

ORDINANCE NO. 1022

AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN CITY OF KYLE, TEXAS AS REINVESTMENT ZONE NUMBER TWO, CITY OF KYLE, TEXAS, FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; AND PROVIDING A SEVERABILITY CLAUSE

WHEREAS, pursuant to Chapter 311 of the Texas Tax Code, as amended (“Act”) a City may designate a contiguous geographic area within such City as a reinvestment zone if the area satisfies the requirements of certain sections of the Act;

WHEREAS, the City of Kyle, Texas (the “City”) has prepared a preliminary reinvestment zone financing plan, which is attached hereto as Exhibit C, which provides that City ad valorem taxes are to be deposited into the tax increment fund, and that ad valorem taxes of other taxing units may be utilized in the financing of the proposed reinvestment zone;

WHEREAS, a notice of the public hearing by the City Council on the creation of the proposed reinvestment zone was published on November 7, 2018, in the Hays Free Press a newspaper of general circulation in the City of Kyle and the City’s newspaper of record;

WHEREAS, at the public hearing held on November 20, 2018, interested persons were invited to speak for or against the creation of the proposed reinvestment zone, its boundaries, the concept of tax increment financing; and owners of property in the proposed reinvestment zone were given a reasonable opportunity to protest the inclusion of their property in the proposed reinvestment zone;

WHEREAS, evidence was received and presented at the meeting at which the public hearing was held in favor of the creation of the proposed reinvestment zone under the provisions of the Act;

WHEREAS, the City of Kyle has provided all information, presented all necessary information and facts regarding the proposed reinvestment zone, given all notices and completed all other things required by Chapter 311, Texas Tax Code, as condition to the creation of the proposed reinvestment zone;

WHEREAS, the total area within the proposed zone is approximately 1,480 acres, excluding property that is publicly owned;

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

SECTION 1. FINDINGS

- (a)** That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.
- (b)** That the City Council finds and declares that the creation of the Tax Increment Reinvestment Zone Number Two, City of Kyle (also referred to herein as the “Tax Increment Reinvestment Zone” and the “Tax Increment Reinvestment Zone Number Two”) will significantly enhance the value of all the taxable real property in the reinvestment zone and will be of general benefit to the City and its taxpayers.
- (c)** That the City Council finds and declares that the creation of the Tax Increment Reinvestment Zone will stimulate economic growth and significantly accelerate economic development activities within the reinvestment zone resulting in the creation of businesses, employment, housing, and enhanced tax revenues for the City.
- (d)** That the City Council further finds and declares that the Tax Increment Reinvestment Zone meets the criteria and requirements of Section 311.005(a)(2) of the Act because the reinvestment zone currently contains: (1) substantial areas that are predominantly open and underdeveloped; and (2) lack of essential public infrastructure to promote development of property as an urban, town center and to attract new businesses and commercial activity to the proposed zone for the purpose of increasing real property tax base for all taxing units within the zone and increasing job opportunities for residents of the City and the region; each of which cause conditions that substantially impair and arrest the sound growth of the City.
- (e)** That the City Council, pursuant to the requirements of the Act, further finds and declares that:
 - (1)** The proposed Tax Increment Reinvestment Zone Number Two is a contiguous geographic area located wholly within the corporate limits of the City of Kyle;
 - (2)** Less than thirty (30) percent of all properties in the proposed Tax Increment Reinvestment Zone Number Two, excluding property that is publicly owned, is used for residential purposes.
 - (3)** The appraised value of taxable real property in the proposed Tax Increment Reinvestment Zone Number Two and existing reinvestment zone currently does not exceed fifty percent (50.0%) of the total appraised value of taxable real property in the City and in the industrial districts created by the City.

- (4) Accelerated development and or redevelopment in the proposed Tax Increment Reinvestment Zone would not occur through private investment in the foreseeable future.

SECTION 2. DESIGNATION OF REINVESTMENT ZONE

That the City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311.005 (a), does hereby designate as a Tax Increment Reinvestment Zone Number Two, City of Kyle, and create and designate said reinvestment zone over the area described in Exhibit “A” and depicted in the map attached hereto as Exhibit “B” to stimulate economic development and the development of the designated area.

The reinvestment zone shall hereafter be named for identification and reporting purposes as Tax Increment Reinvestment Zone Number 2, City of Kyle, Texas, (may also be referred to as TIRZ Number 2). The City Council specifically declares that the Tax Increment Reinvestment Zone Number 2 is designated pursuant to Section 311.005(a)(2) of the Texas Tax Code as declared in the Findings section of this Ordinance.

SECTION 3. BOARD OF DIRECTORS

The Tax Increment Reinvestment Zone Number 2 shall be governed by a nine (9) person Board of Directors (the “Board”). The City Council shall appoint seven (7) members of the Board to be appointed to Places 1, 2, 3, 4, 5, 6, and 7. Two (2) members of the Board may be appointed by the Hays County Commissioners Court to Places 8 and 9 or the County may waive the appointment of the Board members. If the County waives the appointment of Board members, the Places 8 and 9 go away. The City Council may choose to appoint currently serving members of the Kyle City Council to the Board of Directors.

- (a) Qualifications. Each member of the Board shall be a qualified voter of the City, or a person at least eighteen (18) years of age who must be a resident of Hays County or county adjacent to Hays County or own real property in the reinvestment zone.
- (b) Terms of Office.
 - (1) If the City Council chooses to appoint currently serving members of the Kyle City Council to the Board of Directors, then the Council members shall serve the same term as their elected term on the City Council. The two Hays County Commissioners shall serve a two-year term on the Board of Directors.
 - (2) If the City Council chooses to appoint other than currently serving members of the Kyle City Council to the Board of Directors, then the term of each initial Director shall be as set forth in this subsection. Places 2, 4, and 6 of the initial Directors shall serve an initial term of one (1) year, and Places 1, 3, 5, and 7 of the initial Directors shall serve an initial term of (2) years. The term of each subsequent director shall be for two (2) years. If the County appoints members other than members of the County

Commissioners Court, Place 8 shall serve an initial term of one (1) year and Place 9 will serve an initial term of two (2) years. The term of each subsequent director shall be for two (2) years. Vacancies shall be filled for the remainder of the unexpired term, by appointment made by the governing body that appointed the Director who served in the vacated position.

- (3) Officers. The City Council shall annually appoint a member of the Board to serve as chairman of the Board for a one-year term beginning January 1st and ending December 31st. The Board may elect a Vice Chairman to serve in the absence of the Chairman, and other officers as it deems appropriate.
- (4) Meeting of Directors. The Board shall hold its meetings at the Kyle City Hall currently located at 100 West Center Street, Kyle, Texas 78640, or at such other place designated from time to time by the Board. The Board shall conduct all its meetings in accordance with the requirements of the Act and the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended. Meetings of the Board shall be held at such times as shall be designated, from time to time, by the Board, or whenever called by the Chairman, the Vice Chairman in the absence of the Chairman, or upon advice of or request by the Mayor. Notice of meetings need not be given to each of the Directors but public notice of each meeting shall be given in the manner prescribed by law. A majority of the Board of Directors fixed by this Ordinance shall constitute a quorum for Board meetings. The act of a majority of the Directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law.
- (5) Authority. The Board shall have the authority specifically given to the Board in Chapter 311, Texas Tax Code. Any powers and duties that may be delegated to the Board are not delegated at this time. The Board shall have such other authority, as may be lawfully delegated by the City Council, as is delegated by the City Council acting by a formal, written Resolution or Ordinance. Action by the Board that is expressly or impliedly provided in Chapter 311, or by other state law, to be subject to approval by the City Council, shall not be effective until approved in writing by the City Council.
- (6) Duties. The Board shall perform each duty and obligation required to be performed by the Board, by Chapter 311, any project or plan approved by the City Council, and each such duty and obligation lawfully imposed on the Board by the City Council consistent with Chapter 311.
- (7) Plan. The Board of Directors shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the reinvestment zone as described in Section 311.011 of the Act and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare the

project plan and reinvestment zone financing plan, subject to approval by the City Council.

SECTION 4. DURATION OF REINVESTMENT ZONE

The duration of the reinvestment zone is not to exceed a period of twenty (20) calendar years. The Zone shall take effect immediately upon passage of this ordinance. Termination of the operation of the reinvestment zone shall occur on December 31, 2037 (with the final year's tax to be collected by September 30, 2038), or at an earlier time as designated by City Council. The City shall have the right, through a subsequent City Ordinance, to terminate the Zone prior to the expiration date if all of the project costs have been paid in full. If upon expiration of the term of the Zone, project costs have not been paid, neither the City nor the County shall have any obligation to pay the shortfall.

