38)	Seminar:	Attacking & Defending an Appraisal in Litigation, by Ted Whitmer, MAI, CCIM, Houston, Texas (April 15-16, 1999)
39)	Seminar:	Fannie Mae – Mortgage Lending, by Appraisal Institute, Houston, TX (November 10, 1999)
40)	Seminar:	10th Annual Outlook for Texas Rural Land Markets, by Texas A&M University, College Station, TX (March 24, 2000)
41)	Seminar:	Subdivision Analysis, by Appraisal Institute, Houston, TX (June 20, 2000)
42)	Seminar:	HUD Multifamily Accelerated Processing (MAP), by HUD, Fort Worth, TX (September 27, 2000)
43)	Seminar:	U.S.P.A.P. 2001 Update, by Appraisal Institute, Houston, TX (February 17, 2001)
44)	Seminar:	11th Annual Outlook for Texas Rural Land Markets, by Texas A&M University, College Station, TX (May 4, 2001)
45)	Seminar:	2002 Commercial Real Estate Forecast, by CCIM, Houston, TX (February 14, 2002)
46)	Seminar:	Texas USPAP Update, by Appraisal Institute, Houston, TX (March 23, 2002)
47)	Seminar:	12th Annual Outlook for Texas Rural Land Markets, by Texas A&M University, College Station, TX (May 3, 2002)
48)	Course 430:	Standards of Professional Practice, Part C, by Appraisal Institute, Houston, TX (December 12-13, 2002)
49)	Seminar:	13th Annual Outlook for Texas Land Markets, by Texas A&M University, College Station, TX (April 10, 2003)
50)	Course 400:	U.S.P.A.P. 2004 Update, by Appraisal Institute, Houston, TX (January 24, 2004)
51)	Course 400:	U.S.P.A.P. 2005 Update, by Appraisal Institute, Houston, TX (April 14, 2005)
52)	Seminar:	15th Annual Outlook for Texas Land Markets, by Texas A&M University, College Station, TX (April 28, 2005)
53)	Seminar:	Professional Guide to the URAR, by Appraisal Institute, Houston, TX (June 23, 2005)
54)	Seminar:	16th Annual Outlook for Texas Land Markets, by Texas A&M University, College Station, TX (April 27, 2006)
55)	Seminar:	Subdivision Valuation, by Appraisal Institute, Houston, TX (November 9, 2006)
56)	Seminar:	Scope of Work, by Appraisal Institute, Houston, TX (January 18, 2007)
57)	Course 400:	U.S.P.A.P. 2008-09 Update, by Appraisal Institute, Houston, TX (Jan. 19, 2008)
58)	Seminar:	Analyzing Distressed Real Estate, by Appraisal Institute, Houston, TX (Dec. 11, 2008)
59)	Seminar:	Mortgage Fraud, by Champions School of R.E., Houston, TX (Jan. 16, 2009)
60)	Seminar:	19th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 6-7, 2009)
61)	Seminar:	U.S.P.A.P. 2010 – 2011 Update, by Appraisal Institute, Houston, TX (Feb. 24, 2010)
62)	Seminar:	20th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (May 6-7, 2010)
63)	Seminar:	Business Practices & Ethics, by Appraisal Institute, Houston, TX (Dec. 9, 2010)
64)	Seminar:	Staying out of Trouble in Appraisal Practice & A Lender's Perspective, by Appraisal Institute, Houston, TX (Feb. 26, 2011)
65)	Seminar:	Appraising Distressed Commercial Real Estate, by Appraisal Institute, Houston, TX (April 15, 2011)
66)	Seminar:	Appraisal Curriculum Overview (2-Day General), by Appraisal Institute, Austin, TX (May 10-11, 2011)
67)	Course:	Fundamentals of Separating Real & Personal Property from Intangible Business Assets, by Appraisal Institute, Chicago, IL (Dec. 15-16, 2011)
68)	Seminar:	U.S.P.A.P. 2012-2013 Update, by Appraisal Institute, Houston, TX (Feb 22, 2012)
69)	Seminar:	Complex Litigation Appraisal Case Studies, by Appraisal Institute, Houston, TX (Jan. 14, 2013)
70)	Seminar:	23rd Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 25-26, 2013)
71)	Seminar:	Business Practices & Ethics, by Appraisal Institute, Houston, TX (July 31, 2013)
72)	Seminar:	U.S.P.A.P. 2014-2015 Update, by Appraisal Institute, Houston, TX (December 6, 2013)
73)	Seminar:	24th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 17-18, 2014)
74)	Course:	Texas Appraiser Trainee/Sponsor Course, Houston, TX (April 16, 2015)
75)	Seminar:	25th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 23-24, 2015)
76)	Seminar:	U.S.P.A.P. 2016 – 2017 Update, by Appraisal Institute, Houston, TX (December 11, 2015)
77)	Seminar:	26th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 28 – 29, 2016)
78)	Seminar:	Eminent Domain, by CLE International, Austin, TX (Feb 9-10, 2017)
79)	Seminar	27th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 20-21, 2017)
80)	Symposium:	2017 Real Estate Symposium/TALCB Course #32884, by Appraisal Institute, Houston, TX (August 18, 2017)
81)	Seminar:	Business Practices & Ethics, by Appraisal Institute, Houston, TX (Oct. 13, 2017)
82)	Course:	U.S.P.A.P. 2018-2019, 7-Hour Update, by Appraisal Institute, Houston, TX (Dec. 7, 2017)
83)	Seminar:	28th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 26-27, 2018)
84)	Symposium:	2018 Real Estate Symposium, by Appraisal Institute, Houston, TX (September 28, 2018)
85)	Seminar:	29th Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 25-26, 2019)
86)	Symposium:	2019 Real Estate Symposium, TALCB Course #37477, By Appraisal Institute, Houston, TX (Sept. 26, 2019)
87)	Seminar:	U.S.P.A.P. 2020-2021, 7-Hour Update, by Appraisal Institute, Houston, TX (Dec. 13, 2019)
88)	Course:	Eminent Domain & Condemnation by Appraisal Institute Online, (Sept. 10, 2020)
89)	Seminar:	Business Practice and Ethics, by Appraisal Institute, Live Online-Synchronous (July 27, 2021)
90)	Course:	U.S.P.A.P. 2022-2023, 7-Hour Update by Appraisal Institute, Austin, TX (Dec. 17, 2021)
91)	Seminar:	31st Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 28-29, 2022)
92)	Symposium:	2022 Real Estate Symposium, by Appraisal Institute, Houston, TX (Oct. 25, 2022)
93)	Course:	Supervisory Appraiser Course, by Appraisal Institute, Synchronous, Houston, TX (Dec. 2, 2022)
94)	Seminar:	32nd Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio (April 13-14, 2023)
95)	Symposium:	2023 Houston Real Estate Symposium – Riding the Waves of Market Volatility, Houston, TX (Sept. 19, 2023)
96)	Course:	U.S.P.A.P. 2024-2025, 7-Hour Update, by Appraisal Institute, Houston, TX (Dec. 15, 2023)
97)	Seminar:	33rd Annual Outlook for Texas Land Markets, by Texas A&M University, San Antonio, TX (April 4-5, 2024)
98)	Symposium:	2024 Real Estate Symposium by Appraisal Institute, Houston, TX (Oct. 23, 2024)

APPRAISAL BACKGROUND

Mr. Barletta began appraising in January, 1977. He has had extensive experience in appraising all types of commercial and residential properties (listed below) in the Houston, Dallas/Ft. Worth, Austin and San Antonio regions, plus numerous other cities throughout Texas. In August, 1987, Mr. Barletta became a partner in an appraisal company in which he held the title President. In 1991, he formed a new company, BARLETTA & ASSOCIATES, INC., where he also holds the title of President, with offices at 1313 Campbell Road, Suite C, Houston, Texas 77055-6429.

Some of the various types of appraisals performed by Mr. Barletta would include: high-end single-family residences, two-to-four unit residential income properties, raw land, mixed-use developed commercial sites, master-planned residential subdivisions, condominium/PUD projects, conventional and HUD apartment projects, office buildings, shopping centers, office/warehouses, special-purpose properties, motels/hotels, golf courses, marinas, restaurants, various commercial/retail facilities, all types of industrial properties and eminent domain/condemnation properties. Mr. Barletta has also been qualified as an expert witness in various court matters for real property valuation by numerous attorneys, and he has arbitrated and reviewed a number of legal issues.

Texas Address:	1313 Campbell Road, Suite C Houston, Texas 77055-6429
Phone Number:	(713) 464-7700
Fax Number:	(713) 464-3696
E-Mail:	phillip@barlettainc.com

TALCB

TEXAS APPRAISER LICENSING & CERTIFICATION BOARD

Certified General Real Estate Appraiser

Appraiser: **Phillip Frank Barletta**

License #: **TX 1320197 G** License Expires: **03/31/2025**

Having provided satisfactory evidence of the qualifications required by the Texas Appraiser Licensing and Certification Act, Occupations Code, Chapter 1103, authorization is granted to use this title: Certified General Real Estate Appraiser

For additional information or to file a complaint please contact TALCB at www.talcb.texas.gov.

Chelsea Buchholtz
Commissioner

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APPENDIX F

FORM OF MAJOR IMPROVEMENT AREA REIMBURSEMENT AGREEMENT

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PERSIMMON PUBLIC IMPROVEMENT DISTRICT CONSTRUCTION, FUNDING, REIMBURSEMENT AND ACQUISITION AGREEMENT (MAJOR IMPROVEMENT AREA)

THIS PERSIMMON PUBLIC IMPROVEMENT DISTRICT CONSTRUCTION, FUNDING, REIMBURSEMENT AND ACQUISITION AGREEMENT (MAJOR IMPROVEMENT AREA) (this "Agreement"), dated as of _____, 2025, is by and between (i) the **CITY OF BUDA, TEXAS**, a Texas home rule municipal corporation (the "**City**"), (ii) **BAILEY LAND INVESTMENTS, LP**, a Texas limited partnership, and **ARMBRUSTER LAND INVESTMENTS, LP**, a Texas limited partnership (collectively, the "**Landowner**"), and (iii) **BAILEY COMMUNITY DEVELOPMENT INC.**, a Texas corporation, and **ARMBRUSTER DEVELOPMENT, INC.**, a Texas corporation (collectively, the "**Developer**").

ARTICLE I
DEFINITIONS

The following terms shall have the meanings ascribed to them in this Article I for purposes of this Agreement. Unless otherwise indicated, any other terms, capitalized or not, when used herein shall have the meanings ascribed to them in the Indenture (as hereinafter defined).

"Act" means the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended.

"Actual Costs" means the "Actual Costs" (as that term is defined in the Indenture) of the Major Improvement Area Projects actually paid or incurred for construction and installation of the Major Improvement Area Projects in accordance with the Service and Assessment Plan.

"Administrator" means, initially, P3Works, LLC, or any other individual or entity designated by the City to administer the District.

"Annual Installment" means each annual payment of: (i) the Assessments (including the principal of and interest on), as shown on the Major Improvement Area Assessment Roll attached as Exhibit F-1 to the Service and Assessment Plan and calculated as provided in Section VI of the Service and Assessment Plan, (ii) Annual Collection Costs (as defined in the Indenture), and (iii) the Additional Interest (as defined in the Indenture).

"Assessments" means the assessments levied against property within Major Improvement Area in the District, as provided for in an Assessment Ordinance and in the Service and Assessment Plan, and any supplemental assessments or reallocation of assessments levied in accordance with Sections 372.019 and 372.020 of the Act.

"Bond Ordinance" means an ordinance to be adopted by the City Council authorizing the issuance of the Bonds or any Bonds Similarly Secured pursuant to an Indenture.

"Bonds" means the City's bonds designated "City of Buda, Texas Special Assessment Revenue Bonds, Series 2025 (Persimmon Public Improvement District Major Improvement Area Project)," and any Bonds Similarly Secured.

"Budgeted Costs" means the anticipated, agreed upon costs of the Major Improvement Area Projects as shown in Exhibit B of the Service and Assessment Plan.

"Certification for Payment" means the certificate, substantially in the form attached as **Exhibit C** hereto or otherwise mutually agreed to by the Developer, Administrator, and City Representative, executed by an engineer, construction manager, or other person or entity acceptable to the City, as evidenced by the signature of a City Representative, specifying the amounts to be reimbursed to Developer for Actual Costs of Major Improvement Area Projects.

"City Inspector" means an individual employed by or an agent of the City whose job is, in part or in whole, to inspect infrastructure to be owned by the City for compliance with all rules and regulations applicable to the development and the infrastructure inspected.

"City Manager" means the City Manager of the City, or his or her designee.

"City Representative" means the City Manager, or any other official or agent of the City later authorized by the City in writing to undertake the action referenced herein.

"Closing Disbursement Request" means the certificate, substantially in the form of **Exhibit B** hereto or otherwise mutually agreed to by the Landowner, Developer, Administrator, and City Representative, executed by an engineer, construction manager or other person or entity acceptable to the City, as evidenced by the signature of a City Representative, specifying the amounts to be disbursed for the costs related to the creation of the District (if any disbursement is requested by the Landowner or the Developer) and the costs of issuance of the Bonds.

"Construction Contracts" means the contracts for the construction of an Authorized Improvement. "Construction Contract" means any one of the Construction Contracts.

"Cost" means the Budgeted Costs or the costs of a Major Improvement Area Project as reflected in a Construction Contract and the Service and Assessment Plan, if greater than the Budgeted Costs.

"Cost of Issuance Account" means the account of such name in the Project Fund created under Section 6.1 of the Indenture.

"Cost Overruns" means, with respect to each Major Improvement Area Project, the amount by which the Actual Cost, as appropriate, of such Major Improvement Area Project, respectively, is in excess of its Budgeted Costs.

"Cost Underrun" means, with respect to each Major Improvement Area Project, the amount by which the Actual Cost, as appropriate, of such Major Improvement Area Project, respectively, is less than its Budgeted Costs.

"Developer Fiscal Surety" means ((i) evidence of available funds to the Landowners in cash, (ii) a letter of credit, or (iii) a reasonably acceptable lending facility, in the amount of $_____ to cover the portion of the Actual Costs that is not reimbursed with the proceeds of the Bonds.

"Development Agreement" means that certain "City of Buda Development Agreement Bailey/Armbruster Tract Subdivision" effective as of June 18, 2024, entered into between the City and Landowner.

"District" shall mean the Persimmon Public Improvement District created by the City pursuant to City Resolution No. 2024-R-43.

"Final Completion" means completion of an Authorized Improvement, as applicable, in compliance with existing City standards for dedication under the City's ordinances, including any remaining "punch-list" items to be completed after Substantial Completion (as hereinafter defined).

"Indenture" means the Indenture of Trust for Major Improvement Area between the City and U.S. Bank Trust Company, National Association, as trustee, dated as of _____, 2025 relating to the Bonds, and any Supplemental Indenture authorizing the issuance of such series of Similarly Secured Bonds.

"Major Improvement Area" means that certain approximately 656.733-acre portion of the District more particularly identified on **Exhibit A-1** attached hereto and further defined in the Service and Assessment Plan.

"Major Improvement Area Improvement Account" means the account of such name in the Project Fund created under Section 6.1 of the Indenture.

"Major Improvements" mean the public improvements allocable only to Major Improvement Area listed in Section III of the Service and Assessment Plan. An individual Major Improvement, including a completed segment, section or part, shall be referred to as an "**Major Improvement**".

"Major Improvement Area Projects" means the Major Improvement Area's allocable share of the Major Improvements (as defined in the Service and Assessment Plan). An individual Major Improvement Area Project, including a completed segment, section or part thereof, shall be referred to as an "**Major Improvement Area Project**".

"PID Bonds" means bonds issued by the City, in one or more series, to finance the Authorized Improvements that confer a special benefit on the property within the District.

"Plans" means the plans, specifications, schedules and related construction contracts for the Authorized Improvements (as that term is defined in the Indenture), respectively, approved

pursuant to the applicable standards, ordinances, procedures, policies and directives of the City and any other applicable governmental entity.

"Project Fund" means the fund, including the accounts created and established under such fund, where monies from the proceeds of the sale of the Bonds, excluding those deposited in other funds in accordance with the Indenture, shall be deposited, and the fund by such name created under the Indenture.

"Remainder Area" means that certain approximately 117.502-acre portion of the District more particularly identified on **Exhibit A-2** attached hereto and is also sometimes referred to in other agreements between the parties as Improvement Area No. 1.

"Service and Assessment Plan" means the Persimmon Public Improvement District Service and Assessment Plan, as may be updated or amended, adopted by a City ordinance on _____, 2025 by the City Council, prepared pursuant to the Act.

"Substantial Completion" means the time at which the construction of a Major Improvement (or specified segment, section or part thereof) has progressed to the point where such Major Improvement (or a specified segment, section or part thereof) is sufficiently complete in accordance with the Construction Contracts related thereto so that such Major Improvement or (or a specified segment, section or part thereof) can be utilized for the purposes for which it is intended.

"Supplement" means a written document agreed upon by the parties to this Agreement amending, supplementing or otherwise modifying this Agreement and any exhibit hereto.

"TIRZ" means that certain tax increment reinvestment zone over the area comprising the area covered by the District known as the "Tax Increment Reinvestment Zone Number Three, City of Buda, Texas (Persimmon Development)" established pursuant to City Ordinance No. 2024-43.

"TIRZ Ordinance" means that certain City Ordinance No. 2024-43.

"TIRZ Reimbursement Agreement" means the Tax Increment Reinvestment Zone Number Three, City of Buda, Texas (Persimmon Development) entered into on _____, 2025 by and between the City, the Developers, and the Board of Directors of the TIRZ.

ARTICLE II
RECITALS

Section 2.01. The District and the Authorized Improvements.

(a) The City has created the District under the Act for the financing of, among other things, the acquisition, construction and installation of the Authorized Improvements.

(b) The City intends to authorize the issuance of the Bonds in accordance with the provisions of the Act, the Bond Ordinance and the Indenture, the proceeds of which Bonds shall be used, in part, to finance all or a portion of the Major Improvement Area Projects in accordance

with the terms and limitations of the Development Agreement and the Service and Assessment Plan.

(c) The Developer represents that all Major Improvement Area Projects are eligible to be financed with proceeds of the Bonds to the extent specified herein.

(d) The proceeds from the issuance and sale of the Bonds shall be deposited in accordance with the Indenture.

(e) Developer will undertake, oversee, or ensure the construction and development of the Authorized Improvements for acquisition and acceptance by the City, in accordance with the terms and conditions of this Agreement and the Development Agreement.

