connections estimated by the Developer to commence on or around the second-year anniversary of the Effective Date. In this event, (i) the City shall be obligated to commence construction of the Chaparral Road Improvements no later than the six-year anniversary of the Effective Date, and (ii) the City will not delay, withhold, or deny any development approvals related to the Project because construction of the Chaparral Road Improvements has not previously commenced or been completed. Following commencement of construction of the Chaparral Road Improvements, the City will use commercially reasonable and diligent efforts to complete them.

Upon receipt of all supporting documentation and evidence of payment by the City, the Developer will be obligated to reimburse the City for up to \$4,100,000 of the costs of the Chaparral Road Improvements on the schedule and as provided for in this Section 4.04(b) (the "Chaparral Road Costs"). The Developer will pay the Chaparral Road Costs in installments annually based upon the following schedule: The first payment shall become due and payable (i) 30 days after final completion of the Chaparral Road Improvements and the City has provided written notice of same to the Developer; or (ii) on the first anniversary of the Chaparral Trigger Date, whichever event occurs later (the "CR Payment Commencement Date"). Subsequent payments shall become due and payable each following year on the anniversary of the CR Payment Commencement Date until the Chaparral Road Costs have been paid in full; provided, however, that any outstanding balance of the Chaparral Road Costs shall become due and payable on the tenth (10<sup>th</sup>) anniversary of the CR Payment Commencement Date. Annual payments shall be equal to fifteen hundred dollars (\$1,500.00) multiplied by the number of water utility connections made in the preceding three hundred sixty-five (365) days. Payments not received when due shall accrue interest at the maximum rate provided by law from the applicable due date until paid. The Developer will be entitled to reimbursement from the District for the Chaparral Road Costs as permitted by applicable law. In the event that the City reasonably determines that additional right-of-way is needed from the Developer along the northern boundary of the Land, or land subsequently acquired by the Developer along Chaparral Road, the Developer shall publically dedicate such additional right-of-way at no cost upon the City's request, provided that the need for such additional right-of-way is determined prior to the time that the first subdivision plat within the Project is recorded and the additional right-of-way does not exceed one hundred feet (100') in width. The City, the Developer, and the District, as applicable, may enter into an interlocal agreement with Bell County regarding the ownership and maintenance of the Chaparral Road Improvements. For purposes of this provision, the term "force majeure event" means an event that is not within the control of the City and that the City could not have avoided by the exercise of diligence and care.

**(c) Trimmier Road.** Trimmier Road within the Land will be designed as a 40 m.p.h. roadway. The Roadway Plan includes two four-lane options for Trimmier Road (which is referred as the "Parkway" on the Roadway Plan) within the Project. If a traffic engineer selected by the Developer and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed) determines that, at full build-out of the Land and assuming Trimmier Road connects to an east-west thoroughfare south of the Land, less than four lanes are necessary in certain sections, but the City nevertheless desires that those sections be improved as a four-lane roadway, then the City will be responsible for the additional costs and will reimburse the Developer for such costs within 30 days after substantial completion of the section(s) of Trimmier Road in question, in accordance with Section 4.04(d) below. In the event that the City decides not to participate in oversizing at the time of road construction, the Developer will reserve such additional right-of-way necessary to construct a four lane road throughout the Project and dedicate the same to the public to facilitate the future expansion of Trimmier Road, said future expansion being conditioned on being constructed to the same standards as the rest of Trimmier Road throughout the Land.

**(d) Roadway Oversizing Costs.** In the event that the traffic engineer selected in Section 4.04(c) above determines that sections of Trimmier Road within the Project do not need to be four lanes, as evidenced by a sealed report providing for and justifying the same, and upon formal request of the City to the Developer, the City will be responsible for all costs of roadway oversizing, except the cost of right-of-way dedicated in Section 4.04(c) above, in accordance with the Applicable Rules and will reimburse the Developer for such costs within 30 days after substantial completion of the roadway in question.

**ARTICLE V.  
FINANCIAL AND BONDS**

**Section 5.01 Tax Rate.** The District will adopt its annual tax rate in compliance with the legal requirements applicable to municipal utility districts based on its debt service and operating and maintenance requirements, report the tax rate set by the District each year to the District's tax assessor/collector, and perform all acts required by law for its tax rate to be effective. Developer and the City anticipate that, once the District levies an ad valorem tax, the District's total annual ad valorem tax rate will be higher than the City's total annual ad valorem tax rate for several years.

**Section 5.02 Filing of Budget and Audit Report.** Upon request by the City, the District will provide the City with a copy of its annual audit and approved budget for each fiscal year.

**Section 5.03 Purposes.** The District may issue bonds or notes for the purposes of the purchase, construction, acquisition, repair, extension, and improvement of land, easements, works, improvements, facilities, plants, equipment, appliances, and capacity or contract rights necessary to (a) provide a water supply for municipal uses, domestic uses, and commercial purposes; (b) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (c) gather, conduct, divert, and control local storm water or other local harmful excesses of water in the District; (d) pay expenses authorized by Section 49.155 of the *Texas Water Code*; and (e) if authorized by law, develop and maintain park and recreational facilities as authorized by Subchapter N of Chapter 49 (Sections 49.461, *et seq.*) of the *Texas Water Code*. Further, subject to the approval of the Commission or statutory authorization to do so, the District may design, acquire, construct, finance, and issue bonds for Road Improvements as provided in Section 54.234 of the *Texas Water Code*. The District may also issue bonds for refunding purposes. The District may reimburse the Developer for expenditures authorized by applicable law and this Agreement.

**Section 5.04 Bond Requirements.** All bonds issued by the District shall comply with the following requirements: (a) the maximum maturity of the bonds shall not exceed thirty (30) years from the date of issuance of any one series of bonds; (b) the bonds shall expressly provide that the District shall reserve the right to redeem the bonds at any time beginning not later than the tenth (10<sup>th</sup>) anniversary date of issuance, without premium; (c) no variable rate bonds shall be issued by the District; and (d) no bonds shall be issued having any issuance date more than thirty (30) years from the date of the first issuance of bonds by the District without the City's approval, which will not be unreasonably withheld, delayed or denied.

**Section 5.05 Bonds Requiring Commission Approval.** At the time the District submits any application to the Commission for approval of the issuance of bonds for which Commission approval is required, the District will submit a copy of such application to the City. Any City objection to the bonds must (a) be in writing; (b) be given to the District within 30 days from the date of the City's receipt of the bond application; (c) be signed by the City Manager; and (d) specifically identify non-compliance or default and reference the provision in this Agreement that applies. If a City objection is made in compliance with this Section, the City and the District will use good faith efforts to resolve the City objection within 30 days, during which time the District will not proceed with the sale of the Bonds to which the City objection applies.

**Section 5.06 Refunding Bonds.** In connection with: (a) an advance refunding which (i) has a final maturity no longer than the final maturity on the obligations refunded, (ii) will achieve a net present value savings of at least three percent, and (iii) has savings that are substantially or fairly uniform over each maturity being refunded; or (b) a current refunding which (i) has a final maturity no longer than the final maturity on the refunded obligations,



(ii) will achieve a net present value savings, and (iii) has savings that are substantially or fairly uniform over each maturity of obligations being refunded, no prior notice to or City review or approval will be required; however, the District must deliver a certificate from its financial advisor that demonstrates that the proposed refunding will comply with this Section at least three business days before execution of the purchase agreement for the refunding and must deliver evidence of its compliance with the requirements of this Section to the City within three business days after the execution of the purchase agreement for the refunding.

**Section 5.07 Official Statements.** Within 30 days after the District closes the sale of any series of bonds, the District will provide a copy of the final official statement for such bonds, if applicable, to the City.

**Section 5.08 Other Funds.** The District may obtain and use funds and assets from any available, lawful source to provide for the acquisition, ownership, maintenance, and operation of its facilities, as well as to accomplish any purpose or to exercise any function, act, power, or right authorized by law. Such funds and assets may include revenues from any of the systems, facilities, properties, and assets of the District not otherwise committed for the payment of indebtedness of the District; maintenance taxes; loans, gifts, grants, and donations from public or private sources and revenues from any other source lawfully available to the District.

## **ARTICLE VI. TERM; ASSIGNMENT; COOPERATION**

**Section 6.01 Term.** The term of this Agreement will commence on the Effective Date and continue for 15 years thereafter, unless terminated on an earlier date under other provisions of this Agreement or by written agreement of the City, the District, and the Developer. Upon the expiration of 15 years, this Agreement may be extended, at the Developer's request, with City Council approval, for up to two successive 15-year periods.

**Section 6.02 Termination and Amendment by Agreement.** Except as provided in Section 6.01, this Agreement may be terminated or amended as to all of the Land at any time by mutual written agreement of the City, the Developer and, after its creation, the District, or may be terminated or amended only as to a portion of the Land by the mutual written agreement of the City, the owners of a majority of the portion of the Land affected by the amendment or termination and, after its creation, the District. After full build-out of the District, this Agreement may be amended by mutual written agreement of the District and the City, and the joinder of the Developer will not be required.

**Section 6.03 Assignment.** This Agreement, and the rights of the Developer hereunder, may be assigned by the Developer, to a purchaser of all or a portion of the undeveloped portion of Land. Any assignment will be in writing, specifically setting forth the assigned rights and obligations and be executed by the proposed assignee and a copy provided to the City. If the Developer assigns its rights and obligations hereunder as to a portion of the Land, then the rights and obligations of any assignee and the Developer will be severable, and the Developer will not be liable for the nonperformance of the assignee and vice versa. However, no assignment by the Developer shall release the Developer from any liability that resulted from an act or omission by the Developer that occurred prior to the effective date of the assignment. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, but will not impede development activities of any performing developer as a result of that nonperformance. Notwithstanding the foregoing, however, the Developer shall not have the right to assign this Agreement, or any right, title, or interest of the Developer under this Agreement, until the District has become a party to this Agreement. This Agreement is not intended to be binding upon, or create any encumbrance to title as to, any

ultimate consumer who purchases a fully developed and improved lot within the Land, nor is this Agreement intended to confer upon any such person or entity the status of a third party beneficiary.

**Section 6.04 Cooperation.** The City, the District, and the Developer each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder. The City agrees to cooperate with the Developer in connection with any waivers or approvals the Developer may desire from Bell County in order to avoid the duplication of processes or services in connection with the development of the Land. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken hereunder, the Developer and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution in their respective rights and obligations under this Agreement.

## **ARTICLE VII. MISCELLANEOUS PROVISIONS**

**Section 7.01 Notice.** Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement, or (iv) by facsimile or email with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or three days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

CITY:	City of Killeen P.O. Box 1329 Killeen, TX 76540-1329 Attn: City Manager/City Attorney
DEVELOPER:	WBW Land Investments, LP 3000 Illinois Street, Ste. 100 Killeen, Texas 76543
DISTRICT:	Bell County Municipal Utility District No. 2 c/o Armbrust & Brown, PLLC Attn: John W. Bartram 100 Congress Ave., Ste. 1300 Austin, Texas 78701

The parties may change their respective addresses to any other address within the United States of America by giving at least five days' written notice to the other party. The Developer and the City may, by giving at least five days' written notice to the other party, designate additional parties to receive copies of notices under this Agreement.

**Section 7.02 Severability; Waiver.** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is

possible. Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

**Section 7.03 Applicable Law and Venue.** The interpretation, performance, enforcement, and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Bell County, Texas.

**Section 7.04 Entire Agreement.** This Agreement contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the parties. This Agreement supersedes all other agreements between the parties concerning the subject matter.

**Section 7.05 Exhibits, Headings, Construction and Counterparts.** All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. The parties acknowledge that each of them have been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

**Section 7.06 Time.** Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

**Section 7.07 Authority for Execution.** The City certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with its City Charter and City ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the governing documents of each entity executing on behalf of the Developer.

**Section 7.08 Exhibits.** The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

- Exhibit A** - Metes and Bounds Description of the Land
- Exhibit B** - Design Standards
- Exhibit C** - Drainage Standards
- Exhibit D** - Land Plan
- Exhibit E** - Roadway Plan
- Exhibit F** - Utility Plan
- Exhibit G** - Depiction of Chaparral Road Improvements

\* \* \*

[signature page follows]

**IN WITNESS WHEREOF**, the undersigned parties have executed this Agreement on the dates indicated below.

**CITY:**

**CITY OF KILLEEN, TEXAS**

By: \_\_\_\_\_ *BSO*  
Name: Glenn Morrison  
Title: City Manager

Date: \_\_\_\_\_

**DEVELOPER:**

**WBW LAND INVESTMENTS, LP**, a Texas limited partnership

By: WBW Land Investments GP, LLC, a Texas limited liability company, its General Partner

By: \_\_\_\_\_  
Bruce Whitis, Manager

Date: \_\_\_\_\_

**DISTRICT:**

**BELL COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 2**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
President, Board of Directors

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Secretary, Board of Directors

**EXHIBIT A**  
[Metes and Bounds Description of the Land]

FIELD NOTES  
1373.0 ACRE TRACT  
BELL COUNTY, TEXAS

FIELD NOTES for a 1373.0 acre tract of land in Bell County, Texas, being part of the H. T. & B. RR. Co Survey, Abstract No. 449, the W. L. Blackman Survey, Abstract No. 135, the Washington Co. RR. Co. Survey, Abstract No. 917, the J. W. Fletcher Survey, Abstract No. 335, the W. S. Ellis Survey, Abstract No. 985, the A. S. Harris Survey, Abstract No. 461, the W. C. Pearce Survey, Abstract No. 1241, the Benjamin Ellis Survey, Abstract No. 294, the Benjamin Ellis Survey, Abstract No. 293, the M. Carpenter Survey, Abstract No. 233, the R. H. Gibbs Survey, Abstract No. 1194, and the J. T. Fondren Survey, Abstract No. 334, J. W. Green Survey, Abstract Number 956, the R. H. Gibbs Survey, Abstract Number 1194, part of the J. E. McKenzie Survey, Abstract Number 580, J. B. Stringer Survey, Abstract Number 1189, and the Thomas H. Gatlin Survey, Abstract Number 354 and the land herein described being all of a called 397.433 acre tract designated Exhibit A, Page 1 and 2, all of a called 9.661 acre tract designated Exhibit A, Page 3, all of a called 120.299 acre tract designated Exhibit A, Page 4 and part of a called 641 acre tract designated Exhibit A, Page 5, conveyed to GHW Killeen Ranch, L.P. of record in Document #2009-41130, Official Public Records of Real Property, Bell County, Texas, and being part (5.00 acres designated Save & Except in Doc. #2009-41130) of a called 637.66 acre tract conveyed to Glen H. Womack and wife, Alice M. Womack, of record in Volume 1704, Page 139, Deed Records of Bell County, Texas, all of that certain acre tract described in deed to Whits Land Investments, Ltd. (hereinafter referred to as "WLI") in Volume 7526, Page 488, Official Public Records of Real Property, Bell County, Texas, and all of that certain called 10.21 acre tract described in deed to Whits Land Investments, Ltd. in Volume 8415, Page 686, Official Public Records of Real Property, Bell County, Texas, said 1373.0 acre tract being more particularly described as follows:

**BEGINNING** at a 3/8" iron rod on the south right-of-way line of Chaparral Road (no dedication found) at the northerly northwest corner of said 120.299 acre tract and the northeast corner of a called 7.83 acre tract conveyed to Frederick P. Henry and wife, Joann E. Henry, of record in Volume 1239, Page 267, Deed Records of Bell County, Texas, for the most northerly northwest corner of this tract;

**THENCE N. 69° 35' 50" E., 1067.13 feet,** with the south right-of-way line of said Chaparral Road and the north line of said 120.299 acre tract, to a 1/2" iron rod with cap stamped "M&ASSOC KILLEEN" at the northeast corner of said 120.299 acre tract, being on the west line of a called 120 acre tract conveyed to Thomas E. Whitehead, of record in Volume 2541, Page 239, Official Public Records of Real Property, Bell County, Texas, for the most northerly northeast corner of this tract;

**THENCE S. 20° 35' 36" E., 3966.79 feet,** with the east line of said 120.299 acre tract and the west line of said 120 acre tract, to a 3/8" iron rod at the southeast corner of said 120.299 acre tract and the southwest corner of said 120 acre tract, being on the north line of said 641 acre tract, for an interior corner of this tract;

**THENCE N. 68° 32' 40" E., 125.67 feet,** with the north line of said 641 acre tract and the south line of said 120 acre tract, to a 3/4" iron pipe at the northeast corner of said 641 acre tract, being the northwest corner of the remainder of a called 160 acre tract conveyed to J. Kay Cosper, of record in Volume 2260, Page 446, Deed Records of Bell County, Texas, for an "L" corner of this tract;

**THENCE S. 20° 46' 59" E.,** with the east line of said 641 acre tract and the west line of said remainder of 160 acre tract, at a distance of 3250.00 feet, pass the southwest corner of said remainder of 160 acre tract and the northwest corner of that certain tract conveyed to Donna Ray Hoskins, of record in Document #2007-8403, Official Public Records of Real Property, Bell County, Texas, continuing on same course with the west line of said Hoskins tract for a total distance of 6232.52 feet, to a fence corner post found at an angle corner of said 641 acre tract (deed conflict in this area) and a corner of said Hoskins tract, for an angle corner of this tract;

**THENCE S. 21° 00' 54" W., 49.05 feet,** with fence line to a fence corner post found on the north line of said 397.433 acre tract at the occupied southwest corner of said 160 acre tract, being the northerly southeast corner of said 641 acre tract, for an interior corner of this tract;

**THENCE** in a southeasterly direction with existing fence on the occupied line between said 397.433 acre tract and said 160 acre tract, the following four (4) calls:

1. S. 75° 51' 20" E., 170.97 feet, to a fence corner post, for an angle corner of this tract;
2. S. 65° 06' 04" E., 131.17 feet, to a fence corner post, for an angle corner of this tract;
3. S. 60° 33' 53" E., 255.46 feet, to a fence corner post, for an angle corner of this tract;
4. S. 77° 38' 37" E., 258.24 feet, to a 3/8" iron rod at the most northerly northeast corner of said 397.433 acre tract, being at an angle corner in the west line of a called 163.343 acre tract conveyed to Gary L. McLean, Trustee of the Gary L. McLean 1998 Trust, of record in Volume 5833, Page 505, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