SECTION 5. TAX INCREMENT BASE

That the Tax Increment Base of the City or any other taxing unit participating in the Tax Increment Reinvestment Zone Number 2 for the reinvestment zone is the total appraised value of all real property taxable by the City or other taxing unit participating in the reinvestment zone and located in the reinvestment zone, determined as of January 1, 2018 (property tax year 2018), the tax year in which the reinvestment zone was made effective as a reinvestment zone (the "Tax Increment Base").

SECTION 6. TAX INCREMENT FUND

A Tax Increment Reinvestment Zone Fund is hereby created and established for the Tax Increment Reinvestment Zone Number 2 which may be divided into subaccounts as authorized by subsequent Ordinances. All tax increment revenues, as defined below, shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any subaccounts shall be maintained at the depository bank of the City of Kyle and shall be secured in the manner prescribed by law for funds of Texas cities.

The annual tax increment shall equal the property taxes assessed, levied, and collected by the City and any other taxing unit participating in the reinvestment zone for that year on the captured appraised value in compliance with the requirements of Sections 5, 6 and Exhibit C of this Ordinance and as defined by the Act, of real property located in reinvestment zone that is taxable by the City or any other taxing unit participating in the reinvestment zone, less any amounts that are to be allocated from the tax increment pursuant to the Act.

All revenues from the sale of any tax increment bonds, notes or other obligations hereafter issued for the benefit of the reinvestment zone by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the reinvestment zone shall be deposited into the Tax Increment Fund.

Prior to the termination of the reinvestment zone, money shall be disbursed from the Tax Increment Fund only to pay for project costs, as defined by the Texas Tax Code, for the reinvestment zone, to

satisfy the claims of holders of tax increment bonds or notes issued for the reinvestment zone, to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010 (b) of the Texas Tax Code, or to pay the incremental costs of providing municipal services incurred as a result of the creation of the zone or the development or redevelopment of land in the zone, regardless of whether the costs of those services are identified in the project plan or the financing plan.

SECTION 7. EXHIBITS

The following exhibits are referred to in this Ordinance and are attached herewith:

- Exhibit A: Boundary Description
- Exhibit B: Boundary Map
- Exhibit C: Preliminary Project Plan and Financing Plan
- Exhibit D: Captured Assessed Taxable Value Assumptions
- Exhibit E: 2018 Base Assessed Taxable Valuations
- Exhibit F: Notice of Public Hearing
- Exhibit G: Term Sheet Approved by City Council for Development of the Uptown Area of Plum Creek

SECTION 8. SEVERABILITY

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person to set circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

Section 9. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage.

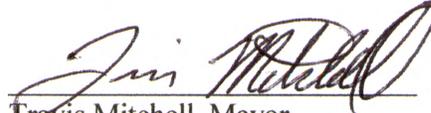
Section 10. OPEN MEETINGS

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

PASSED AND APPROVED on 1st reading this 4th day of December, 2018.

PASSED AND FINALLY APPROVED on 2nd reading this 18th day of December, 2018.

CITY OF KYLE, TEXAS


Travis Mitchell, Mayor

ATTEST:


Jennifer Vetrano, City Secretary

EXHIBIT A

Boundary Description Tax Increment Reinvestment Zone Number 2

THIS IS A DESCRIPTION OF A TRACT OF LAND CONTAINING APPROXIMATELY 1482.9 ACRES OUT OF THE JESSE DAY SURVEYS ABSTRACTS NOS. 152 AND 159, THE JOHN KING SURVEY NO. 20, THE MORTON MCCARVER SURVEY ABSTRACT NO. 10, THE THOMAS G. ALLEN SURVEY NO. 26, THE HENRY LOLLER SURVEY NO. 19, ABSTRACT 290 AND THE JOHN COOPER SURVEY NO. 13 IN HAYS COUNTY, TEXAS, TO BE USED FOR POLITICAL MEANS. THIS WAS NOT SURVEYED ON THE GROUND AND IS A BOUNDS DESCRIPTION ONLY ASSEMBLED FROM THE BEST AVAILABLE EVIDENCE INCLUDING DEED RESEARCH AND APPRAISAL DISTRICT MAPS. REFERENCES TO ALL DOCUMENTS OF RECORD REFER TO THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS. THIS TYPE OF DESCRIPTION IS ALLOWED UNDER THE TEXAS ADMINISTRATIVE CODE, PART 29, CHAPTER 663, SUBCHAPTER B, RULE 663.21 AND IS FURTHER DESCRIBED AS FOLLOWS:

BEGINNING at the southwest corner of the intersection of FM 2770 and S FM 1626, same being the most northerly corner of the 142.38 acre parcel described in four tracts in a Special Warranty Deed to Texas Lehigh Cement Company recorded in Book 609 Page 843 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R 11247, R148425, and R148426);

THENCE, with the southerly right-of-way line of FM 2770, in a westerly direction to the Kyle city limits as it crosses tract 2 of the 142.38 acre parcel owned by Texas Lehigh Cement Company;

THENCE, with the Kyle city limit line, through the afore-mentioned Texas Lehigh Cement parcel to the intersection with a 51.48 acre tract, the same being more particularly described in Special Warranty Deed with Vendors Lien to Lennar Homes of Texas Land & Construction LTD recorded in Document Number 16029226 of the Official Public Records of Hays County, Texas (Tax Parcel No. R146069);

THENCE, continuing along the Kyle city limits with the western boundary of the Lennar Homes of Texas Land & Construction LTD tract, through a 308 acre tract and a 10.87 acre, the same being more particularly described in Special Warranty Deed with Vendors Lien to Lennar Homes of Texas Land & Construction LTD recorded in Document Number 16029226 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R146068 and R151283);

THENCE, along western right-of-way line FM 2770 and the northern right-of-way of Kohlers Crossing, also being the western and southern boundary of the 3.55 acre tract of Lot 1, Block A of Plum Creek Phase 2 Northwest Business Park;

THENCE, continuing along the north right-of-way of Kohlers Crossing, also being the southern boundary of the Lennar Homes of Texas Land & Construction LTD 308 acre and 10.87 acre tracts;

THENCE, crossing the Kohlers Crossing right-of-way at the northwestern corner of the 14.066 acre tract, being more particularly described as Lot 2 Block A of Plum Creek Phase 1 Section 6F, and continuing along the western and southern boundary of said tract;

THENCE, across the southern end of the right-of-way of Benner and the southern boundary of Lots 1 and 2, Block A of Plum Creek Phase 1 Section 12A;

THENCE, along the southwestern boundary of Lot 2, Block A of Plum Creek Phase 1 Section 12B;

THENCE, along the western boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11J;

THENCE, along the western boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11F;

THENCE, along the western boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11E-2;

THENCE, along the southwestern boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11E-1;

THENCE, crossing the Sampson Rd right-of-way and continuing along the southwestern boundary of Lot 1, Block A of Plum Creek Phase 1 Section 11D;

THENCE, along the southwestern boundary of Lot 2, Block A of Plum Creek Phase 1 Section 11C, turning north along the eastern boundary of said lot also being the western right-of-way of the Union Pacific Railroad;

THENCE, crossing the FM 1626 right-of-way and the Railroad right-of-way to the southern corner and southeastern boundary of the 0.04 acre parcel being more particularly described as Tract 19 in the Deed Without Warranty to Mountain Plum LTD in Book 2047 Page 133 of the Official Public Records of Hays County, Texas (Tax Parcel No. R134955);

THENCE, continuing along the southeastern border of the 105.188 acre tract being a portion of that 1062.87 acre tract more particularly described in Book 2047, Page 133 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R13837, R134155, and R134161);

THENCE, along the southeastern boundary of the Marketplace Ave right-of-way as described in the subdivision plat Plum Creek Phase 1 Lot 1 Block A Business Park;

THENCE, along the southeastern boundary of the 69.725 acre tract being more particularly described in the Deed Without Warranty to Mountain Plum LTD in Book 2047 Page 133 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R12691, R13408, R13851, R134156, and R134159);

THENCE, continuing along the southern and eastern borders of the lots described in Majestic Industrial Park with the east boundary also being the western right-of-way line of Kyle Crossing, and continuing along the northern boundary of lots 1 and 3 of Majestic Industrial Park, being the same as the southern boundary of Kohlers Crossing right-of-way;

THENCE, continuing along the southern right-of-way of Kohlers Crossing also being the northern boundaries of the afore-mentioned 69.725 acre parcel, Plum Creek Phase 1 Lot 1 Block A Business Park, and the afore-mentioned 105.188 acre parcel, crossing the Union Pacific railroad right-of-way to the northeast corner of Lot 1 Block A of Plum Creek Phase 1 Section 8;

THENCE, north along the western boundary of the Union Pacific Railroad right-of-way to the Kyle city limit line;

THENCE, leaving the railroad right-of-way, following the eastern and northern boundaries of the Kyle city limit line to the point where it intersects the 75 acre parcel being more particularly described in the Deed Without Warranty to Texas-Lehigh Cement Company in Book 609 Page 843 of the Official Public Records of Hays County, Texas (Tax Parcel Nos. R11237 and R127405);

THENCE, following the southern boundary of said 75 acre parcel westward to its intersection with the S FM 1626 right-of-way;

THENCE, crossing the FM 1626 right-of-way and following the western line of said right-of-way in a northerly direction to the BEGINNING for a total of 1482.9 acres, more or less.