(f) Pursuant to the TIRZ Ordinance, the City (i) entered into an Interlocal Agreement (the "**Interlocal Agreement**") with Hays County, Texas (the "**County**") to set forth the conditions governing the contribution of the tax increment by the City and current, annually appropriated funds by the County to the TIRZ; (ii) created and established the TIRZ, (iii) created the TIRZ's board of directors and delegated the board's powers, (iv) established the duration of the TIRZ until December 31, 2069 or until at such time that the obligations of the TIRZ have been paid in full, (v) established a tax increment base as the appraised value of the property in the District on January 1, 2024 (the "**Tax Increment Base**"), and (vi) created and established a tax increment fund into which all "**tax increments**" (as defined in Chapter 311 of the Texas Tax Code (the "**TIRZ Act**")) will be deposited (the "**TIRZ Fund**"), all as a financing mechanism for completion of Authorized Improvements and to offset costs for the Landowner and the Developer and, ultimately, for the future residents.

(g) Pursuant to the terms of the Development Agreement, the Interlocal Agreement, the TIRZ Ordinance, and the TIRZ Project and Financing Plan, the City agrees to allocate and collect for payment of costs of the Authorized Improvements (i) fifty percent (50%) of the City's ad valorem tax increment attributable to Subzone A (as defined in the TIRZ Project and Financing Plan) of the District, and (ii) seventy-five (75%) of the of the City's ad valorem tax increment attributable to Subzone B (as defined in the TIRZ Project and Financing Plan) of the District; and the County has agreed to allocate and collect fifty percent (50%) of the County's ad valorem tax increment attributable to Subzone A. The anticipated use of the TIRZ revenues will be for the (i) payment of the TIRZ administrative expenses, and (ii) payment of the Authorized Improvements, through a reduction of a portion of the Assessments and interest components of the Annual Installments, as further described in the TIRZ Reimbursement Agreement, TIRZ Project and Financing Plan and the Service and Assessment Plan (collectively, the "TIRZ Documents"). In accordance with the TIRZ Project and Financing Plan, the tax increment revenues obtained from the TIRZ shall be placed into the separate TIRZ Fund. To the extent funds are available in the TIRZ Fund, the monies in the TIRZ Fund shall be distributed in accordance with the TIRZ Documents in the following order of priority: (i) first, to pay the administrative expenses for the TIRZ; (ii) second, transferred annually on a parcel-by-parcel and pro-rata basis to the applicable bond fund for the payment of debt service on the respective series of PID Bonds, including the Bonds, and used to off-set or pay a portion of the Annual Installment (as defined in the Service and Assessment Plan for the applicable improvement area) of Assessments levied within the

District securing such PID Bonds in an amount not to exceed the TIRZ No. 3 Maximum Annual Credit Amount (as defined in the Service and Assessment Plan); and (iii) third, any excess TIRZ revenue may be used in any other manner as authorized by the City and allowed pursuant to the TIRZ Act.

(h) The City, Landowner, and Developer acknowledge and agree that it is the intention to issue Bonds for Major Improvement Area after a portion of the construction of the Major Improvement Area Projects has commenced to provide funding for such work. Prior to the issuance of such Bonds, any Assessments collected by the City may also be utilized by Developer as provided herein. The City agrees that, subject to the Developer's Fiscal Surety, Assessments and TIRZ revenues in the TIRZ Fund may be used as follows: after any Bonds are issued with respect to any Authorized Improvements, (i) the Assessments levied against the property in the District will be deposited and applied in accordance with the Indenture, and (ii) the TIRZ revenues in the TIRZ Fund may be used as provided in Section 2.01(g) above. Notwithstanding the foregoing, the Developer may seek reimbursement from any Assessments levied prior to issuance of the Bonds (if any) with respect to the Major Improvement Area. The interest on Actual Costs to be reimbursed shall be calculated from the date such reimbursable Actual Costs were paid by Developer at the interest rate 4% per annum, calculated from the respective dates of the expenditures until the date of reimbursement therefor. Notwithstanding the preceding clause, and in accordance with the PID Act, the interest rate due under this Agreement (i) may not exceed, for a period of not more than five (5) years, as determined by the City, five (5) percent above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index approved by the City and reported in the month before the date the obligation was incurred; and (ii) after the period described in (i), may not exceed two (2) percent above the bond index rate described by (i).

(i) With respect to the Remainder Area, the City acknowledges and agrees that as part of the public improvements being constructed pursuant to this Agreement, the Landowner and Developer intend to construct the Major Improvements that benefit both the Major Improvement Area and the Remainder Area.

Section 2.02. Agreements. In consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, Landowner, and Developer agree that the foregoing recitals, as applicable to each, are true and correct and further make the agreements set forth herein.

ARTICLE III
FUNDING

Section 3.01. Bonds.

(a) The City, in connection with this Agreement, is proceeding with the issuance and delivery of the Bonds, levy and subsequent collection of Assessments, and collection of TIRZ revenues.

(b) The projects to be financed in part with the proceeds of the Bonds, Assessments (as applicable) and TIRZ revenues (as applicable) are the Major Improvement Area Projects. The

payment of costs from the proceeds of the Bonds for such Major Improvement Area Projects shall be made from the Major Improvement Area Improvement Account as established under the Indenture. The payment of Actual Costs from TIRZ revenues shall be made from the TIRZ Fund to the extent available and as established in the TIRZ Documents.

(c) The City's obligation with respect to the payment of the Major Improvement Area Projects shall be subject to satisfaction of the Developer Fiscal Surety and shall be limited to the lesser of the Actual Costs or Budgeted Costs, and shall be payable solely from amounts on deposit for the payment of such costs as provided herein, in the Indenture and in the TIRZ Documents. Developer agrees and acknowledges that it is responsible for all Cost Overruns and all expenses related to the Major Improvement Area Projects, qualified, however, by the distribution of Cost Underrun monies, as detailed in Section 4.04.

(d) The City shall have no responsibility whatsoever to Developer with respect to the investment of any funds held in the Project Fund by the Trustee under the provisions of the Indenture, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment.

(e) Developer and Landowner acknowledge that any lack of availability of amounts in the funds or accounts established in the Indenture to pay the Actual Costs of the Major Improvement Area Projects shall in no way diminish any obligation of Developer with respect to the construction of or contributions for the Major Improvement Area Projects required by this Agreement, the Development Agreement, or any other agreement to which Developer or Landowner is a party or any governmental approval to which Developer or Landowner or any land within the District is subject.

Section 3.02 Accounts. All disbursements from the Major Improvement Area Improvement Account, from collected Assessments (as applicable), and/ or the TIRZ Fund (as applicable) shall be made by the City in accordance with provisions of the Development Agreement, the Service and Assessment Plan, this Agreement, the TIRZ Documents (as applicable), and the Indenture.

ARTICLE IV
CONSTRUCTION OF THE MAJOR IMPROVEMENT AREA IMPROVEMENTS AND THE REMAINDER AREA IMPROVEMENTS

Section 4.01. Duty of Developer to Construct.

(a) All Authorized Improvements shall be constructed by or at the direction of Developer in accordance with the Plans and in accordance with this Agreement and the Development Agreement. Developer shall perform, or cause to be performed, all of its obligations and shall conduct, or cause to be conducted, all operations with respect to the construction of the Authorized Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Developer shall employ at

all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction and installation of all Authorized Improvements to be acquired and accepted by the City from Developer as provided in this Agreement.

(b) Developer shall not be relieved of its obligation to construct or cause to be constructed each Authorized Improvement and, upon completion, inspection, and acceptance, convey each such Authorized Improvement, as applicable, to the City in accordance with the terms hereof, even if there are insufficient funds in the Project Fund to pay the Actual Costs thereof. In any event, this Agreement shall not affect any obligation of Developer under any other agreement to which Developer is a party or any governmental approval to which Developer or any land within the District is subject, with respect to the Authorized Improvements required in connection with the development of the land within the District.

Section 4.02. No Competitive Bidding. The Parties acknowledge and agree that the Authorized Improvements do not currently require competitive bidding pursuant to Section 252.022(a)(9) of the Texas Local Government Code, as amended.

Section 4.03. Independent Contractor. In performing this Agreement, Developer is an independent contractor and not the agent or employee of the City with respect to the Authorized Improvements.

Section 4.04. Remaining Funds After Completion of a Major Improvement Area Project. Upon the Final Completion of a Major Improvement Area Project (or segment or section thereof), and payment of all outstanding invoices for such Major Improvement Area Project, as applicable, any Cost Underrun for such Major Improvement Area Project may be made available to pay Cost Overruns on any other Major Improvement Area Project for Major Improvement Area, as applicable. The City shall promptly confirm to the Administrator that such remaining amounts are available to pay such Cost Overruns, and Developer, the Administrator and the City Representative will agree how to use such moneys to secure the payment and performance of the work for other Major Improvement Area Projects, as applicable. Prior to completion of a Major Improvement Area Project (or segment or section thereof), any anticipated Cost Underrun for such Major Improvement benefitting Major Improvement Area and/ or Major Improvement (or segment or section thereof) may be applied to any Cost Overruns on any other Major Improvement Area Project within Major Improvement Area, as set forth in more detail in the Indenture. If, upon completion of the Major Improvement Area Projects (or segment or section thereof) in any improvement category, there are funds remaining in any improvement categories, those funds can then be used to reimburse Developer for any qualifying costs of the Major Improvement Area Projects (or segment or section thereof) that have not been previously paid.

Section 4.05. Contracts and Change Orders. Developer shall be responsible for entering into all contracts and any supplemental agreements (herein referred to as "**change orders**") required for the construction of the Authorized Improvements. Developer or its contractors may approve and implement any change orders, even if such change order would increase the Actual Cost of an Authorized Improvement, but Developer shall be solely responsible for payment of any Cost Overruns resulting from such change orders except to the extent amounts are available

pursuant to Section 4.04. If any change order is for work that requires changes to be made by an engineer to the construction and design documents and plans previously approved under Section 4.01, then such revisions made by an engineer must be submitted to the City for approval by the City's engineer prior to execution of the change order.

ARTICLE V
ACQUISITION, CONSTRUCTION, AND PAYMENT

Section 5.01. Payment Requests for Disbursements at Closing. In the event that the Developer elects to seek disbursement at closing of the Bonds for the costs related to the creation of the District, then in order to receive the disbursement from the Major Improvement Area Improvement Account related to such cost of District creation, Developer shall execute a Closing Disbursement Request, substantially in the form of **Exhibit B** hereto or otherwise acceptable and agreed to by the City, to be delivered to the City no less than five (5) business days prior to the scheduled Closing Date for the Bonds for payment in accordance with the provisions of the Indenture. In order to receive the disbursement at closing for a Major Improvement Area Project from the Major Improvement Area Improvement Account, Developer shall execute a Certification for Payment (as set forth in Section 5.02 below) to be delivered to the Administrator and the City no later than five (5) business days prior to the scheduled Closing Date for the Bonds for payment in accordance with the provisions of the Indenture. Upon approval by the City, the City shall submit a Closing Disbursement Request or a Certification for Payment, as applicable, to the Trustee for disbursement to be made from the Major Improvement Area Improvement Account.

Section 5.02. Certification for Payment for a Major Improvement Area Project.

(a) No payment hereunder shall be made from the Project Fund to Developer for work on an Authorized Improvement until a Certification for Payment is received by the City Representative and the Administrator from Developer. Upon receipt of a Certification for Payment from Developer, the City Inspector shall promptly conduct a review in order to confirm that such request is complete, that the work with respect to such Authorized Improvement identified therein for which payment is requested was completed in accordance with all applicable governmental laws, rules and regulations and applicable Plans therefor and with the terms of this Agreement, and to verify and approve the Actual Cost of such work specified in such Certification for Payment. The Administrator and the City Inspector and/or the City Representative shall also conduct such review as is required in their discretion to confirm the matters certified in the Certification for Payment. Developer agrees to cooperate with the City Inspector and/or City Representative in conducting each such review and to provide the Administrator and City Inspector and/or City Representative with such additional information and documentation as is reasonably necessary for them to conclude each such review. In no event shall the Administrator or the City require both an all-bills-paid affidavit and copies of cleared checks to be provided as additional documentation. The City agrees that providing either an all-bills-paid affidavit or copies of cleared checks shall be sufficient.

(b) Within ten (10) business days of receipt of any Certification for Payment, the City Representative shall either (i) approve and execute the Certification for Payment and deliver the approved, executed Certification for Payment to the Trustee for payment to Developer, in whole

or in part, in accordance with Section 5.03(a) hereof or (ii) in the event the City Representative disapproves the Certification for Payment, give written notification, within ten (10) business days of receipt thereof, to Developer of the City Representative's disapproval, in whole or in part, of such Certification for Payment, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Certification for Payment. If a Certification for Payment seeking reimbursement is approved only in part, the City Representative shall specify the extent to which the Certification for Payment is approved and shall deliver such partially approved Certification for Payment to the Administrator for approval in accordance with Section 5.03 hereof and delivery to Developer in accordance with Section 5.02(c) hereof, and any such partial work shall be processed for payment under Section 5.03 notwithstanding such partial denial.

(c) If the City Representative denies the Certification for Payment, the denial must be in writing, stating the reason(s) for denial. The denial may be appealed to the City Council by Developer in writing within thirty (30) days of being denied by the City Representative. Denial of the Certification for Payment by the City Council shall be attempted to be resolved by half-day mediation between the parties in the event an agreement is not otherwise reached by the parties, with the mediator's fee being paid by Developer. The Certification for Payment shall not be forwarded to the Trustee for payment until the dispute is resolved by the City and Developer. Any appeal to and action of the City Council on appeal is subject to the standards and procedures governing the subject of the appeal under applicable ordinances, and this Agreement and the remedies allowed under this subsection do not and may not supersede the requirements of such applicable ordinances.

(d) Developer shall deliver the approved or partially approved Certification for Payment to the Trustee for payment and the Trustee shall make such payment from the Project Fund in accordance with Section 5.03 below.

(e) Developer shall not submit Certifications for Payment more frequently than once per month.

Section 5.03. Payment for Major Improvement Area Projects.

(a) Subject to satisfaction of the Developer Fiscal Surety, upon receipt of a reviewed and approved Certification for Payment, the Trustee shall make payment from the Major Improvement Area Improvement Account, pursuant to the terms of the Certification for Payment and the Indenture in an amount not to exceed the Budgeted Cost for the particular Major Improvement Area Project (or a completed segment or section thereof), unless a Cost Overrun amount has been approved for a particular Major Improvement Area Project. If a Cost Overrun amount has been approved, then the amount reimbursed shall not exceed the Budgeted Amount plus the approved Cost Overrun amount.

(b) Approved Certifications for Payment that await reimbursement shall not accrue interest.

(c) Notwithstanding any other provisions of this Agreement, and unless otherwise directed by Developer, when payment is made, the Trustee shall make payment directly to the

Developer (or any permitted assignee of Developer) as reimbursement for payments by Developer to the general contractor or supplier of materials or services, as indicated in an approved Certification for Payment, out of available funds in the Major Improvement Area Improvement Account.

(d) Nothing in this Agreement shall be deemed to prohibit Landowner, Developer or the City from contesting in good faith the validity or amount of any mechanics or materialman's lien and/or judgment nor limit the remedies available to Developer or the City with respect thereto, including the withholding of any payment that may be associated with the exercise of such remedy, so long as such delay in performance shall not subject the Major Improvement Area Project, as applicable, to foreclosure, forfeiture, or sale. In the event that any such mechanics or materialman's lien and/or judgment with respect to any Major Improvement Area Project is contested, Developer shall post or cause delivery of a surety bond or other type of surety in the amount reasonably determined by the City or City may decline to accept the Major Improvement Area Project until such mechanics or materialman's lien and/or judgment is satisfied.

ARTICLE VI
OWNERSHIP AND TRANSFER OF MAJOR IMPROVEMENT AREA IMPROVEMENT OR REMAINDER AREA IMPROVEMENT

Section 6.01. Authorized Improvement Constructed on City Land or Landowner Land. If the applicable Authorized Improvement is on land owned by the City, the City hereby grants to Developer a license to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Authorized Improvement, as applicable. If the Authorized Improvement is on land owned by Landowner, Landowner hereby grants to the City a license to enter upon such land for purposes related to inspection and maintenance (pending acquisition and acceptance) of the Authorized Improvement, as applicable. The grant of the license shall not relieve Landowner or Developer of any obligation to grant the City title to property and/or easements related to the Authorized Improvement as required by the Development Agreement or this Agreement, or as should in the City's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of such Authorized Improvement. The provisions for inspection and acceptance of such Authorized Improvement otherwise provided herein shall apply.

ARTICLE VII
REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 7.01. Representations, Covenants and Warranties of Landowner and Developer. Landowner and Developer represent and warrant for the benefit of the City as follows, where applicable:

(a) Organization. Landowner consists of two limited partnerships duly formed, organized and validly existing under the laws of the State of Texas, are in compliance with the laws of the State of Texas, and have the power and authority to own their properties and assets and to fulfill its obligations in this Agreement and the Development Agreement, and to carry on their business in the State of Texas as now being conducted as hereby contemplated. Developer consists

of two corporations duly formed, organized and validly existing under the laws of the State of Texas, are in compliance with the laws of the State of Texas, and have the power and authority to own their properties and assets and to fulfill its obligations in this Agreement and the Development Agreement, and to carry on their business in the State of Texas as now being conducted as hereby contemplated.

(b) Authority. Developer and Landowner have the power and authority to enter into this Agreement and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by Developer and Landowner.

(c) Binding Obligation. This Agreement is a legal, valid, and binding obligation of Developer and Landowner, enforceable against Developer and Landowner in accordance with its terms, subject to bankruptcy and other equitable principles.

(d) Compliance with Law. Developer and Landowner shall not commit, suffer or permit any act to be done in, upon or to the lands in the District or the Authorized Improvements in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the lands in the District or the Authorized Improvements.

(e) Requests for Payment. Developer and Landowner represents and warrants that (i) it will not request payment from the Project Fund for the acquisition, construction, or installation of any improvements that are not part of, or costs associated with, Major Improvement Area Projects, and (ii) it will diligently follow all procedures set forth in this Agreement with respect to the Certifications for Payment.

(f) Financial Records. For a period of two years after completion of the Authorized Improvements, as applicable, Developer covenants to maintain proper books of record and account for the construction of the Authorized Improvements and all Actual Costs related thereto. Such accounting books shall be maintained in accordance with generally accepted accounting principles, and shall be available for inspection by the City or its agents at any reasonable time during regular business hours on reasonable notice.