**THENCE S. 23° 56' 01" E., 1662.98 feet,** with the westerly east line of said 397.433 acre tract and the west line of said 163.343 acre tract, to a 5/8" iron rod at an interior corner of said 397.433 acre tract and the southwest corner of said 163.343 acre tract, for an interior corner of this tract;

**THENCE N. 69° 30' 36" E., 1750.30 feet,** with a north line of said 397.433 acre tract and the southerly south line of said 163.343 acre tract, to a 3/8" iron rod with cap stamped "M&ASSOC KILLEEN" at an interior corner of said 397.433 acre tract and the westerly southeast corner of said 163.343 acre tract, for an "L" corner of this tract;

**THENCE N. 20° 30' 33" W., 234.41 feet,** with a west line of said 397.433 acre tract and the westerly east line of said 163.343 acre tract, to a 60D nail at an "L" corner of said 397.433 acre tract and an interior corner of said 163.343 acre tract, for an "L" corner of this tract;



1373.0 Acre Notes (cont'd)

THENCE N. 69° 36' 14" E., 867.04 feet, with a north line of said 397.443 acre tract and the northerly south line of said 163.343 acre tract, to a 3/8" iron rod with cap stamped "M&ASSOC KILLEEN" at an "L" corner of said 397.433 acre tract and the easterly southeast corner of said 163.343 acre tract, being on the west line of a called 290.634 acre tract conveyed to Gary L. McLean and wife, Judith C. McLean, of record in Volume 3416, Page 574, Official Public Records of Real Property, Bell County, Texas, for an "L" corner of this tract;

THENCE S. 21° 06' 22" E., 388.88 feet, with a east line of said 397.443 acre tract and the west line of said 290.634 acre tract, to a 3/8" iron rod with cap stamped "M&ASSOC KILLEEN" at an interior corner of said 397.433 acre tract and the westerly southwest corner of said 290.634 acre tract, for an interior corner of this tract;

THENCE N. 69° 23' 10" E., 2136.36 feet, with a north line of said 397.443 acre tract and the northerly south line of said 290.634 acre tract, to a steel game fence corner post at the northeast corner of said 397.433 acre tract and an interior corner of said 290.634 acre tract, for the most southerly northeast corner of this tract;

THENCE S. 20° 08' 40" E., 1248.93 feet, with game fence on the easterly east line of said 397.443 acre tract and the easterly west line of said 290.634 acre tract, to a steel game fence corner post at the northerly southeast corner of said 397.433 acre tract and the easterly southwest corner of said 290.634 acre tract, being on the north line of a called 211.067 acre tract conveyed to Bryan Zynda, of record in Volume 5092, Page 86, Official Public Records of Real Property, Bell County, Texas, for the northerly southeast corner of this tract;

THENCE S. 69° 41' 54" W., 1081.06 feet, with a south line of said 397.443 acre tract and the north line of said 211.067 acre tract, to a 1/2" iron pipe at an interior corner of said 397.433 acre tract and the northwest corner of said 211.067 acre tract, for an interior corner of this tract, whence a 3/8" iron rod found bears N. 69° 22' 11" E., 17.40 feet;

THENCE S. 20° 23' 00" E., 2701.19 feet, with a east line of said 397.443 acre tract and the west line of said 211.067 acre tract, to a railroad spike at the southerly southeast corner of said 397.433 acre tract and the southwest corner of said 211.067 acre tract, being on the north line of a called 232.63 acre tract conveyed to James Whitis Land Investments of record in Document #2009-32469, Official Public Records of Real Property, Bell County, Texas;

THENCE N. 68° 26' 19" E., 454.34 feet, east along the north line of said W.L.I tract, and south line of said Zynda tract, 454-73/100 feet to a Corps of Engineers Concrete Monument stamped number 4-84 for the northeast corner of said W.L.I tract, also being the southwest corner of a tract described in the deed to the United States of America TRACT No. 412 recorded in volume 915, page 16 of said Deed Records, also being the northwest corner of the tract described in the deed to the United States of America, TRACT No. 504, recorded in volume 896, page 606 of said Deed Records.

THENCE along the east line of said W.L.I tract; and the west line of said TRACT No. 504 with the following courses:

1. S. 08° 40' 04" W., 406.56 feet to a Corps of Engineers Concrete Monument stamped number 5-94;
2. S. 08° 51' 47" W., 329.27 feet to a Corps of Engineers Concrete Monument stamped number 5-93;
3. N. 57° 21' 58" E., 691.51 feet to a Corps of Engineers Concrete Monument stamped number 5-92;
4. S. 32° 38' 49" E., 388.37 feet to a Corps of Engineers Concrete Monument stamped number 5-91;
5. S. 88° 52' 36" E., 756.76 feet to a Corps of Engineers Concrete Monument stamped number 5-90; and
6. S. 12° 07' 03" W., 898.64 feet to a 5/8 inch iron rod set, from said 5/8 inch iron rod set, a Corps of Engineers Concrete Monument found stamped number 5-89 bears S. 12° 07' 03" W., 157.24 feet.

THENCE S. 71° 30' 40" W., 3543.47 feet to a 5/8 inch iron rod in the east margin of Live Oak Cemetery Road, a 60 feet right of way width and being in the west line of said W.L.I tract.

THENCE along said east margin of said Road with the following courses:

1. N. 65° 05' 28" W., 331.63 feet to a 5/8 inch iron rod;
2. N. 64° 23' 53" W., 455.12 feet to a 5/8 inch iron rod;
3. N. 43° 33' 18" W., 276.34 feet to a 5/8 inch iron rod for the most southern corner of the called 23.31 acre tract designated at Exhibit "C" in said W.L.I deed of record, also being the southwest corner of said 10.21 acre tract;

THENCE N. 43° 04' 22" E., 433.10 feet departing the north margin of Live Oak Cemetery Road, to a 5/8 inch iron rod being the southeast corner of said 23.31 acre tract and west line of said 10.21 acre tract to a 5/8 inch iron rod.

THENCE N. 19° 57' 16" W., 2251.08 feet to a 5/8 inch iron rod.

THENCE S. 70° 03' 32" W., 740.12 feet to a 5/8 inch iron rod.

1373.0 Acre Notes (cont'd)

THENCE N. 19° 57' 15" W., 44.84 feet to an iron rod in the south right of way line of Acorn Lane as described in a Final Judgment recorded in Number 95,340-B District Court Records, Bell County, Texas and being in the called west line of said WBH tract

THENCE S. 69° 30' 06" W., 202.43 feet with the original south line of said 397.443 acre tract, the south line of said Acorn Lane to a 3/8" iron rod;

THENCE S. 69° 32' 53" W., with the original south line of said 397.443 acre tract, the south line of said Acorn Lane and over and across said 50.14 acre tract, at a distance of 598.69 feet, pass a 5/8" iron rod with cap stamped "RCS" on the easterly west line of said 50.14 acre tract and the east line of a called 5 acre tract conveyed to Gloria Johnyce Dunn, Linda Sue Carrell and James William Cospur, Jr., of record in Volume 1708, Page 383, Deed Records of Bell County, Texas, continuing on same course with the original south line of said 397.433 acre tract and the south line of said Acorn Lane, over and across said 5 acre tract, for a total distance in all of 913.74 feet, to a point at the original westerly southwest corner of said 397.433 acre tract, for a southwest corner of this tract, whence a 1/2" iron rod bears S. 69° 32' 53" W., 5.64 feet;

THENCE N. 20° 33' 43" W., with a west line of said 397.443 acre tract, at a distance of 60.41 feet, pass a 1/2" iron rod found at the southeast corner of a called 11.25 acre tract conveyed to Arthur W. Lutz, of record in Volume 3867, Page 10, Official Public Records of Real Property, Bell County, Texas, on the north line of said Acorn Lane, continuing on same course with a west line of said 397.433 acre tract and the east line of said 11.25 acre tract, for a total distance in all of 1692.15 feet, to a 1/2" iron rod at an angle corner of said 397.433 acre tract and an angle corner of said 11.25 acre tract, for an angle corner of this tract;

THENCE N. 44° 23' 49" W., 963.35 feet, with a west line of said 397.443 acre tract, the east line of said 11.25 acre tract and the east line of a called 5.82 acre tract conveyed to Arthur W. Lutz, of record in Volume 3326, Page 241, Official Public Records of Real Property, Bell County, Texas, to a 3/8" iron rod found at an angle corner of said 397.433 acre tract and the northeast corner of said 5.82 acre tract, being the northerly southeast corner of said 641 acre tract, for an interior corner of this tract;

THENCE S. 68° 49' 25" W., 254.77 feet, with a south line of said 641 acre tract and the north line of said 5.82 acre tract, to a 1/2" iron rod at the northwest corner of said 5.82 acre tract, being the northeast corner of a called 19.674 acre tract conveyed to Richard J. Sofaly and Karla J. Sofaly, of record in Volume 6151, Page 347, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

THENCE S. 68° 36' 30" W., 152.96 feet, with a south line of said 641 acre tract and the north line of said 19.674 acre tract, to a 3/4" iron pipe at an interior corner of said 641 acre tract and the northerly northwest corner of said 19.674, for an interior corner of this tract;

THENCE S. 07° 48' 16" E., 907.55 feet, with a east line of said 641 acre tract and the west line of said 19.674 acre tract, to a fence corner post at an angle corner of said 641 acre tract and an angle corner of said 19.674, for an angle corner of this tract;

THENCE S. 09° 20' 42" W., 39.12 feet, with a east line of said 641 acre tract and the west line of said 19.674 acre tract, to a 3/4" iron pipe at an angle corner of said 641 acre tract and an angle corner of said 19.674, for an angle corner of this tract;

THENCE S. 12° 47' 58" E., 315.66 feet, with a east line of said 641 acre tract and the west line of said 19.674 acre tract, to a 3/4" iron pipe at the southerly southeast corner of said 641 acre tract and an interior corner of said 19.674 acre tract, for a southeast corner of this tract;

THENCE S. 57° 19' 53" W., 454.18 feet, with a south line of said 641 acre tract and a north line of said 19.674 acre tract, to a 3/4" iron pipe at an angle corner of said 641 acre tract and the southerly northwest corner of said 19.674 acre tract, being the northeast corner of a called 60.5 acre tract designated Second Tract and the east corner of a called 6.3 acre tract designated Third Tract, conveyed to Hulona Ruth Millsaps, of record in Volume 2935, Page 365, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

THENCE S. 88° 16' 26" W., 1884.75 feet, with a south line of said 641 acre tract and the north line of said 6.3 acre tract, to a 1/2" iron rod at the southwest corner of said 641 acre tract and the northwest corner of said 6.3 acre tract, being on the east line of a called 296.02 acre tract designated First Tract, conveyed to Hulona Ruth Millsaps, of record in Volume 2935, Page 365, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

THENCE N. 20° 41' 14" W., 4066.10 feet, with the west line of said 641 acre tract and the westerly east line of said 296.02 acre tract, to a 1/2" iron rod at the southerly northwest corner of said 641 acre tract and an interior corner of said 296.02, for a northwest corner of this tract;

THENCE N. 80° 43' 06" E., 581.76 feet, with a north line of said 641 acre tract and a south line of said 296.02 acre tract, to a 1/2" iron rod with cap stamped "M&ASSOC KILLEEN" at an interior corner of said 641 acre tract and the northerly southeast corner of said 296.02 acre tract, for an interior corner of this tract;

THENCE N. 21° 24' 51" W., 1231.85 feet, with the west line of said 641 acre tract and the easterly east line of said 296.02 acre tract, to a 3/4" iron pipe at an "L" corner of said 641 acre tract and the northeast corner of said 296.02, for an "L" corner of this tract;

CLOSURE REPORT

Wed Feb 21 2013

LINE	Bearing	Distance
BEGINNING		
LINE 1	N 89°45'50" E	1067.17
LINE 2	S 20°35'36" E	3966.79
LINE 3	N 66°22'40" E	125.67
LINE 4	S 20°45'59" E	6232.82
LINE 5	S 21°20'54" W	49.09
LINE 6	S 75°41'20" E	170.97
LINE 7	S 65°26'04" E	101.17
LINE 8	S 60°53'03" E	255.46
LINE 9	S 73°39'37" E	258.24
LINE 10	S 23°26'01" E	1662.98
LINE 11	N 69°20'36" E	1750.30
LINE 12	N 20°20'33" W	294.41
LINE 13	N 69°26'24" E	867.04
LINE 14	S 21°22'22" E	368.88
LINE 15	N 63°23'10" E	2136.06
LINE 16	S 20°23'46" E	1348.93
LINE 17	S 62°41'54" W	1061.06
LINE 18	S 20°23'00" E	2702.19
LINE 19	N 68°28'19" E	454.34
LINE 20	S 08°40'04" W	406.56
LINE 21	S 08°11'47" W	329.27
LINE 22	N 57°21'58" E	691.51
LINE 23	S 32°28'49" E	398.37
LINE 24	S 88°22'36" E	756.26
LINE 25	S 12°07'03" W	899.64
LINE 26	S 77°39'40" W	2543.47
LINE 27	N 65°05'28" W	331.63
LINE 28	N 64°23'53" W	455.72
LINE 29	N 43°33'18" W	176.34
LINE 30	N 43°06'22" E	433.20
LINE 31	N 18°57'16" W	1251.08
LINE 32	S 70°03'32" W	740.12
LINE 33	N 19°57'13" W	44.24
LINE 34	S 62°30'06" W	202.43
LINE 35	S 69°52'53" W	913.74
LINE 36	N 20°33'43" W	1692.15
LINE 37	N 41°22'49" W	363.35
LINE 38	S 65°49'25" W	754.77
LINE 39	S 68°26'30" W	152.96
LINE 40	S 07°49'16" E	907.55
LINE 41	S 04°22'42" W	39.12
LINE 42	S 12°47'58" E	315.66
LINE 43	S 57°19'13" W	454.18
LINE 44	S 86°18'26" W	1884.75
LINE 45	N 20°41'14" W	4066.70
LINE 46	N 82°43'06" E	581.76
LINE 47	N 21°24'51" W	1231.25
LINE 48	S 69°06'01" W	12.65
LINE 49	N 21°16'52" W	2649.55
LINE 50	N 21°06'13" W	137.66
LINE 51	N 20°30'18" W	143.82
LINE 52	N 20°55'42" W	933.30
LINE 53	N 26°21'59" W	13.51
LINE 54	N 39°27'36" W	58.26
LINE 55	N 63°41'40" E	1432.22
LINE 56	N 20°23'55" W	2494.54
LINE 57	N 69°09'30" E	342.07
LINE 58	N 21°09'46" W	497.93
END-BEGINNING		

Closure Error Distance > 0.00000  
 Total Distance > 59690.385  
 Area: 59807805.9 sq Ft, 1373.0 acres



*A. W. Kessler*  
 2-21-13

**EXHIBIT B**  
[Design Standards]

**Exhibit B - Design Standards**  
 Bell County Municipal Utility District No. 2

**A. TOTAL DEVELOPMENT INTENSITY**

The Project shall be limited to a maximum overall gross density of 2.75 dwelling units to the acre, measured in the aggregate.

**B. SINGLE FAMILY RESIDENTIAL USE  
 (DETACHED AND DUPLEX UNITS)**

Development standards:

	Single Family Residential
Front yard (min)	20 ft.
Lot width (min)	45 ft.
Lot depth (min)	100 ft.
Lot size (min)	5,000 sq. ft.
Front yard: garage door (min)	25 ft.
Side yard	5 ft.
Building to building separation on lots 60 ft. and larger	15 ft.
Rear yard (min)	10 ft.
Side and rear yard for accessory building (min)	5 ft. ; 0 ft. for common walls
Building height (max)	35 ht./3 stories

Setback encroachment:

These uses and structures may encroach into a yard or required setbacks as follows.

Type of structure or use	Residential uses
Air conditioning equipment	Any part of the side and rear yard
Arbors and trellises	Any yard, at least 5 ft. from neighbor's Property Line
Awnings	No more than 3 ft. into front, side or rear yard; may hang over easements at no less than 7 ft. in height from grade

Residential lot limitations	Cumulative percentage of permitted dwelling units
No more than 675 lots may be less than 50 feet in width	(18% of 3,750)
No more than 2,250 lots may be less than 60 feet in width	(60% of 3,750)
No more than 3,375 lots may be less than 70 feet in width	(90% of 3,750)
No more than 3,750 lots total	

Maximum Duplex Intensity – No more than 200 duplexes are permitted in the project.

Mandatory Homeowner Association - A mandatory homeowner association shall be created and maintained for all single household and two household residential development.

Building Orientation - Household dwellings must be oriented where the front façade is generally parallel to and facing the street as much as possible, and not another dwelling on an adjacent lot. On corner lots, houses may face the corner of either fronting street.

Exterior Wall Standards - Exterior surface area (all stories) of primary buildings shall consist of clay brick, ledge stone, fieldstone, cast stone, granite, tile, painted or tinted stucco, and factory tinted (not painted) split faced concrete masonry unit, cementitious-fiber planking (not panels) or similar material.

Solid wood planking, decorative cementitious-fiber panels and similar materials may be used for accent features.

Architectural Design - All building fronts shall have at least four different design features to break the wall plan. The following are examples of the types of design features that shall be utilized: horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical "elevation" off-sets, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal, or similar design features.

Garages - Garage door articulation shall include detailing and/or relief on the door surface using wood or wood-like finished materials.

Garage doors are limited to 2-car garage size.

Garage – flush with façade - Garage doors flush with the street facing façade require detailing on the façade to de-emphasize the visual impact of the garage, including trim or banding around the garage door.

Garage – side-loaded - Garages that are side-loaded (in relation to the street) are a preferred garage type provided that driveway pavement is generally limited to the minimum necessary for safe vehicular movement.

Corner lot garage placement - Minimize the visual prominence of garage and driveway placement on corner lots by incorporating the following:

Avoid garage placement/driveway access from a side street that is centered on an approaching street.