~~THENCE, north along the western boundary of the Union Pacific Railroad right-of-way to the Kyle city limit line in the northeastern corner of the 146.736 acre tract being more particularly described in (need a deed reference, owner Mountain Plum LTD) (Tax Parcel No R109017 and R11227);~~

~~THENCE, leaving the railroad right-of-way, following the eastern and northern boundaries of the 146.736 acre parcel, crossing the FM 1626 right-of-way and following the western line of said right-of-way in a northerly direction to the BEGINNING for a total of 1482.9 acres, more or less.~~

The following is a list of Hays Central Appraisal District parcel ID numbers included in the TIRZ:

R102948, R102949, R111489, R11209, R11227, R124075, R124076, R124475, R12691, R127266, R127663, R130335, R130336, R130419, R130421, R130423, R130425, R132398, R132399, R132402, R132408, R13408, R134152, R134153, R134155, R134156, R134159, R134161, R135553, R137936, R138187, R138188, R138189, R138268, R138269, R138270, R138271, R138272, R138273, R138274, R138275, R13837, R13851, R140150, R143792, R144234, R144235, R144236, R144843, R144849, R146068, R146069, R147859, R147860, R147908, R148425, R148426, R151122, R151279, R151283, R151597, R151601, R151602, R151603, R152394, R152412, R155405, R155406, R156298, R156516, R88923, R109017, R11227, R124024, R124066, R124067, R124068, R124069, R124070, R124071, R127267, R130339, R130340, R156457, R156458, R156516, R88919, R88923, R134740. In the event of a conflict between this Exhibit and Exhibit B, Exhibit B shall control.

EXHIBIT B

Boundary Map of Tax Increment Reinvestment Zone Number 2

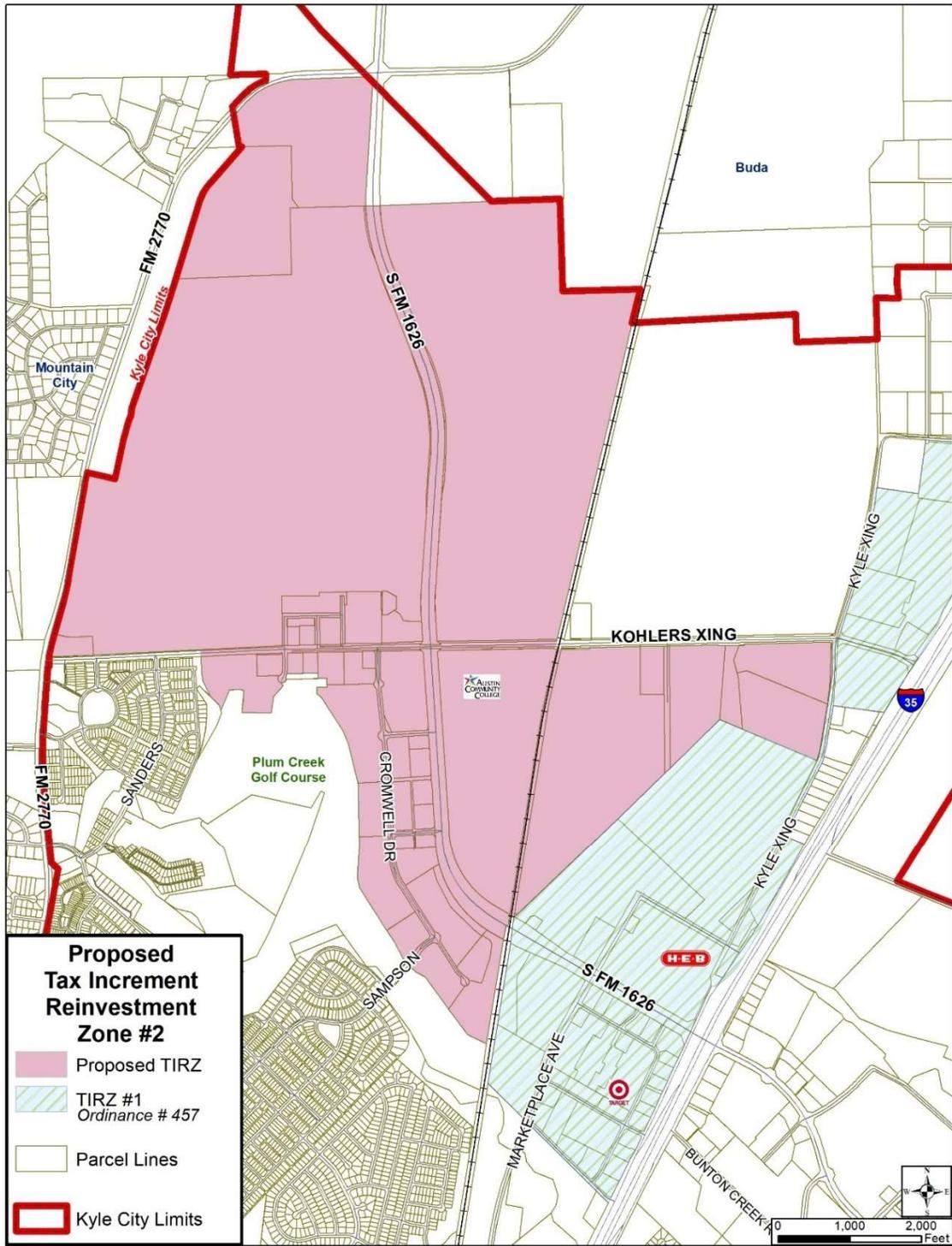


EXHIBIT C

Preliminary Project Plan and Financing Plan Tax Increment Reinvestment Zone Number 2

Introduction

The City Council intends to exercise any authority allowed and necessary to carry out its responsibilities under Chapter 311 including the authority to:

- (1) Cause project plans to be prepared, approve and implement the plans, and achieve the purpose of the plan;
- (2) Acquire real property to implement project plans;
- (3) Enter into agreements, including agreements with bondholders, determined by City Council to be necessary to implement project plans and to achieve their purposes; and
- (4) Acquire, construct, reconstruct, or install public works, facilities or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities.

No tax increment revenues shall be used to pay for and or expended for private property improvements. The tax increment revenues shall only be expended for public improvements owned by the Tax Increment Reinvestment Zone Number 2 or by the City of Kyle. As such, all facilities and infrastructure improvements eligible for funding from accumulated tax increment revenue in the Tax Increment Fund shall be located on land owned by the City of Kyle, public rights-of-way and/or public easements.

This plan is economically feasible based on the analysis of estimated captured value in Exhibit D and D-1.

The duration of the Zone is twenty (20) years, subject to early termination as provided in this City Ordinance, creating the Zone.

Public Improvements:

If it is authorized by the City Council and approved by the Board of Directors, the types of public facilities and infrastructure improvements that are eligible for funding from accumulated tax increment revenue in the Tax Increment Fund may include the following:

- a. Streetscapes, landscaping, roadway, transportation, roundabouts, underground waste receptacles and other applicable associated improvements;
- b. Public art including water features
- c. Parks, plazas and other public realm spaces dedicated exclusively for public gatherings, community events, and community celebrations;

- d. Safe pedestrian crossings including pavement lit crosswalks and underpasses;
- e. Under-the-road pedestrian crossings;
- f. Public parking/parking garages;
- g. Public buildings and other applicable facilities;
- h. Wayfinding and Signage;
- i. Safety and human comfort improvements including shade structures and lighting;
- j. Ambiance and space making lighting such as tree lights, free hanging strung lights;
- k. Trails connecting to Uptown to other areas within Plum Creek and adjacent developments;
- l. Improvements deemed appropriate by the TIRZ Board to promote economic development within Plum Creek; and
- m. Other improvements that is permissible under Chapter 311 of the Texas Tax Code and approved by the City Council and the Board of Directors.