(g) Plans. Developer represents that it has obtained or will obtain approval of the Plans from all appropriate departments of the City and from any other public entity or public utility from which such approval must be obtained. Developer further agrees that, subject to the terms hereof, the Authorized Improvements have been or will be constructed in full compliance with such Plans and any change orders thereto consistent with the Act, this Agreement and the Development Agreement.

(h) Additional Information. Developer and Landowner agree to cooperate with all reasonable written requests for nonproprietary information by the initial purchaser of the Bonds, the City Manager and the City Representative related to the status of construction of the Authorized Improvements within the District, the anticipated completion dates for future improvements and

any other matter that the initial purchaser of the Bonds or City Representative deems material to the investment quality of the Bonds.

(i) Continuing Disclosure Agreement. Developer and/ or Landowner agrees to provide the information required pursuant to a continuing disclosure agreement executed by the Developer and/or Landowner in connection with the Bonds.

(j) Tax Certificate.

(i) The City will deliver a certificate relating to the Bonds (such certificate, as it may be amended and supplemented from time to time, being referred to herein as the "**Tax Certificate**") containing covenants and agreements designed to satisfy the requirements of 26 U.S. Code Sections 103 and 141 through 150, inclusive, and the federal income tax regulations issued thereunder relating to the use of the proceeds of the Bonds or of any monies, securities or other obligations on deposit to the credit of any of the funds and accounts created by the Indenture or this Agreement or otherwise that may be deemed to be proceeds of the Bonds within the meaning of 26 U.S. Code Section 148 (collectively, "**Bond Proceeds**").

(ii) Developer covenants to provide, or cause to be provided, such facts and estimates as the City reasonably considers necessary to enable it to execute and deliver its Tax Certificate. Developer further covenants that (1) such facts and estimates will be based on its reasonable expectations on the date of issuance of the Bonds and will be, to the best of the knowledge of the officers of Developer providing such facts and estimates, true, correct and complete as of that date, and (2) Developer will make reasonable inquires to ensure such truth, correctness and completeness. Developer covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use or investment of the Bond Proceeds (including, but not limited to, the use of the Major Improvement Area Projects) that would cause any of the covenants or agreements of the City contained in the Tax Certificate to be violated or that would otherwise have an adverse effect on the tax-exempt status of the interest payable on the Bonds for federal income tax purposes.

(k) Financial Resources. Developer and Landowner represent and warrant that it has the financial resources, or the ability to obtain sufficient financial resources, to meet its obligations under this Agreement, the Service and Assessment Plan and the Development Agreement.

Section 7.02. Indemnification and Hold Harmless. DEVELOPER AND LANDOWNER SHALL INDEMNIFY AND HOLD HARMLESS THE CITY INSPECTOR, THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN "**INDEMNIFIED PARTY**"), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY DEVELOPER OR LANDOWNER; (II) THE NEGLIGENT DESIGN, ENGINEERING, AND/OR CONSTRUCTION BY DEVELOPER, LANDOWNER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY DEVELOPER OR LANDOWNER OF ANY OF THE AUTHORIZED IMPROVEMENTS ACQUIRED FROM DEVELOPER OR LANDOWNER HEREUNDER; (III) DEVELOPER OR

LANDOWNER'S NONPAYMENT UNDER CONTRACTS BETWEEN DEVELOPER OR LANDOWNER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IN THE PROVISION OF THE AUTHORIZED IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY DEVELOPER OR LANDOWNER OR ITS AGENTS TO CONSTRUCT THE AUTHORIZED IMPROVEMENTS; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER OR LANDOWNER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES AND/OR TRUSTEES, REGARDING OR RELATED TO THE AUTHORIZED IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE AUTHORIZED IMPROVEMENTS, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE SOLE OR PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE "**CLAIMS**"). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OF ANY INDEMNIFIED PARTY, DEVELOPER OR LANDOWNER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER OR LANDOWNER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER OR LANDOWNER IN FULFILLING ITS OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. THE INDEMNIFIED PARTIES RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR/ITS OWN DEFENSE, AT THEIR/ITS SOLE COST; HOWEVER, INDEMNIFIED PARTIES ARE UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY AN INDEMNIFIED PARTY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER OR LANDOWNER'S OBLIGATION TO DEFEND INDEMNIFIED PARTIES OR AS A WAIVER OF DEVELOPER OR LANDOWNER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES, PURSUANT TO THIS AGREEMENT. DEVELOPER OR LANDOWNER SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER OR LANDOWNER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND DEVELOPER OR LANDOWNER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 7.02 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT. THE PARTIES AGREE AND STIPULATE THAT THIS INDEMNIFICATION COMPLIES WITH THE CONSPICUOUSNESS REQUIREMENT AND THE EXPRESS NEGLIGENCE TEST, AND IS VALID AND ENFORCEABLE AGAINST DEVELOPER OR LANDOWNER.

Section 7.03. Use of Monies by City; Changes to Indenture. The City agrees not to take any action or direct the Trustee to take any action to expend, disburse or encumber the monies held in the Project Fund and any monies to be transferred thereto for any purpose other than the purposes permitted by the Indenture. Prior to the acceptance of all the Major Improvement Area Projects the City agrees not to modify or supplement the Indenture without the approval of Landowner and Developer if as a result or as a consequence of such modification or supplement: (a) the amount of monies that would otherwise have been available under the Indenture for disbursement for the Actual Costs of the Major Improvement Area Projects is reduced, delayed or deferred, (b) the obligations or liabilities of Developer and/or Landowner are or may be substantially increased or otherwise adversely affected in any manner, or (c) the rights of Developer and/or Landowner are or may be modified, limited, restricted or otherwise substantially adversely affected in any manner.

Section 7.04. No Reduction of Assessments. Developer and Landowner agree not to take any action or actions to reduce the total amount of such Assessments to be levied as of the effective date of this Agreement.

ARTICLE VIII
TERMINATION

Section 8.01. Mutual Consent. This Agreement may only be terminated by the mutual, written consent of the City, Landowner, and Developer, in which event the City may either execute contracts for or perform any remaining work related to the Major Improvement Area Projects not accepted by the City or other appropriate entity and use all or any portion of funds on deposit in the Project Fund, or other amounts transferred to the Project Fund, under the terms of the Indenture to pay for same, and Developer shall have no claim or right to any further payments for the Actual Costs of a Major Improvement Area Projects, as applicable, hereunder, except as otherwise may be provided in such written consent.

Section 8.02. City's Election for Cause.

(a) The City, upon notice to Developer and Landowner and the passage of the cure period identified in subsection (b) below, may terminate this Agreement if Developer or Landowner breaches any material covenant or default in the performance of any material obligation hereunder.

(b) If any such event described in Section 8.02(a) occurs, the City shall give written notice of its knowledge of such event to Developer and Landowner, and Developer or Landowner agrees to promptly meet and confer with the City Inspector and other appropriate City staff and consultants as to options available to assure timely completion, subject to the terms of this Agreement, of the Major Improvement Area Projects. Such options may include, but not be limited to, the termination of this Agreement by the City. If the City elects to terminate this Agreement, the City shall first notify Developer and Landowner (and any mortgagee or trust deed beneficiary specified in writing by Developer or Landowner to the City to receive such notice) of the grounds for such termination and allow Developer or Landowner a minimum of forty-five (45) days to

eliminate or to mitigate to the reasonable satisfaction of the City the grounds for such termination. Such period may be extended, at the reasonable discretion of the City, if Developer or Landowner, to the reasonable satisfaction of the City, is proceeding with diligence to eliminate or mitigate such grounds for termination. If at the end of such period (and any extension thereof), as determined reasonably by the City, Developer or Landowner has not eliminated or mitigated such grounds to the reasonable satisfaction of the City, the City may then terminate this Agreement. In the event of the termination of this Agreement, Developer is entitled to payment for work accepted by the City related to an Authorized Improvement as provided for under the terms of the Indenture and/ or this Agreement prior to the termination date of this Agreement. Notwithstanding the foregoing, so long as Developer or Landowner has breached any material covenant or defaulted in the performance of any material obligation hereunder, notice of which has been given by the City to Developer and Landowner, and such event has not been cured or otherwise eliminated by Developer or Landowner, the City may in its discretion cause the Trustee to cease making payments for the Actual Costs of Authorized Improvements until such event has been cured in the sole discretion of the City; provided that, however, Developer shall receive payment of the Actual Costs of any Authorized Improvements that were accepted by the City at the time of the occurrence of such breach or default by Developer or Landowner upon submission of the documents and compliance with the other applicable requirements of this Agreement.

(c) If this Agreement is terminated by the City for cause, the City may either execute contracts for or perform any remaining work related to the Authorized Improvements not accepted by the City and use all or any portion of the funds on deposit in the Project Fund or other amounts transferred to the Project Fund and Developer shall have no claim or right to any further payments for the Authorized Improvements hereunder, except as otherwise may be provided upon the mutual written consent of the City and Developer. The City shall have no obligation to perform any work related to an Authorized Improvement or to incur any expense or cost in excess of the remaining balance of the Project Fund.

Section 8.03. Termination Upon Redemption or Defeasance of Bonds. This Agreement will terminate automatically and with no further action by the City or Developer upon the redemption or defeasance of all outstanding Bonds (including any refunding bonds issued to refund the Bonds) issued under the Indenture.

Section 8.04. Construction of the Authorized Improvements Upon Termination of this Agreement. Notwithstanding anything to the contrary contained herein, unless the City has elected to perform any remaining work with respect to the Authorized Improvements, upon the termination of this Agreement pursuant to this Article VIII, Developer and Landowner shall perform its obligations with respect to the Authorized Improvements in accordance with this Agreement and the Development Agreement.

Section 8.05. Force Majeure. Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes or other acts of God, pandemics, war, civil commotion, riots, strikes, picketing or other labor disputes, damage to work in progress by casualty or by other cause beyond the reasonable control of the party (financial inability excepted) ("**Force Majeure**"), then the specified time for performance shall be extended

by the amount of the delay actually so caused. The extension of time to perform allowed by this Section 8.05 shall not apply unless, upon the occurrence of an event of Force Majeure, the party needing additional time to perform notifies the other party of the event of Force Majeure and the amount of additional time reasonably required within ten (10) business days of the occurrence of the event of Force Majeure.

ARTICLE IX
MISCELLANEOUS

Section 9.01. Limited Liability of City. Developer and Landowner acknowledge and agree that any and all obligations of the City arising out of or related to this Agreement are special obligations of the City, and the City's obligations to make any payments hereunder are restricted entirely to the moneys, if any, in the Project Fund, collected Assessments, and the TIRZ Fund, and from no other source. Neither the City, the City Inspector, City Representative nor any other City employee, officer, official or agent shall incur any liability hereunder to Developer, Landowner or any other party in their individual capacities by reason of their actions hereunder or execution hereof.

Section 9.02. Audit. The City Inspector, City Representative or a finance officer of the City shall have the right, during normal business hours and upon the giving of three (3) business days' prior written notice to Developer, to review all books and records of Developer pertaining to costs and expenses incurred by Developer with respect to any of the Authorized Improvements and any bids taken or received for the construction thereof or materials therefor.

Section 9.03. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered (including by overnight delivery service) or transmitted electronically, or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

If to City: City of Buda
Attn: City Manager
405 E. Loop Street, Bldg. 100
Buda, Texas 78610

With a copy to: Bojorquez Law Firm, PC
Attn: Alan Bojorquez
11675 Jollyville Road, Ste. 300
Austin, Texas 78759

If to Landowner: Bailey Land Investments, LP
Armbruster Land Investments, LP
Attn: Garrett Martin
2100 Northland Drive
Austin, Texas 78759

If to Developer: Bailey Community Development, Inc.
Armbruster Development, Inc.
Attn: Garrett Martin
2100 Northland Drive
Austin, Texas 78759

And to: McLean & Howard, LLP
4301 Bull Creek Road, Suite 150
Austin, Texas 78731
Attn: Jeffrey S. Howard

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party. The City shall advise Developer and Landowner of the name and address of any person who is to receive any notice or other communication pursuant to this Agreement.

Section 9.04. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent possible.

Section 9.05. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. Any receivables due under this Agreement may be assigned by Developer without the consent of, but upon written notice to the City pursuant to Section 9.03 of this Agreement. The obligations, requirements, or covenants of this Agreement shall be able to be assigned, without prior written consent of the City, to: (i) an assignee that is or will become an owner of property within the District; (ii) an affiliate or related entity of Developer or Landowner; or (iii) any lien holder of property within the District. The obligations, requirements, or covenants of this Agreement shall not be assigned by Developer or Landowner to any other person or entity without prior written consent of the City Manager (which consent shall not be unreasonably withheld, conditioned, or delayed), except pursuant to a collateral assignment to any person or entity providing financing to Developer for an Authorized Improvement, provided such person or entity expressly agrees to assume all obligations of Developer hereunder if there is a default under such financing and such person elects to complete the Authorized Improvement, as applicable. No such assignment shall be made by Developer or Landowner or any successor or assignee of Developer or Landowner that results in the City being an "obligated person" within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission without the express written consent of the City. In connection with any consent of the City, the City may condition its consent upon the acceptability of the financial condition of the proposed assignee, upon the assignee's express assumption of all obligations of Developer or Landowner hereunder and/or upon any other reasonable factor which the City deems relevant in the circumstances. In any event, any such assignment shall be in writing, shall clearly identify the scope of the rights and/or obligations assigned. The City may assign by a separate writing certain rights as described in this Agreement and in the Indenture, to the Trustee and Developer and Landowner hereby consent to such assignment.

Section 9.06. Other Agreements. The obligations of the Developer and/or Landowner hereunder shall be those of a party hereto and not as an owner of property in the District. Nothing herein shall be construed as affecting the City's, Landowner's or the Developer's rights or duties to perform their respective obligations under other agreements, use regulations, ordinances or subdivision requirements relating to the development of the lands in the District, including the applicable Construction Contracts and the Development Agreement. To the extent there is a conflict between this Agreement and the Development Agreement, the Development Agreement shall control. To the extent there is a conflict between this Agreement and the Indenture, the Indenture shall control.

Section 9.07. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights upon the default of any other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

Section 9.08. Merger. No other agreement, statement or promise made by any party or any employee, officer or agent of any party with respect to any matters covered hereby that is not in writing and signed by all the parties to this Agreement shall be binding.

Section 9.09. Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City, Landowner, and the Developer any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions or stipulations hereof, and all covenants, conditions, promises and agreements in this Agreement contained by or on behalf of the City, Landowner or the Developer shall be for the sole and exclusive benefit of the City, Landowner, and the Developer.

Section 9.10. Amendment. Except as otherwise provided in Section 9.05, upon agreement by the parties, this Agreement may be amended, from time to time in a manner consistent with the Act, the Indenture, and the Bond Ordinance by written supplement hereto and executed in counterparts, each of which shall be deemed an original.

Section 9.11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 9.12. Effective Date. This Agreement has been dated as of the date first above written solely for the purpose of convenience of reference and shall become effective upon its execution and delivery, on the Closing Date of the Bonds, by the parties hereto. All representations and warranties set forth therein shall be deemed to have been made on the Closing Date of the Bonds.

Section 9.13. Term. The term of this Agreement, other than the provisions contained in Section 7.02, which shall survive the termination of this Agreement, shall be forty-five (45) years or upon redemption or defeasance of the Bonds (including any refunding bonds issued to refund the Bonds) issued under the Indenture. If Developer or Landowner defaults under this Agreement or the Development Agreement, this Agreement and the Development Agreement shall not

terminate with respect to the costs of the Major Improvement Area Projects that have been approved by the City pursuant to a Certification for Payment prior to the date of default.

Section 9.14 Verifications of Statutory Representations and Covenants. The Developer and Landowner make the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

a. Not a Sanctioned Company. The Developer and Landowner represent that neither they nor any of their parent companies, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Developer and Landowner and each of their parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

b. No Boycott of Israel. The Developer and Landowner hereby verify that they and their parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, "boycott Israel" has the meaning provided in Section 2271.001, Government Code.

c. No Discrimination Against Firearm Entities. The Developer and Landowner hereby verify that they and their parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the meaning provided in Section 2274.001(3), Government Code.

d. No Boycott of Energy Companies. The Developer and Landowner hereby verify that they and their parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 2276.001(1), Government Code.

Section 9.15 Modification of PID Policy. To the extent that any conflict exists between the terms of the City's existing Public Improvement District (PID) Policy as set forth in Resolution No. 2022-R-20 (the "**PID Policy**") and the terms of this Agreement, the term of this Agreement shall govern with respect to the District, and the terms of the PID Policy shall be deemed modified to conform to the terms of this Agreement with respect to the District. Without limiting the generality of the foregoing, the City hereby approves any modifications to the PID Policy with respect to the District that are contained within this Agreement.

Section 9.16 1295 Compliance. Section 2252.908 of the Texas Government Code requires that for certain types of contracts, you must fill out a conflict-of-interest form ("Disclosure of Interested Parties") at the time you submit your signed contract to the City. For further information please go to the Texas Ethics Commission website via the following link. https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The City has no obligation under this Agreement until such form is accurately completed and properly submitted, and any City obligation is conditioned on such proper completion and submission.

[Execution pages follow.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of _____, 2024.

CITY OF BUDA, TEXAS

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM

_____

Name: _____

Title: Attorney for the City

LANDOWNER:

BAILEY LAND INVESTMENTS, LP,
a Texas limited partnership

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

By: _____

Name: _____

Title: _____

ARMBRUSTER LAND INVESTMENTS, LP,
a Texas limited partnership

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

By: _____

Name: _____

Title: _____

DEVELOPER:

BAILEY COMMUNITY DEVELOPMENT, INC.
a Texas corporation

By:_____

Name: _____

Title: _____

ARMBRUSTER DEVELOPMENT, INC.
a Texas corporation

By:_____

Name: _____

Title: _____

Exhibit A-1

MAJOR IMPROVEMENT AREA

[NOTE: To be added based on Survey]

Exhibit A-2

REMAINDER AREA

[NOTE: To be added based on Survey]

Exhibit B

FORM OF CLOSING DISBURSEMENT REQUEST

The undersigned is an agent for Bailey Community Development, Inc., a Texas corporation, and Armbruster Development, Inc., a Texas corporation (collectively, the "Developer") and requests payment from:

The Major Improvement Area Improvement Account of the Project Fund (as defined in the Persimmon Public Improvement District Construction, Funding, and Acquisition Agreement) from _____ (the "Trustee") in the amount of _____DOLLARS ($_____) for costs incurred in the establishment, administration, and operation of the Persimmon Public Improvement District (the "District"), as follows:

Closing Costs Description	**Cost**	**PID Allocated Cost**
TOTAL		

In connection to the above referenced payments, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Closing Disbursement Request on behalf of the Developer, and is knowledgeable as to the matters set forth herein.