House plan and façade repetition - Same floor plan, different elevation, same side of the street. When building different elevations of the same plan on the same side of the street, two lots must be skipped before repeating the same elevation.

House plan and façade repetition - Same floor plan, different elevation, opposite side of the street. When building different elevations of the same plan on the opposite side of the street, one and a half lots must be skipped before repeating the same elevation.

House plan and façade repetition - Same floor plan, same elevation, same or opposite side of the street. When building same or similar elevations of the same floor plan on the same or opposite side of the street,

four lots must be skipped before repeating the same elevation. Same elevations may not be facing opposite one another.

**Roofs** - On the buildings with pitched roofs, the minimum roof pitch is 4:12. Pitched roofs shall be clad in 25-year minimum composition shingles or low reflectivity galvanized metal roofing materials.

**Required landscaping:**

Front yard of lot – One native tall tree or two native short trees.

Existing native tall and short trees may be used to meet minimum tree planting requirements.

**Tree Size** - Native tall trees must have a trunk of at least 1.5 in. caliper and 10-12 ft. ht. Native short trees must have a caliper of at least 1.5 in. (combined total inches if multi-trunk) and 8-10' height.

**Trees Placement** - Trees may be clustered in groups, to present a natural environment and ease maintenance. All trees must be placed on the lot being developed, unless otherwise permitted.

**Landscape Maintenance** - Trees and vegetation, irrigation systems, fences, walls and other landscape elements are considered elements of the project in the same way as parking, building materials and other site details. The applicant, landowner or successors must be jointly and severally responsible for regular maintenance of all landscaping elements in good condition.

**Replacement** - Landscape elements that are removed or dead must be promptly replaced.

**C. MULTI-FAMILY RESIDENTIAL USE**

Development standards:

	Minimum
Front yard (min)	15 ft.
Front yard: garage door (min)	25 ft.
Side yard (min)	15 ft.
Rear yard (min)	25 ft.
Side and rear yard for accessory building (min)	15 ft.
Spacing between buildings (min)	20 ft.
Building height (max)	3 stories

Setback encroachment:

These uses and structures may encroach into a yard or required setbacks as follows.

Type of structure or use	Residential uses
Air conditioning equipment	Any part of the side and rear yard
Arbors and trellises	Any yard, at least 5 ft. from neighbors Property Line
Awnings	No more than 3 ft. into front, side or rear yard; may hang over easements at no less than 7 ft. in height from grade
Bay windows, chimneys, overhanging eaves	No more than 3 ft. into any yard
Retaining walls	Any yard on the site
Satellite dishes at least 1 m in	Side and rear yard, at least 10 ft. from Property Line

diameter	
----------	--

Maximum Development Intensity – No more than 300 multi-family dwelling units are permitted in the project.

Four-Plex Residential Buildings – Four-plex Residential Buildings are not a permitted use.

Pedestrian connectivity - Connecting walkways, at least 5 feet in width, must link perimeter public sidewalks with building entries.

Dumpster Enclosures - Dumpster enclosures must be located at least 25 feet from a residential use.

Multiple Household Structure Orientation - Buildings must be oriented towards the perimeter streets, or an internal drive, rather than orientation only to internal parking lots.

Service Area Screening - Loading docks, waste disposal areas and similar uses must be screened from public streets, and primary entrances with fencing, walls and/or landscaping.

Connectivity for multi-family residential development - Multi-family development must have pedestrian and vehicular connections to adjacent residential and commercial development.

Circulation - To the maximum extent practicable, pedestrians and vehicles must be separated through walkways or sidewalks.

Exterior Wall Pattern – Street facing facades must be articulated with bays, insets, balconies, porches, or stoops related to entrances and windows.

Four-sided Design - All walls viewed from a public street must include materials and design characteristics consistent with those on the front.

Building Entries - Building entries next to a public street, private drive or parking area must be articulated to providing an expression of human activity or use in relation to building size. Doors, windows, entranceways, and other features such as corners, setbacks, and offsets can be used to create articulation.

Garage Doors - Front loading garage doors on multi-family residential buildings must include the following; every two single-bay garage doors or every double garage door must be offset by at least 4 ft. from an adjacent garage door. Garage doors must integrate into the overall design of the site with color and texture.

Windows and Transparency - All walls and elevations on all floors of multiple household buildings must have windows, except where necessary to assure privacy for adjacent property owners.

Building Roofs - On buildings with pitched roofs, the minimum roof pitch is 4:12. On buildings where flat roofs are the predominant roof type, parapet walls must vary in height and/or shape at least once every no more than 50 ft. along a wall.

Building material - Masonry, stone and/or brick must be used as exterior materials on at least 40% of exterior surface area. Wood, fiber-cement siding, corrugated metal, and stucco are examples of appropriate secondary exterior materials. T-1-11 and other plywood-based siding materials are prohibited.



**Mechanical Equipment Screening** - Rooftop mechanical equipment must be hidden or screened with architecturally integral elements at least as high as the equipment to be screened. Makeshift equipment screens, such as wooden or plastic fences, are prohibited.

**D. COMMERCIAL USE**

Development standards:

Commercial	
Front yard (min)	25 ft.
Side yard (min)	15 ft. when adjoining side street; 10 when adjoining residential lots; 0 ft. for all other instances
Rear yard (min)	0 ft. except that a rear yard of not less than 10 ft. when abutting residential lots
Side and rear yard for accessory building (min)	Same as main building
Spacing between buildings (min)	0 ft. for common walls or 20 ft.
Building height (max)	2 stories

Setback encroachment:

These uses and structures may encroach into a yard or required setbacks as follows.

Type of structure or use	Residential uses
Air conditioning equipment	Any part of the side and rear yard
Arbors and trellises	Any yard, at least 5 ft. from neighbor's Property Line
Awnings	No more than 3 ft. into front, side or rear yard; may hang over easements at no less than 7 ft. in height from grade
Bay windows, chimneys, overhanging eaves	No more than 3 ft. into any yard
Satellite dishes at least 1 m in diameter	Side and rear yard, at least 10 ft. from Property Line

**Connecting walks** - Required sidewalks serving non-residential lots must connect to primary building entrances and parking in the lot.

**Dumpster Enclosures** - Dumpster enclosures must be located at least 25 feet from a residential use.

**Service Area Screening** - Loading docks, waste disposal areas and similar uses must be screened from public streets, and primary entrances with fencing, walls and/or landscaping.

**Lighting** - Light standards shall not exceed sixteen (16') feet in height, and shall be fully shielded to shine solely upon the commercial tract. Light shall not shine on any abutting property or public right-of-way. Wall mounted exterior lighting shall not shine on any abutting property or public right-of-way. Canopy or awning lighting shall be fully shielded or recessed so that the lenses of the lights are, at a minimum, flush with the bottom surface of the canopy or awning.

## **E. STREETS**

Utility Equipment - Electrical meters, switch boxes, panels, conduit, and related utility equipment must be placed in the most inconspicuous location possible.

Landscaping - Trees must be placed at least 10ft. from streetlights and 3 ft. from wet utilities.

Clear zone at intersections - Trees in planter strips must be at least 10 ft. from the curb return corner at street intersections.

Sidewalks - Sidewalks may meander to avoid trees, utility poles and boxes, and other obstacles; and for aesthetics. Sidewalks must connect to existing adjacent sidewalks, or be designed and placed to allow connection to future adjacent sidewalks. Sidewalks must be installed to provide all residential areas with direct access to all neighborhood facilities, including schools, parks and playgrounds, wherever possible.

Shared-Use Paths - Shared-use paths may be used to enhance pedestrian travel where the existing circulation system does not serve these patrons well or provide corridors free of obstacles. Paths must connect to the street and sidewalk system safely and conveniently.

### Traffic Calming:

Horizontal deflection improvements - Traffic calming improvements that use horizontal deflections, including traffic circles, corner neckdowns, chicanes, tapers, landscape medians, are permitted. Horizontal deflection improvements may encroach into the required paved area for a street type, if reasonable access is not obstructed.

## **F. PARKLAND AND OPEN SPACE**

Access - Parkland and common Open Space, as defined in Section 4.02(b) of this Agreement, must be reasonably accessible to all residents of the project. Green links and trails must be provided to common Parkland and Open Space not readily accessible to a public street.

Parkland and Open Space Design - Designated common Open Space may be in a natural, undisturbed state or contain usable open space, including Parkland landscaped for informal, open play areas, or developed for active and/or passive recreational uses. Open Space and Parkland may be located in the 100-year floodplain. A minimum of 5 parks containing usable open space shall be distributed equally within the property for convenient access by residents; the minimum size of said parks shall be two acres and the total aggregate of usable Parkland shall be a minimum of 100 acres.

Property Owner's Association - All private Open Space, Parkland and structures thereon, if any, shall be conveyed to and permanently owned and maintained by a Home Owner's Association (HOA) or other responsible entity. The HOA may adopt rules and regulations regarding access, permitted uses, security (policing) and maintenance responsibilities for the Open Space and Parkland areas.

**EXHIBIT C**  
**[Drainage Standards]**

## Exhibit C - Design Standards

### Bell County Municipal Utility District No. 2

#### 1. DRAINAGE POLICY

- 1.1. The Design Engineer shall study downstream tributaries to demonstrate post-developed 100-yr runoff does not inundate structures (not previously subject to 100-yr storm event inundation) or cause water velocities to become more erosive ("Adverse Impact"). The Design Engineer may utilize and/or require detention facilities to remediate an Adverse Impact. Furthermore, and as a part of each Final Plat, the Design Engineer shall review (in Zone AE) or establish (in Zone A) Base Flood Elevations and minimum Finish Floor Elevations (FFE) for each lot adjacent to Special Flood Hazard Areas (SFHA). Neither a LOMR nor a CLOMR application will be prepared or submitted to FEMA for this Development.
- 1.2. Drainage infrastructure located within Publically dedicated rights of ways shall be accepted for ownership and maintenance upon annexation of District.
- 1.3. The Design Engineer shall provide City with HEC RAS models for the affected watersheds.
- 1.4. Drainage easements for storm drains shall be a minimum of 15 feet in width or 1.5 times the depth of the storm drain, whichever is greater. The drainage easement for a flume shall be equal to 10 feet or the width of the flume, whichever is greater. Fences shall not cross or be constructed within drainage easements. Fences may cross easements with underground facilities provided the design engineer can illustrate how conveyance for the 100-year storm event is unobstructed.
- 1.5. Drainage channels and detention shall be contained within drainage easements. A minimum 10-foot wide drainage easement for access shall be provided for drainage channels and detention ponds. Ramps no steeper than 5 feet horizontal to 1 foot vertical shall be provided to allow access to drainage channels and detention ponds. The minimum bottom width for a trapezoidal channel with vegetative side slopes shall be 4 feet. V-ditches are only allowed with side slopes no steeper than 4 feet horizontal to 1 foot vertical.
- 1.6. Development shall be subject to City of Killeen's adopted Drainage Design Manual (DDM) section 1.2.6.D.5 dated 11/8/2011, however, roof overhangs shall be allowed within easements.
- 1.7. Development shall be subject to City of Killeen's adopted Drainage Design Manual (DDM) section 1.2.10.B through 1.2.10.D dated 11/8/2011.
- 1.8. Final Plat applications must include a site grading and drainage plan that includes drainage computations and a detailed site grading plan. The site grading plan shall include arrows indicating direction of runoff for each lot. All lots must have positive drainage away from structures.

#### 2. DETERMINATION OF STORM RUNOFF

- 2.1. When analyzing drainage infrastructure for this development the design engineer shall assume this development to be fully developed.
- 2.2. Rational Method shall be used for drainage areas less than 200 acres. Runoff coefficients (C Factors) shall be consistent with DDM tables 2-2 and 2-3.
- 2.3. SCS Method shall be used for drainage areas greater than 200 acres. Curve Numbers (CN) shall be consistent with TR-55.
- 2.4. Times of Concentration (TC) shall be calculated using Kerby, TR-55, or other generally accepted industry standard methods. TC calculations shall not allow for sheet flow to exceed 100 feet in length.
- 2.5. HEC-HMS shall be used to determine channel flows if hydrograph routing is determined necessary by Design Engineer.
- 2.6. HEC-RAS shall be used to determine Base Flood Elevations (BFE).
- 2.7. Sheet flow may not be assumed when flow length exceeds 100 ft.

#### 3. STREET FLOW

##### 3.1. General

- 3.1.1. Concentrated discharge into roadways is only allowed with Director of Public Works, or their appointee, approval.
- 3.1.2. Capacity shall be determined using Manning, Modified Manning, or other generally accepted engineering methods.
- 3.1.3. 100-yr storm event shall be contained within the Right of Way (ROW) or Drainage Easements (DE).

##### 3.2. Parkway

- 3.2.1. Streets shall have a ¼" per foot crown slope (2.08%) except within super elevations
- 3.2.2. Shall have one open lane, ten feet wide, in each direction during 25-yr storm event.
- 3.2.3. Depth, within the ten foot lane, shall not exceed three inches during the 100-yr storm

##### 3.3. Boulevard

- 3.3.1. Streets shall have a ¼" per foot crown slope (2.08%) except within super elevations and where the street is designed to convey storm water runoff across the street.
- 3.3.2. Valley gutters shall be used where storm water is conveyed across roadway. Maximum depth at the valley gutter shall not exceed maximum allowable street depth.
- 3.3.3. Shall have one open lane, eight feet wide, in each direction during 25-yr storm event.
- 3.3.4. Depth, within the eight foot lane, shall not exceed six inches during the 100-yr storm event .

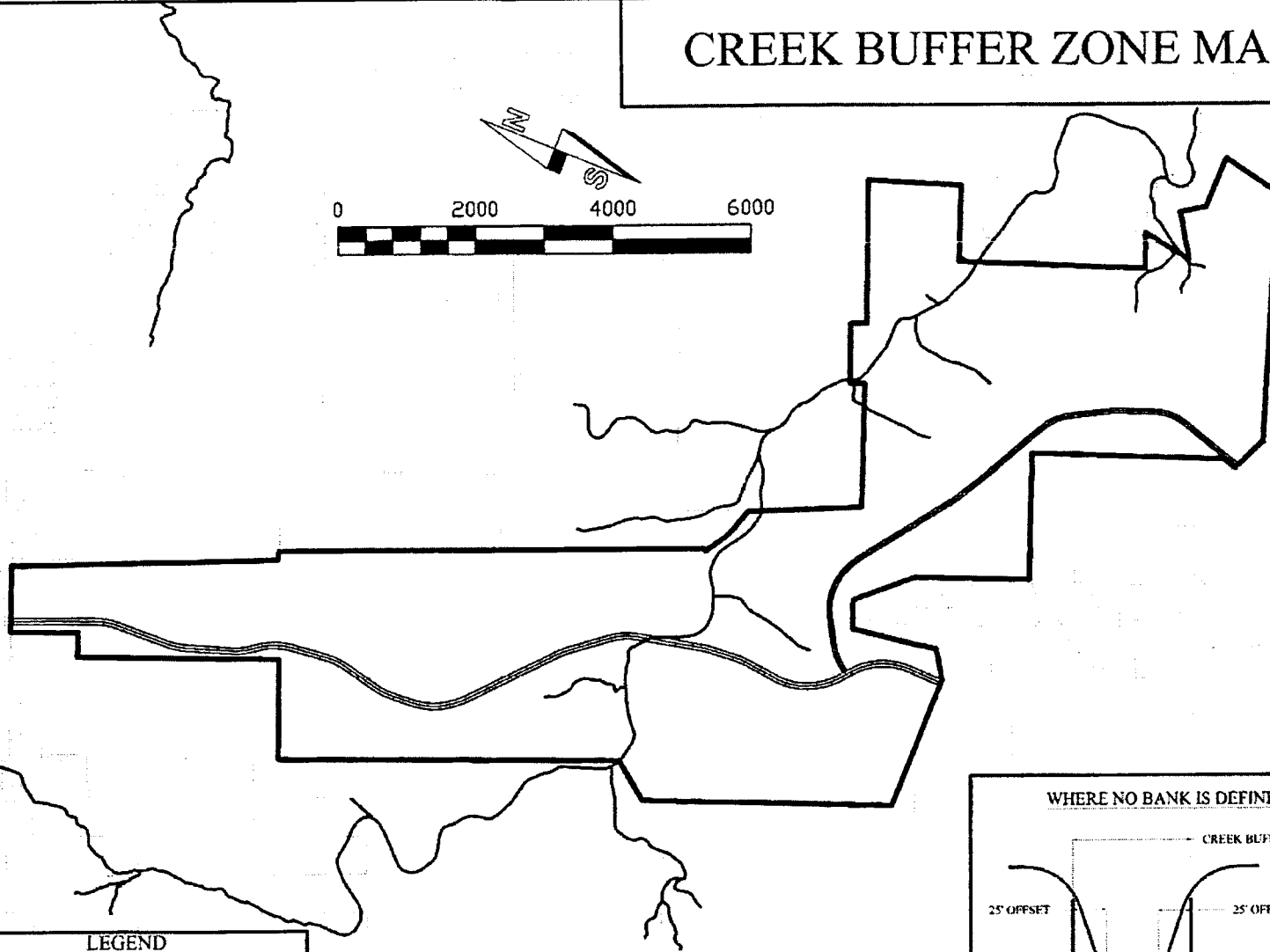
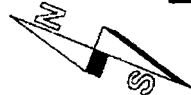
##### 3.4. Residential Streets

- 3.4.1. Streets shall have a ¼" per foot crown slope (2.08%) except within super elevations and where the street is designed to convey storm water runoff across the street.
- 3.4.2. Valley gutters shall be used where storm water is conveyed across roadway. Maximum depth at the valley gutter shall not exceed maximum allowable street flow depth.
- 3.4.3. Shall not exceed three inches over top of curb (TOC) during 25-yr storm event.
- 3.4.4. 100-yr storm event shall be contained within the Right of Way (ROW) or Drainage Easements (DE).