It is important to note that the Tax Increment Reinvestment Zone Number 2 is not required or obligated to pay for any of the projects listed above. All eligible public facilities and infrastructure improvements must be authorized by the City Council and approved by the Board of Directors to be eligible for cost reimbursement from the Tax Increments Fund.

Tax Rate for Calculation of Tax Increment Revenue

The annual tax increment revenue from property taxes levied by the City and any other taxing unit participating in the reinvestment zone for that year on the captured appraised value shall be based on and calculated using the total ad valorem tax rate for each participating taxing entity; to include both the operations and maintenance (M&O) tax rate component and the interest and sinking fund (I&S) tax rate component.

Tax Increment Revenue Contribution Rate

The annual tax increment revenue from property taxes levied by the City of Kyle in the Tax Increment Reinvestment Zone Number 2 and by all other participating taxing units shall be based and calculated using only fifty percent (50.0%) of the captured appraised value for that year.

Method of Financing Projects

It is the City Council’s intent and expressed requirement that this Tax Increment Reinvestment Zone Number 2 created under this City Ordinance shall administer and manage the use of all accumulated tax increment revenues only on a cost reimbursement basis. Accordingly, only actual tax increment revenues received and accumulated in the Tax Increment Fund shall be used to reimburse the developer for eligible and authorized facilities and infrastructure as authorized by the City Council and the Board of Directors.

Furthermore, it is the City Council's intent and expressed requirement that only actual increment tax revenues generated based on the amount of actual captured taxable values within the Tax Increment Reinvestment Zone Number 2 as calculated pursuant to this Plan shall be the source for funding eligible facilities and infrastructure as identified and described in the Project Plan and Financing Plan attached.

This Plan includes provisions for funding eligible public facilities and infrastructure as identified and described herein based on the following funding options:

1. Application of only actual tax increment revenues received as contributions to the reinvestment zone from the City of Kyle and all other participating taxing units and only if such revenues are available free and clear of any encumbrances or obligations in the Tax Increment Fund as established for the Tax Increment Reinvestment Zone Number 2.
2. Application of debt proceeds, only if (i) the debt issuance is authorized by City Council and an exception is approved by the City Council in the form of an amendment to this Ordinance and (ii) only if the actual captured taxable appraised values within the reinvestment zone (total tax base less the tax increment base determined in Section 5 of this Ordinance) as certified by the Hays County Appraisal District can generate sufficient actual annual tax increment revenues pursuant to this Plan to cover one-hundred percent (100.0%) of the total amount of annual debt service payments, fees, and other administrative charges that will be due each year on the outstanding debt obligations.

Restrictions on the Issuance of Debt Obligations

Under this Plan, the issuance of debt to finance eligible facilities and infrastructure is strictly prohibited. The City Council, at its sole discretion, may amend this Ordinance in the future to allow for the issuance of debt to finance eligible facilities and infrastructure.

If such an amendment is passed by City Council to allow for the issuance of debt, the amended Ordinance shall mandate that the Board of Directors must obtain City Council's prior authorization for the issuance of any type of debt obligations by the Tax Increment Reinvestment Zone Number 2. The amended Ordinance must further mandate that the City Council restricts the issuance of any debt by the Board of the Tax Increment Reinvestment Zone Number 2 until such time as the amount of actual captured taxable values within the reinvestment zone (total tax base less the tax increment base determined in Section 5 of this Ordinance) as certified by the Hays County Appraisal District can generate adequate and sufficient annual increment tax revenues pursuant to this Plan to cover one-hundred percent (100.0%) of the total amount of annual debt service payments, fees, and other administrative charges that will be due each year on the outstanding debt obligations.

Prior to the City Council authorizing the issuance of debt obligations by the Tax Increment Reinvestment Zone Number 2, the City's Financial Advisor shall be required to prepare and present to City Council an independent analysis and assessment which shall include, at a minimum, (i)

actual captured taxable values within the reinvestment zone per certified valuations from Hays Appraisal District, (ii) annual increment tax revenue generated pursuant to this Plan, (iii) determine maximum amount of debt obligations that can be supported based on the actual captured taxable values as adjusted for the City's tax levy participation rate in this Plan, (iv) determine the annual debt service requirements including fees and other administrative charges, (v) determine if the amount of actual captured taxable values within the reinvestment zone can generate adequate and sufficient annual increment tax revenues pursuant to this Plan to cover one-hundred percent (100.0%) of the total amount of annual debt service payments, fees, and other administrative charges that will be due each year on the outstanding debt obligations, and (vi) based on the analysis, provide a recommendation to City Council whether it is financially viable and prudent to issue any amount of debt obligations and if viable, to recommend the maximum amount of the debt issuance.

All debt obligations, if authorized by the City Council under an amended Plan, shall only be secured by the actual captured taxable appraised values in the reinvestment zone and payable from actual increment tax revenues available free and clear of any encumbrances or obligations in the Tax Increment Fund as established for the Tax Increment Reinvestment Zone Number 2.

Current Total Appraised Value of Taxable Real Property in the Zone and Estimated Captured Appraised Value of the Zone during each year of existence is provided in Exhibits D, D-1, E, E-1, and E-2.

EXHIBIT D

**Captured Assessed Taxable Value Assumptions
Tax Increment Reinvestment Zone Number 2**

Year	Site/Tract Description	Primary Use	Value Added to Tax Roll on Jan 1st/Year	Estimated Incremental Taxable Value Added	Estimated Cumulative Taxable Value Added
	Base Year - 12/31/2018				
1	Estimates Provided by Momark 10-3-2018	All Tracts Within Proposed TIRZ Boundary	2019	\$ -	
2	Excludes Adjustments for Inflation	Industrial, office, retail, SF, MF, & Other	2020	\$ 116,525,000	\$ 116,525,000
3			2021	\$ 161,050,000	\$ 277,575,000
4			2022	\$ 71,400,000	\$ 348,975,000
5			2023	\$ 99,050,000	\$ 448,025,000
6			2024	\$ 76,050,000	\$ 524,075,000
7			2025	\$ 112,750,000	\$ 636,825,000
8			2026	\$ 72,750,000	\$ 709,575,000
9			2027	\$ 92,750,000	\$ 802,325,000
10			2028	\$ 72,750,000	\$ 875,075,000
11			2029	\$ 89,375,000	\$ 964,450,000
12			2030	\$ 41,000,000	\$ 1,005,450,000
13			2031	\$ 41,000,000	\$ 1,046,450,000
14			2032	\$ 41,000,000	\$ 1,087,450,000
15			2033	\$ 41,000,000	\$ 1,128,450,000
16			2034	\$ 41,000,000	\$ 1,169,450,000
17			2035	\$ -	\$ 1,169,450,000
18			2036	\$ -	\$ 1,169,450,000
19			2037	\$ -	\$ 1,169,450,000
20			2038	\$ -	\$ 1,169,450,000
21			2039	\$ -	\$ 1,169,450,000
22			2040	\$ -	\$ 1,169,450,000
23			2041	\$ -	\$ 1,169,450,000
24			2042	\$ -	\$ 1,169,450,000
25			2043	\$ -	\$ 1,169,450,000
26			2044	\$ -	\$ 1,169,450,000
27			2045	\$ -	\$ 1,169,450,000
28			2046	\$ -	\$ 1,169,450,000
29			2047	\$ -	\$ 1,169,450,000
30			2048	\$ -	\$ 1,169,450,000
				<u>\$ 1,169,450,000</u>	

EXHIBIT D-1

Captured Assessed Value & Tax Increment Assumptions Tax Increment Reinvestment Zone Number 2