2. The payment requested for the above referenced establishment, administration, and operation of the District at the time of the delivery of the Bonds has not been the subject of any prior payment request submitted to the City.

3. The amount listed for the above itemized costs is a true and accurate representation of the Actual Costs incurred by Developer with the establishment of the District at the time of the delivery of the Bonds, and such costs are in compliance with the Service and Assessment Plan.

4. The Developer is in compliance with the terms and provisions of the Persimmon Public Improvement District Construction, Funding, Reimbursement and Acquisition Agreement, the Development Agreement (as defined in the Persimmon South Public Improvement District Construction, Funding, and Acquisition Agreement), the Development Agreement, the Indenture, and the Service and Assessment Plan.

5. All conditions set forth in the Indenture (as defined in the Persimmon Public Improvement District Construction, Funding, and Acquisition Agreement) for the payment hereby requested have been satisfied.

6. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

Payments requested hereunder shall be made as directed below:

a. X amount to Person or Account Y for Z goods or services.

b. Etc.

I hereby declare that the above representations and warranties are true and correct.

BAILEY COMMUNITY DEVELOPMENT, INC.,
a Texas corporation

By: _____

Name: _____

Title: _____

Date: _____

ARMBRUSTER DEVELOPMENT, INC.,
a Texas corporation

By: _____

Name: _____

Title: _____

Date: _____

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Closing Disbursement Request, acknowledges the Closing Disbursement Request, and finds the Closing Disbursement Request to be in order. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request to the extent set forth below and authorizes and directs payment by Trustee in such amounts and from the accounts listed below, to the Developer or other person designated by the Developer herein.

CITY OF BUDA, TEXAS

By: _____

Name: _____

Title: _____

Date: _____

Exhibit C

CERTIFICATION OF PAYMENT

[TBD; Developer proposes using forms it has previously utilized with P3]

APPENDIX G

DEVELOPMENT AGREEMENT

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CITY OF BUDA DEVELOPMENT AGREEMENT
BAILEY/ARMBRUSTER TRACT SUBDIVISION

STATE OF TEXAS §
§
COUNTY OF HAYS §

This Development Agreement ("*Agreement*") is between the CITY OF BUDA, TEXAS, a home rule municipality located in Hays County, Texas (the "*City*"), BAILEY LAND INVESTMENTS, LP, a Texas limited partnership, its successors and/or permitted assigns, and ARMBRUSTER LAND INVESTMENTS, LP, a Texas limited partnership, its successors and/or permitted assigns (collectively, the "*Landowners*"). In this Agreement, the City and the Landowners are sometimes individually referred to as a "*Party*" and collectively referred to as the "*Parties*".

WHEREAS, the Landowners collectively own approximately 774.24 acres of real property located in Hays County, Texas and Travis County, Texas, of which approximately 459 acres was previously within the existing extraterritorial jurisdiction of the City ("*ETJ*"), approximately 303.26 acres was previously located within the extraterritorial jurisdiction of the City of Austin ("*Austin ETJ*"), and approximately 12.045 acres is currently located within the full purpose jurisdiction of the City ("*City Limits Parcel*"), such real property being more particularly described in **Exhibit A**, attached hereto and fully incorporated into this Agreement for all purposes (the "*Property*"); and

WHEREAS, the Landowners have previously submitted, and the City has verified, a petition to remove the 459-acre portion of the Property (the "*City ETJ Parcel*"), being more particularly described in **Exhibit C**, attached hereto and fully incorporated into this Agreement for all purposes, from the City's ETJ pursuant to Section 43.101 *et seq.* of the *Texas Local Government Code*, and as such, the City ETJ Parcel is currently outside the City's regulatory jurisdiction; and

WHEREAS, the Landowners (i) have, pursuant to the terms of this Agreement, previously submitted a petition the City of Austin for release of the approximately 303.26-acre northern portion of the Property located in the Austin ETJ ("*Austin ETJ Parcel*"), being more particularly described in **Exhibit D**, attached hereto and fully incorporated into this Agreement for all purposes, (ii) subsequently intend to petition the City of Austin for the release from the City of Austin's certificate of convenience and necessity utility service area ("*Austin CCN*"), (iii) have submitted a petition to the City to include the Austin ETJ Parcel and the City ETJ Parcel within the City's ETJ (and future annexation if the terms and conditions of this Agreement are satisfied), and (iv) subsequently intend to include all or part of the Property within the City's certificate of convenience and necessity utility service area ("*CCN*") as provided herein; and

WHEREAS, the Landowners desire to develop the Property as a mixed-use project containing both a commercial component and a residential component; and

WHEREAS, the Landowners have voluntarily submitted a petition to the City to add the City ETJ Parcel and Austin ETJ Parcel (collectively, "*ETJ Parcels*") into the ETJ conditioned upon the approval of and execution by the City of this Agreement (among other conditions set forth in such petition), and annex the Property located outside the full purpose jurisdiction into the municipal boundaries of the City, with the understanding that the City will consider the annexation and zoning of the ETJ Parcels, and the rezoning of the City Limit Parcel, in the manner and time period set forth in this Agreement; and

WHEREAS, the City and the Landowners acknowledge and agree that this Agreement satisfies the requirements of Sections 43.0671-.0673 and 212.172 of the *Texas Local Government Code* and authorized by Section 42.0022(b) pursuant to the powers incident to the City's authority to approve a request for expansion of the ETJ by a landowner; and

WHEREAS, the City and the Landowners further agree that this Agreement will be recorded in the official public records of Hays County, Texas and Travis County, Texas, and will run with the Property, as provided by law; and

WHEREAS, in recognition of the mutual benefits to be derived from the reasonably managed development of the Property, the Landowners and the City desire to enter into this Agreement, pursuant to Section 43.016 and 212.172 of the *Texas Local Government Code* and Section 42.002(b) of the *Texas Local Government Code*; extending the City's regulatory authority over the Property by providing for the regulations and planning authority of the City to be applicable to the Property as provided herein; and authorizing enforcement by the City of the City's land use and development regulations, subject to the terms of this Agreement; and

WHEREAS, the City will provide water and wastewater services to the Property as provided herein; and

WHEREAS, the City desires that certain regional transportation infrastructure be constructed in connection with the Project (as defined below), and Landowners have previously submitted to the City, and intend to submit a new, superseding petition for the creation of the Persimmon Public Improvement District (the "*PID*") on the Property (the "*PID Petition*") after the effective date of this Agreement, in order to construct certain Authorized Improvements (as defined below) including, without limitation, certain regional transportation infrastructure (including without limitation Marathon Road and the 1626 Connector as identified on the **Exhibit K**) to support the Project in a financially feasible manner in accordance with Chapter 372 of the *Texas Local Government Code* (the "*PID Act*") and any applicable state law; and

WHEREAS, Landowners intend to submit a petition for the creation of a tax increment reinvestment zone ("*TIRZ*") pursuant to Chapter 311 of the Texas Tax Code after the effective date of this Agreement to further support the financing of the Authorized Improvements and other public improvements allowed by law as set forth in this Agreement; and

WHEREAS, the City intends to create the PID and the TIRZ in order to plan, finance, construct, acquire, operate and maintain the Authorized Improvements within the Project without imposing an undue burden on the City and its residents and taxpayers; and

WHEREAS, the City desires that the Authorized Improvements be constructed as provided herein, and the City and the Landowners agree that financing the costs of such infrastructure should be facilitated by the (i) creation of the PID and the issuance of PID Bonds (as defined below) to fund such construction pursuant to the PID Act and (ii) creation of the TIRZ; and

WHEREAS, it is intended that special assessments will be levied on the Property within the PID ("*PID Assessments*"), and PID Bonds will be sold to finance the design, construction and installation of the Authorized Improvements. The Authorized Improvements will confer a special benefit to the Property within the PID; and

WHEREAS, the City intends to exercise its powers under the PID Act, to provide alternative financing arrangements that will enable the Landowners, at their option, to do the

following in accordance with the procedures and requirements of the PID Act and this Agreement: (i) fund or be reimbursed for a specified portion of the costs of the Authorized Improvements using the proceeds of the PID Bonds; and/ or (ii) obtain reimbursement for the specified portion of the costs of the Authorized Improvements, the source of which reimbursement will be installment payments from the PID Assessments within the Property; and

WHEREAS, the City, after due and careful consideration, has concluded that the development of the Property, as provided for herein, will provide public recreational spaces, upgrade public infrastructure within the City, result in superior development than would otherwise occur on the Property, and otherwise be in the best interests of the City by furthering the health, safety, morals and welfare of its residents and taxpayers; and

WHEREAS, the City's Planning & Zoning Commission has considered and made its recommendation regarding this Agreement and the City Council has considered, authorized, and approved this Agreement, each at a regularly scheduled meeting subject to and conducted in accordance with the Texas Open Meetings Act and the ordinances and Charter of the City; and

WHEREAS, this Agreement was passed and approved by Ordinance on June 4, 2024, contained in the records of the City and recorded minutes adopted and approved for such meeting.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained or referred to herein, the receipt and sufficiency of which are hereby acknowledged by the City and the Landowners, the Parties agree as follows:

1. *Findings.* The foregoing recitals are hereby found to be true and correct and are hereby adopted by the Parties and made a part of this Agreement for all purposes.

2. *Effective Date and ETJ Date.* The Effective Date of this Agreement shall be the effective date of the ordinance adopted by the City Council approving this Agreement by formal action of the City Council ("*Effective Date*"). Commencing on the Effective Date, this Agreement shall be binding on and enforceable against the Parties for all obligations related to the expansion of the City's ETJ and CCN over the ETJ Parcels as provided in Section 8 below and the commitment of the Parties that this Agreement shall remain in effect. This Agreement shall become effective, binding, and enforceable as to all remaining obligations of this Agreement, specifically those developmental matters enumerated in Section 212.172(b) of the *Texas Local Government Code*, on the date of the ordinance adopted by the City Council approving the expansion of the City's ETJ over the ETJ Parcels ("*ETJ Date*"). The Parties expect that the Effective Date and the ETJ Date will be the same date being June 18, 2024. In the event a Party fails to perform any condition precedent or any obligation under this Agreement during the time period between approval and execution of this Agreement and the approval of the ordinance expanding the City's ETJ, and the failure to perform such condition precedent or obligation is not cured prior to the City's consideration of the ordinance expanding the City's ETJ, the non-defaulting Party has the right to terminate this Agreement with notice to the defaulting Party before the vote on such ordinance.

3. *Property.* The Landowners and the City acknowledge and agree that the Property is, upon inclusion of the ETJ Parcels in the City's ETJ, subject to the terms of this Agreement. The Landowners and the City further acknowledge and agree, that notwithstanding any term, condition, or provision contained in this Agreement, this Agreement shall not apply to or in any way bind the owners of adjacent properties located outside the boundaries of the Property.

4. *Term.* The term of this Agreement (but not any obligations created under separate agreements related to the PID or TIRZ) shall commence on the Effective Date and continue until the earlier to occur of: (i) the expiration of thirty-five (35) years from the Effective Date, or (ii) the date on which the City and the Landowners fully discharge all of their obligations hereunder, including, without limitation: (a) the Authorized Improvements have been completed and the City has accepted all of the Authorized Improvements, (b) all PID Bond proceeds have been expended for the construction of all of the Authorized Improvements, and (c) the Landowners have been reimbursed for all completed and accepted Authorized Improvements.

5. *General Benefits.* Landowners have voluntarily elected to enter into and accept the benefits of this Agreement and will benefit from the financing, funding and reimbursements set forth herein. The City will benefit from this Agreement by virtue of construction of the Authorized Improvements and of expanding its public amenities by the Landowners as herein provided.

6. *Necessary and Appropriate Actions.* The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions, and certifications (and, in the City's case, the adoption of such ordinances and resolutions), as may be necessary or appropriate, from time to time, to carry out the terms of this Agreement.

7. *Definitions.* In addition to the terms defined above in this Agreement, the following terms, when used in this Agreement, will have the meanings set forth below:

A) Appraisal means an appraisal of the Property or portions thereof obtained in connection with the PID Bonds to determine whether there is sufficient value associated to meet the value to lien ratios set forth in this Agreement.

B) Armbruster Tract means the portion of the Property owned by Armbruster Community Development, Inc., as more particularly described in **Exhibit A-2**, consisting of approximately 413.91 acres of real property located in Hays County, Texas and Travis County, Texas outside the existing ETJ of the City and approximately 12.045 acres of real property located in Hays County, Texas within the full purpose jurisdiction of the City.

C) Austin ETJ Parcel means that approximately 303.26-acre northern portion of the Property previously located within the Austin ETJ, being more particularly described in **Exhibit D**, attached hereto and fully incorporated into this Agreement for all purposes.

D) Authorized Improvements means the authorized public improvements within or benefitting the Property and/or any improvement areas within the PID (including, without limitation, Marathon Road and 1626 Connector, utilities, internal streets, public parks, drainage improvements, and all other improvements authorized by the PID Act) to the maximum extent authorized by the PID Act, and any other applicable state law, and to be constructed and funded in connection with the PID Bonds that will be more particularly described in the PID creation resolution, the PID Financing Agreement (hereinafter defined) and the SAP (hereinafter defined).

E) Bailey Tract means the portion of the Property owned by Bailey Community Development, Inc., as more particularly described in **Exhibit A-1**, consisting of

approximately 348.277 acres of real property located in Hays County, Texas and Travis County, Texas outside the existing ETJ of the City.

F) Bond Authorization Date means the date that the City Council authorizes the issuance of the PID Bonds.

G) Certificate(s) of Occupancy means an official certificate issued by the City pursuant to the UDC that indicates conformance with applicable rules and regulations and authorizes legal use of the premises.

H) City Limits Parcel means that 12.045-acre portion of the Property, within the Armbruster Tract, located in the full purpose jurisdiction of the City and more particularly described in **Exhibit I**, attached hereto and fully incorporated into this Agreement for all purposes.

I) City ETJ Parcel means that 459-acre portion of the Property, being more particularly described in **Exhibit C**, attached hereto and fully incorporated into this Agreement for all purposes, removed from the City's ETJ pursuant to Section 43.101 *et seq.* of the *Texas Local Government Code, and* as such, the City ETJ Parcel is currently outside the City's regulatory jurisdiction.

J) City Manager means the City Manager of the City, or his/her designee.

K) Commercial Tracts means the tracts located in the southern portion of the Property identified as "Commercial Tracts" on the Conceptual Plan, as defined herein and attached hereto as **Exhibit B**.

L) Commercial Uses means the nonresidential uses permitted as a use by right under the Form District 4 (F4) zoning district in the UDC ("*F4 Zoning District*"), except as expressly modified by this Agreement.

M) Condominium Residential Use means a for-sale residential use (single-family attached, single-family detached, townhome, and and/or patio or garden home style residential units) where more than one individual residential dwelling unit is constructed per lot and the residential dwelling units are within a condominium regime pursuant to Chapter 82 of the Texas Property Code. Condominium Residential Use shall be permitted as a use by right in the Residential Tracts and comply with R-3 Zoning District or R-4 Zoning District dimensional regulations, as selected by Landowner, except as expressly modified by this Agreement.

N) Conceptual Plan means the Conceptual Plan for the Property, attached as **Exhibit B**, as amended from time to time in accordance with this Agreement.

O) Connecting Facilities means the improvements necessary to connect the Internal Facilities to the City's water and wastewater systems at the points of connection described in Section 13.

P) Critical Root Zone (CRZ) means the area intended to define the drip line of the tree and is represented by a concentric circle that is centered on the trunk with a diameter equal in feet to the number of inches of the tree's trunk diameter.

Q) Force Majeure means acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States, the State of Texas, or any other civil or military authority; insurrections; riots; epidemics; landslides; earthquakes; lightning; fires; hurricanes; storms; floods; washouts; or other natural disasters; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines or canals; or other causes not reasonably within the control of the Party claiming such inability.

R) HOA means a homeowners' association, with mandatory assessment powers, created by the Landowners as a Texas non-profit corporation.

S) Indenture of Trust means an Indenture of Trust between the City and a trustee acceptable to the City covering the PID Bonds, as the same may be extended from time to time.

T) Internal Facilities means the potable water distribution system and related facilities, exclusive of storage systems, the wastewater collection system and related facilities, stormwater and drainage facilities, and public roadways to be constructed by the Landowners within the Property as provided herein, and all other subdivision improvements located within the Property that may qualify as Authorized Improvements.

U) Landscape (or Signage) Lot means a subdivided lot within the recorded plat of the Property that is not required to comply with minimum lot size requirements, is restricted in use to open space, landscaping, and/or signage, and maintained by the HOA.

V) Minor Modifications mean variations between any preliminary plat or final plat of the Property from the Conceptual Plan, limited to minor adjustments of street or alley alignments or lengths, and minor changes in lot lines, provided that those changes do not increase the overall density of the residential dwellings included in the Property in excess of the increases authorized by Subsection 9.A of this Agreement.

W) Parkland Improvement Funds means the funds to be expended by the Landowners pursuant to Subsection 11.C of this Agreement, which will be used as provided in Subsection 12.D of this Agreement.

X) Phase means an individual phase of development of the Project as depicted on the Conceptual Plan. A Phase may be referred to by its assigned number shown on the Conceptual Plan.

Y) Phasing Plan means the Landowners' current proposed order of development of portions of the Property as indicated on the Conceptual Plan attached as **Exhibit B**.

Z) PID Bonds means special assessment revenue bonds authorized by the City to be issued, in one or more series, for multiple improvement areas, in accordance with the PID Act, the applicable Indenture of Trust and the PID Financing Agreement (as defined below).

AA) PID Financing Agreement means a PID Financing Agreement to be entered into between the City and the Landowners to provide for the assessment, levying, and collection of PID Assessments on the Property, the construction and maintenance of the Authorized Improvements, the issuance of PID Bonds and other matters related thereto.

BB) PID Financing Documents means, collectively, the PID Financing Agreement, Reimbursement Agreement, SAP, Indenture of Trust, and all related documents that may be referenced therein.

CC) Prairie Building Program means the requirements set forth in Section 17 of this Agreement.