#### 4. INLETS

- 4.1. Inlets on streets of less than 0.60% grade shall be considered sag-condition inlets.
- 4.2. Inlets shall be designed using Winstorm or other generally accepted engineering methods.
- 4.3. The hydraulic grade line elevation shall not exceed the water surface elevation at inlets or other points of relief.
- 4.4. Grate Inlets shall be designed using a 50% clogging factor.
5. STORM DRAINS
  - 5.1. HDPE may be used except under roadways so long as the HDPE pipe is installed and backfilled according to manufacturer specifications. RCP, or other City accepted material, shall be used under roadways. RCP shall be Class III with minimum 2' of cover in all cases (paved and unpaved) without an engineering analysis. If minimum cover cannot be attained, Design Engineer shall use higher strength (Class IV or V) pipe sufficient to support the expected load.
  - 5.2. Storm drain pipes shall be designed using Winstorm or other generally accepted engineering methods.
  - 5.3. Junction boxes must be used for horizontal alignment breaks exceeding forty-five degrees. Pre-fabricated fittings may be used for alignment breaks when such break is within fifteen feet of an inlet, junction box, or other access point or when the horizontal alignment break is less than or equal to forty-five degrees.
  - 5.4. Velocities within storm drains, during the design storm, shall not be less than 2.5 fps.
  - 5.5. Energy dissipation shall be used at outfalls where maximum outfall velocities exceed fifteen feet per second unless the earthen conditions in the immediate area are determined to be erosion resistant for these velocities.
  - 5.6. Pipe diameter shall not be less than eighteen inches (inside diameter).
  - 5.7. Storm drain access shall be provided a minimum of every 500 feet.
  - 5.8. Storm sewer bedding shall be to 6 inches above the top of pipe or to Applicable Rules (whichever is greater).
6. OPEN CHANNELS
  - 6.1. Earthen Channels
    - 6.1.1. Channels shall be designed so that velocities during the 100-yr storm event do not exceed six feet per second (velocities may exceed six feet per second if the side slopes are stabilized or the Design Engineer determines the channel slopes are not subject to erosion).
    - 6.1.2. Channels less than or equal to four feet deep shall be designed with a 3:1 (H:V) side slope. Channels greater than four feet deep shall be designed with a 4:1, or flatter, side slope. The Design Engineer may determine steeper side slopes are permissible if the slopes are stabilized or the design engineer determines the channel slopes are not subject to erosion.
    - 6.1.3. Channels freeboard shall be equivalent to the 100-yr storm event velocity head.
    - 6.1.4. Channels, not adjacent to roadways, shall have a fifteen foot maintenance bench. The maintenance bench shall not be inundated during the 5-yr storm event. The maintenance bench may have ten percent cross slope.
    - 6.1.5. Channels steeper than 6:1 must be designed and constructed so that top-of-bank is not within two feet of property line or respective drainage easement.
    - 6.1.6. Constructed channels shall be seeded or stabilized using other erosion control methods.
  - 6.2. Concrete channels shall be designed according to City of Killeen's adopted Drainage Design Manual (DDM) dated 11/8/2011.
  - 6.3. Drop structures and energy dissipators shall be designed according to Sections 6.5-6.7 City of Killeen's adopted Drainage Design Manual (DDM) dated 11/8/2011. Drop structure or energy dissipater may be designed using HEC-11 (Design of Riprap Retement), HEC-14 (Hydraulic Design of Energy Dissipators for Culverts and Channels), or other generally accepted engineering methods.
7. CULVERTS/BRIDGES
  - 7.1. Culverts and bridges shall be designed using HY-8, HEC RAS, or other generally accepted engineering methods.
  - 7.2. Water surface elevation for the 100-yr storm event may not be more than 6" over residential TOC and 3" over parkway/boulevard/collector TOC. Culverts shall be design to convey the 25-yr storm event without roadway over-topping.
  - 7.3. Outfall improvements shall be designed using HEC 11, HEC 14 or other generally accepted engineering methods.
8. EROSION AND SEDIMENT CONTROL
  - 8.1. Development shall be designed to State of Texas and Bell County Erosion Control Standards.
  - 8.2. Developer shall provide the City of Killeen with a copy of the Storm Water Pollution Prevention Plan.
9. POST CONSTRUCTION ORDINANCE
  - 9.1. Development shall be subject to City of Killeen's adopted Drainage Design Manual Section 9 dated 11/8/2011 so long as property located in Killeen's ETJ is subject to the Post Construction Ordinance at the time this agreement is executed.
  - 9.2. Creek Buffer Zones shall be the area within a 25 ft offset from the top of bank on each side of the Creek Buffer Zone Center Lines (see below illustration). If top-of-bank locations are indeterminate, the illustration inset shall be used to determine Creek Buffer Zone boundaries.

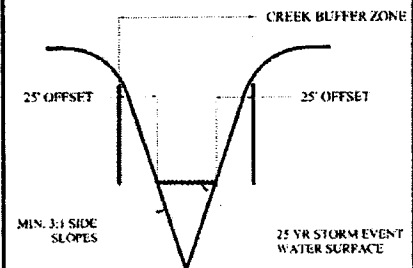
# CREEK BUFFER ZONE MAP



## LEGEND






- PROPERTY BOUNDARY
- CREEK BUFFER ZONE
- CENTER LINES
- ROADWAYS

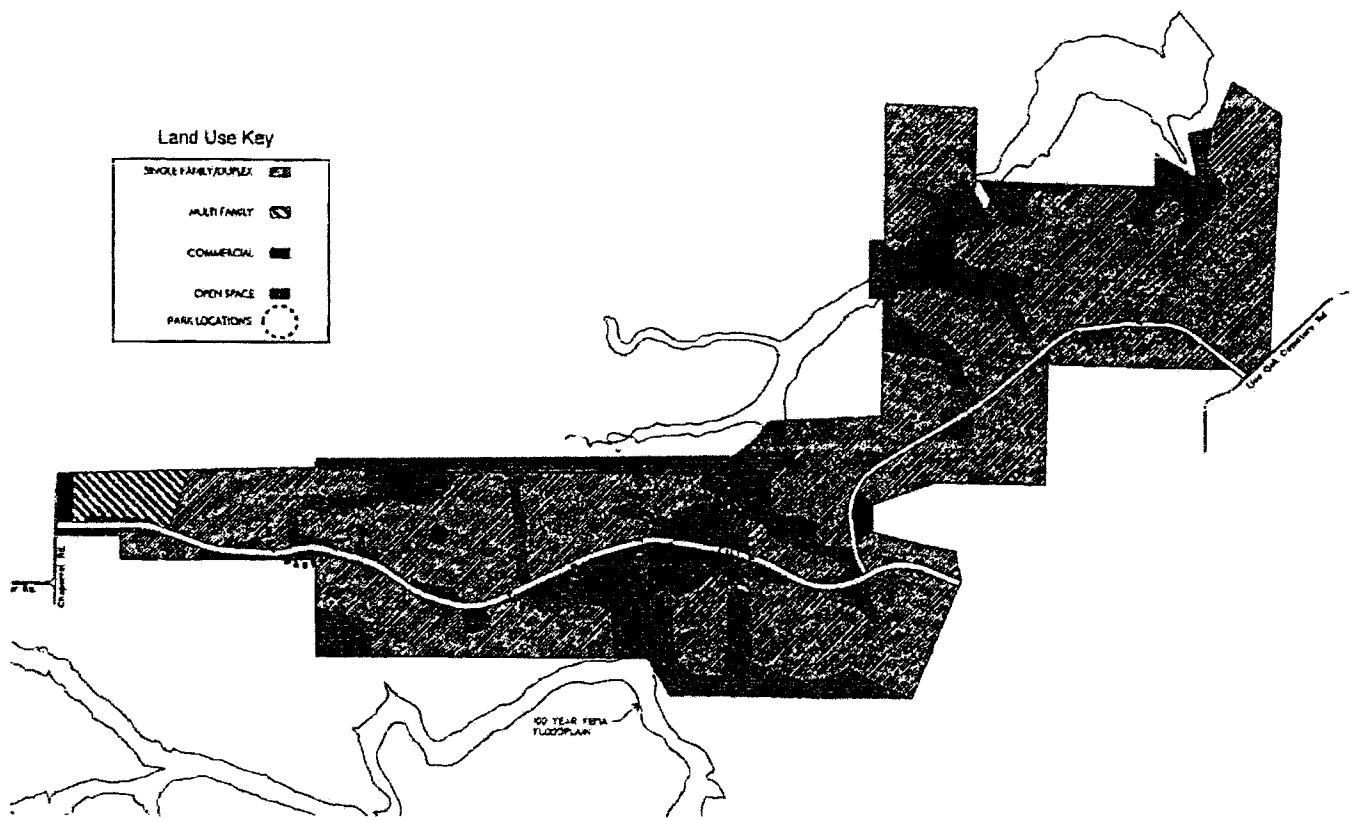
## WHERE NO BANK IS DEFINED



**EXHIBIT D**  
[Land Plan]

Land Use Key

SINGLE FAMILY/DUPLEX	
MULTI FAMILY	
COMMERCIAL	
OPEN SPACE	
PARK LOCATIONS	





Bell County Municipal Utility District No. 2  
Exhibit D Land Plan  
Feb 8, 2013



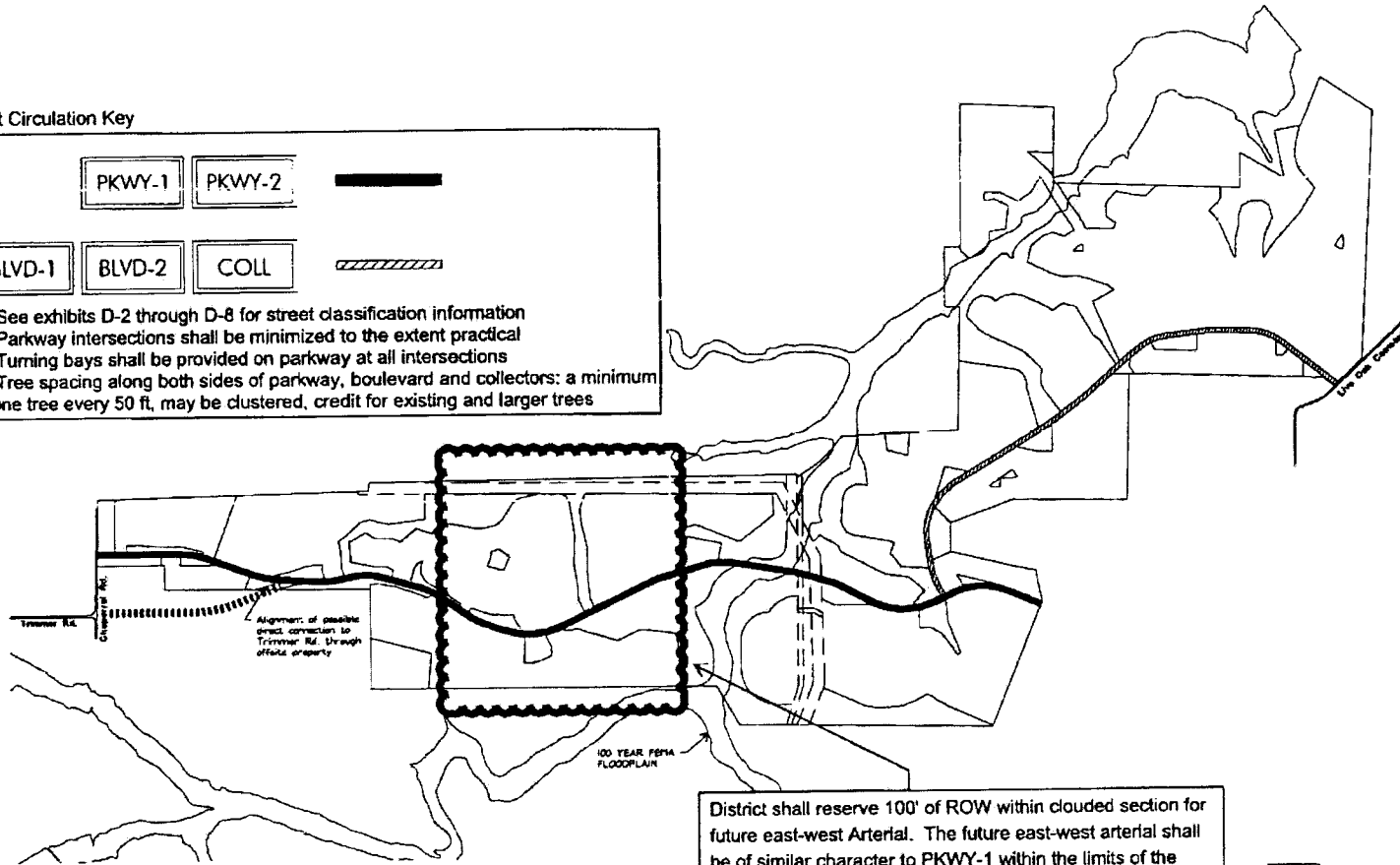


**EXHIBIT E**  
**[Roadway Plan]**

Street Circulation Key

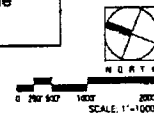
PKWY-1	PKWY-2	
BLVD-1	BLVD-2	COLL
		

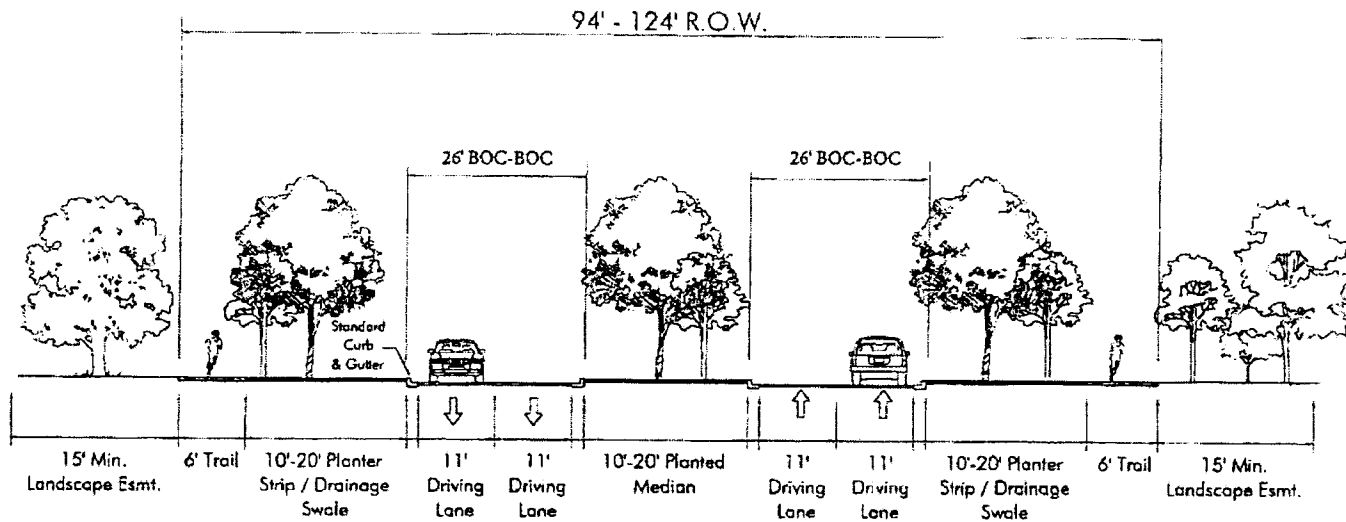
1. See exhibits D-2 through D-8 for street classification information
2. Parkway intersections shall be minimized to the extent practical
3. Turning bays shall be provided on parkway at all intersections
4. Tree spacing along both sides of parkway, boulevard and collectors: a minimum of one tree every 50 ft, may be clustered, credit for existing and larger trees



District shall reserve 100' of ROW within clouded section for future east-west Arterial. The future east-west arterial shall be of similar character to PKWY-1 within the limits of the subject District and shall be constructed by others.