Year	Tax Year	Projected Captured Taxable Value	City's 2018 Tax Rate	County's 2018 Tax Rate	Projected Tax Increment Revenue		
					City's Share 50%	County's Share 50%	Projected Total
1	2019						
2	2020	\$ 116,525,000	\$ 0.5416	\$ 0.3899	\$ 315,550	\$ 227,165	\$ 542,715
3	2021	\$ 277,575,000	\$ 0.5416	\$ 0.3899	\$ 751,673	\$ 541,132	\$ 1,292,806
4	2022	\$ 348,975,000	\$ 0.5416	\$ 0.3899	\$ 945,024	\$ 680,327	\$ 1,625,351
5	2023	\$ 448,025,000	\$ 0.5416	\$ 0.3899	\$ 1,213,252	\$ 873,425	\$ 2,086,676
6	2024	\$ 524,075,000	\$ 0.5416	\$ 0.3899	\$ 1,419,195	\$ 1,021,684	\$ 2,440,879
7	2025	\$ 636,825,000	\$ 0.5416	\$ 0.3899	\$ 1,724,522	\$ 1,241,490	\$ 2,966,012
8	2026	\$ 709,575,000	\$ 0.5416	\$ 0.3899	\$ 1,921,529	\$ 1,383,316	\$ 3,304,846
9	2027	\$ 802,325,000	\$ 0.5416	\$ 0.3899	\$ 2,172,696	\$ 1,564,133	\$ 3,736,829
10	2028	\$ 875,075,000	\$ 0.5416	\$ 0.3899	\$ 2,369,703	\$ 1,705,959	\$ 4,075,662
11	2029	\$ 964,450,000	\$ 0.5416	\$ 0.3899	\$ 2,611,731	\$ 1,880,195	\$ 4,491,926
12	2030	\$ 1,005,450,000	\$ 0.5416	\$ 0.3899	\$ 2,722,759	\$ 1,960,125	\$ 4,682,883
13	2031	\$ 1,046,450,000	\$ 0.5416	\$ 0.3899	\$ 2,833,787	\$ 2,040,054	\$ 4,873,841
14	2032	\$ 1,087,450,000	\$ 0.5416	\$ 0.3899	\$ 2,944,815	\$ 2,119,984	\$ 5,064,798
15	2033	\$ 1,128,450,000	\$ 0.5416	\$ 0.3899	\$ 3,055,843	\$ 2,199,913	\$ 5,255,756
16	2034	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
17	2035	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
18	2036	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
19	2037	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
20	2038	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
21	2039	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
22	2040	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
23	2041	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
24	2042	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
25	2043	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
26	2044	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
27	2045	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
28	2046	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
29	2047	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713
30	2048	\$ 1,169,450,000	\$ 0.5416	\$ 0.3899	\$ 3,166,871	\$ 2,279,843	\$ 5,446,713

EXHIBIT E

**2018 Base Assessed Taxable Valuations
Tax Increment Reinvestment Zone Number 2**

<u>Item #</u>	<u>Date AV Verified</u>	<u>Parcel Tax ID#</u>	<u>2018 Base Taxable AV</u>	<u>2018 Base Cumulative AV</u>
1	10/23/2018	R102948	\$ -	\$ -
2	10/23/2018	R102949	\$ -	\$ -
3	10/23/2018	R111489	\$ 290.00	\$ 290.00
4	10/23/2018	R11209	\$ 15,200.00	\$ 15,490.00
5	10/23/2018	R124075	\$ 50.00	\$ 15,540.00
6	10/23/2018	R124076	\$ -	\$ 15,540.00
7	10/23/2018	R124475	\$ 99,770.00	\$ 115,310.00
8	10/23/2018	R12691	\$ 2,150.00	\$ 117,460.00
9	10/23/2018	R127266	\$ 3,539,550.00	\$ 3,657,010.00
10	10/23/2018	R127663	\$ 4,860.00	\$ 3,661,870.00
11	10/23/2018	R130335	\$ 170,710.00	\$ 3,832,580.00
12	10/23/2018	R130336	\$ 280,850.00	\$ 4,113,430.00
13	10/23/2018	R130419	\$ 1,831,314.00	\$ 5,944,744.00
14	10/23/2018	R130421	\$ 2,114,628.00	\$ 8,059,372.00
15	10/23/2018	R130423	\$ 937,993.00	\$ 8,997,365.00
16	10/23/2018	R130425	\$ 1,244,440.00	\$ 10,241,805.00
17	10/23/2018	R132398	\$ 848,240.00	\$ 11,090,045.00
18	10/23/2018	R132399	\$ 1,498,720.00	\$ 12,588,765.00
19	10/23/2018	R132402	\$ 2,710.00	\$ 12,591,475.00
20	10/23/2018	R132408	\$ 24,700,000.00	\$ 37,291,475.00
21	10/23/2018	R13408	\$ 1,620.00	\$ 37,293,095.00
22	10/23/2018	R134152	\$ 1,590.00	\$ 37,294,685.00
23	10/23/2018	R134153	\$ 710.00	\$ 37,295,395.00
24	10/23/2018	R134155	\$ 920.00	\$ 37,296,315.00
25	10/23/2018	R134156	\$ 1,050.00	\$ 37,297,365.00
26	10/23/2018	R134159	\$ 1,710.00	\$ 37,299,075.00
27	10/23/2018	R134161	\$ 7,460.00	\$ 37,306,535.00
28	10/23/2018	R135553	\$ -	\$ 37,306,535.00
29	10/23/2018	R137936	\$ 4,863,000.00	\$ 42,169,535.00
30	10/23/2018	R138187	\$ 2,280,960.00	\$ 44,450,495.00
31	10/23/2018	R138188	\$ 9,340.00	\$ 44,459,835.00
32	10/23/2018	R138189	\$ 1,710.00	\$ 44,461,545.00

EXHIBIT E-1

**2018 Base Assessed Taxable Valuations
Tax Increment Reinvestment Zone Number 2**

<u>Item #</u>	<u>Date AV Verified</u>	<u>Parcel Tax ID#</u>	<u>2018 Base Taxable AV</u>	<u>2018 Base Cumulative AV</u>
33	10/23/2018	R138268	\$ 339,562.00	\$ 44,801,107.00
34	10/23/2018	R138269	\$ 339,562.00	\$ 45,140,669.00
35	10/23/2018	R138270	\$ 339,562.00	\$ 45,480,231.00
36	10/23/2018	R138271	\$ 339,562.00	\$ 45,819,793.00
37	10/23/2018	R138272	\$ 339,562.00	\$ 46,159,355.00
38	10/23/2018	R138273	\$ 339,562.00	\$ 46,498,917.00
39	10/23/2018	R138274	\$ 339,562.00	\$ 46,838,479.00
40	10/23/2018	R138275	\$ 339,562.00	\$ 47,178,041.00
41	10/23/2018	R13837	\$ 4,780.00	\$ 47,182,821.00
42	10/23/2018	R13851	\$ 550.00	\$ 47,183,371.00
43	10/23/2018	R140150	\$ 24,250,000.00	\$ 71,433,371.00
44	10/23/2018	R143792	\$ 18,369,830.00	\$ 89,803,201.00
45	10/23/2018	R144234	\$ 500.00	\$ 89,803,701.00
46	10/23/2018	R144235	\$ 500.00	\$ 89,804,201.00
47	10/24/2018	R144236	\$ 3,278,616.00	\$ 93,082,817.00
48	10/24/2018	R144843	\$ 94,870.00	\$ 93,177,687.00
49	10/24/2018	R144849	\$ 40.00	\$ 93,177,727.00
50	10/24/2018	R146068	\$ 35,230.00	\$ 93,212,957.00
51	10/24/2018	R146069	\$ 5,220.00	\$ 93,218,177.00
52	10/24/2018	R147859	\$ 690.00	\$ 93,218,867.00
53	10/24/2018	R147860	\$ 2,587,684.00	\$ 95,806,551.00
54	10/24/2018	R147908	\$ 1,890.00	\$ 95,808,441.00
55	10/24/2018	R148425	\$ 1,900.00	\$ 95,810,341.00
56	10/24/2018	R148426	\$ 390.00	\$ 95,810,731.00
57	10/24/2018	R151122	\$ 530.00	\$ 95,811,261.00
58	10/24/2018	R151279	\$ 260.00	\$ 95,811,521.00
59	10/24/2018	R151283	\$ 1,100.00	\$ 95,812,621.00
60	10/24/2018	R151597	\$ -	\$ 95,812,621.00
61	10/24/2018	R151601	\$ 24,931,760.00	\$ 120,744,381.00
62	10/24/2018	R151602	\$ 1,059,220.00	\$ 121,803,601.00
63	10/24/2018	R151603	\$ 130.00	\$ 121,803,731.00
64	10/24/2018	R152394	\$ 6,169,860.00	\$ 127,973,591.00

EXHIBIT E-2

**2018 Base Assessed Taxable Valuations
Tax Increment Reinvestment Zone Number 2**

<u>Item #</u>	<u>Date AV Verified</u>	<u>Parcel Tax ID#</u>	<u>2018 Base Taxable AV</u>	<u>2018 Base Cumulative AV</u>
65	10/24/2018	R152412	\$ 8,558,750.00	\$ 136,532,341.00
66	10/24/2018	R155405	\$ 850,920.00	\$ 137,383,261.00
67	10/24/2018	R155406	\$ 360.00	\$ 137,383,621.00
68	10/24/2018	R156298	\$ 156,820.00	\$ 137,540,441.00
69	10/24/2018	R156516	\$ 149,940.00	\$ 137,690,381.00
70	10/24/2018	R88923	\$ 1,262,130.00	\$ 138,952,511.00
71	2018 Total Base Assessed Valuation:		<u>\$138,952,511.00</u>	