DD) Project means the development of the Property as described in this Agreement.

EE) Project Approvals means this Agreement and all approvals, variances, waivers and exceptions to the UDC approved by the City that are necessary or required for the development of the Project in accordance with this Agreement, including those expressly set forth in this Agreement and shown on the Conceptual Plan as well as any other future regulatory approvals required for the development of the Project, including plat approval, final zoning designation, site development plans and building permits. If there is any conflict between the Project Approvals and the UDC or any other rule, regulation or ordinance of the City, the Project Approvals will control.

FF) Reimbursement Agreement means a PID Reimbursement Agreement; PID Construction Funding, Acquisition, and Reimbursement Agreement; and/or similar agreement between the City and the Landowners to provide for the payment and/ or reimbursement of construction costs related to the Authorized Improvements.

GG) Residential Tracts means the tracts located in the Property identified as "Residential Tracts" on **Exhibit B.**

HH) SAP means a Service and Assessment Plan to be prepared contemporaneously with the levy of all requisite PID Assessments on the Property in support of the PID Bonds in accordance with the PID Financing Documents and further subject to the PID Bond issuance requirements set forth below.

II) Specific Use Permit means a Specific Use Permit or SUP as defined in the UDC.

JJ) TXDOT means the Texas Department of Transportation.

KK) UDC means the Unified Development Code of the City of Buda as adopted on October 2, 2017, as amended by Ordinance Number 2019-24 adopted December 3, 2019, and by Ordinance Number 2020-04, adopted on March 24, 2020, excluding any any provisions thereof which have been, or which may in the future be, preempted or otherwise invalidated by state law.

8. *Expansion of the City's ETJ and CCN.* The Landowners (i) have obtained a release of the Austin ETJ Parcel from the Austin ETJ pursuant to applicable state law, and (ii) shall make

good faith, commercially reasonable efforts to seek the release of the Austin ETJ Parcel from the Austin CCN on terms and conditions acceptable to the Landowners.

A) Release from Austin ETJ. The Parties hereto acknowledge and agree that Landowners have obtained a release of the Austin ETJ Parcel from the Austin ETJ on May 20, 2024. Upon expansion of the City's ETJ to include the Austin ETJ Parcel pursuant to applicable state law, the terms of this Agreement shall apply to the Austin ETJ Parcel. Notwithstanding the foregoing, in the event that such Austin ETJ release is ever subsequently determined to be invalid or ineffective for any reason, this Agreement shall continue to apply to the City ETJ Parcel and City Limits Parcel, in which case the terms and obligations of this Agreement shall be deemed modified to apply only to the City ETJ Parcel and City Limits Parcel. In that event, the Parties shall enter into an amendment to this Agreement that memorializes such modifications.

B) Release from Austin CCN. The Landowners may, at their sole option, file a petition for release of all or any portion of the Austin ETJ Parcels from the Austin CCN pursuant to Chapter 13 of the *Texas Water Code* for either or both water and wastewater, as applicable. In that event, the Landowners will determine and negotiate the terms, conditions, and any compensation due to the City of Austin under the Texas Water Code that are acceptable to the City of Austin for the Austin CCN release before the petition for CCN release is submitted with the City of Austin. Notwithstanding the foregoing, if the City of Austin opposes release of the Austin ETJ Parcels from the Austin CCN or seeks terms, conditions, and/ or compensation on such Austin CCN release which are not acceptable to the Landowners in their sole discretion, then the Landowners will send written notice the City regarding such circumstance. Within twenty (20) days of such written notice, the City will notify Landowners in writing whether or not they wish to engage with the City of Austin in facilitating negotiations for release from the Austin CCN requested by Landowners. If the City fails to send such notice within such time period, or if the City notifies Landowners that it does not wish to facilitate the Austin CCN negotiations, Landowners may withdraw the petition for release (prior to approval by the Public Utility Commission) and shall not be required to further pursue such a release of the Austin ETJ Parcel from the Austin CCN and all references to the "Property" as defined herein pertaining only to the provision of water and/or wastewater service shall be deemed not to include the Austin ETJ Parcel, but the other terms and provisions of this Agreement shall continue to apply to the Austin ETJ Parcel, and any and improvements necessary or appropriate for Landowners to connect to the City of Austin utility systems that are eligible for PID funding under the PID Act shall be considered Authorized Improvements and the costs of such improvements may be funded and reimbursed from PID Bond proceeds and TIRZ revenues. If the City notifies Landowners within the twenty (20) day time period that it will facilitate such negotiations, the Parties shall make diligent, good faith efforts to obtain the Austin CCN release requested by Landowners. If, despite such diligent, good faith efforts, the Parties are not able to obtain the City of Austin's approval of such release on terms acceptable to the both the Landowners and the City, each in their respective sole discretions, within sixty (60) days of the City's notice to facilitate, then the Landowners may withdraw the petition for release (prior to approval by the utility commission) and shall not be required to further pursue such a release of the Austin ETJ Parcel from the Austin CCN and all references to the "Property" as

defined herein pertaining to the provision of water and/or wastewater service shall be deemed not to include the Austin ETJ Parcel, but the other terms and provisions of this Agreement shall continue to apply to the Austin ETJ Parcel. As a condition to any such release from the Austin CCN, the Parties shall prepare an amendment to this Agreement, as might be necessary or appropriate, to incorporate the specific terms and conditions required by the City of Austin for its release of Austin CCN from the Austin ETJ Parcel. Following the release of the Austin ETJ Parcel from the Austin CCN, the Landowners may, at their sole option, submit a request to enter the City's CCN. The City further agrees that upon such request from Landowners, the City agrees to take any and all actions necessary or appropriate to request and thereafter diligently pursue and use best efforts as necessary or appropriate to obtain and effectuate such additions to the City's CCN upon terms and conditions acceptable to the Landowners.

C) Expansion Request by Landowners. The parties acknowledge and agree that Landowners have submitted a voluntary petition with the City requesting expansion of the City's ETJ to cover the ETJ Parcels, which such voluntary request for ETJ expansion shall be expressly conditioned on (i) this Agreement being approved and (ii) the City commencing and continuing in good faith informal review of development applications for the Project in accordance with Section 11.B(5) of this Agreement. If the foregoing conditions to the voluntary request are not satisfied before the City Council action of the ETJ petition, the voluntary request for expansion of the City's ETJ is automatically revoked and void *ab initio*.

9. *Land Uses.*

A) Permitted Uses; Conceptual Plan. The Landowners covenant and agree not to use the Property for any use other than (i) the existing uses of the Property as of January 1, 2023, and (ii) except as provided herein, the uses provided for pursuant to this Agreement, including those uses shown on the Conceptual Plan, without City approval as evidenced by a duly adopted ordinance or City approval of an amendment of this Agreement. The Residential Tracts may be used for any uses allowed in the UDC for the One & Two Family Residential (R-3) zoning district ("*R-3 Zoning District*") and Transitional Residential (R-4) zoning district ("*R-4 Zoning District*"), except as may be modified herein and as modified hereby to expressly allow Condominium Residential Use. The Commercial Tracts may be used for any uses allowed in the UDC for the F-4 Zoning District, except as may be modified herein. Requirements of the Rural Heritage Overlay (O-R) District shall not apply to the Project. The City confirms that the Conceptual Plan sets forth the current development plan for the Property, has been reviewed and approved by all required departments, boards and commissions, and complies with the Buda 2030 Comprehensive Plan, as amended. The City agrees that the Property may be developed by the Landowners in accordance with the Conceptual Plan and this Agreement. Any preliminary plat or final plat of the Property may include Minor Modifications from the Conceptual Plan, however, in no event may the residential units in the Project exceed the lesser of 2,300 units or the total number of units using the maximum density of the R-3/R-4 Zoning Districts as set forth in the UDC, where such maximum density is calculated within the boundaries of and based on the acreage of each final plat approved within the Property. Notwithstanding the foregoing, for any single-family attached, Condominium Residential Use, or townhome development proposed within the Residential

Tracts, any single-family attached, Condominium Residential Use, or townhome development proposed changes from the Conceptual Plan that do not constitute Minor Modifications will require an amendment of the Conceptual Plan and this Agreement.

B) Generally. The Project will include the Commercial Tracts, containing approximately twenty one and a half (21.5) acres, and the Residential Tracts containing the balance of the Property, which includes an approximately fifteen (15) acre site reserved for Hays CISD or other public uses as set forth in Section 20 below, an approximately three and a half (3.5) acre site to be donated to the Hays County Emergency Services District #8 (ESD), and no more than 2,300 residential dwelling units in a range of housing types (no for-rent multifamily) and lot and unit sizes. A minimum total acreage of forty (40) of developable land shall be reserved for non-residential uses, which includes public use space, Commercial Tracts, School Site (as described and defined in Section 20 below) and ESD Site (as described and defined in Section 21 below). Notwithstanding anything in this Agreement or the UDC to the contrary, Landscape Lots and Signage Lots within the Project are not required to comply with any dimensional standards set forth in this Agreement or in the UDC, are restricted in use to open space, landscaping, and/or signage, and will be maintained by the HOA.

C) Historic Preservation. The Landowners agree that the dairy house and historic dairy barn located on the Bailey Tract will, through restoration or re-use of its architectural elements, be incorporated into a modern amenity structure that echoes and honors the historic structure, as depicted on the attached **Exhibit E**. The Landowners agree to install a plaque on the amenity center site that recognizes and honors the Bailey family and the Property's history. In addition, elements within the Property's open space, amenity sites, and signage will reference and honor the Property's agricultural history and, where practicable, existing agricultural artifacts and materials that are found on-site will be salvaged and re-used.

D) Commercial Tracts. The development of the Commercial Tracts will comply with all requirements of F4 Zoning District, subject to the modifications set forth in this Agreement and the following:

(1) Assisted Living/Nursing Home uses are prohibited within the Commercial Tracts.

(2) No single-family dwelling, two-family dwelling, or townhome structures or uses are allowed in the Commercial Tracts.

(3) The increased block lengths shown on the Conceptual Plan for the Commercial Tracts are approved and shall be deemed to modify the UDC to allow such block lengths to the extent of any conflict.

(4) Gasoline Filling or Service Station/Car Wash and Automobile Service Garage (Minor) uses are prohibited within the Commercial Tracts.

(5) Grocery Store, Market, and Farmers Market are included as permitted uses within the Commercial Tracts, and Specific Use Permits are not required for such uses.

(6) Use of temporary buildings, construction trailers, portable trailers, or temporary outdoor storage during construction, remodeling or reconstruction is permitted on the Property prior to substantial completion.

(7) Temporary structures for a marketing and sales office, which may be a model home, temporary building, or portable trailer, are allowed and approved for use on the Property.

(8) Adequate provisions must be made based on final development for the acceptance, collection, conveyance, detention, and discharge of storm water runoff drainage onto, through and originating within Commercial Tracts.

(9) No detention facilities other than underground detention facilities shall be allowed in the Commercial Tracts on the Bailey Tract.

(10) No detention facilities serving the Residential Tracts shall be located in the Commercial Tracts on the Bailey Tract.

E) Residential Tracts. Subject to the modifications set forth in this Agreement, which are hereby approved by the City, the Residential Tracts will be developed in accordance with (i) R-3 Zoning District in the case of single-family detached residential development and the following incidental uses: parks, playgrounds, trails, water quality features and other public infrastructure and utility facilities, or (ii) R-3 Zoning District or R-4 Zoning District, as selected by Landowner, in the case of any single-family attached, Condominium Residential Use, or townhome development. The specific dimensional regulations applicable to the Property are as follows:

Dimensional Regulations	R-3 Alley Load	R-3	R-4
Minimum Front Yard Setback (ft)	10	20	20
Minimum Side Yard Setback (interior/corner) (ft)	5/10	5/10	5/10
Minimum Rear Yard Setback (ft)	10	15	10
Minimum Rear Yard Setback Accessory/Parking Structure (ft)	5	5	5
Minimum Lot Area (sqft) or Maximum Dwelling Units/Acre	4,000/8 DUA	5,000/8 DUA	3,500/12 DUA
Minimum Lot Frontage (ft)	35	35	35
Minimum Lot Width (ft) (interior/corner)	40/45	50/55	35/40
Minimum Lot Depth (ft)	100	100	100
Maximum Height (ft)	35	35	35
Maximum Building Coverage (%)	50	50	50
Maximum Impervious Cover (%)	60	60	60

The following additional regulations shall apply to the Residential Tracts:

(1) No more than 2,300 residential dwellings shall be constructed in the Residential Tracts. Of that 2,300-unit cap, no more than 400 single-family attached, single-family detached, townhome, and/or patio or garden home style residential units may be constructed as a Condominium Residential Use on the Property.

(2) For any development of a Condominium Residential Use consisting of multiple single-family detached units or multiple single-family attached units on a single lot, such development shall be a permitted use in the Residential Tracts, may be developed under the R-3 Zoning District or R-4 Zoning District dimensional regulations (as selected by Landowners) as modified herein, shall not be considered a multi-family development, and shall not be subject to dimensional regulations otherwise applicable to multi-family development. For any development of multiple single-family townhome lots on a single lot, such development shall be a permitted use in the Residential Tracts, may be developed under the R-3 Zoning District or R-4 Zoning District dimensional regulations (as selected by Landowners) as modified herein, shall not be considered a multi-family development, and shall not be subject to dimensional regulations otherwise applicable to multi-family development. For multiple single-family detached dwelling units constructed as a Condominium Residential Use, the minimum separation between structures shall be ten (10) feet. For multiple single-family attached, townhome or patio or garden home constructed as a Condominium Residential Use, the minimum separation between structures containing multiple adjacent units shall be fifteen (15) feet.

(3) Each single-family detached residence on a lot with a lot width equal or greater than forty (40) feet but less than fifty (50) feet within the Residential Tracts shall include at least five (5) of the City's single-family residential element design options listed in Section 2.09.08.C of the UDC; provided that, one of such design options must be rear-loaded garages, and such rear-loaded garages shall satisfy the requirements of Section 2.09.08.C.4 of the UDC.

(4) Each single-family detached residence on a lot with a lot width of fifty (50) feet or larger within the Residential Tracts shall include four (4) of the City's single-family residential element design options listed in Section 2.09.08.C of the UDC.

(5) The maximum number of single-family detached lots on the portion of the Bailey Tract that is within the City ETJ Parcel (but not the portion of the Bailey Tract within the Austin ETJ Parcel) less than fifty-five (55) feet wide shall be sixty percent (60%) of the total number of single family detached lots on such portion of the Bailey Tract.

(6) The minimum number of residential lots within the Project greater than or equal to fifty-five (55) feet in width shall be twenty-five percent (25%) of the total number of single-family detached residential lots within the Project. The minimum number of residential lots within the Project greater

than or equal to sixty-five (65) feet in width shall be twenty percent (20%) of the total number of residential lots within the Project. The minimum number of residential lots within the Project greater than or equal to eighty (80) feet in width shall be five percent (5%) of the total number of residential lots on the within the Project.

(7) The minimum single-family detached residential lot width on the Armbruster Tract for lots that are located adjacent to existing residential lots in the existing subdivisions located adjacent to the western boundary of the Armbruster Tract, as shown on the Conceptual Plan, shall be eighty (80) feet.

(8) Except as otherwise provided in this Agreement, the single-family design standards set forth in the Subsection 2.09.08 of the UDC shall apply to the single-family detached residential lots located on the Residential Tracts.

(9) The owners of all developed and improved residential lots within the Residential Tracts, exclusive of greenbelt, park, drainage, or utility lots, and exclusive of the Public Use Site (as described and defined in Section 20 below) and ESD Site (as described and defined in Section 21 below) will be required to be members of the HOA. The HOA will be formed by the Landowners on or before the date of conveyance of the first developed and improved residential lot within the Residential Tract to an ultimate homeowner (i.e., not to a builder).

(10) The Landowners agree to construct a subdivision wall, in phases, along the frontage of Marathon Road and the 1626 Connector adjacent to the Residential Tracts (not Commercial Tracts), as residential development within Phases of the Project is completed. The subdivision wall will be constructed of pre-cast concrete, of a design similar to that depicted on the attached **Exhibit F**. The subdivision wall and adjacent, exterior landscaping will be located in the right of way of Marathon Road or within a public easement with a license from the City to allow HOA maintenance as applicable. The subdivision wall shall be maintained by the HOA and the City shall grant all licenses or other authorizations as may be necessary or appropriate to allow such maintenance. Under the restrictive covenants applicable to the Residential Tracts, the HOA will be required to include a line item for subdivision wall and landscape maintenance in its annual budget to keep the subdivision wall and landscaping in a well-maintained condition at all times, and to collect assessments sufficient for such purpose.

(11) Temporary structures for a marketing and sales office, which may be a model home, temporary building, or portable trailer, are allowed and approved for use on the Property.

10. *Contemplated Zoning.* Based on the Project, the Conceptual Plan, and the uses and development authorized by this Agreement, the Landowners contend, and the City acknowledges, that the appropriate zoning for the Property is Planned Development District (PD), including (i) the regulations for the F4 Zoning District, modified as provided in this Agreement for the Commercial Tracts (including the City Limits Parcel), (ii) the regulations for R-3 Zoning District, modified as provided in this Agreement for single-

family detached residential units, and the regulations for R-4 Zoning District, modified as provided in this Agreement for single-family attached, Condominium Residential Use, and townhome residential units, on the Residential Tracts, and (iii) all of the other provisions of this Agreement including other modifications to the City's applicable use and development regulations set forth herein. The City shall consider Planned Development District (PD) zoning of the Property in accordance with this Agreement concurrently with annexation of the ETJ Parcels as provided in Section 18 of this Agreement. The Parties acknowledge that zoning is a legislative act that cannot be guaranteed or agreed to by contract, except to the extent provided in Section 212.172 of the *Texas Local Government Code*; however, if the City does not zone the Property as provided in this Section 10, the Landowners and the Property will be and remain entitled to the rights and benefits provided for in this Agreement which shall supersede and govern over any contrary City regulations, and the Landowners shall further have the rights and remedies set forth in Sections 18 and 34 of this Agreement.