Bell County Municipal Utility District No. 2  
 Exhibit E-1 Overall Roadway Plan  
 Feb 19, 2013

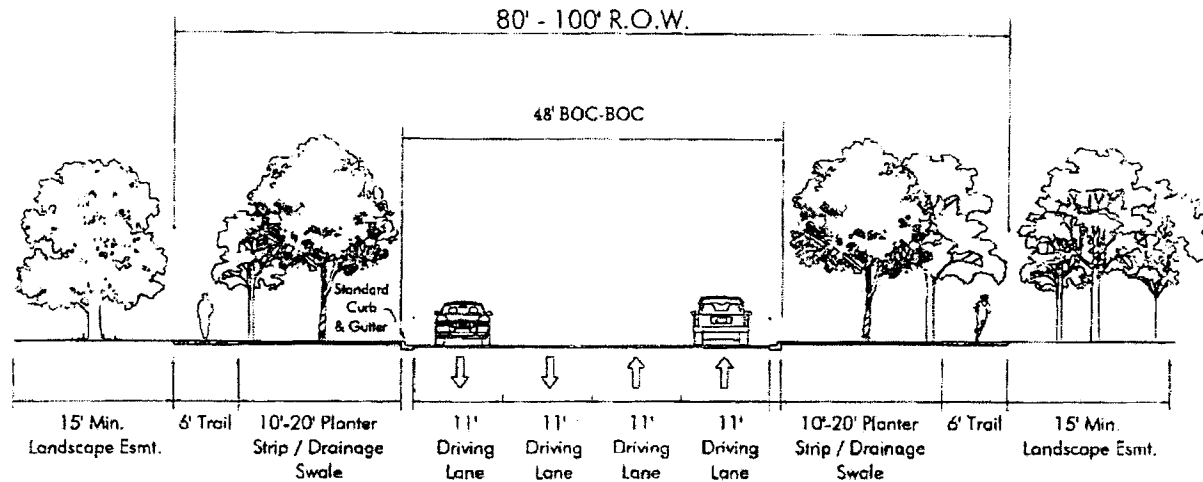




Street Features

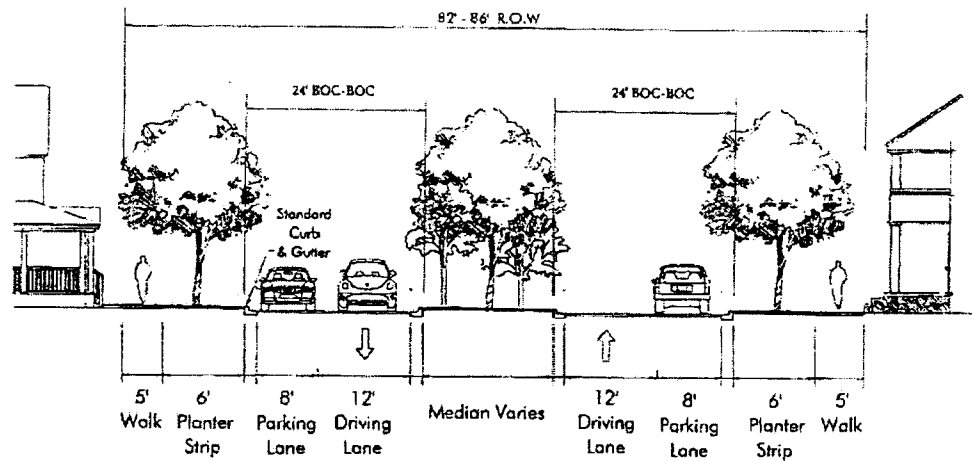
- \* Travel Lanes 11'
- \* Median Width 10' - 20'
- \* Design Speed 40 mph
- \* Multi-use Trails 6'
- \* Planting Strips / Drainage Swales - 10' - 20'
- \* Median Can Have a Swale for Natural Drainage
- \* Streets can consist of parabolic crown, straight crown or 2% straight grade or cross slope
- \* 6" Curb and gutter or mountable curb

- \* No Single-Family/Residential Buildings Fronting
- \* Trails May be on Either or Both Sides



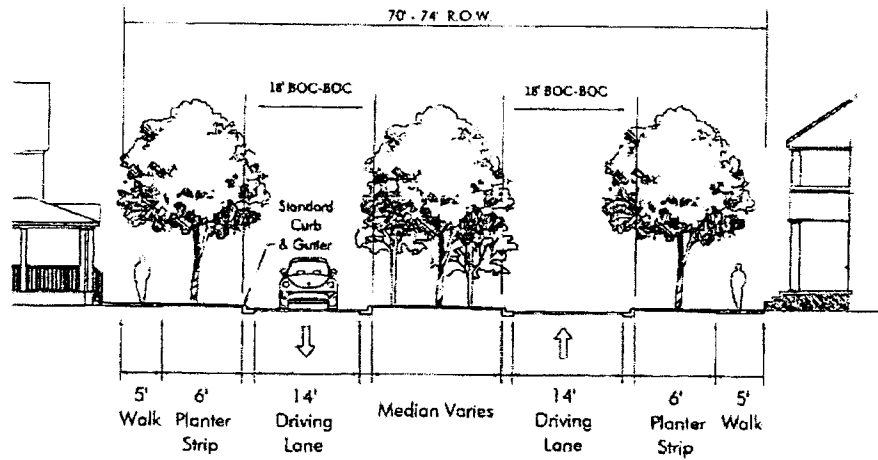
Street Features

- \* Travel Lanes 11'
  - \* Design Speed 40 mph
  - \* Multi-use Trails 6'
  - \* Planting Strips / Drainage Swales - 10' - 20'
  - \* Streets can consist of parabolic crown, straight crown or 2% straight grade or cross slope
  - \* 6" Curb and gutter or mountable curb
- \* No Single-Family/Residential Buildings Fronting
  - \* Trails May be on Either or Both Sides



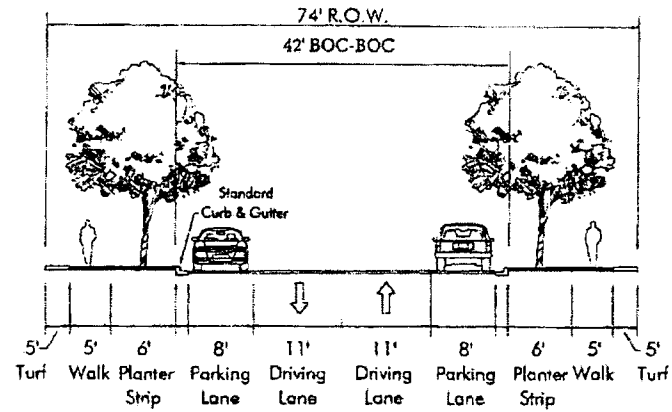
Street Features

- \* Median Width dimensions vary
- \* 2(12') Travel Lanes and 2(8') Parking Lanes
- \* On-street parking allowed on outside of each travel lane.
- \* 6' Planting Strips
- \* Design Speed 25 MPH
- \* Median May Have Swale for Surface Drainage
- \* 6" Curb and gutter or mountable curb



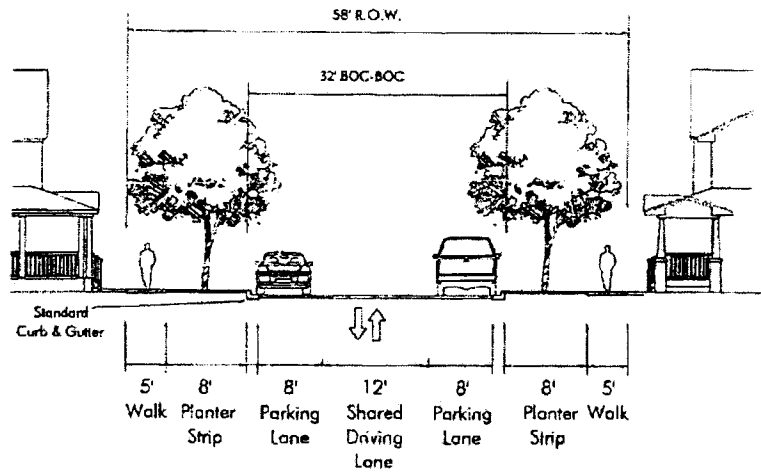
Street Features

- \* Median Width dimensions vary
- \* 2(14') Travel Lanes
- \* 6' Planting Strips
- \* Design Speed 25 MPH
- \* Median May Have Swale for Surface Drainage
- \* 6" Curb and gutter or mountable curb



Street Features

- \* (11') Travel Lanes and (8') Parking Lanes on both sides
- \* Sidewalks 5' on both sides
- \* Design Speed 25 MPH
- \* 6" Curb and gutter or mountable curb

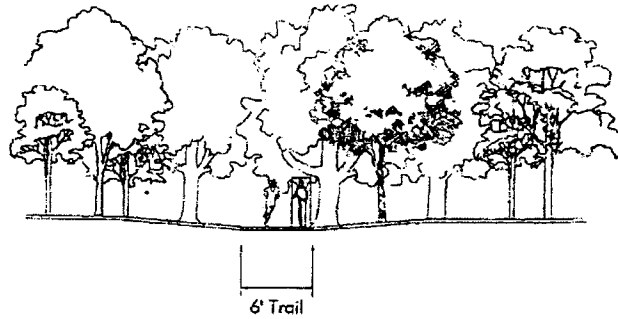


Providing access to housing and open space.

Street Features

- \* 12' Shared Travel Lane With 8' Parking on both sides
- \* 8' Planting Strips / Drainage Swales
- \* Sidewalks 5' on Each Side
- \* Design Speed 25 MPH
- \* 6" Curb and gutter or mountable curb





Path Features

\* Width 6' Min.

\* Link Between Homes and Parks

## Exhibit E-8 Shared Use Path

Street & Pedestrian Circulation

Street Sections

Bell County Municipal Utility District No. 2  
Exhibit E-8 Trail Street & Pedestrian Circulation Street Sections

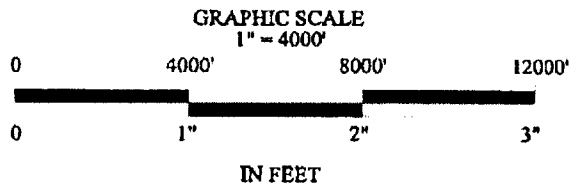
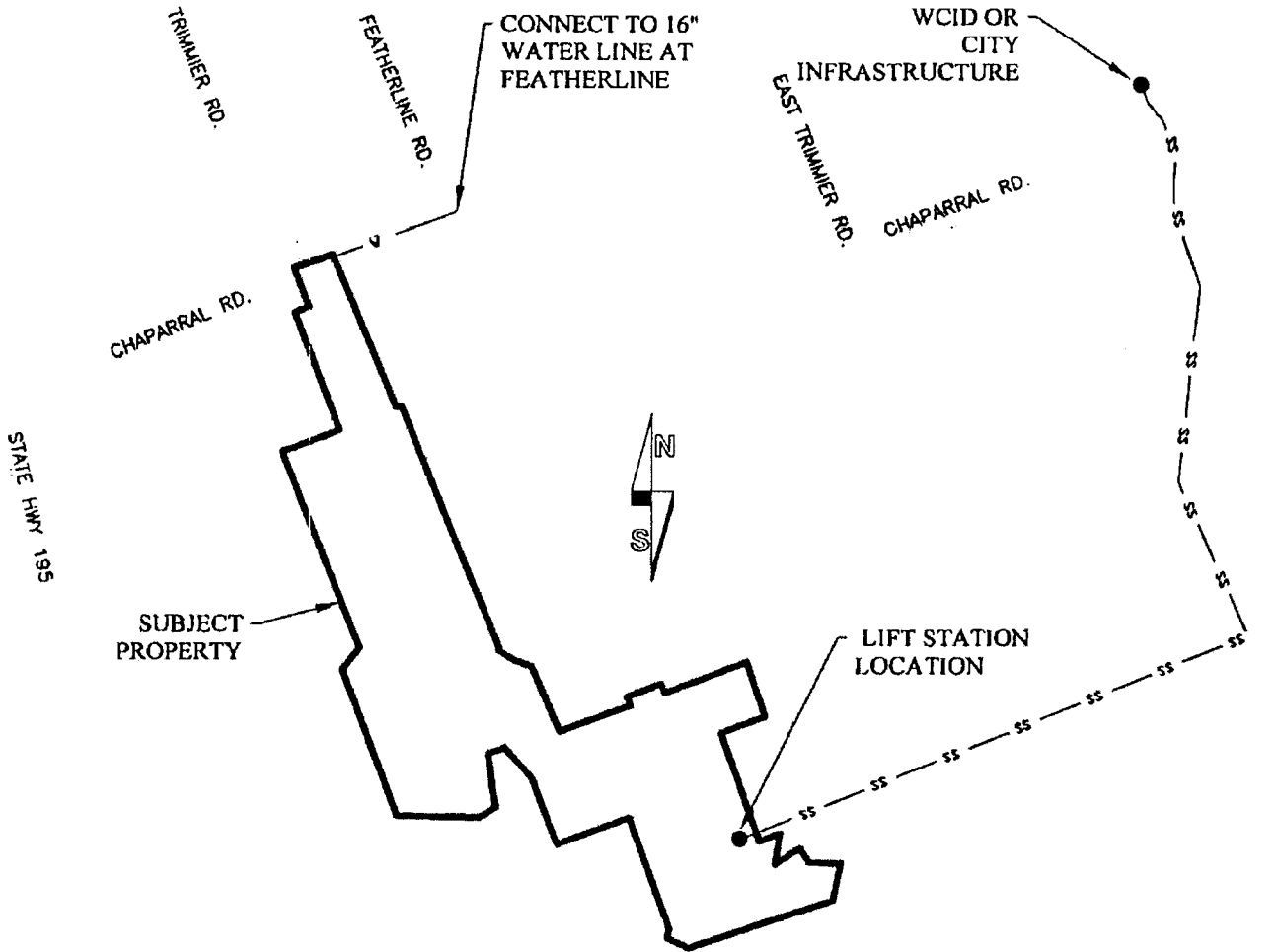


February 8, 2013

**EXHIBIT F**  
**[Utility Plan]**

# EXHIBIT F OFFSITE UTILITY

The intent of this "exhibit" is to pictorially show the approximate location of proposed offsite utilities. It is not intended as an actual survey.

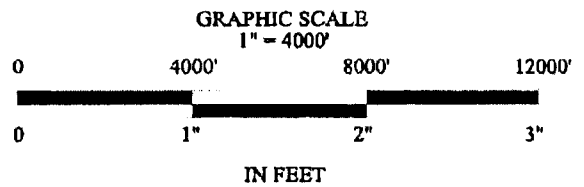
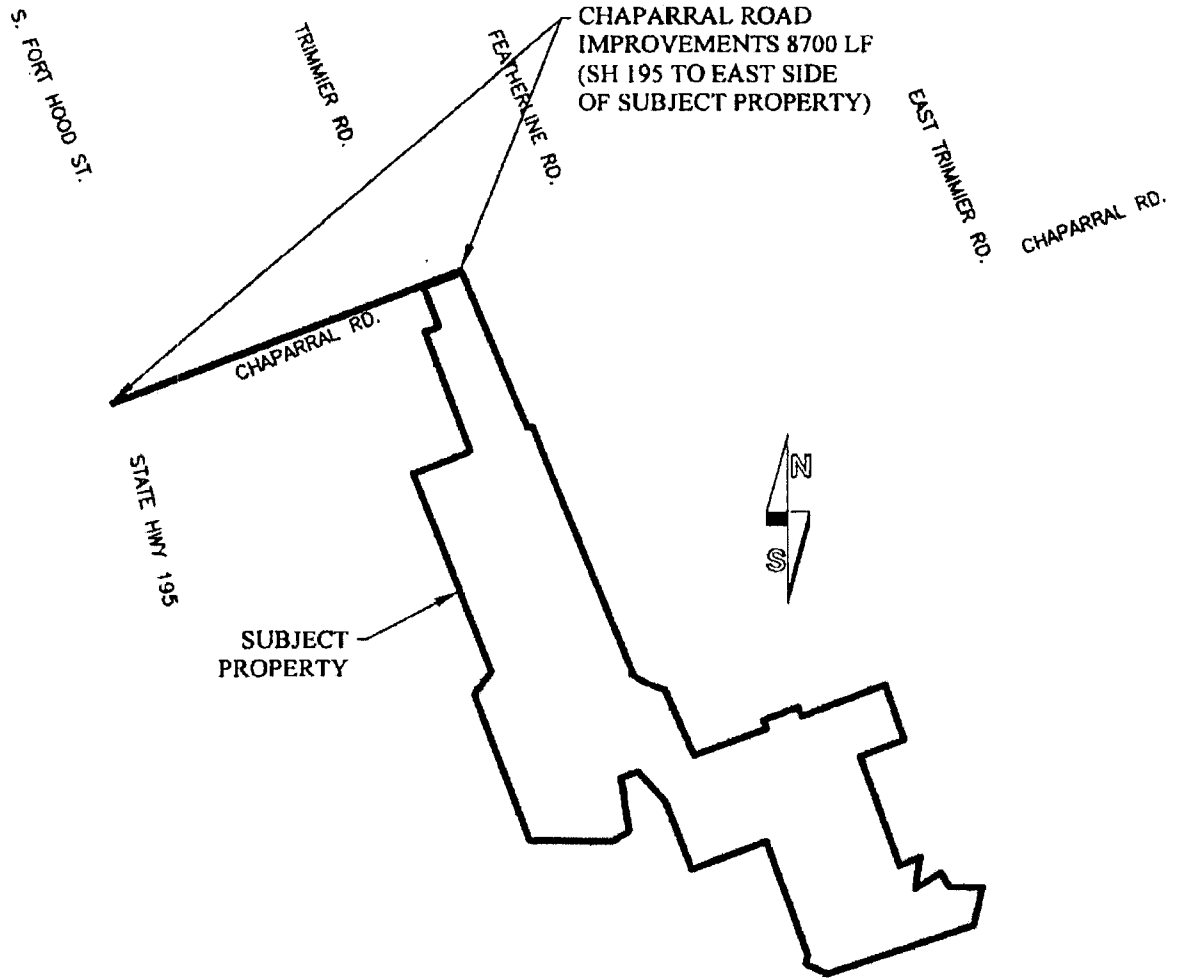


**EXHIBIT G**  
[Chaparral Road Improvements]

# EXHIBIT G

## CHAPARRAL IMPROVEMENTS

The intent of this "exhibit" is to pictorially show the approximate location of proposed Chaparral Road improvements. It is not intended as an actual survey.



**Regular** **07-30-13**  
**Item #** **OR-1**

**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**AGENDA ITEM**

**Bell County Municipal Utility  
District, No. 2**

**ORIGINATING DEPARTMENT**

**City Attorney**

**BACKGROUND INFORMATION**

On January 7, 2013, the City was presented with a Notice of Intent to Introduce a Bill Relating to the Creation of Bell County Municipal Utility District No. 2 (the "District") by the law firm of Armbrust & Brown, PLLC., on behalf of WBW Land Investments, L.P. ("Whitis"). The purpose of the legislation was to introduce a bill to the Texas Legislature advocating for the passage of a special law that would facilitate the creation of the District. The District was proposed to encompass approximately 1373 acres generally located near Trimmier Road and Chaparral Road, immediately outside the current City limits.

Following City Council consideration, on January 22, 2013 a resolution was passed conditionally consenting to the creation of the District (CCM/R 13-012R), subject to the successful negotiation of a mutually-beneficial consent and development agreement ("Agreement") that would govern the development. City Council discussed the proposed District and associated issues at each of its meetings throughout the remainder of January and February, 2013 and, on March 5, 2013, voted the Agreement down and terminated negotiations with Whitis. Subsequently, Whitis withdrew the Bill from legislative consideration, purchased the subject property, submitted a preliminary plat encompassing the entirety of the property and proceeded with the statutory process to administratively create the District. On May 9, 2013, the City received a petition requesting the City's consent to the creation of a municipal utility district (the "Petition"), which was the first step in this statutory creation process (provided by the Texas Local Government Code, Chapter 42, and the Texas Water Code, Chapter 54).