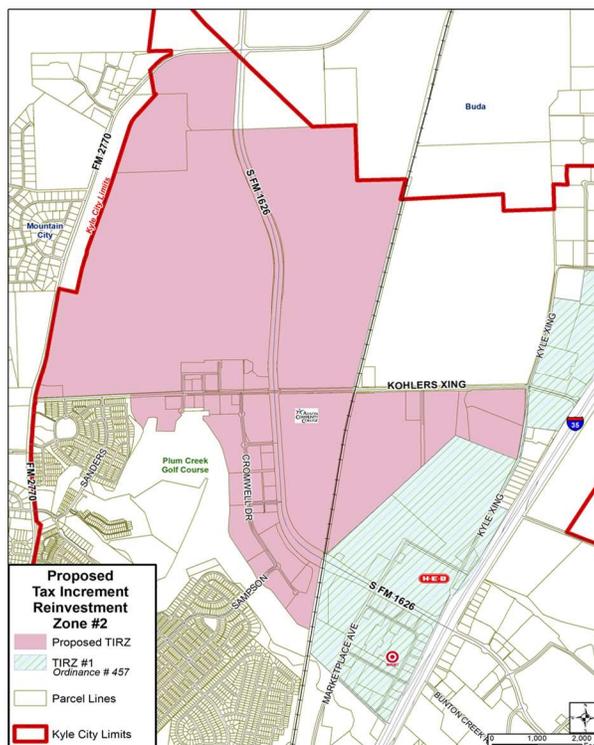
EXHIBIT F

CITY OF KYLE, TEXAS NOTICE OF PUBLIC HEARING ON THE CREATION OF TAX INCREMENT REINVESTMENT ZONE NUMBER TWO

NOTICE IS HEREBY GIVEN that the City Council of the City of Kyle, Texas will hold a Public Hearing on Tuesday, November 20, 2018, at 7:00 p.m. at the Kyle City Hall, located at 100 W. Center Street, Kyle, Texas 78640, for the purpose of receiving comments on the proposed creation of Tax Increment Reinvestment Zone Number Two under the provisions of Chapter 311 of the Texas Tax Code.

The general benefit to the City and its taxpayers of the Tax Increment Reinvestment Zone Number Two will be to increase the value of taxable properties through the development of new public and private improvements within the reinvestment zone.

The proposed Tax Increment Reinvestment Zone Number Two is comprised of approximately 1,480 acres located west of IH-35 and east of FM 2770 within Kyle city limits as depicted in the proposed boundary map below:



The legal description, boundary map, draft project and finance plan, and the draft creation Ordinance are available for public inspection in the City Secretary's office at 100 W. Center Street, Kyle, Texas 78640.

All Kyle residents and interested persons are invited to attend the public hearing to provide their comments to City Council on the proposed creation of Tax Increment Reinvestment Zone Number Two.

EXHIBIT G

TERM SHEET AS APPROVED BY CITY COUNCIL FOR DEVELOPMENT OF THE UPTOWN AREA OF PLUM CREEK

The Term Sheet, as attached hereto, outlines the conditions under which the City Council of the City of Kyle considered and created the Tax Increment Reinvestment Zone Number 2 in Kyle, Texas.

The purpose of this Term Sheet is to provide the City Manager with specific principles and parameters to negotiate a Development Agreement and/or Reimbursement Agreement between the City and the developer containing the terms and conditions outlined in the approved Term Sheet and other acceptable terms that would serve as the guiding document for all items related to the use, look, and feel of the development of the Uptown Area of Plum Creek, including all public improvements.

This Term Sheet was discussed and considered by City Council, at a public meeting held on November 20, 2018.

OUTLINE OF PROPOSED TERMS OF PLUM CREEK TIRZ

As an overall goal, the purpose of these Proposed Terms is to obtain approval of the creation of a Tax Increment Reinvestment Zone (“TIRZ”) covering the undeveloped land in Plum Creek for the purposes outlined below. By creating the TIRZ now, the contemplated \$100 million in expected improvements in 2019 will be captured in the TIRZ to further the goals stated below.

Plum Creek and the City contemplate that these terms set forth below will be incorporated into a TIRZ Development Agreement between the owners of the Uptown area of Plum Creek and the City of Kyle (“City”), in addition to other such terms and conditions as are appropriate and acceptable.

DRAFT VISION STATEMENT

The Uptown TIRZ aims to serve the City and its residents with a first-class town center that improves the quality of life, connects people, and becomes a destination for Kyle residents and the region.

Our Draft Mutual Goals

- 1. Build a quality town center and the remainder of Plum Creek as a desirable destination for employment, housing, recreation, and entertainment.*
- 2. Assist Kyle by establishing a substantial tax base that will benefit all residents of Kyle.*
- 3. Establish the town center as a mechanism to attract quality employment and residential development.*
- 4. Create capital improvements that promotes walkability and recreation.*
- 5. Develop higher quality aesthetics, safety, human comfort, accessibility, and amenities within the public realm.*

Plum Creek understands that the City is considering the creation of a Tax Increment Reinvestment Zone (TIRZ) with all powers allowed to it by state law and its associated governing body (the “TIRZ Board”) within Plum Creek for the purpose of enhancing public improvements to achieve the above-stated Mutual Goals. The funding of these improvements would likely be through Tax Increment Financing (TIF) based reimbursable tax revenues. If done correctly, the development of Plum Creek will likely be quicker and more robust than without the TIRZ, which will help to achieve the above goals.

This term sheet outlines the conditions under which the City will consider creating a TIRZ within Plum Creek. After a public hearing to receive input from Kyle residents regarding the TIRZ, assuming these terms and others as deemed appropriate, the City Council may vote to create a TIRZ. After approval of that ordinance, the Plum Creek developers and the City would negotiate a Development Agreement containing these terms, and other acceptable terms that would serve as the guiding document for all items related to use, look, feel, and public environment.

The TIRZ would be established with a Sunset Clause of twenty (20) years from its creation.

Here is a Summary of the Proposed TIRZ terms:

1. Attached as Exhibit A is a conceptual map of Uptown (approximately 38 acres) for the purposes of conversation. The area shaded in red, approximately 38 acres in size, is the “Mixed Use Area”. The area shaded in blue is the “Secondary Retail Area”. The remaining area of Uptown is the “Urban Residential Area”. This plan has not been approved or endorsed by the City at this time, but generally includes the items of note contained within the terms. As with any plan, the market will dictate which phases of Uptown get built in what order and how fast. A “Strategic Plan” will be generated as part of the Development Agreement terms, that will outline the intended development for the upcoming five years. The Strategic Plan will be updated every two years.
2. No TIRZ money will be spent for private property improvements. Any TIRZ funds will only be expended for public improvements owned by the TIRZ or by the City of Kyle or a non-profit affiliate. The developer is already required to build certain base infrastructure as a part of the development process, therefore the amount that is eligible to be paid for by the TIRZ is the incremental difference from the base to that of the upgrades, as determined by utilizing ‘add-alternate’ bidding procedures. In the event there is not an alternate bid available the TIRZ board will use its best judgement in authorizing reimbursement values. It is understood that certain items such as art would be wholly reimbursable as city code does not currently require its installation. All TIRZ improvements will be located on land owned by the City of Kyle, public rights-of-way and/or public easements. If TIRZ funds are used, the Developer must commit to certain level of adjacent development in full accordance with sections 5 through 9 below. The public improvements may include (but only as approved by the TIRZ Board appointed by the City Council):
 - a. Streetscapes, landscaping, roadway, transportation, roundabouts, underground waste receptacles and other applicable associated improvements;

- b. Public art, water features; 1% of TIRZ funds dedicated to art. The Uptown developer will promote public art in the Mixed Use Area, and other appropriate areas within Uptown.
 - c. Parks, plazas and other public realm spaces could include a variety of uses as well as gatherings, events, and celebration;
 - d. Trails connecting to Uptown to other areas within Plum Creek and adjacent developments;
 - e. Safe pedestrian crossings such as pavement-lit crosswalks and underpasses;
 - f. Under-the-road pedestrian crossings;
 - g. Public parking/parking garages;
 - h. Public buildings and other applicable facilities;
 - i. Wayfinding and signage;
 - j. Safety and human comfort improvements including shade structures and lighting;
 - k. Ambiance and space making lighting such as tree lights, free hanging strung lights;
 - l. Improvements deemed appropriate by the TIRZ Board to promote economic development within Plum Creek;
 - m. And, any other improvement that is permissible by applicable TIRZ law and approved by the TIRZ Board.
3. All TIRZ improvements shall be approved by TIRZ Board appointed by the Kyle City Council. TIRZ funded improvements will commit the Developer to areas adjacent to the improvement being developed in accordance with the terms of this agreement.
 4. All of Uptown shall be designed as an urban village, with a variety of housing and other uses to create a desirable urban environment – a destination for Kyle and surrounding area residents that appropriately balances office, retail, dining, entertainment and housing.
 5. Parking garages shall be encouraged (and built wherever financially feasible) and must accommodate mixed-use parking as well as employees, but not allow for inventory storage. The City and Plum Creek acknowledge that current market conditions do not

allow for parking garages, however, the parties seek to have structured parking when and where financially feasible. Parking garages, if constructed, shall be wrapped urban product with mixed use if in the Mixed Use Area, or as much as practicable in the Secondary Retail Area or with multifamily if in the Urban Residential Area. Street level parking may be used where appropriate. In the beginning phases, parking lots will be allowed so long as at the time of site review of a ground level parking lot, there is a plan in place for when and how the space will transition to structured parking, if that becomes financially feasible.