11. *Municipal Regulations.*

A) Agricultural Wildlife Management and Timber Uses. As of the ETJ Date of this Agreement and except as otherwise provided herein, pursuant to Section 43.016 of the *Texas Local Government Code*, the City is authorized to enforce all City land use regulations and planning authority within the ETJ Parcels authorized by this Agreement. If the ETJ Parcels continue to be used for agriculture, wildlife management or timber uses in effect at the time this Agreement is entered into, the City is authorized to enforce all City land use regulations authorized by this Agreement that do not materially interfere with such uses, and the Parties covenant and agree that all such regulations and planning authority are hereby extended to the ETJ Parcels. The Landowners further authorize, subject to the terms of this Agreement, enforcement by the City of all such regulations authorized by this Agreement, as amended from time to time, in the same manner the regulations are enforced within the City's boundaries. Pursuant to Section 43.016(b)(1)(B) of the *Texas Local Government Code*, the City is authorized, subject to the terms of this Agreement, to enforce all City regulations that do not materially interfere with the use of the Property for agriculture, wildlife management or timber, in the same manner the regulations are enforced within the City's boundaries and that do not conflict with the uses and development allowed in this Agreement for the Project. The City specifically reserves its authority pursuant to Chapter 251 of the *Texas Local Government Code* to exercise eminent domain over property that is subject to a development agreement recognized by Chapter 43 or Chapter 212 of the *Texas Local Government Code*. Except as otherwise provided herein, the UDC is applicable to the ETJ Parcels as if the ETJ Parcels are within the City limits.

B) Extension of City Planning and Land Use Regulations. Landowners acknowledge and agree that, subject to the terms of this Agreement, the City is authorized, pursuant to Section 42.022 and Section 212.172 of the *Texas Local Government Code*, to extend the City's planning and land use regulations authorized by and subject to this Agreement over the ETJ Parcels. The Conceptual Plan has been approved by the City and sets forth certain general uses and development for the Property which are hereby authorized by the City. The Parties covenant and agree that the City's planning authority and land use and development regulations that do not conflict with the uses and development allowed in this Agreement for the

Project are, upon the ETJ Date, hereby extended and applied to the ETJ Parcels, except as otherwise provided in this Agreement. The Parties further agree that:

(1) Application and enforcement by the City of these regulations will, except as otherwise provided in this Agreement, be in the same manner as such regulations are enforced within the City's boundaries and, if regulations are established by this Agreement that are not applied within the City's boundaries, those regulations will be applied and enforced as provided herein. Notwithstanding the foregoing and notwithstanding anything in any City code, ordinance, or regulation to the contrary, the City hereby agrees to diligently and reasonably review any and all development applications related to the Project (including without limitation any and all preliminary subdivision plans, final plats and construction plans) in good faith and within any time periods established by state law related to plats regardless of whether or not any such development application is an application for plat approval. By way of example only and without limiting the generality of the foregoing, the City agrees that any review and approval of subdivision construction plans for the Project shall be reviewed within the same time periods and subject to the same requirements as apply to the review and approval of plats under *Chapter 212 of the Texas Local Government Code*. In addition, the City agrees to the following: (i) to hold a comprehensive pre-submittal meeting, if requested by the Landowners, at which City reviewers shall participate and provide detailed guidance regarding submittal and technical review requirements and address any questions and provide any clarifications requested by the Landowners; (ii) prior to the issuance of any approval with conditions or disapproval with reasons of any development application, the City shall provide a complete set of draft comments to the development application and thereafter hold a conference with all City reviewers and the Landowners and its consultants to informally address such draft comments; and (iii) collaborate and cooperate with the Landowners to achieve approval of all development applications within ninety (90) days of submittal.

(2) Except as otherwise provided in this Agreement, the City may also enforce all environmental regulations applicable to its jurisdiction.

(3) Except as otherwise provided in this Agreement, the UDC is applicable to the ETJ Parcels as if the Residential Tracts are within the City's limits and being developed under the R-3 Zoning District and R-4 Zoning District (as modified herein) and as if the Commercial Tracts are within the City's limits and being developed under the F4 Zoning District (as modified herein).

(4) The City's building and permitting regulations and requirements will apply to all development on the Property, except as otherwise provided in this Agreement.

(5) Notwithstanding anything to the contrary in the City's adopted codes and ordinances, the City agrees to comply with the process and timelines for approval of (i) all jurisdictional matters, (ii) any and all development and construction applications related to the Project, and (iii) all ordinances, documents, and agreements related to the PID and TIRZ, all as set forth on

Exhibit P attached hereto and incorporated herein (the "*Persimmon Development Procedures*"). In addition to the foregoing, the City hereby agrees to strictly enforce any requirements contained in any agreement with and/ or in any City established policy related to third-party reviewers, including any requirements related to the number of third-party reviews, timeline for such reviews, and the fees for such reviews. Compliance by the City with the Persimmon Development Procedures and Section 11.B(1) and this Section 11.B(5) by the City is mandatory and subject to the default provisions set forth in Section 34 below.

12. *Parkland and Open Space.*

A) Open Space.

(1) For Phase 1 and 2 as indicated on **Exhibit B**, the Landowners agree that a minimum of forty (40) acres of public parks and private parks shall be provided pursuant to this subsection and in compliance with **Exhibit G-1** ("*Detailed Park Plan*"). A minimum of thirty-seven (37) acres of linear public parkland shall be dedicated within the Garlic Creek channel and its tributaries and at least five (5) acres of such thirty-seven (37) acres be provided as publicly accessible and amenitized open space or multi-use detention and/ or water quality areas and/or wet ponds, Landscape Lots, and Signage Lots. A minimum three (3) acres for an amenity center site shall be provided as private parkland. The Parties agree that the area of parks and other spaces, as set forth in this Subsection 12.A, meets the minimum parkland dedication requirements set forth in Section 4.04.02 of the UDC for Phases 1 and 2. The City hereby approves the Detailed Park Plan, attached hereto as Exhibit G-1 and fully incorporated into this Agreement for all purposes, as satisfying the requirements in Section 4.04.02(C) and no further approvals are required for Phase 1 and 2 from the City related to Section 4.04.02(C).

(2) For the remaining Phases, the Landowners agree that the parkland dedication requirements shall comply with the UDC, except to the extent such requirements are modified as follows. Notwithstanding the foregoing, the Parties agree that a strip of land on both sides of the Garlic Creek tributary, within the Central Greenbelt West channel, shall be dedicated as linear parkland and shall be 100% credited in fulfillment of the UDC parkland dedication requirements, including, but not limited to, the areas located within the 100-year floodplain of the Garlic Creek tributary. This strip shall have a minimum width of fifty (50) feet and an average width of at least one hundred (100) feet. In addition, a minimum fifteen (15) foot wide public recreational trail easement along the west property line of the Armbruster Tract will be granted to the City as a permanent public access easement to be maintained by the HOA and shall be 100% credited in fulfillment of the dedication requirements. A minimum three (3) acres for an amenity center site shall be provided as private parkland and shall receive partial credit in fulfillment of the UDC dedication requirements in accordance with the UDC. A minimum three and one-half (3.5) acre neighborhood park shall be dedicated as public parkland and shall be 100% credited in fulfillment of the UDC dedication requirements. A site plan

required for a detailed parks plan associated for these remaining Phases shall be provided within one (1) year from approval of the final plat.

B) Park Facilities. All park facilities provided by the Landowners as shown on the Parks and Open Space Summary attached as **Exhibit G-2**, exclusive of the private HOA amenity centers, shall be open to the public. The City shall be responsible for establishing any rules or regulations regarding the use of such public use facilities, which will include reasonable hours of use regulations consistent with those applicable to other City park facilities. The private amenity center and any other park facilities that may be developed by the HOA in addition to those required by this Agreement will be private facilities, for use by the HOA's members only, and no public access to those facilities will be required.

C) Parkland Improvement Funds. In addition to the requirements set forth above, the Landowners will expend at least one thousand three hundred dollars ($1,300.00) per unit for each residential dwelling unit developed within the Property, which expenditures will be used by the Landowners to plan, design, permit, and construct public parkland, open space, and trail improvements on the Property.

D) Use of Parkland Improvement Funds. The City acknowledges and agrees that the Parkland Improvement Funds expended by Landowners, pursuant to Subsection 12.C, shall satisfy the City's parkland improvement requirements provided that such funds are used solely as provided in Section 4.04.02.F of the UDC.

E) Parkland Dedication. Publicly accessible spaces allowed herein within private parkland may, at the City's discretion, be overlaid with a mutually acceptable permanent public access easement. Landscape Lots and Signage Lots will not be dedicated to the City and will be owned and maintained by the HOA. Unless otherwise agreed by the Landowners and the City, all public parkland within the Property that is to be dedicated to the City will comply with the UDC, except as modified by this Agreement, and will be dedicated in phases as the adjacent land within the Property is final platted. Once dedicated to the City, public parkland will be maintained by the City, unless otherwise provided for herein or indicated on Exhibit G-2. The Parties will enter a parkland maintenance agreement as may be appropriate to implement the terms of this Agreement. Notwithstanding anything to the contrary in this Agreement or the UDC, Section 4.04.02.D.3 of the UDC shall not apply, and the City agrees to accept any parkland dedicated by Landowners pursuant to this Agreement.

F) Adequacy of Park Contributions. In consideration of the private HOA amenity parks, including the related amenity centers, the public parkland, greenbelts, trails and improvements to be designed, constructed, installed and provided by the Landowners and the Landowners' funding of the Parkland Improvement Funds as provided above, the City agrees that no additional dedication of parkland, provision of park improvements, or payment of park-related fees will be required from the Landowners for the Property.

G) Trails. The Landowners will design and construct trails, at the Landowners' sole cost except as otherwise provided in this section, as shown and identified on **Exhibit H**. Except for the portion of the Nature Trail that begins at the intersection of the Marathon Road and RM 967 and extends to the right-of-way line for the Rankin Avenue, which will be designed, constructed and completed

within two (2) years of the City's approval of the final plat of Phase 1, each of the trails shown in **Exhibit H** will be designed, constructed and completed within two (2) years of the City's approval of the final plat of the portion of the Property within which the trail in question is located. The trails will be constructed in accordance with the standards set out herein and in **Exhibit H** (Trails Plan and Standards):

(1) Nature Trail – an eight (8) foot wide natural trail with the concrete being utilized in high maintenance areas and areas susceptible to scouring. A trailhead with publicly accessible parking, in a form reasonably acceptable to the Landowners, for the Nature Trail will be provided at the proposed amenity center in the Bailey Tract and be constructed as ADA compliant.

(2) Neighborhood Trail – a six (6) foot wide, fully ADA compliant concrete trail to be overlaid with a permanent public access easement and maintained by the HOA.

(3) East/West Trail – a six (6) foot wide gravel trail to be overlaid with a public access easement and maintained by the HOA for five (5) years following the date of acceptance.

(4) 1626 Shared Use Path – a ten (10) foot wide shared use path, shown conceptually in **Exhibit O**, from the FM 1626 Connector to the multi-use path at SH-45 as right-of-way, land acquisition, and jurisdictional permits allow and as set forth in Section 16.D below.

13. *Utilities.*

A) Extension of Wastewater and Water Services. Subject to the terms and conditions set forth in this Agreement, the City will provide wastewater service to the Property through a connection to the City's Garlic Creek Lift Station, located adjacent to the Property on RM 967. The City will provide water service to the Property through a connection to the City's existing 12-inch water line in RM 967, adjacent to the Property, and/or through a connection to a proposed ASR site located within the Property (defined below). Subject to the terms of this Agreement, the Landowners will design, construct and install the Internal Facilities and the Connecting Facilities in order to enable the City to provide water and wastewater service to the Property. Any water or wastewater improvements required to serve the Property beyond those connection points described above will be the sole responsibility of the City, and Landowners shall bear no cost or responsibility in connection therewith, other than the payment of applicable impact fees. The City agrees to ensure that any required improvements shall be fully installed and operational with sufficient capacity to serve the Property as required herein at least sixty (60) days prior to connection at the above-described connection points.

B) Sizing of Facilities; Oversizing; Credits for Oversizing. The Landowners agree to give the City at least thirty (30) days' written notice before commencing the design of any Connecting Facilities and/or Internal Facilities, which notice will include a schematic plan showing the general location and size of the facilities proposed to be designed and constructed to serve only the Property. If the City determines that it would be in its best interests to oversize any of such facilities or incorporate a storage system in order to serve areas other than the Property ("*Oversizing*"), the City may request such Oversizing by giving written notice to the Landowners

within that 30-day notice period, specifying, in LUEs, the amount of oversized capacity the City requests be included within each of the facilities depicted on the schematic plan. If the City fails to give the Landowners written notice within the time and in the manner required, the City agrees that the Landowners will be authorized to proceed with the design of the facilities in question, sized only to serve the Property, and no Oversizing may be required by the City at any time thereafter. If Oversizing is timely requested by the City as to any of the facilities shown on a schematic plan, the Landowners agree to cooperate with the City to accommodate the City's request, provided that (a) the Oversizing does not result in an unreasonable delay in design, construction or development; and (b) the City pays a percentage of the hard and soft costs of the facilities based on the increased percentage in pipe diameter or storage capacity due to the Oversizing. The amount of soft costs for which the City may be required to cost participate may not exceed fifteen percent (15%) of the hard costs. The City shall pay the Landowners the total amount owed for its proportional share of the Oversizing within six (6) months of substantial completion of the Oversizing. The Parties will negotiate a mutually acceptable Cost Sharing and Capital Improvement Agreement for the Oversizing that will establish the details of payment, among other aspects, in accordance with the terms of this Agreement. Except as provided in this Subsection 13.B, the City will not require the Landowner to design or construct any facilities other than the Internal Facilities and the Connecting Facilities to provide water and wastewater service to the Property and the Landowners will have no obligation to construct or cost participate in any water or wastewater facilities other than the Internal Facilities and the Connecting Facilities, to oversize any Internal Facilities or Connecting Facilities, or to construct any offsite facilities other than the Connecting Facilities. The amount of cost participation for the hard and soft costs associated with Oversizing shall be based on the tables found in Section 25-9-62 of the City of Austin Code of Ordinance, such tables being fully incorporated into this Agreement for all related purposes, and, for a storage system, based on the percentage of increased capacity.

C) Service Commitment. Subject to the terms and conditions set forth herein, the City commits and agrees to provide retail water and wastewater services to the Property as and when required by customers within and/or for development of the Property in an aggregate amount not to exceed 2750 LUEs for all allowable uses within the Project, at flow rates and pressures and in quantities, sufficient to meet the minimum requirements of the UDC, including fire flow, in the same manner and on the same terms and conditions as the City provides service to similarly situated retail customers inside its corporate limits. If the applicable portions of the Austin ETJ Parcel is not released from the Austin CCN, then the City's obligation to provide the aggregate amount of LUEs shall be offset and adjusted in relation to the amount of LUEs provided by the City of Austin. The City shall have the discretion to reasonably adjust the amount of LUEs in proportion to those LUEs provided by the City of Austin.

D) ASR Infrastructure. The Parties hereby agree to cooperate as follows with respect to a potential Aquifer Storage and Recovery System ("*ASR*"):

(1) If the Austin ETJ Parcel is released from the Austin CCN on terms acceptable to the Landowners as provided in Section 8.B above and added to the City's CCN so that the City has the right and obligation to provide

water service to the entire Property (including the Austin ETJ Parcel), then the Landowners agree to cooperate with the City to dedicate a site within the Property for the location of an Aquifer Storage and Recovery system ("*ASR*") and to design, permit, and construct certain ASR facilities. Subject to obtaining the required permits and governmental approvals, the ASR site and facilities, if required, shall be constructed and dedicated prior to 1,200 water connections for residential dwelling units that receive water service from the City. Notwithstanding the foregoing, the City shall remain obligated to provide water service to the Project as provided herein in any one of the following events: (i) the ASR is not required as provided herein, (ii) the Landowners are unable to obtain necessary permits and approvals for the ASR site and facilities, despite good faith efforts, and (iii) if the ASR is required and permits are obtained, for the water connections that provide water service from the City to less than 1,200 residential dwelling units. Unless the City elects in its sole discretion to construct the ASR as provided below, if applicable, the ASR site and facilities shall be designed, permitted, constructed, and dedicated at Landowners sole cost and expense; provided that, however, such cost and expense shall be Authorized Improvements subject to funding and/ or reimbursement from PID Bond proceeds and from TIRZ revenues. Landowners agree that at least $5,500,000.00 of the costs of the ASR will either be funded from the PID Bonds and/ or TIRZ revenues or will be funded by Landowners. To the extent that PID Bond proceeds and TIRZ revenues are insufficient to cover the costs of the ASR site and facilities, the Landowners shall be entitled to receive a credit against any and all impact fees, up to maximum amount of $8,000,000.00, that may be assessed by the City for the Project in an amount equal to the costs in excess of the PID Bond proceeds and TIRZ revenue to design, permit, and construct the ASR site and facilities. For avoidance of any doubt, any impact fee credits due from the City shall not cover costs of the ASR included as actual costs funded or reimbursed from PID Bond proceeds and TIRZ revenues but shall only be required to cover costs not included as actual costs funded by PID Bond proceeds and TIRZ revenues or otherwise covered by the Landowner's $5,500,000.00 committed amount set forth above. Notwithstanding the foregoing, within thirty (30) days after written notice from the Landowners of their intent to commence construction of the ASR facilities, the City shall have the right at its sole discretion to notify the Landowners that it elects to construct the ASR facilities at the City's sole cost and expense. If the City makes such an election, then (a) the Landowners shall remain obligated to dedicate the ASR site, to design and permit the ASR facilities and to provide $5,500,000.00 of funding for the construction of such ASR facilities less the amounts expended by Landowners for the design and permitting of such ASR facilities, either though PID Bonds proceeds, TIRZ revenues, or Landowners separate funds; (b) the City shall be fully obligated to cover any and all costs and expenses over such amount provided by Landowners, and Landowners shall have no further obligation with respect thereto; and (c) Landowners shall not be entitled to any impact fee credits as provided herein.

(2) If Landowners elect to have the City of Austin provide water service to the Austin ETJ Parcel, or if the Austin ETJ Parcel is not otherwise released

from the Austin CCN on terms acceptable to Landowners, the requirements of this Section 13.D related to the ASR site and facilities shall not apply, save and except that Landowners agree to dedicate a site within the Property for the location of the ASR.

14. *Environmental.* The Landowners agree to provide the following environmental enhancements:

A) Use of Reclaimed Water. Irrigated open space areas within the Property, as shown in **Exhibit Q**, will be developed with a "Purple Pipe" irrigation system that can be adapted to utilize Type I reclaimed water pursuant to the requirements of the Texas Commission on Environmental Quality ("*TCEQ*") under 30 Texas Administrative Code 210 if and when the City elects to extend and connect facilities to deliver such reclaimed water to the Property. These irrigation systems will utilize potable water until reclaimed water service is provided.