Following receipt of Petition, numerous discussions were held with City Council in May and June, 2013 to consider the range of options available to the City in response to the Petition. At Council's direction received on July 9, 2013, City staff re-engaged Whitis to further explore the Agreement and seek additional concessions necessary to mitigate the impact of the proposed development. Following this direction, City staff continued negotiations where it had left off with Whitis in March, 2013. As a result of those negotiations and subsequent consideration and modification of the same by City Council on July 16 and 23, 2013, the Agreement is brought forward, as revised, for City Council's final consideration.

## **DISCUSSION/CONCLUSION**

The attached ordinance contemplates the creation of the District and represents the City's consent to its creation, subject to the incorporated Agreement between the City and Whitis. The Agreement addresses numerous issues relating to the development of the proposed District. The District will be located entirely within the City's extraterritorial jurisdiction and, therefore, City Council negotiations have been directed at ensuring that the District's proposed build out of approximately 3,750 residential dwelling units will not adversely affect the City's current citizens. Another focus in negotiations was a desire to ensure that the property, once developed over the course of the next 15 to 20 years, would be developed in accordance with standards generally applicable inside the City. The purposes behind this focus were to encourage quality development that would be annexed at a future date and to ensure that the development's residents would be protected from the potential adverse impacts of a development progressing without minimum standards.

Among the numerous issues reduced to writing, the Agreement addresses the following critical issues:

1. Consent (Section 2.01);
2. District Division (Section 2.02);
3. City Annexation (Section 2.03);
4. Retail Water/Wastewater Service and Facilities (Sections 3.01 - 3.09);
5. Project Development (Section 4.01);
6. Parkland (Section 4.02);
7. Drainage and Stormwater (Section 4.03);
8. Roadway Matters (Chaparral and Trimmier) (Section 4.04);
9. District Financing (Sections 5.01- 5.09);
10. Agreement Term, Termination and Assignment (Sections 6.01-6.03); and
11. Miscellaneous Provisions (Sections 7.01-7.09).

The Agreement also incorporates various exhibits identifying the legal description of the land, the design and drainage standards applicable to the land, a land use, roadway and utility plan, and the depiction of the extent of the proposed Chaparral Road improvements.

The benefits of entering into the Agreement include: 1) the ability of the City to exercise development control and oversight that the City would not otherwise have due to the development's location in the County; 2) the realization of approximately \$5,125,000.00 in reimbursements for the construction of improvements necessary to mitigate the community impact of the development and serve the development and surrounding areas; 3) the reduction of the density of the project from a possible 4,816 residential dwelling units to a maximum of 3,750 residential dwelling units; 4) control relating to the design and construction of water, wastewater and storm water drainage infrastructure to ensure compliance with City standards; 5) generation of additional revenue from the provision of water, wastewater and solid waste services, without the typical offset expense associated with debt issuance necessary to construct master plan projects within the City; 6) a commitment from the developer to preserve 25% of the property as open space, including a commitment to provide a minimum of 100 acres of parkland; 7) control relating to District bond issuance to add a measure of predictability and facilitate the future annexation of the District; and 8) control regarding development setbacks, architectural and building standards and materials, landscaping, lighting, street

standards, and a host of other provisions typically not within the City's jurisdiction or control in the County.

### **FISCAL IMPACT**

There is no immediate fiscal impact associated with this action. However, the long term fiscal impacts associated with this action include numerous factors including: 1) a commitment by Whitis to contribute \$4,100,000 to the construction of improvements to Chaparral Road; 2) a commitment by Whitis to contribute \$1,250,000 towards the construction of an elevated water storage tank; 3) a commitment by the City to provide fire flow volume and capacity to the development, which will necessitate the construction of an elevated storage tank in approximately 6-7 years at an estimated cost of \$2,500,000; 4) the provision of water, wastewater, and garbage collection services to the development leading to additional rate paying customers for the respective City enterprise funds; 5) the collection of various inspection and property development fees associated with the project's development; and 6) a commitment by the City to acquire the associated Certificate of Convenience and Necessity that is necessary to provide water service to the development.

### **RECOMMENDATION**

Recommend that City Council consider the attached ordinance and Agreement for adoption and, if so adopted, authorize the City Manager to enter into and execute the Agreement on behalf of the City.





**INTEROFFICE MEMORANDUM**

**TO: GLENN MORRISON, CITY MANAGER**

**VIA: KATHY DAVIS, CITY ATTORNEY**  
**JOHN SUTTON, ASSISTANT CITY MANAGER- EXT. SVCS.**  
**DR. RAY SHANAA, EX. DIR. PLANNING & DEV. SVCS.**

**FROM: TONY D. MCILWAIN, AICP, CFM, CITY PLANNER**

**DATE: FEBRUARY 24, 2015**

**SUBJECT: HERITAGE OAKS EXECUTIVE SUMMARY**

The purpose of this summary is to provide a summation of facts surrounding the Heritage Oaks Planned Unit Development (PUD). Killeen Chaparral Development L.L.C. and RSBP Developers, Inc. submitted a zoning case for the proposed development, Heritage Oaks on July 12, 2013. This development is 199.5 acres and is located south of White Rock Phase Ten Subdivision, north of Chaparral Road, along the eastern boundary of Killeen city limits. The PUD allows single-family residential uses along with approximately 67 acres of green space. The PUD was recommended for approval by the Planning and Zoning Commission on September 9, 2013, and approved by the Killeen City Council on September 24, 2013 (Ord. #13-069) with the following conditions:

- Residential density shall not exceed 3.5 dwelling units per gross acre;
- Residential development shall not exceed 660 lots;
- Seventy percent (70%) of the residential lots shall be at least 55' in width or larger (at the 20' front building line);
- Fifteen percent (15%) of the residential lots shall be at least 95' in width at the 20' front building line); and
- The proposed 67 acres "green space" (to include the creek buffer zones and additional riparian buffers) shall be dedicated to the City for future parkland purposes.

Following approval of the zoning request, the property owner submitted Heritage Oaks Phase One, which is a 74.815 acres preliminary plat of the subject site. The preliminary plat, consisting of 206 residential lots and one drainage tract was approved by the Planning and Zoning Commission on April 7, 2014. Preliminary plats are not recorded and it will be necessary for the property owner to file a final plat for review, approval and recordation prior to the release of any lots and building permits.

Lastly, the property owner has submitted a special warranty deed for 23.976 acres of the approximate 67 acres of green space. Public Works staff is in possession of the special warranty deed and this tract of land is the first dedication of the property for park amenities and improvements as well as public utility purposes. This special warranty deed was signed and notarized by the property owner on November 4, 2014. There has been no other entitlement activity (zoning, platting, and permitting) involving the property.

---

Tony D. McIlwain, AICP, CFM  
City Planner

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM 'A' (AGRICULTURAL DISTRICT), A-R1 (AGRICULTURAL SINGLE FAMILY RESIDENTIAL DISTRICT) AND SR-1 (SUBURBAN RESIDENTIAL SINGLE FAMILY RESIDENTIAL DISTRICT) TO P.U.D. (PLANNED UNIT DEVELOPMENT) FOR SINGLE FAMILY RESIDENTIAL DEVELOPMENT AND GREEN SPACE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Killeen Chaparral Development L.L.C. and RSBP Developers have presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of 199.5 acres, being part of the A. H. Wood Survey, Abstract No. 886, the W. E. Hall Survey, Abstract No. 1116 and the J. B. Harris Survey, Abstract no. 452, from 'A' (Agricultural District), A-R1 (Agricultural Single Family Residential District) and SR-1 (Suburban Residential Single Family Residential District) to P.U.D. (Planned Unit Development) for single family residential use and green space, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 9th day of September 2013 with the following conditions of approval:

- Residential density shall not exceed 3.5 dwelling units per gross acre;
- Residential development shall not exceed 660 lots;
- Seventy percent (70%) of the residential lots shall be at least 55' in width or larger (at the 20' front building line);
- Fifteen percent (15%) of the residential lots shall be at least 95' in width or larger (at the 20' front building line);

- The proposed “green space” as illustrated in Exhibit A (to include the creek buffer zones and additional riparian buffers) shall be dedicated to the City for future parkland purposes; and

due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 24th day of September 2013, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the opinion that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION I.** That the zoning classification of the following described tract be changed from ‘A’ (Agricultural District), A-R1 (Agricultural Single Family Residential District) and SR-1 (Suburban Residential Single Family Residential District) to P.U.D. (Planned Unit Development) for single family residential use and green space, for 199.5 acres, being part of the A. H. Wood Survey, Abstract No. 886, the W. E. Hall Survey, Abstract No. 1116 and the J. B. Harris Survey, Abstract No. 452, and being located along the Killeen/Harker Heights city limits, north of Chaparral Road, Killeen, Texas.

**SECTION II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**SECTION III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 24th day of September 2013, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

**APPROVED:**




**Daniel A. Corbin, MAYOR**

**ATTEST:**

  
**Dianna Barker, CITY SECRETARY**

**APPROVED AS TO FORM**

  
**Kathryn H. Davis, City Attorney**

Case #13-27

Ord #13-\_\_\_



**INTEROFFICE MEMORANDUM**

**TO: GLENN MORRISON, CITY MANAGER**

**VIA: KATHY DAVIS, CITY ATTORNEY**  
**JOHN SUTTON, ASSISTANT CITY MANAGER- EXT. SVCS.**  
**DR. RAY SHANAA, EX. DIR. PLANNING & DEV. SVCS.**

**FROM: TONY D. MCILWAIN, AICP, CFM, CITY PLANNER**

**DATE: FEBRUARY 24, 2015**

**SUBJECT: LAKEVIEW PARK EXECUTIVE SUMMARY**

The purpose of this summary is to provide a summation of facts surrounding the Lakeview Park Planned Unit Development (PUD). National Bank submitted a zoning case for the proposed development on August 15, 2014. This development is 40.87 acres and is located at the southwest corner of Rancier Avenue and Roy Reynolds. The PUD allows 35.78 acres of “SF-2” (Single-Family Residential District) uses and associated requirements along with approximately 5.09 acres of “B-3” (Local Business District). The PUD was recommended for approval by the Planning and Zoning Commission on October 6, 2014, and approved by the Killeen City Council on October 28, 2014 (Ord. #14-078) with the following residential lot deviations:

- 20’ front yard setback;
- 5,750 square feet minimum lot size; and
- 115’ minimum lot depth.

Following approval of the zoning request, the property owner submitted Lakeview Park Subdivision, 2<sup>nd</sup> Replat, which is a 37.033 acres final plat of the subject site. The final plat, consisting of 165 residential lots and one commercial lot was approved by the Planning and Zoning Commission on December 15, 2014. There has been no other entitlement activity (zoning and platting) involving the property.

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Tony D. McIlwain, AICP, CFM  
City Planner

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM R-3 (MULTIFAMILY RESIDENTIAL DISTRICT) TO A PLANNED UNIT DEVELOPMENT (PUD) WITH R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT) AND B-3 (LOCAL BUSINESS DISTRICT) USES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, National Bank submits this request for an amendment of the zoning ordinance of the City of Killeen by changing the classification of approximately 40.87 acres, being part of the Lakeview Park Subdivision, from R-3 (Multifamily Residential District) to a Planned Unit Development (PUD) with R-1 (Single-Family Residential District) and B-3 (Local Business District) uses, said request having been duly presented and recommended for approval of 35.78 acres of SF-2 zoning with the following deviations: 20' front yard setback; 5,750 square feet minimum lot size; 115' minimum lot depth; and 5.09 acres of B-3 zoning (see attached exhibit 1.) by the Planning and Zoning Commission of the City of Killeen on the 6th day of October 2014, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 28th day of October 2014, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the majority opinion that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION I.** That the zoning classification of the following described tract be changed from R-3 (Multifamily Residential District) to a Planned Unit Development (PUD) with 35.78 acres of SF-2 zoning with the following deviations: 20' front yard setback; 5,750 square feet minimum lot size; 115' minimum lot depth; and 5.09 acres of B-3 zoning, being part of the Lakeview Park Subdivision. The property is located at the southwest corner of Rancier Avenue and Roy Reynolds Drive, Killeen, Texas.

**SECTION II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**SECTION III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 28th day of October 2014, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

**APPROVED:**

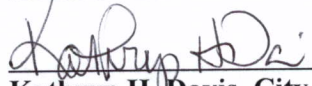
  
Scott Cosper, MAYOR

**ATTEST:**

  
Dianna Barker, CITY SECRETARY



**APPROVED AS TO FORM**

  
Kathryn H. Davis, City Attorney

Case #14-27

Ord. #14-\_\_





**INTEROFFICE MEMORANDUM**

**TO: GLENN MORRISON, CITY MANAGER**

**VIA: KATHY DAVIS, CITY ATTORNEY**  
**JOHN SUTTON, ASSISTANT CITY MANAGER- EXT. SVCS.**  
**DR. RAY SHANAA, EX. DIR. PLANNING & DEV. SVCS.**

**FROM: TONY D. MCILWAIN, AICP, CFM, CITY PLANNER**

**DATE: FEBRUARY 24, 2015**

**SUBJECT: THE VILLAGE AT CLEAR CREEK EXECUTIVE SUMMARY**

The purpose of this summary is to provide a summation of facts surrounding The Village at Clear Creek Planned Unit Development (PUD). Abbott Springs, LTD. submitted a zoning case for the proposed development on August 24, 2012. This development is 5 acres and is located at 2710 Clear Creek Road. The PUD allows “R-3A” (Multifamily Apartment Residential District) uses along with “B-4” (Business District) uses. The development will be built at a height not to exceed 35 feet and two-bedroom apartment units ranging in area between 850 square feet to 1,000 square feet. The PUD was recommended for approval by the Planning and Zoning Commission on September 24, 2012, and approved by the Killeen City Council on October 9, 2012 (Ord. #12-074) with the following mixed-use criteria:

- 19 apartment homes; and
- 21,865 square feet of retail/commercial lease space.

The 5 acres property is platted as Lot 1, Block 1, Ware Addition. The property approved by the Killeen City Council on June 12, 2012 and filed for record on June 15, 2012 in dedication instrument 2012-00024071, Deed Records of Bell County, Texas. There has been no other entitlement activity (zoning and platting) involving the property.

---

Tony D. McIlwain, AICP, CFM  
City Planner

**ORDINANCE NO. 12-074**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM B-5 (BUSINESS DISTRICT) TO B-4 (BUSINESS DISTRICT) AND R-3A (MULTIFAMILY APARTMENT RESIDENTIAL DISTRICT) WITH A PLANNED UNIT DEVELOPMENT (PUD); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Abbott Springs, Ltd. has presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of the hereinafter described property from B-5 (Business District) to B-4 (Business District) and R-3A (Multifamily Apartment Residential District) with a planned unit development (PUD) to allow a mixed use development consisting of 19 apartment homes and approximately 21,865 square feet of retail/commercial lease space, said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 24<sup>th</sup> day of September 2012, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 9<sup>th</sup> day of October 2012, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the opinion that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**Section I.** That the zoning classification of the following described tract be changed from B-5 (Business District) to B-4 (Business District) and R-3A (Multifamily Apartment

Residential District) with a planned unit development (PUD) to allow a mixed use development consisting of 19 apartment homes and approximately 21,865 square feet of retail/commercial lease space, for 5 acres, being located at 2600 S. Clear Creek Road, Killeen, Texas.

**Section II.** That the approval of this request is based upon the submitted planned unit development narrative and site plan.

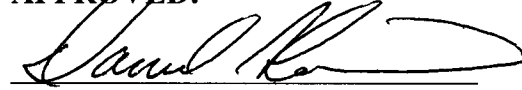
**Section III.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**Section IV.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section V.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 9<sup>th</sup> day of October 2012, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**




**Daniel A. Corbin, MAYOR**

**ATTEST:**

  
**Paula A. Miller, CITY SECRETARY**

**APPROVED AS TO FORM**

  
**Kathryn H. Davis, City Attorney**

## DIVISION 8. - PLANNED UNIT DEVELOPMENT REGULATIONS

### Sec. 31-800. - Description.

A planned unit development (PUD) is a land use design incorporating the concepts of density and common open space. Common open space shall include, but is not limited to, community amenities such as parks, gardens, pedestrian trails, recreation areas, and usable undisturbed, natural areas. The PUD designation serves as an "overlay zoning and development classification." In this capacity, the designation permits specific negotiated development regulations to be applied to the base land use zoning district(s) in which the property is located. When a parcel of land receives a PUD designation, the entire parcel must be assigned one or more standard zoning district classifications. However, the added PUD overlay classification enables the developer of the site to request that specific land use development regulations be applied to his development site. Such specific land use and development regulations shall not take effect until they are reviewed, public hearings held and approved by both the planning and zoning commission and the city council.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

### Sec. 31-801. - Purpose.

The PUD classification is an overlay designation to provide the flexibility to permit development projects which may include multiple land uses. This classification serves the following purposes:

- (a) Establish a procedure for the development of a parcel of land under unified control to reduce or eliminate the inflexibility that might otherwise result from strict application of land use standards and procedures designed primarily for individual lots;
- (b) Ensure structured review and approval procedures are applied to unique development projects that intended to take advantage of common open space and promote pedestrian circulation;
- (c) Allow developers greater freedom to be innovative in selecting the means to provide access, light, open space and amenities; and
- (d) Provide flexibility from the strict application of existing development regulations and land use standards and allow developers the opportunity to take advantage of special site characteristics and location.

The regulatory provisions of this classification are intended to achieve the above purposes while maintaining the spirit of the current City of Killeen Development Regulations, as amended. As such, these provisions represent the governing body's minimum quality of life standard and no variance or exception shall be granted thereto.

(Ord. No. 05-101, § III, 10-25-05)

### Sec. 31-802. - Location, districts, and minimum requirements.

A PUD may be permitted in any zoning district. No PUD may be located outside of the corporate limits of the City of Killeen or in an area which does not have access to a full compliment of urban infrastructure and includes development plans for water, sanitary sewer, storm sewer, or other appropriate drainage infrastructure and paved streets. The following minimum requirements shall apply:

- (a) PUDs shall be located within one-mile radius of an arterial street.
- (b) PUDs shall conform to City of Killeen ordinances and zoning requirements unless specifically exempted by negotiated development regulations approved for use within the development.
- (c) In no case shall a PUD be exempted from compliance with existing city land use, utility, or thoroughfare master plans.