6. Plum Creek and the City want true mixed-use in the Mixed Use Area of Uptown. To accomplish this Plum Creek and the City shall negotiate and execute a restrictive covenant covering the Mixed Use Area to accommodate the uses and design controls necessary for the TIRZ funding. No TIRZ funding shall occur without compliance with this restrictive covenant. Within that Mixed Use Area, the City and Plum Creek desire:
 - a. Architecture that shall be timeless, and the primary facade material shall be brick, stone, metal and glass. Other accent elements of the façade from other quality materials shall be permitted, consistent with good design. Design criteria and guidelines shall be approved by City and will include the use of city approved materials, colors, and enhance the overall Kyle branding.
 - b. Vertical mixed use shall be required in the Mixed Use Area, however, on a case by case basis, City may approve the use single-story buildings when appropriate such as:
 - i. Free standing restaurants around the pond at the northwest corner of Kohlers Crossing and Kyle Parkway (1626).
 - ii. In certain cases, beyond the primary east-west retail avenue of the Mixed Use Area, a single-story lifestyle retail district may be appropriate. The Domain Northside (Austin’s most successful lifestyle urban center) has a showcase retail district full of shops and restaurants – the Rock Rose District. That district contains some single-story structures and is the center of the majority of retail and entertainment activity in the Domain Northside. Here are some images:





Any single-story retail – if any is approved by the City as part of the approval of the Strategic Plan implementing the TIRZ – would only be approved by consent of the City, as part of the overall mixed-use plan for the Mixed Use Area, and then only if it makes good design sense to enhance the overall mixed-use experience.

- c. The Mixed Use Area shall seek true mixed-use retail that generates pedestrian activity and circulation, with uses that provide for walkable pedestrian activities, and are clustered to primary mixed use corridors to prevent fragmentation.
 - i. Bottom, or street level floors shall be reserved for restaurants, retail shops, entertainment and active uses – other service retail such as cell phone stores and the like shall be limited to the second floor or higher.
 - ii. Acceptable ground floor uses include:
 - 1. Retail
 - 2. Retail service establishments that generate significant foot traffic
 - 3. Restaurants, dining options and bars that serve food
 - 4. Food or entertainment incubator space
 - 5. Entertainment

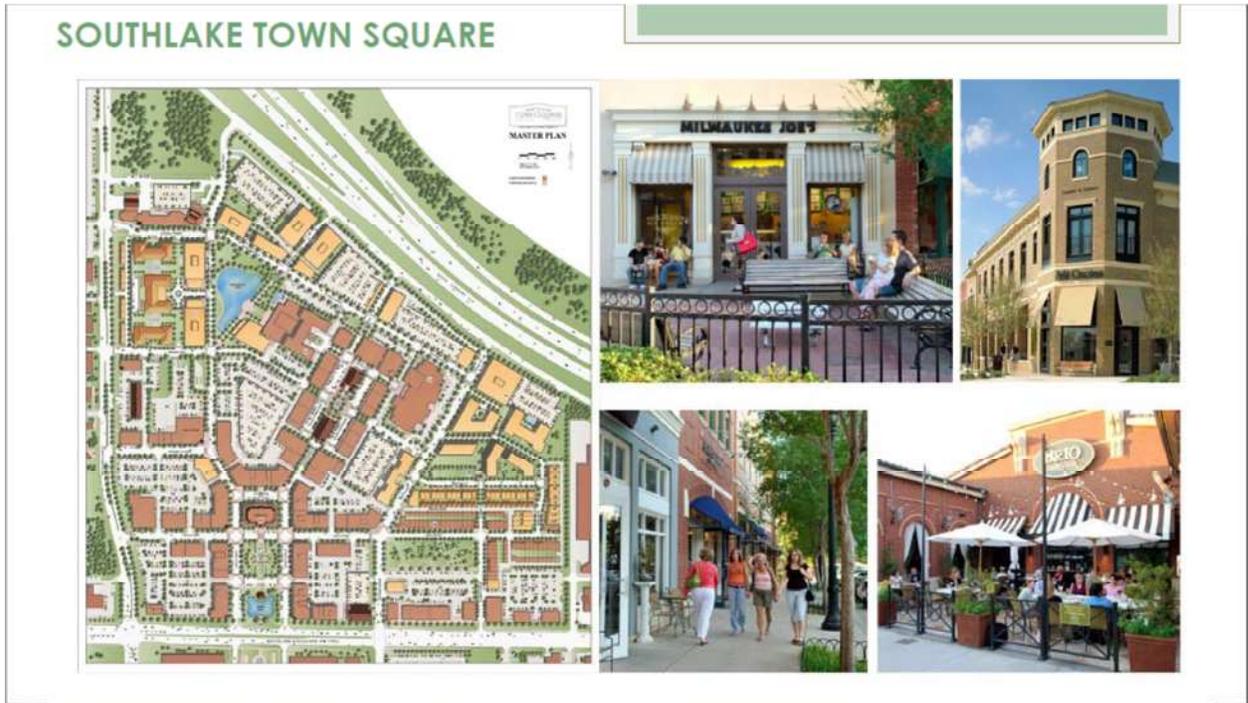
6. Not more than two, small bank lobbies (ie lobby access on the ground floor and basic teller atm access with remaining offices and services located above the first floor) may occupy ground floor retail, but not at an intersection of two streets (i.e., mid-block only).
- iii. Acceptable second floor or higher uses could include:
 1. All uses above, plus:
 2. Bars where more than 50% of revenues are alcohol sales
 3. Retail or Service that do not generate significant foot traffic
 4. Professional Services
 5. Office space
 6. Office incubator space
 7. Activated roof/green roof space
 8. Residential
 - iv. All restaurants along the primary retail street in the Mixed Use Area will incorporate shade – either in the form of a shaded front patio seating and/or a shaded activated roof seating area and/or other approved shade design.
 - v. First floor uses will commit to standardized operating hours as a minimum to support the lifestyle retail strategy of staying open as long as practicable, with a goal of 9:00 p.m.
 - vi. The vision statement seeks to prohibit uses that do not promote pedestrian activity or would detract from the Urban Uptown environment. Such uses are listed in Exhibit B, but will likely expand upon more careful consideration and negotiation with Plum Creek and the City. Exhibit B will serve as a model for the use restriction table for new PUD zoning for the Uptown Urban district.
- d. The Secondary Retail Area, is an area that would have likely been residential, but has been identified by the City and Developer as a possible location to expand the footprint of the Mixed Use Area beyond what would normally be justified by the size of the development. The Developer is open to this desire and will commit to developing the area identified in Exhibit A as the ‘Secondary Retail Area’ last, giving the market time to see if the Mixed Use Area could stretch up North Cromwell. If the Developer desires to use TIRZ funds for improvements up North Cromwell in the Secondary Retail Area, then the Developer will commit to having this area as an expanded Mixed Use Area. Corner retail only would not suffice for the use of TIRZ funds, but this area may make sense to incorporate some of the single story lifestyle users such as referenced in Section 6.B.ii above. The Developer feels that if either or both of the following items were to occur, it would dramatically increase the likelihood of this conversion from residential to an expanded Mixed Use Area:

- i. Develop the soccer fields on the northern terminus of Cromwell into a right sized regional soccer complex that is programmed and able to attract users from the region and beyond year-round, thereby creating synergy on North Cromwell. This may require partnering between the Plum Creek Residential Owner and the Developer to reallocate the detention area into a regional detention structure east of Kyle Parkway. Should this happen, funds should not be double-dipped from both the TIRZ and any future Residential PID. This should not be interpreted as a prohibition for both the TIRZ and any future Residential PID to participate in the improvements, just that the same improvements can't be counted twice, once for each district.
 - ii. The placement of a convention center with hotel in the Secondary Retail Area.
- e. Developer shall include public art, sculptures, water features, fountains and landscaped and structured shade.
- f. The Urban Uptown district shall be in a commercial property owners' association. The owner(s) of the Uptown development shall be responsible for, among other things (either directly through a management company or through the property owners' association) and such obligation formalized through a License and Use agreement with the City and other methods to ensure that the association levies sufficient assessments to pay for the maintenance obligations:
 - i. common area and open space maintenance, irrigation, upkeep and beautification
 - ii. maintenance of public art
 - iii. upkeep of fountains, shade structures
 - iv. replacement of all landscaping that dies or underperforms and hardscapes with like materials in a timely fashion unless the same species or material cannot be used.
 - v. pedestrian canopy trees and sidewalks
 - vi. pedestrian scaled lighting, ambiance lighting, holiday lighting, tree lighting and all decorative poles and signs
 - vii. cleaning of sidewalks
 - viii. street litter and organic pickup
- g. All streets with funding by the TIRZ in Uptown will have city approved designs, including right-of-way widths, cross sections showing the pedestrian and bicycle improvements, hardscapes and landscaping.
 - i. Design shall include the main thoroughfares terminating in a vista or view shed highlighting a city facility, park, public art or prominent element such as an architectural piece or water feature, as approved.