B) Green Building. "Green" building code/1 Star elements will be provided as set forth on the attached **Exhibit J**.

C) Batch Detention. "Batch Detention Ponds", designed to LCRA standards, is an allowable permanent water quality control system.

D) Geologic Report. The City and Landowners acknowledge and agree that the Property is in the "Transition Zone" of the Edwards Aquifer as defined by the TCEQ and outside of the "Recharge Zone" and "Contributing Zone" as defined in the UDC. Notwithstanding the foregoing, the Landowners have conducted a geological report demonstrating that no sensitive environmental features exist on the Property, and has submitted such report to the City. The City acknowledges and agrees that it has received and reviewed such geological report. If sensitive environmental features are discovered during construction, Landowners agree to protect and/ or mitigate the impacts to such features as required by TCEQ regulations.

15. *Tree Preservation, Replacement and Mitigation.* The City approves the following modifications to Subsection 4.04.01 of the UDC, Tree Preservation and Mitigation Code:

A) Street Trees.

(1) All roadways internal to the Project will be planted with street trees spaced at minimum forty (40) feet on center. Notwithstanding anything herein or the UDC to the contrary, planting of street trees shall not be required at the time the internal roadways are constructed, and the Landowners shall only be required to plant such required street trees at the time that buildings on land or lots immediately adjacent to such internal roadways are being constructed. Street trees will not be required in locations in which they would conflict with the canopies of existing shade trees. All street trees will be included in the calculation of replacement planted trees under the City's tree mitigation requirements. These trees will be maintained by either the adjacent property owner or the HOA, under the terms of the restrictive covenants applicable to the Project. The City agrees that no license agreement with the City for the installation or maintenance of street trees will be required.

(2) If the City or any utility provider prohibits any proposed street trees from being planted in the right-of-way, the City agrees that trees may be spaced every thirty (30) feet on center in other locations within the right-of-way and in the manner compliant with street tree standards.

B) Landscape Trees. The City agrees that any tree required under Subsection 2.09.01 of the UDC, landscaping, and any other trees in excess of such requirement planted on any lot will also be counted as a replacement tree under the City's tree mitigation requirements.

C) Street and Replacement Tree Requirements. The Landowners agree that all street trees and other replacement trees planted within the Property will meet the following requirements:

(1) Canopy trees will, at a minimum, be three-inch (3') caliper Texas-grown nursery stock complying with the "American Standards for Nursery Stock."

(2) Trees will be irrigated using an automatic irrigation system and zoned separately from turf areas.

(3) Trees will be covered by a replacement warranty provided by the landscape contractor for two (2) years from the date of planting. The Landowners will be responsible for ensuring any necessary replacement of trees during such two-year warranty period.

(4) Trees on public property (including right-of-way and open space) will, in addition to the two-year replacement warranty required by Subsection 15.C)(3), be maintained for a minimum period of four (4) years after planting by the Landowners or HOA.

(5) Trees planted for the street tree requirement will be chosen based on best practices regarding typical species root style to encourage root growth in a manner not detrimental to road/trail/sidewalk longevity.

D) Tree Preservation and Mitigation Modifications. The City hereby approves the following modifications to Section 4.04.01 of the UDC, Tree Preservation and Mitigation Code for the Property:

(1) Trees located within right-of-way and within easements to be dedicated to the City will be exempt from the City's tree preservation requirements. Where feasible, Landowners and City will make a good faith effort to avoid including Heritage trees within the right-of-way or to protect and save Heritage trees within the proposed right-of-way except where such rights-of-way have already been planned pursuant to existing major roadway plans and initial subdivision plans previously submitted; provided that, however, such efforts shall not be required if doing so causes a reduction in the number of residential units.

(2) During construction, the Landowners will retain, and provide City with contact and access for consultation with, a Certified Arborist to observe and make recommendations regarding the protection and health of all existing trees to be preserved. The Certified Arborist will review all tree protection

measures at the start of construction and will visit the site at least twice per month during construction to review tree health and preservation measures and make recommendations.

(3) A tree will be considered saved or preserved if one-half of the total area of the CRZ outside the ½ CRZ is preserved, and the entire ½ CRZ is preserved. Within the ½ CRZ, no cut or fill will be allowed. The Certified Arborist retained by the Landowners and will review the viability of any affected tree during design.

(4) For lots with seven and one-half (7.5) foot side setbacks, the side setback on one side of the lot may be reduced to no less than five (5) feet if this reduction would reduce the impact on the CRZ of a tree on the other side of the lot, so long as the total of the side setbacks on the lot is fifteen (15) feet.

(5) The number of trees to be preserved shall be based on the average density of all regulated trees on a site as determined based on the tree survey as follows:

Average Tree Density	Percentage of Trees to be Preserved		
	Protected	Signature	Heritage
1-10 trees per acre	60%	85%	90%
10-20 trees per acre	50%	75%	85%
20+ trees per acre	40%	65%	75%

Average density shall be calculated by dividing the total number of regulated trees surveyed by the gross site area of the tree survey. The tree survey shall occur in a minimum of 100-acre increments.

(6) This Agreement constitutes full City approval (without any further approval being required) of Tree Removal Permits for the removal of all Protected Trees, Signature Trees, and Heritage Trees from the Property, except for the percentage of such trees required to be preserved as set forth in Subsection (5) above. These Tree Removal Permits shall be administratively approved by the Director of Planning. Mitigation (neither replacement trees nor fees in lieu thereof) for Protected Trees removed in accordance with this section shall not be required. Notwithstanding the foregoing, for any Protected Tree removal that exceeds the amount otherwise allowed herein, mitigation will be required in accordance with Section 04.04.01C and Section 04.04.01D of the UDC. Mitigation for Signature Trees and Heritage Trees removed both in accordance with this section and any such removal that exceeds the amount otherwise allowed herein, will be required in accordance with Section 04.04.01C and Section 04.04.01D of the UDC.

(7) The required tree preservation percentages may be averaged over the entire development provided it is identified as such on the subdivision plat or site plan for the development. Tree removal credits, but not deficits, may be

carried over to average preservation across the Project, provided it is tracked on the subdivision plat or site plan.

(8) The City Engineer may, to the extent it is safe and prudent to do so, permit preservation of Signature Trees and Heritage Trees within the right-of-way to be counted toward mitigation requirements at the same ratio they are required to be mitigated.

(9) Alternative water and wastewater service locations meeting the Austin Engineering Criteria for separation, may be allowed to preserve Signature Trees and Heritage Trees.

16. *Transportation.*

A) Right-of-Way Dedications. The Landowners will dedicate the portions of right-of-way for Marathon Road, Rankin Avenue, the 1626 Connector, and the intersection of Marathon Road with RM 967 that are located within the Property and shown on the attached **Exhibit K**, at no cost to the City and without the City's grant of any development fee credits to the Landowners. The Landowners will use commercially reasonable efforts to acquire any additional right-of-way needed for the 1626 Connector. Notwithstanding the foregoing, the Parties acknowledge and agree that the Landowners shall only be required to dedicate Rankin Avenue in the location and configuration shown in Exhibit K.

B) RM 967 Intersection Improvements. The Landowners will design, permit, and construct improvements to the intersection of RM 967 and Marathon Road as a roundabout at no cost to the City and without the City's grant of any development fee credits to the Landowners. Entry improvements and monumentation will be permitted within the roundabout of the RM 967 Intersection and the Parties agree to enter a license agreement establishing the Parties' responsibilities and obligations related to such entry improvements and monumentation. The Landowners agree to substantially complete construction of such intersection improvements prior to the issuance of any Certificates of Occupancy.

C) Marathon Road. Subject to and upon creation of the PID and TIRZ, and the issuance of PID Bonds as provided in Section 19 of this Agreement to provide Landowners with construction funding, the Landowners will design and construct Marathon Road in phases as shown on **Exhibit K** and as provided in this subsection. The Landowners shall design and construct (i) one-half of the street cross-sections included in **Exhibit L** (shared use path and two lanes) of Marathon Road concurrently with the development of Phase 1 of the Project and be completed prior to the City's issuance of any Certificates of Occupancy for homes within Phase 1, and (ii) the design of the remainder of Marathon Road required to be started within thirty (30) days of the ETJ Date, commencement of construction within sixty (60) days after issuance of permits, and completed within eighteen (18) months of issuance of all necessary permits. No more than 325 single-family homes may be occupied and no more than 500 single-family homes may be issued building permits before the first half of Marathon Road and the 1626 Connector are substantially completed. The remaining one-half of the Marathon Road cross section shall be designed and constructed as associated PID Bonds are issued and development of the Armbruster Tract adjacent to such roadway occurs. No more than 1,200 single-family homes may be occupied before the remaining one-half of

Marathon Road is substantially completed. Shared use paths constructed as part of Marathon Road may meander into adjacent Landscape Lots. Notwithstanding the foregoing or in the subsequent sections and subsections below, the Landowners may design and construct Marathon Road in conformance with the approved Traffic Impact Analysis prepared by LJA Engineering, Inc., dated September 2023 (the "*TIA*"), as may be subsequently revised or updated. If the City fails to consent to the creation of the PID and the TIRZ or to issue the PID Bonds and collect TIRZ revenues as provided in Section 19 of this Agreement, and if the Landowners elect that this Agreement remains in full force and effect in whole or in part, then the Landowners will, despite anything in this Agreement to the contrary, instead design and construct Marathon Road in segments according the Project's roughly proportional share as provided in the TIA, as it may be amended or updated.

D) 1626 Connector. Subject to and upon creation of the PID and TIRZ, and issuance of PID Bonds as provided in Section 19 of this Agreement to provide Landowners with construction funding, the Landowners will design and construct the appropriately sized east-west connector from Marathon Road to FM 1626 as shown on **Exhibit O** and on **Exhibit L**. The design of the 1626 Connector shall continue the shared use path, as shown conceptually in **Exhibit O**, from the FM 1626 Connector to the multi-use path at SH-45 as right-of-way, land acquisition, and jurisdictional permits allow. The design of the 1626 Connector must be started within sixty (60) days of creation of the PID. Construction will begin within sixty (60) days after the issuance of permits and acquisition of any needed right-of-way and will be completed within eighteen (18) months of issuance of all necessary permits and acquisition of necessary right-of-way. No more than 325 single-family homes may be occupied and no more than 500 single-family homes may be issued building permits before the first half of Marathon Road and the 1626 Connector are substantially completed.

E) Rankin Avenue. The Landowners will cause the design and construction of the on-site segment of Rankin Avenue, the east-west arterial shown on **Exhibit K** and on **Exhibit L**, at no cost to the City and without the City's grant of any development fee credits to the Landowner. The improvements to the on-site section of the Rankin Avenue must be completed prior to the City's issuance of any Certificates of Occupancy for homes within Phase 1. The City acknowledges and agrees that construction of the Rankin Avenue beyond the location shown in the above-referenced exhibits to the eastern boundary of the Bailey Tract is not feasible and is not required because the eastern boundary line is in the center line of a creek. Notwithstanding the foregoing, the Landowners shall dedicate right-of-way for the Rankin Avenue to the eastern boundary of the Bailey Tract as that portion of the Property is platted and Landowners shall design and engineer the Rankin Avenue extension from its terminus on the Bailey Tract up to and including an intersection with Garrison Road; provided that, however, such design and engineering work is subject to rights of entry being provided to the Landowners in order to survey the potential locations for such extension. Notwithstanding the foregoing, the Parties acknowledge and agree that the Landowners shall only be required to plat, design, and dedicate Rankin Avenue in the location and configuration shown in Exhibit K. Additionally, the Landowners will provide a design and engineering for an economy of scale and buildability analysis of a future bridge to be located at the east terminus of Rankin Avenue.

F) Subdivision Streets. Streets within the Property, as illustrated in **Exhibit M**, will be constructed in accordance with the dimensions shown on the attached **Exhibit L**.

G) State Highway 45. The Landowners agree not to plan any proposed residential lots or permanent improvements within an area that may be identified to be right-of-way for the future SH 45 extension across the Project site (the "*SH 45 ROW Area*") for a period of fifteen (15) years from the Effective Date or, if the State of Texas elects not to pursue the future SH 45 extension, the date of such decision, whichever is earlier; provided that, however, temporary improvements that serve the remainder of the Project and permanent improvements that serve the remainder of the Project and are compatible with the future SH 45 extension are allowed within the SH 45 ROW Area. The agreement to refrain from planning any permanent development within the SH 45 ROW Area shall not be considered a reservation or dedication of right-of-way and shall not otherwise be considered a restriction on or impairment of such area that would in any way diminish the value of the SH 45 ROW Area. The agreement of the Landowners to refrain from planning any permanent improvements of the SH 45 ROW Area is solely as an accommodation to avoid the construction and installation of permanent improvements that would otherwise have to be acquired and/ or removed by a governmental entity in addition to providing just compensation to the value of the SH 45 ROW Area being acquired. Notwithstanding the Landowners temporary accommodation as set forth herein, the SH 45 ROW Area shall be deemed to be fully entitled to the uses and development allowed under this Agreement for the purposes of valuing such area for future acquisition of the SH 45 ROW Area based on the Landowners' receipt of just compensation for such right-of-way acquisition. If all or any portion of the SH 45 ROW Area is not acquired by the State of Texas prior to the expiration of the period set forth above, then the SH 45 ROW Area may be developed in accordance with the terms of this Agreement as if such area were part of the Property, and the caps on residential units and LUEs set forth in this Agreement shall not apply.

H) Modification. Anything herein to the contrary notwithstanding, the City acknowledges that the design of the intersections of RM 967 and Marathon Road and FM 1626 and the 1626 Connector are subject to approval by TXDOT and/ or Hays County and that any modifications required by TXDOT and/ or Hays County may affect the configuration and location of such roadways and other roadways in and adjacent to the Property. If changes to roadway configurations or locations are necessary due to modifications by TXDOT and/ or Hays County, the City and the Landowners agree to amend the corresponding provisions of this Section 16 to facilitate needed traffic improvements while ensuring that all contemplated right-of-way is dedicated, all traffic improvements are constructed, and the Landowners receive the PID and TIRZ financing and funding as contemplated by this Agreement.

I) Traffic Impact Analysis Approval. The TIA is hereby approved by the City with respect to "Scenario 1" for any and all purposes. Section 3.05.09 of the UDC shall not apply. The City hereby further agrees that, as long as the total vehicle trips per day generated by the Project using the traffic generation assumptions set forth in the TIA are not exceeded, no other traffic impact analysis, and no other study, analysis, report, data, update, memoranda, models, documents, or other

information related to traffic impacts and/ or the mitigation thereof will be required in connection with any development of the Property. The City hereby agrees that only the mitigation set forth in the approved TIA shall be required for such development of the Project. The City's UDC is hereby modified to extent necessary to effectuate the terms of this subsection.

17. *Prairie Building Program.* The Prairie Building Program shall be allowed as provided in this Section. For the purposes of this Agreement only, "*Prairie Building*" shall be defined as single family residential home construction in a final platted phase of a subdivision where either (1) all required public improvements (water and wastewater systems, streets, and drainage facilities) have not yet been completed and accepted into the maintenance warranty period by the City or (2) an improvement agreement has not been executed and appropriate performance surety has not been provided in accordance with 3.04.05 of the UDC.

A) At the time the Landowners submit construction plans for public improvements to the City Engineer for code conformance review, the Landowners may request to phase construction of the subdivision improvements. The construction plans submitted for review and consideration of release for construction shall clearly delineate those facilities to be constructed in the current phase. Any infrastructure required to mutually support multiple phases of the subdivision shall be constructed as a part of the first phase of the subdivision development. All requests for phasing made after construction plans have been released for construction shall be resubmitted to the City Engineer.

B) A building permit within a platted lot will be released by the City when all the following conditions are fully satisfied by the Landowners:

(1) The final plat must be recorded.

(2) An improvement agreement must be fully executed with the appropriate surety provided in accordance with Section 3.04.05 of the UDC for all construction included in the approved public improvements construction plans that has not yet been completed. In lieu of a completion bond, the Landowners may submit an irrevocable letter of credit payable to the City and approved to form by the City Attorney.

(3) All requirements of the City's Stormwater Management Program shall be met to the satisfaction of the City as approved by the City Manager.

(4) An engineering-stamped plan documenting erosion and sedimentation controls and tree/natural area protective fencing shall be provided to the City and must be approved by the City Manager prior to any construction.

(5) All detention ponds shall comport with the City standards as set forth in the City's engineering criteria manual as established in Section 1.01.06 of the UDC. All outlet structures shall be constructed prior to any grading. The outlet system must consist of a sump pit outlet and an emergency spillway meeting the requirements of the City's drainage criteria manual and environmental criteria manual, as established in Section 1.01.06 of the UDC. The outlet system shall be protected from erosion and shall be maintained throughout the course of construction until completion of the

permanent water quality pond(s). Construction-phase sedimentation basins shall comply with the requirements of TPDES Construction General permit (CGP) TXR150000.

(6) Adequate fire protection is available, which shall mean (i) public utilities are installed, (ii) hydrants providing fire protection are operational, and (iii) access is provided by having street curbs and gutters installed, where required, and public street subgrades are leveled and worked to proper compaction to facilitate vehicle movement meeting a single axle load of 32,000 pounds or wheel load of 16,000 pounds (i.e., AASHTO HS-20 two-axle truck loading).

C) Prior to any construction on the Property, an emergency services and access plan must be submitted to and approved by Hays County Emergency Services Districts #2 and #8. At all times during construction, the public water system fire flow requirement of 1,500 minimum gpm shall be provided. Distribution system pipe sizes shall be sized in accordance with a hydraulic report prepared by a licensed professional engineer. Water distribution network capacity analyses related to development are the sole responsibility of the Landowner. A minimum pressure of 35 psi at all points within the potable water distribution network at flow rates of at least 1.5 gpm per connection must be maintained. When any portion of the public water distribution system is intended to provide fire-fighting capability, the network must also be designed to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions.

D) Where the entirety or a portion of a water, wastewater, or storm drainage main is placed under paved public right-of-way and the Landowners do not provide full compacted base backfill from the bedding of the main to the pavement sub-base, a three (3) year maintenance bond shall be required for all utility infrastructure placed under a street.

E) No Certificate of Occupancy for any structures within a particular phase of development shall issue until all public infrastructure for such phase provided within the final plat is approved and accepted by the City subject to the maintenance warranty period by the City.

F) The City shall have the discretion to terminate use of the Prairie Build Program after Phase 1 if use of the Prairie Build Program results in excessive violations. Excessive Violations shall be defined as more than three (3) stop work orders issued by the City.