- (d) Generally, the minimum acreage for a planned development shall be five acres. The planning and zoning commission may recommend approval of PUDs on less acreage on a case-by-case basis.
- (e) Combinations of residential, office and commercial land use activities may be permitted under the PUD classification. The submitted land use plan will be evaluated based on the compatibility of land uses to each other and the degree to which landscaping and screening are used to buffer less compatible land uses.
- (f) Yard sizes within the PUD should generally follow guidelines for similar districts in the zoning ordinance; however, modifications to the yard sizes and lot areas may be requested when the open space and common area amenities justify the overall deviation.
- (g) Open space landscaped buffers shall be required to separate land uses within the planned development from land uses adjacent to the planned development unless the planning and zoning commission and the city council conclude that no incompatibility exists between the land uses. No structure, parking lot, equipment pad, or other man-made construction not approved by the city shall be placed in an open space buffer. The minimum size of an open space buffer shall be 25 feet measured from the property line. This buffer may be extended and screening and/or landscaping may be required within the buffer based on the perceived degree of incompatibility between land uses or other criteria such as development density or topography as determined by the planning and zoning commission or the city council. No structures within the PUD that exceed thirty-five (35) feet in height may be constructed on lots adjacent to single-family and two-family districts.
- (h) Parking area and number of spaces shall not be less than regulations for applicable uses prescribed in this ordinance and may be increased as deemed necessary by the planning and zoning commission.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

Sec. 31-803. - General procedure.

The procedure for requesting, processing, and approving a PUD classification shall conform to those procedures prescribed for requesting a zoning change. The development regulations which the developer desires to have approved for the proposed PUD will be submitted concurrent with the requested zoning change for a PUD classification. Development plats shall not be submitted until approval action on the PUD classification has been taken by the city council.

- (a) *PUD review.* The planning and zoning commission will assess the impacts the proposed PUD will have on planning goals, utilities, emergency services, traffic, and all properties adjoining and likely to be influenced by the proposed PUD development. The city shall comply with the notification, public notice, and public hearing requirements mandated for changes in zoning districts. The planning and zoning commission shall make recommendations regarding approval/denial, development regulations, and any mitigating conditions required of the PUD classification to the city council. The city council may approve/disapprove the PUD classification, modify any requested development regulations, and impose any conditions relative to the development of the PUD. Unless otherwise stipulated, such conditions shall be complied with before any permit shall be issued for the construction of any structure within the PUD.
- (b) *Assessment criteria.* Each proposed PUD development shall be reviewed to determine the compatibility of the development with surrounding land uses and the compatibility of the land uses within the development. No PUD shall be approved if it is found that the proposed development:
  - (1) Does not conform with applicable regulations and standards established by this article;
  - (2) Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, setbacks and open spaces, landscaping, drainage, or access and traffic circulation;

- (3) Potentially create unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot mitigated by imposed conditions, screening, or other provision of this section;
- (4) Adversely affects the safety and convenience of vehicular and pedestrian circulation and parking in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses anticipated considering existing zoning and land uses in the area;
- (5) Fails to reasonably protect persons and property from infrastructure failure, erosion, flood or water damage, fire, odors, dust, noise, fumes, vibrations, glare, and similar hazards or impacts;
- (6) Adversely affects emergency access, traffic control, or adjacent properties by inappropriate infrastructure standards, location, access, lighting, or type of signs; or
- (7) Will be detrimental to the public health, safety and welfare, or injurious to property or improvements in the vicinity, for reasons specifically articulated by the planning and zoning commission or the city council.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-804. - PUD development site concept plan required.

At the time the PUD classification application is submitted, the applicant shall concurrently submit a proposed development site concept plan drawn at a 1" = 100' scale. If the PUD will include existing structures or improvements, as-built drawings to scale are required. The development site concept plan shall show adjacent land uses and include all proposed land uses by lot and in general terms identify the street layout and the developer's intent with regard to easements. The concept plan shall identify, either illustrated on the plan or with attached narrative, the residential density, lot areas, lot widths, lot depth, yard depths and widths (setbacks), building heights, maximum lot coverage, parking areas, public access, landscaping, screening, signage, lighting, common spaces and amenities. The concept plan shall be accompanied with the topography (2-foot contours), existing and proposed drainage patterns, existing and proposed drainage areas, creek buffer zones and special flood hazard areas. If the project is to be completed in phases, the concept plan shall cover the complete project. The boundaries of each phase will be shown and each phase shall meet the minimum acreage requirement. The final plat for a PUD development shall be submitted only after the city council's approval of the PUD classification request. It shall conform to the City of Killeen development regulations as amended and any mitigating conditions specifically approved in the PUD ordinance. The following examples are techniques that may be used within a PUD concept plan: cluster development with a minimum of 15% common open space: projects including a minimum of 10% of common open space, with at least 50% of any proposed community amenities located outside of any FEMA regulatory floodplain area.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#) , § I, 12-9-14)

Sec. 31-805. - Owners' associations.

If the PUD includes private infrastructure, common areas or facilities that typically are not accepted by the city for maintenance (i.e., fences, private parks, pools, entrance ways, etc.) and will not be dedicated to the city, an owners' association shall be established and shall own and be responsible to provide for operation, repair and maintenance of all common areas, fences, walls, gate equipment, landscaping, and all other common facilities including but not limited to, streets, drives, sidewalks, service areas, and parking areas and structures and common recreational areas that are a part of the planned unit development. The association's articles of incorporation, bylaws, and any covenants and restrictions must be submitted with the application for the PUD classification and approved by the city as a part of the planned unit development. The association documents shall be filed for record in the official land records of Bell County, Texas, in conjunction with the dedication. The documents shall contain the following provisions which shall not be amended without the written consent of the city, nor shall any variances or exceptions be granted thereto:

- (a) A provision to establish a self-sustaining reserve fund for the operation, repair and maintenance of all private infrastructure and common use facilities.
- (b) A provision that requires the association to maintain a current repair and maintenance plan for all private infrastructure and common use facilities demonstrating that the association is self-perpetuating and adequately funded to accomplish its maintenance responsibilities.
- (c) Lot deeds must convey mandatory membership in the association and provide for the payment of dues and assessments required by the association.
- (d) Provisions shall extend to the city written permission for practical access to public right-of-way, easements and utilities at any time without liability when on official business. This practical access will also extend to the city, without liability, permission to remove obstructions including, but not limited to, any gate, vehicle or any other type of obstacle that precludes the accomplishment of the official business. The association shall be assessed all costs incident to the removal of such obstacles.
- (e) The association may not be dissolved without the prior written consent of the city and 75% of the total membership of the association. Plans to dissolve the association must contain provisions for the liquidation of association real estate and other property assets and include a document that provides for the future maintenance of any private infrastructure and common use areas.
- (f) Association documents shall contain language whereby the association, as owner of private infrastructure and common use facilities, agrees to release, indemnify, defend, and hold harmless the city, any governmental entity, and public utility to the extent provided by law for damages to the private infrastructure and common facilities occasioned by the reasonable use of such private infrastructure and common facilities by the city, governmental entity, or public utility; for damages and injury arising from the condition of said private infrastructure and common use facilities; for damages and injury arising out of the use by the city, governmental entity, or public utility of any restricted access or entrance; and for the damages and injury arising out of any use of the planned unit development by the city, governmental entity, or public utilities for such damages and injuries. Such indemnity shall be limited to damages or injury resulting from the city, governmental entity, or public utility use of private infrastructure or common use facilities while such entity is exercising its authority to gain practical access to public right-of-way, easements or utilities in furtherance of official business.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. 10-003, § VI, 2-9-10)

Sec. 31-806. - Planned unit development infrastructure.

The granting of a PUD classification shall not relieve the developer from the responsibility to comply with all other applicable governmental regulations, instructions, codes, resolutions and ordinances of the city except to the extent expressly specified in the ordinance approving the planned unit development classification and the specific modified regulations to be applied to the approved development. The following infrastructure requirements are applied to PUDs to maintain the city's interest in quality development and assure the health, safety and welfare of the public is protected. To this end, variances and exceptions to these requirements shall not be permitted:

- (a) *Utilities.* Water, sewer, drainage facilities, signage, and all utilities provided by public utility companies shall be installed in easements or public rights-of-way. Utilities shall be constructed to city standards and such easements, rights-of-way, and utilities shall be completed and dedicated to the city prior to the approval of any permit for the construction of any residential or commercial use structure within the PUD. The city shall require as-built engineering layouts of any previously installed infrastructure. Private infrastructure and any infrastructure which is not recorded on approved construction plans shall be uncovered and inspected. All city regulations relating to water, sewer and drainage infrastructure financing and city/developer cost participation shall apply to planned unit developments.

- (b) *Private streets.* A planned unit development may be planned and developed with private streets only as follows:
- (1) A PUD containing private streets shall not cross an existing or proposed thoroughfare as shown on the most recent thoroughfare plan, as amended.
  - (2) The city shall not participate for any portion of the cost to engineer, construct or maintain private streets.
  - (3) Private streets shall conform to the same standards regulating the engineering and construction as public streets. Construction plans and city engineer approval is required for public streets. Requirements pertaining to inspection and approval of improvements prior to release of lots for development shall apply. Fees charged for these services shall also apply. The city may periodically inspect private streets and require repairs necessary to assure emergency vehicle access. Standards for street naming and addressing shall apply. The term private street shall include any vehicular access way, and will include but is not limited to, terms such as road, alley, passage way, drive, access, lane, firelane, or any such similar term.
  - (4) Private streets must be constructed within a separate lot owned by an owners' association. The lot must conform to the city's right-of-way standards for public streets. An easement covering the street lot shall be granted to the city providing unrestricted use of the property for utilities and the maintenance of same. This right shall extend to all utility providers. The easement shall also provide the city with the right of access for any purpose related to the exercise of a governmental service or function, including but limited to, fire and police protection, inspection and code enforcement. The easement shall permit the city to remove any vehicle or obstacle within the street lot that impairs emergency access.
  - (5) The planning and zoning commission and/or city council may deny any private streets if in the commission's judgment the private street has the potential to: negatively affect traffic circulation on public streets; impair access to property either on-site or off-site to the PUD; impair access to or from public facilities including schools, parks, or libraries; or delay the response time of emergency vehicles.
  - (6) Any private street which has an access control gate or cross arm must have a minimum uninterrupted pavement width of 36 feet at the location of the access control device. If an overhead barrier is used, it must be a minimum of 14 feet above the road surface. All gates and cross arms must be of break-away design. A turn-around with a 50-foot turning radius must be located in front of a restricted access to allow vehicles denied access to safely exit onto public streets. Lots adjacent to controlled access gates shall not be permitted to construct fences of any material which could obscure traffic visibility. The entrance to all private streets must be marked with a sign stating that it is a private road. Restricted access points must either be staffed 24 hours per day or an alternate means must be established to assure access by emergency response vehicles and city and other utility service providers.
  - (7) Property deeds and property owners' association documents shall note that certain city services shall not be provided on private streets. Among the services which will not be provided are routine police patrols, enforcement of traffic parking ordinances, and preparation of accident reports. The city shall not provide public funds for the maintenance or lighting of private streets. All traffic regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices.
  - (8) The City of Killeen may upon written request of the owners' association and with a favorable vote of 75% of the association members consider accepting the dedication of and the assumption of maintenance responsibility for private streets and common use areas. However, in no event shall the city be obligated to accept such dedications. Should the city elect to favorably consider the acceptance of the dedication of common use facilities or private streets, the city will inspect properties offered for dedication and assess



each member of the owners' association for the expense of needed repairs concurrent with the city's acceptance of the dedication. The city will be the sole judge of required repairs. The city will also require, at the association's expense, any access controlling gates, devices or infrastructure.

(Ord. No. 05-101, § III, 10-25-05)

Sec. 31-807. - Planned unit development maintenance.

Property deeds and association documentation shall include the following property maintenance provisions and property conveyance records shall indicate that such provisions were briefed to, acknowledged, and accepted by the purchaser during the execution of the property transfer transaction. The landowner shall ensure that all common use areas and facilities are perpetually maintained. As such, the landowner shall reserve or secure perpetual access and maintenance easements to all common use areas and facilities for the purpose of inspection, repair and perpetual maintenance. The landowner may assign the respective maintenance and repair obligations to a home owners association, upon formal written consent of the same, or retain the same. The agreement shall provide for maintenance upon the dissolution of the home owners association. The maintenance easement agreements shall be presented to the city in draft form as a part of the PUD application. Following completion of the PUD, the agreement shall be recorded in the real property records of Bell County at the applicant's expense.

- (a) In the event an owners' association fails to maintain PUD common use areas or facilities or fails to fulfill other conditions associated with the PUD designation, the city will serve written notice on the association, setting forth the manner in which the association has not fulfilled its obligations. Such notice shall include a demand that the deficiencies be cured within a thirty-calendar day period. If the deficiencies are not cured within this period, the city may enter upon the common use area or facility, maintain it, and perform other related duties until such time as the association resumes its responsibilities. The city shall take such corrective action in order to prevent the common use area and facilities from becoming a public nuisance or a health and safety hazard to the public. All costs incurred by the city in carrying out the obligations of the association shall be reimbursed by the association. Should the association fail to reimburse the city within ninety (90) days, the properties within the PUD shall be subject to lien and possible foreclosure of assets including but limited to the maintenance reserve fund required per section 31-804
- (b) In the event an owners' association fails to maintain a private street, the city shall serve notice on the association, setting forth in writing the manner in which the association has not fulfilled its obligations. Such notice shall state conditions prejudicial to the health, safety and welfare of the public. Effort to correct such deficiencies shall be initiated within thirty (30) days and such deficiencies shall be cured within ninety (90) days. The city shall deem the failure to cure deficiencies within the cure period as a public hazard. In such instances, the city shall remove security devices and maintain the street to correct the cited deficiencies. All costs incurred by the city in carrying out the obligations of the association shall be reimbursed by the association. Should the association fail to reimburse the city within ninety (90) days, the properties within the PUD shall be subject to lien and possible foreclosure of assets including but not limited to the maintenance reserve fund required per section 31-805

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

Sec. 31-808. - Waiver and abandonment.

Once the PUD classification has been approved, the failure to submit a plat within a one-year period or the failure to submit plans for permit review on the development plan within a two-year period after the classification has been approved by the city council shall constitute waiver and abandonment of the PUD classification. Such period may be extended in one-year increments upon favorable recommendation by the planning and zoning commission and approval by the city council. If a plan is abandoned or the property transferred or conveyed prior to development, all negotiated land use and development

agreements and regulations which would have applied to the plan shall be considered null and void and the property shall revert to the zoning district that existed prior to the approval of the PUD classification.

(Ord. No. 05-101, § III, 10-25-05; Ord. No. [14-092](#), § I, 12-9-14)

Secs. 31-809—31-819. - Reserved.



# City of Killeen

## Legislation Details

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**File #:** DS-15-026    **Version:** 1    **Name:** Quarterly Investment Report  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 2/24/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Receive Quarterly Financial Report  
**Sponsors:** Finance Department  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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# City of Killeen

## Legislation Details

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**File #:** DS-15-027    **Version:** 1    **Name:** Discuss Recommended Changes to City Council Agenda Format  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 2/25/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Discuss Recommended Changes to City Council Agenda Format  
**Sponsors:** City Attorney Department, City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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# City of Killeen

## Legislation Details

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**File #:** DS-15-028    **Version:** 1    **Name:** Receive a Legal Briefing Regarding Chisholm Trail and Georgetown Utilities  
**Type:** Discussion Items    **Status:** Discussion Items  
**File created:** 2/25/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Receive a Legal Briefing Regarding Chisholm Trail and Georgetown Utilities  
**Sponsors:** City Attorney Department  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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# City of Killeen

## Legislation Details

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**File #:** CA-15-028    **Version:** 1    **Name:** Minutes of February 24, 2015 Regular City Council Meeting  
**Type:** Minutes    **Status:** Consent Agenda  
**File created:** 2/12/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Consider minutes of Regular City Council Meeting of February 24, 2015.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Minutes](#)

Date	Ver.	Action By	Action	Result
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**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
February 24, 2015 at 5:00 p.m.

Presiding: Mayor Scott Cospers

Attending: Mayor Pro-Tem Elizabeth Blackstone, Council members Terry Clark, Juan Rivera, Wayne Gilmore, Steve Harris, Jonathan Okray, and Jose Segarra

Also attending were City Manager Glenn Morrison, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms McDaniel.

Councilmember Rivera gave the invocation, and Councilmember Gilmore led everyone in the pledge of allegiance.

### **Approval of Agenda**

*Motion was made by Mayor Pro-Tem Blackstone to approve the agenda as written pulling CA-022 & CA-027 for separate consideration. Motion was seconded by Councilmember Gilmore. The motion carried unanimously.*

### **Consent Agenda**

**CA-15-023** Consider minutes of Regular City Council Meeting of February 10, 2015.  
No changes.

**CA-15-024** Consider a memorandum/resolution authorizing the procurement of replacement computers for various City Departments.  
**Staff comments:** No discussion

**CA-15-025** Consider a memorandum/resolution awarding Bid No. 15-08 for annual print shop supplies.  
**Staff comments:** No discussion

**CA-15-026** Consider a memorandum/resolution authorizing the City Manager to execute an Election Services Contract with Bell County for election services and computer software usage.  
**Staff comments:** No discussion

*Motion was made by Mayor Pro-Tem Blackstone to approve Consent Agenda items 023 through 026, as presented. Motion was seconded by Councilmember Segarra. Motion carried unanimously.*

**CA-15-022** Consider a memorandum/resolution supporting Bell County's efforts to obtain a hotel occupancy tax for support of the Bell County Exposition Center.

**Staff comments:** Glenn Morrison

Mr. Morrison gave a brief overview and history.

*Motion was made by Councilmember Rivera to approve CA-022. Motion was seconded by Councilmember Gilmore. Motion carried 6 to 1 with Mayor Pro-Tem Blackstone in opposition.*

**CA-15-027** Consider a memorandum/resolution adopting the 2015 Solid Waste Master Plan and Rate Study.

**Staff comments:** Michael Cleghorn

City staff recommends that the City Council adopt the 2015 Solid Waste Master Plan and Rate Study.