- ii. All streets within Uptown will be pedestrian-oriented, promoting walkability and, where applicable, bicycle use. Some streets will be limited to pedestrian use only (i.e. pedestrian boulevards, plazas) and will be cobblestone, brick, paving or other City-approved landscape material.
 - iii. In addition, within the Mixed Use Area, the street designs will show public landscaping improvements and public art in accordance with City-approved landscaping and public art criteria.
 - iv. Pedestrian design shall enhance access from beyond the Uptown district, including pulling from other corners of Kyle Parkway and Kohlers, including specific consideration for pedestrian tie ins with ACC and Area 9/10.
 - v. All roads and pedestrian ways will have planted and irrigated canopy trees. The Uptown Urban district will only include trees from an approved tree species list.
 - vi. Main thoroughfares will have street trees wired for lights, and all street trees will be lit/wrapped with string lights during the applicable holidays.
 - vii. Modern roundabouts that accommodate pedestrian traffic will be favored over four-way intersections for main thoroughfares in the Uptown district, where applicable, and as approved.
7. TIRZ money may be expended only if the tax value supporting the TIRZ expenditure exists – no future tax value shall be used to support any TIRZ expenditures. As determined by the TIRZ board, expenditures may be expended in several ways:
- a. The developer may expend the funds needed to create the approved TIRZ improvements and be reimbursed by the TIRZ according to applicable law.
 - b. The TIRZ may elect at its discretion to fund appropriate planning, design, and engineering work;
 - c. The TIRZ may elect at its discretion to fund directly approved TIRZ improvements that have been properly bid according to applicable law.
8. Pursuant to an existing agreement between the City and Plum Creek, 17 acres shall be dedicated within Plum Creek for public use which may include: convention center (convertible space to sports/theatre/concert) with attached hotel, municipal facilities, children’s library, incubator space (food, tech, arts), sports venue, entertainment venues, central town square park, river concept, parking structures, museums, performing art

centers, entrepreneur centers, municipal facilities, stadiums, zoos, carousel/Ferris wheel, music venues and enhanced public activated streetscapes.

9. The following graphical examples are found to be mostly in adherence to these terms and should serve as examples of the type of look and feel both parties plan to accomplish:



SOUTHLAKE TOWN SQUARE



FIREWHEEL TOWN CENTER



WEST VILLAGE













Exhibit A

CONCEPTUAL PLAN

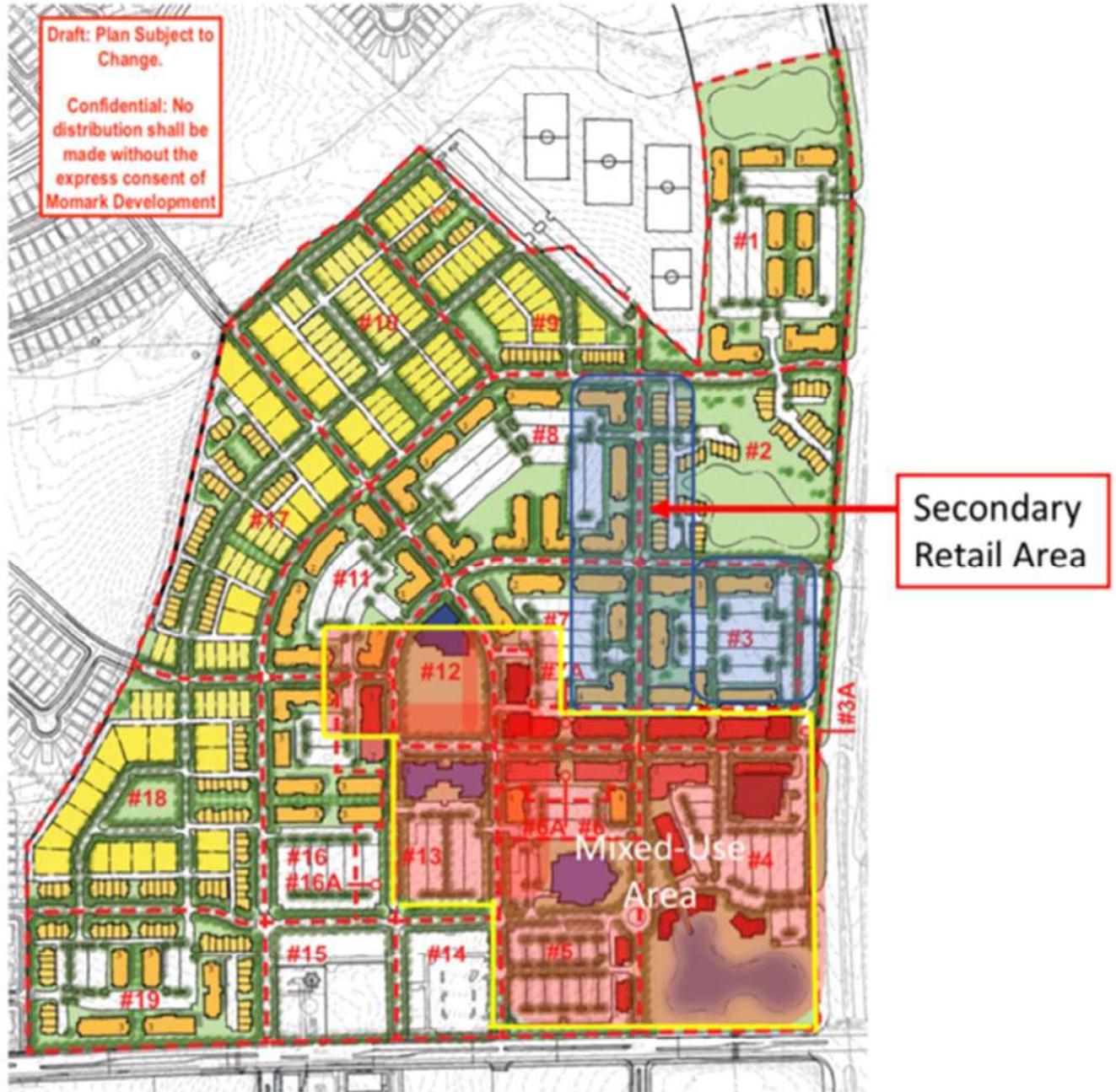


EXHIBIT B PROHIBITED USES

Prohibited uses: Adult entertainment; Auto body repair shops; Automotive car wash; Automotive parts stores; Automotive service centers; Bank lobbies/bank branches (except as permitted above; Boat sales establishments; Building, electrical, or plumbing contractors; Building material sales with outdoor storage; Equipment rental, sales, or service (including heavy equipment, farm equipment, bulldozers, backhoes forklifts, cranes, etc.); Emissions inspection stations;; Funeral homes or mausoleums; Heavy equipment and farm equipment sales and service, and truck rental; Lawnmower repair shops; Liquor stores (except as may be permitted in the Development Agreement); Log-splitting and storage lots; Manufactured homes; Mattress stores, Mobile home or mobile building leasing or sales lots; Machine or welding shops; Mini-warehouse facilities; New and used automobile sales and/or rental with outside storage of inventory; Pawn shops; Pest control businesses that store toxic chemicals on site; Payday Loans; Recovered materials processing; Motels that provide outside entries to individual units; Outdoor sales except via vendor permits; Outdoor storage of inventory; Self-service laundries that are principal uses; Self-storage; Tattoo parlors; Taxidermists; Yard trimmings composting; Veterinarians or animal services with overnight boarding.