Councilmember Okray stated for the record that he would like to see this resolution postponed until this issue can be further discussed in a workshop regarding a city wide recycle program.

*Motion was made by Councilmember Segarra to approve CA-027. Motion was seconded by Councilmember Rivera. Motion carried 5 to 2 with Councilmember Harris and Councilmember Okray in opposition.*

## **Public Hearings / Ordinances**

**PH-15-011** HOLD a public hearing and consider an ordinance amending the FY 2015 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing the Solid Waste Fund accounts by \$1,830,375 to purchase solid waste vehicles.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2015 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE SOLID WASTE FUND ACCOUNTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**Staff comments:** Karen Evans

FY 2015 funds were budgeted to initiate these purchases for a total of \$500,000. The budget must be increased by the remaining purchase price of \$1,830,375. Staff recommends that the City Council approve this ordinance amending the FY 2015 Municipal Operating budget by \$1,830,375.

Mayor Cosper opened the public hearing. With no one appearing the public hearing was closed.

*Motion was made by Councilmember Okray to approve PH-011. Motion was seconded by Mayor Pro-Tem Blackstone. Motion carried unanimously.*

**PH-15-012A** HOLD a public hearing and consider an ordinance amending the FY 2015 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing the



Photo Red Light Fund accounts by \$238,078 to fund video/mobile data terminal systems.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2015 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE PHOTO RED LIGHT ENFORCEMENT ACCOUNTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**Staff comments:** Karen Evans

The budget must be increased by \$238,078 to fund video/mobile data terminals at a total cost of \$458,489. Staff recommends that the City Council approve this ordinance amending the FY 2015 Municipal Operating budget by \$238,078.

Mayor Cosper opened the public hearing. With no one appearing the public hearing was closed.

*Motion was made by Councilmember Rivera to approve PH-012A. Motion was seconded by Councilmember Gilmore. Motion carried 6 to 1 with Councilmember Okray in opposition.*

**PH-15-012B** Consider a memorandum/resolution authorizing the purchase and replacement of police unit computers from L3 Communications, through a Cooperative Purchasing Network.

**Staff comments:** Mr. Moore

Funds for this replacement plan (estimated at \$458,489.00) will be provided through the Photo Red Light Enforcement account budget. The IT Department staff recommends that the City Council approve the purchase of MDT/Video systems for the 47 units for the 2014-2015 fiscal year from L3 Communications, and that the City Manager is authorized to execute any and all change orders in compliance with state law.

*Motion was made by Councilmember Rivera to approve PH-012B. Motion was seconded by Councilmember Clark. Motion carried 6 to 1 with Councilmember Okray in opposition.*

**PH-15-013A** HOLD a public hearing and consider an ordinance amending the FY 2015 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing the General Fund accounts by \$50,000 to fund façade grants.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2015 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE GENERAL FUND ACCOUNTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**Staff comments:** Karen Evans

The FY 2015 expenditure budget must be increased by \$50,000 to fund the façade improvement grant program. Staff recommends that the City Council approve the ordinance amending the FY 2015 Municipal Operating budget by \$50,000.

Mayor Cosper opened the public hearing. With no one appearing the public hearing was closed.

*Motion was made by Councilmember Clark to approve PH-013A. Motion was seconded by Councilmember Okray. Motion carried unanimously.*

**PH-15-013B** Consider a memorandum/resolution supporting the continued revitalization efforts for Downtown Killeen.

**Staff comments:** Charlotte Humpherys

Staff recommends that the City Council adopt this resolution to continue the Facade Grant and Sign Grant programs, waive permit fees for improvements in the HOD area of downtown for a period of five (5) years, grant the City Manager the authority to waive permit fees on individual projects throughout the greater downtown Killeen area as defined in the Killeen Downtown Plan, and make a determination that there is an ongoing public benefit for providing these economic development incentives for downtown revitalization.

*Motion was made by Councilmember Clark to approve PH-013B. Motion was seconded by Councilmember Harris. Motion carried unanimously.*

### **Adjournment**

With no further business, upon motion being made by Mayor Pro-Tem Blackstone, seconded by Councilmember Okray, and unanimously approved, the meeting was adjourned at 5:35 p.m.



# City of Killeen

## Legislation Details

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**File #:** CA-15-029    **Version:** 1    **Name:** Thermoplastic - PolyFlex III Bid 15-10  
**Type:** Resolution/Consent Agenda    **Status:** Consent Agenda  
**File created:** 2/5/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Consider a memorandum/resolution awarding Bid No. 15-10 to D.I.J. Construction, Inc. for thermoplastic materials and to Maxwell Products, Inc. for crack seal material.  
**Sponsors:** Streets, Public Works Department  
**Indexes:** Street Material  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Bid Tabulation](#)

Date	Ver.	Action By	Action	Result
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## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Authorize the award of purchase contracts to D.I.J. Construction, Inc. for thermoplastic materials and Maxwell Products, Inc. for crack seal materials, Bid 15-10**

### ORIGINATING DEPARTMENT

**Public Works / Street Services Division**

### BACKGROUND INFORMATION

On February 02, 2015, at 2:15pm, bids were opened and read aloud for the procurement of the City's estimated annual requirements for street materials, rock, thermoplastic, Polyflex III (crack seal material), and top soil. These items included Type D asphalt, Type C asphalt, 1.5 Asphalt Overlay, sandy loam, base material, rip rap, thermoplastic, Polyflex III, and cold mix asphalt. The City's various divisions utilize quality sandy loam, base material, and rip rap in a variety of different applications, including the construction and repair of sidewalks, curb and gutter sections, channel repair and replacements, culverts, etc. The City's previous street material contracts were for a term of (1) one year and expire in 2015.

### DISCUSSION/CONCLUSION

Five (5) vendors submitted a bid. These were Crafcot Texas, Inc., Swarco Industries, Inc., Superior Crushed Stone, D.I.J. Construction, Inc., and Maxwell Products, Inc.

City staff received one bid submission for the rip rap of various sizes from Superior Crushed Stone. A new bid will be advertised as the cost submitted ranges from 19% to 57% higher than the current, local vendor. The cost of freight and transportation will also vary during FOB Destination - FOB Plant vs. the current cost. Currently, the City transports the product from Lhoist North America, which is a 19.6 miles round trip from Nolanville, TX. Superior Crushed Stone is a 70.6 miles round trip from Jarrell, TX, resulting in a 51-mile round trip difference. City staff recommends rejecting the bids for rip rap - FOB Destination and FOB Plant, for all sizes. This would not be cost effective for the City of Killeen due to the cost of travel time, employee downtime from jobsites, fuel costs, and maintenance due to mileage accrual on equipment.

No bids were received for Type D and C Asphalt, 1.5 Asphalt Overlay, Quality Sandy Loam, Base Material, and Cold Mix Asphalt resulting in the need to produce a new bid and re-advertise.

Bids were received for thermoplastic materials and for crack seal materials. Bidders were instructed to bid items based upon an estimated annual need and per item award. The low bidder for each item recommended for award is outlined below:

ITEM	LOW BIDDER	BID PRICE
Thermoplastic - White	DIJ Construction, Inc.	\$0.64 per pound
Thermoplastic - Yellow	DIJ Construction, Inc.	\$0.64 per pound
Crack Seal Material - Polyflex III	Maxwell Products, Inc.	\$0.4852 per pound

As with other requirements contracts, if the selected bidder cannot fulfill an order, the City divisions will then solicit from area vendors that have materials available. Due to the fluctuating market condition of the materials, the bid required prices to remain fixed and firm during the first twelve (12) months of the contract. The contract term for this award is for a term of one (1) year with the option to extend the same for four (4) additional six (6) month periods, if agreed to by both parties.

### **FISCAL IMPACT**

The funding for this action is available as budgeted in the following accounts: 340-3490-800.42-37, Sign Maintenance; 010-3445-434.42-65, Street Maintenance; and also includes other prospective accounts per the City of Killeen individual departments/divisions.

### **RECOMMENDATION**

City staff recommends that City Council award purchase contracts to D.I.J. Construction Inc. for the purchase of Thermoplastic - White and Thermoplastic - Yellow and Maxwell Products, Inc. for the crack seal material - Polyflex III, under Bid 15-10 and reject all other submissions. Further that the City Council authorize the City Manager to enter into contracts with the same, including the proposed extensions described and all change orders in the amounts established by state and local law.

# VENDORS

Bid 15-10; Street Department, Street Materials, Rock, Thermoplastic, Polyflex III, and Top Soil		CRAFCO TEXAS, INC. HALLS, TX.	SWARCO INDUSTRIES, INC. COLOMBIA, TN.	SUPERIOR CRUSHED STONE JARRELL, TX.	DIJ CONSTRUCTION, INC. BERTRAM, TX.	MAXWELL PRODUCTS, INC. SALT LAKE, UTAH
Opening: February 2, 2015 @ 2:15 PM	Unit Price per cu yd/ extended price					
TYPE D ASPHALT FOB PLANT	25,000 TONS	NA	NA	NA	NA	NA
TYPE C ASPHALT FOB PLANT	1,500 TONS	NA	NA	NA	NA	NA
1.5 ASPHALT OVERLAY	100,000 SY	NA	NA	NA	NA	NA
QUALITY SANDY LOAM	10,000 TONS 4,000 TONS	NA	NA	NA	NA	NA
BASE MATERIAL FOB DESTINATION FOB PLANT	10,000 TONS 6,000 TONS	NA	NA	\$15.00 PER TON \$150,000.00 \$5.00 PER TON \$30,000.00	NA	NA
RIP RAP 18-24 INCH FOB DESTINATION FOB PLANT	1,500 TONS 1,000 TONS	NA	NA	\$35.00 PER TON \$52,500.00 \$25.00 PER TON \$25,000.00	NA	NA
RIP RACK 12-18 INCH FOB DESTINATION FOB PLANT	1,500 TONS 1,000 TONS	NA	NA	\$30.00 PER TON \$45,000.00 \$20.00 PER TON \$20,000.00	NA	NA
RIP RAP 3-5 INCH FOB DESTINATION FOB PLANT	5,500 TONS 1,500 TONS	NA	NA	\$20.00 PER TON \$110,000.00 \$10.00 PER TON \$15,000.00	NA	NA
THERMOPLASTIC - WHITE	30,000 LBS.	NA	\$0.65 PER LB. \$19,500.00	NA	\$0.64 PER LB. \$19,200.00	NA
THERMOPLASTIC - YELLOW	15,000 LBS.	NA	\$0.65 PER LB. \$9,750.00	NA	\$0.64 PER LB. \$9,600.00	NA
CRACK SEAL MATERIAL - POLYFLEX III	68,000 LBS.	\$0.52 PER LB \$35,360.00	NA	NA	NA	\$0.4852 PER LB. \$32,993.60
COLD MIX ASPHALT	2,500 TONS	NA	NA	NA	NA	NA
NOTES / COMMENTS		7-10 DAYS AFTER AWARD CITY OF SAN ANTONIO, CITY OF AUSTIN, CITY OF FT. WORTH	10 DAYS AFTER AWARD WORKS WITH FLORIDA AND VIRGINIA	COSTS ARE SUBSTANTIALLY HIGHER THAN CURRENT LOCAL VENDOR PRICES, NEW BID TO BE ADVERTISED	LOW BIDDER	7 DAYS WITHIN ORDER PLACEMENT AFTER AWARD AFTER RECEIVING INVOICE, CC # MUST BE CALLED IN OR CHECK REMITTED NUV CS FORMULATION CRACKFILL MATERIAL WORKS WITH CALIFORNIA, NEW ENGLAND, UTAH



# City of Killeen

## Legislation Details

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**File #:** CA-15-030    **Version:** 1    **Name:** Reschedule Council Meeting of March 24, 2015  
**Type:** Resolution/Consent Agenda    **Status:** Consent Agenda  
**File created:** 2/20/2015    **In control:** City Council Workshop  
**On agenda:** 3/3/2015    **Final action:**  
**Title:** Consider a memorandum/resolution rescheduling the regular City Council meeting of March 24, 2015.  
**Sponsors:** City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)

Date	Ver.	Action By	Action	Result
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## CITY COUNCIL MEMORANDUM

**AGENDA ITEM**

**Reschedule City Council Meeting of March 24, 2015**

**ORIGINATING DEPARTMENT**

**City Manager's Office**

**BACKGROUND INFORMATION**

Section 34 of the City Charter provides that the City Council shall meet regularly, but not less frequently than twice a month. Historically, the City Council has scheduled these two meetings for the second and fourth Tuesdays of the month.

**DISCUSSION/CONCLUSION**

The Fort Hood Community Listening Session is scheduled for the evening of March 24, 2015. A majority of the City Council may be in attendance. It is recommended that the City Council meeting scheduled for March 24, 2015 be rescheduled for another date.

**FISCAL IMPACT**

No fiscal impact.

**RECOMMENDATION**

That the second regular City Council meeting of March be held on March 31, 2015.





# City of Killeen

## Legislation Details

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**File #:** PH-15-014    **Version:** 1    **Name:** Fund 343 Budget Amendment for Stagecoach Phase II and Elms Road Extension.

**Type:** Ordinance/Public Hearing    **Status:** Public Hearing/Ordinances

**File created:** 2/17/2015    **In control:** City Council Workshop

**On agenda:** 3/3/2015    **Final action:**

**Title:** HOLD a public hearing and consider an ordinance amending the FY 2015 Annual Budget and Plan of Municipal Services of the City of Killeen by increasing Certificate of Obligation 2011 fund accounts by \$486,503 to finance Stagecoach Road Reconstruction Phase II and Elms Road Extension.

**Sponsors:** Public Works Department, Transportation Division, Finance Department

**Indexes:**

**Code sections:**

**Attachments:** [Council Memorandum](#)  
[Ordinance](#)

Date	Ver.	Action By	Action	Result
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## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Budget Amendment for Stagecoach Road Reconstruction Phase II and Elms Road Extension**

### ORIGINATING DEPARTMENT

**Finance**

### BACKGROUND INFORMATION

Various projects are funded through the Capital Improvement Program (CIP). The CIP is funded through the issuance of revenue bonds, general obligation bonds and certificates of obligation and can be used only for purposes outlined in the bond covenant.

In July 2013, the council approved staff recommendation to award a contract to McLean Construction for the Stagecoach Road Reconstruction Phase II (CCMR 13-087R).

In October 2014, the council approved staff recommendation to award a contract to Gary W. Purser Construction for the Elms Road Extension Project (CCMR 14-139R).

### DISCUSSION/CONCLUSION

The City of Killeen approves the CIP budget along with the Annual Budget and Plan of Municipal Services in September each year. Although staff provides estimates based upon the best information at the time, the budget needs to be amended periodically as more accurate information becomes available. Changes in scope, schedules, and the project having remaining funds due to favorable bids or not enough funds due to unforeseen events require that a budget amendment be approved by City Council.

Additional funds are needed to cover contingency-related expenditures and change orders for the Stagecoach Road Reconstruction and Elms Road Extension projects.

### FISCAL IMPACT

Unspent interest earnings from several older bond funds will be utilized to finance this project and have been transferred into Fund 343 via a residual equity transfer approved by the Council on October 21, 2014. Elms Road project funding is currently budgeted in Fund 347. This budget amendment consolidates the funding into Fund 343.

## Revenues

Account	Description	Original Budget	Change	Amended Budget
343-0000-371-93-29	Transfer In (329)	\$0	\$144,513	\$144,513
343-0000-371-93-33	Transfer In (333)	\$0	\$607	\$607
343-0000-371-93-34	Transfer In (334)	\$0	\$19,397	\$19,397
343-0000-371-93-47	Transfer In (347)	\$0	\$300,000	\$300,000
343-0000-371-93-94	Transfer In (394)	\$0	\$7,704	\$7,704
343-0000-371-93-95	Transfer In (395)	\$0	\$14,912	\$14,912
<b>Total</b>		<b>\$0</b>	<b>\$486,503</b>	<b>\$486,503</b>

## Expenditures

Account	Description	Original Budget	Change	Amended Budget
343-3490-800-58-36	Stagecoach	\$13,980,995	\$215,000	\$14,195,995
343-3490-800-58-38	Elms Road	\$2,539,323	\$271,503	\$2,810,826
<b>Total</b>		<b>\$16,520,318</b>	<b>\$486,503</b>	<b>\$17,006,821</b>

## RECOMMENDATION

Staff recommends that City Council approve the attached ordinance amending the FY 2015 Annual Budget and Plan of Municipal Services increasing various capital project fund revenues and expenditures by \$486,503.

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2015 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING CERTIFICATE OF OBLIGATION 2011 FUND ACCOUNTS BY \$486,503; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2014, to September 30, 2015, has been adopted by City Council in accordance with the City Charter; and

**WHEREAS**, it is the desire of the Killeen City Council to increase the Certificate of Obligation 2011 Fund accounts by adding funds for the Stagecoach Road Reconstruction Phase II and Elms Road Extension projects; and

**WHEREAS**, the need for the additional funds requires a budget amendment;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION I.** That Ordinance 14-067 adopting a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2014, to September 30, 2015, be amended as to the portion of said budget as follows:

<i>Account Number</i>	<i>Original Budget</i>	<i>Budget Increase</i>	<i>Amended Budget</i>
343-3490-800-58-36	\$13,980,995	\$215,000	\$14,195,995
343-3490-800-58-38	\$2,539,323	\$271,503	\$2,810,826

**SECTION II.** That the City Council finds that the public notice and public hearing requirements of Section 56 of the City Charter have been complied with prior to the enactment of this ordinance.

**SECTION III.** That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION V.** That this ordinance shall be effective after its passage and publication according to the law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 10th day of March, 2015, at which meeting 1a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, 551.001 *et seq.*

**APPROVED**

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Scott Cospers, MAYOR

**ATTEST:**

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Dianna Barker, CITY SECRETARY

**APPROVED AS TO FORM:**

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Kathryn H. Davis, CITY ATTORNEY