18. *Annexation.* Subject to the terms and conditions set forth in this Agreement, the Landowners agree to voluntarily consent to and request that the City approve annexation of the ETJ Parcels as provided this Agreement. Each Landowner agrees that it shall request annexation of its respective ETJ Parcels, which request for annexation shall be expressly conditioned on the concurrent approval by the City of the zoning required in Section 10 of this Agreement, the prior approval of the creation of the PID, the prior approval of the PID Financing Agreement and Reimbursement Agreement, the prior approval of the creation of the TIRZ, the prior or concurrent execution of all documents and agreements, as applicable, related to the TIRZ and PID, and the concurrent approval of PID bond issuance and the final TIRZ project and finance plan, and the ETJ Parcels will be annexed into the corporate limits of the City in accordance with and subject to the

provisions of this Agreement. The City agrees that zoning of the ETJ Parcels and re-zoning of the City Limit Parcel, the approval of the final TIRZ project and finance plan, and execution of all documents and agreements related thereto, and the approval of PID Bond issuance shall occur concurrently with annexation. The City further agrees that approval of the creation of the PID, approval and creation of the TIRZ and the approval of a preliminary TIRZ project and finance plan, PID Financing Agreement, and Reimbursement Agreement shall occur prior to annexation. Notwithstanding the foregoing, annexation and zoning shall be for the entire Property shall not occur unless and until the PID and TIRZ described in Section 19 of this Agreement are fully and finally created in accordance with applicable state law, the PID Financing Agreement and any other related PID and TIRZ documents and agreements are previously or concurrently approved and executed, and PID Bond issuance is subsequently authorized, as applicable. The Landowners request for annexation pursuant to this section is further conditioned on the concurrent consideration by the City of the final TIRZ project and finance plan, the issuance of PID Bonds, and zoning of the Property. If such annexation, zoning, TIRZ approvals and PID Bond issuance approvals do not occur concurrently and simultaneously as provided herein, the Landowners' consent to the annexation and their petitions for annexation shall be deemed withdrawn and revoked as the annexation of the ETJ Parcels shall not be voluntary and shall be null and void *ab initio*. The terms of this Section 18 shall be incorporated in the terms of the annexation services agreement pursuant to Section 43.0672 of the *Texas Local Government Code*. Pursuant to Section 212.172(b)(8) of the *Texas Local Government Code*, the City agrees that the land uses, development, City code and ordinance modifications, and development intensity shown on and allowed in the Conceptual Plan and this Agreement shall be allowed for the ETJ Parcels after annexation regardless of the zoning approved by the City. Without waiving or limiting the application of the foregoing consequences, following approval of annexation, if the City does not zone the Property as provided in Section 10 of this Agreement, create the PID and TIRZ and approve and execute all related documents and agreements prior to annexation, or issue the PID Bonds as provided herein (unless any such failure is due to the Landowners' inability to perform its obligations as provided in this Agreement), then any affected Landowner, may seek and obtain dis-annexation of its respective ETJ Parcel for failure to provide services contained within the municipal service agreement pursuant to Section 43.0672 of the *Texas Local Government Code*, and, at the Landowners' discretion, the Property shall be and remain entitled to the rights and benefits provided in this Agreement notwithstanding any such failure as provided in Section 19.F(2) below. Following approval of annexation, if the City fails to approve and execute all related documents and agreements related to the PID and/ or TIRZ, or to issue the PID Bonds as provided herein (unless any such failure is due to the Landowners' inability to perform its obligations as provided in this Agreement), at the request of Landowners, the City shall take any and all necessary legal actions to immediately disannex the Property and, at the Landowners' discretion, the Property shall be and remain entitled to the rights and benefits provided in this Agreement pursuant to Section 19.F(2) below notwithstanding any such failure. The City agrees to cooperate with any and all reasonable efforts of the Landowners to document the Property's status as provided in this Section 18.

19. Creation of PID and TIRZ.

A) Contemplated Sequence of Events. In accordance with the Persimmon Development Procedures in **Exhibit P**, the sequence of events with respect to the PID as contemplated by this Agreement is as follows:

(1) Approval of this Agreement by the City and the Landowners;

(2) Expansion of the City ETJ over the ETJ Parcels;

(3) Review and acceptance of the PID Petition and setting of a public hearing for the creation of the PID and TIRZ by the City;

(4) Creation of the PID and the TIRZ and approval of the preliminary TIRZ project and finance plan, subject to approval by City Council;

(5) Review and approval of the PID Financing Agreement and Reimbursement Agreement;

(6) Submittal and review of preliminary plats applications for the various phases of the Project;

(7) Review and consideration of annexation and zoning for the ETJ Parcels and re-zoning of the City Limits Parcel, with concurrent approval of the PID Bond issuance, which shall be approved as provided in and subject to the terms of this Agreement;

(8) Review and approval of final project and finance plan for the TIRZ and creation of the TIRZ to occur concurrently with annexation; and

(9) Concurrent with annexation and zoning of the Property, the City and the Landowners' negotiation and execution of various agreements and the City Council's consideration of resolutions and ordinances to effectuate the terms of this Agreement, including, but not limited to: the preparation and approval of the SAP, formal approval of the TIRZ project and finance plan, the levy of PID Assessments on property within the PID, and the issuance of the first series of PID Bonds.

B) City's Obligations. The City will reasonably cooperate with the Landowners and use its best efforts, in good faith, to:

(1) Negotiate and enter into the PID Financing Agreement and a Reimbursement Agreement, if any, and approve the form of SAP and TIRZ project and finance plan prior to the issuance of the PID Bonds, provided that:

(i) The PID Financing Agreement and the SAP will specifically identify the Authorized Improvements; and

(ii) Prior to publication of the Preliminary Limited Offering Memorandum, the Landowners shall provide evidence of financial security sufficient to fund the Authorized Improvements that will not be paid for or reimbursed by the PID Bonds, which fiscal security shall be in the form of (i) evidence of available funds to the Landowners in cash, (ii) a letter of credit, or (iii) a reasonably acceptable lending facility, only to the extent that the Authorized Improvements have not already been completed and paid for by Landowners or otherwise to the extent that the PID Bonds are insufficient to fund such Authorized Improvements. Delivery of

fiscal security is required no later than the closing date of the bonds; and

(2) Authorize issuance of the initial PID Bonds within four (4) months after Landowners' PID Petition is submitted (the "*Bond Authorization Date*") in accordance with the PID Bond issuance requirements set forth in this Agreement, provided City is proceeding in good faith and Landowners have provided all necessary documentation to effectuate the transaction; and

(i) An Appraisal of property within the PID has been prepared by a third party selected by the City and reasonably approved by the Landowners prior to issuance of PID Bonds;
(ii) The Parties have entered into the PID Financing Agreement and a Reimbursement Agreement, if applicable;
(iii) PID Assessments in an amount adequate to finance the PID Bonds have been levied against the Property and the SAP has been adopted.
(iv) The Landowners can reasonably demonstrate to the City and its financial advisors that, as of the time of the proposed bond sale that (i) all applicable requirements in the PID Financing Agreement necessary for issuance of the PID Bonds have been satisfied, and (ii) sufficient security for the PID Bonds based upon the existing market conditions at the time of such bond sale; and

(3) Subject to the conditions set forth in Sections 19(B)(1) and (2), approval of the PID Financing Agreement, a Reimbursement Agreement, if any, the SAP, and issuance of the PID Bonds.

C) PID Bond Issuance Requirements. The Parties acknowledge (i) that the PID Petition was submitted prior to adoption of the City's "Public Improvement District Policy" and (ii) agree that, as consideration for the Landowners' development of the Project, the City's issuance of PID Bonds and the PID Financing Documents shall be subject to the following requirements, and shall not be subject to such Public Improvement District Policy:

(1) PID Bond Operations. The PID Bonds may be used to fund: (i) the actual costs of the Authorized Improvements, (ii) to the extent permitted by law, required reserves, additional interest, and capitalized interest during the period of construction and not more than twelve (12) months after the completion of construction of all Authorized Improvements covered by the PID Bond issue in question and in no event for a period greater than thirty-six (36) months from the date of the initial delivery of the PID Bonds, (iii) a PID reserve fund and administrative fund, and (iv) any costs of issuance for the PID Bonds; provided, however, that to the extent the law(s) which limit the period of capitalized interest to twelve (12) months after completion of construction change, the foregoing limitation may, with the agreement of the Parties, be adjusted to reflect the law(s) in effect at the time of future PID Bond issuances.

(2) Maturity. The final maturity for each series of PID Bonds shall occur no later than thirty (30) years from the issuance date of said PID Bonds.

(3) Value to Lien Ratio. The minimum value to lien ratio based on the anticipated final lot and/ or parcel values as provided in an Appraisal at the issuance date of each series of PID Bonds shall be at least 2 to 1 as set forth in the Indenture of Trust, unless a lower ratio is approved by City Council.

(4) Maximum PID Administrative Expenses. The administrative expenses related to the PID, as set forth in the SAP, shall not be estimated to increase by more than two percent (2%) on an annual basis; provided that however, reasonable increases in administrative fees over such estimated amount are allowed if the result of additional PID Act compliance requirements, commercially reasonable increases in vendor fees, or other reasonably incurred administrative cost increases. In addition, and notwithstanding the foregoing, in the event that the City has contracted with a third-party administrator to administer the PID, the City agrees that it shall not charge any additional City fees related to administration of the PID.

(5) Cap on Equivalent Tax Rate. For each lot classification identified in the SAP, an overlapping tax rate equivalent, including all taxing entities and the PID Special Assessment rate, of $3.25 per $100 of estimated buildout value, and $3.00 per $100 of estimated buildout value with the offset generated by the TIRZ (the "*Project ETR*"), shall be established (subject to the following adjustment) for the Project, and such the Project ETR shall not be reduced if any of the tax rates of any existing taxing entities is subsequently reduced such that the PID Special Assessment rate may be increased up to the Project ETR in that event. Notwithstanding the foregoing, the Project ETR shall be increased to an amount necessary to ensure that in no case will there less than a PID Special Assessment tax rate equivalent of $1.20 per $100 of estimated buildout value with the offset generated by the TIRZ. The estimated buildout value for a lot classification shall be determined by the PID administrator using information provided by the Landowners and confirmed by the City Council by considering such factors as density, lot size, proximity to amenities, view premiums, location, market conditions, historical sales, builder contracts, discussions with homebuilders, reports from third party consultants, information provided by the Landowners, or any other information that may help determine buildout value.

D) Funding of Authorized Improvements. The Parties agree that the City shall have no obligation under this Agreement to fund or reimburse certain project costs for Authorized Improvements within the PID except for remittance of PID Assessments collected from property owners within the Project. The PID project costs to be funded by the PID (the "*PID Project Costs*") will be described in the SAP, which Authorized Improvements confer a special benefit on the Property. The PID Project Costs will also be stated in the SAP. The PID Project Costs will include the cost of one-year maintenance bonds for all PID project facilities funded with the proceeds of PID Bonds. The City shall review and update the SAP consistent with the requirements of Section 372.013(b) of the PID Act and this Agreement. As needed to implement the SAP, the City and the Landowners will enter into a Reimbursement Agreement that provides for the Landowners construction of certain Authorized Improvements and the City's allowance of PID Project Costs to be funded out of the project account established with PID Bond proceeds. The City

will use its best efforts to issue one or more series of PID Bonds secured, in whole or in part, by assessments levied against benefited property within the PID. The net proceeds from the sale of PID Bonds (i.e., net of PID administration costs, net of costs and expenses of issuance and amounts for debt service reserves and capitalized interest) will be used to pay PID Project Costs. Notwithstanding the foregoing, the obligation of the City to issue PID Bonds is conditioned upon the adequacy of the bond security and the financial ability and obligation of the Landowners to pay the amount, if any, by which PID Project Costs exceed the net proceeds from the sale of PID Bonds and the amount, if any, of cost overruns. Prior to publication of the Preliminary Limited Offering Memorandum , the Landowners shall provide evidence of financial security sufficient to fund the Authorized Improvements that will not be paid for or reimbursed by the PID Bonds , which fiscal security shall be in the form of (i) evidence of available funds to the Landowners in cash, (ii) a letter of credit, or (iii) a reasonably acceptable lending facility, only to the extent that the Authorized Improvements have not already been completed and paid for by Landowners or otherwise to the extent that the PID Bonds are insufficient to fund such Authorized Improvements. Delivery of fiscal security is required no later than the closing date of the bonds. The net proceeds from the sale of the PID Bonds will be deposited in and disbursed from a construction fund created and administered pursuant to the Indenture of Trust under which the PID Bonds are issued. The Parties agree that the Landowners shall have no obligation to provide any such financial assurance to the City for any Authorized Improvements that are funded by the Landowners, and which are reimbursed by the PID (either from the proceeds of PID Bonds or, if PID Bonds are not issued, by payment of PID Assessments to the Landowners).

E) Creation of TIRZ. In addition to the PID, the City acknowledges and agrees that in order to deliver the Authorized Improvements and public infrastructure contemplated in this Agreement that all of the annual installments of the PID Assessments by property owners within the Property will be offset each year by incremental *ad valorem* taxes as set forth herein.

(1) For the portion of the Property located in Hays County, the annual installments of the PID Assessments by property owners within such portion will be offset each year (until all of the PID Assessments are fully paid) by incremental City and Hays County (but only if, and only to the extent that, Hays County agrees to such offset in an interlocal agreement with the City ("*TIRZ ILA*")) *ad valorem* taxes due for such property owners' portion of the Property that year in excess of the amount of such taxes that were due for and allocated to the Property on the Effective Date of this Agreement. If Hays County agrees in a TIRZ ILA to contribute 50% of the Hays County tax increment to the TIRZ for such offsets, then the City agrees that such annual installments shall be offset by 50% of the incremental City *ad valorem* taxes due for such property owners' portion of the Property that year in excess of the amount of such taxes that were due for and allocated to such portions of the Property in 2024. If Hays County does **not** agree in a TIRZ ILA to contribute 50% of the Hays County tax increment to the TIRZ for such offsets, then the City agrees that such annual installments shall be offset by 75% of the incremental City *ad valorem* taxes due for such property owners' portion of the Property that year in excess of the amount of such taxes that were due for and allocated

to such portions of the Property in 2024. In addition, if requested by Hays County, the City agrees to include within the land covered by the TIRZ additional, other land (in addition to the Property) within the City's ETJ that is not within the Property and that is less than 50% of the appraised value of all of the land (including the Property) covered by the TIRZ so that Hays County may implement a separate 25% tax increment revenue account for such other land set aside for designated County projects. After PID annual installment offsets no less than an amount equal to $0.25 per $100.00 of valuation for each portion of the Property (the "*Minimum Tax Increment Offset Rate*") have been made from the City and Hays County (if applicable) TIRZ revenues, Hays County TIRZ revenues may be used on other Hays County projects as may be authorized under Texas law. As an alternative to PID annual installment offsets, the Landowners may request, subject to City Council approval, that the TIRZ revenues (or portions thereof) available for such offsets, be used to reimburse the Landowners for improvements or costs (including interest) authorized by Chapter 311 of the Texas Tax Code. The Landowners agree to work in a good faith partnership with the City to secure Hays County TIRZ participation through the TIRZ ILA. The City will take any and all actions reasonably necessary to create and establish the TIRZ concurrently with creation of the PID, and to operate, fund, and maintain the TIRZ concurrently with annexation of the ETJ Parcels and prior to the issuance of the first series of PID Bonds so that a TIRZ revenue fund is established and available as a credit to annual installments of the PID Assessments in amounts provided herein.

(2) For the portion of the Property located in Travis County, the annual installments of the PID Assessments by property owners within such portion will be offset each year (until all of the PID Assessments are fully paid) by incremental City *ad valorem* taxes due for such property owners' portion of the Property that year in excess of the amount of such taxes that were due for and allocated to the Property on the Effective Date of this Agreement. The City agrees that such annual installments shall be offset by 75% of the incremental City ad valorem taxes due for such property owners' portion of the Property that year in excess of the amount of such taxes that were due for and allocated to such portions of the Property in 2024. As an alternative to an offset to PID Assessments, the Landowners may request, subject to City Council approval, that the TIRZ revenues (or portions thereof) be used to reimburse the Landowners for improvements or costs (including interest) authorized by Chapter 311 of the Texas Tax Code. The City will take any and all actions reasonably necessary to create and establish the TIRZ concurrently with PID creation, and to operate, fund, and maintain the TIRZ concurrently with annexation of the ETJ Parcels and prior to the issuance of the first series of PID Bonds so that a tax increment revenue fund is established and available as a credit to annual installments of the PID Assessments in amounts provided herein.

F) Failure to Create PID/TIRZ. Notwithstanding the foregoing provisions or anything herein to the contrary, if the City fails to create either the PID or the TIRZ as contemplated in this Agreement, approve and execute all related documents and agreements related to the PID and/ or TIRZ, or to issue the PID Bonds as provided herein (unless any such failure is due to a bad faith request on the part of

Landowners related to the PID and/ or TIRZ), Landowners shall have the right, in its sole discretion, to elect whether to:

(1) Terminate this Agreement in its entirety and return to the status of the Property to which it existed prior to execution of this Agreement and to be treated as if this Agreement was never executed. With this election, the City agrees to withdraw its objection to the creation of the municipal utility district ("*MUD*") over the Property currently pending and on file with the TCEQ and any subsequent amendments, additions, or annexations thereto and to take any and all necessary legal actions to immediately disannex the Property from the City's full purpose jurisdiction (as may be applicable) and release the Property from the City ETJ;

(2) Maintain this Agreement in full force and effect as to: Sections 1-7 (with only those definitions in Section 7 that are still applicable based on the continuation of the other sections identified in this subsection), 9, 13, 19.F, 29, and 31-45, 47, and 48 (with only those exhibits that are still applicable based on the continuation of the other sections identified in this subsection) only, subject to any modifications in those sections specifically noted as being amended by the failure to create the PID and/ or TIRZ. With this option, the failure to create the PID and/ or TIRZ shall be deemed an election by the City, and the City hereby agrees to take all actions necessary or appropriate, to withdraw its objection to the creation of the MUD over the Property currently pending and on file with the TCEQ and any subsequent amendments, additions, or annexations thereto and to take any and all necessary legal actions to immediately disannex the Property from the City's full purpose jurisdiction (as may be applicable) and release the Property from the City ETJ. Notwithstanding the foregoing, if the Landowners make this election and the City fails or refuses to immediately disannex the Property from the City's full purpose jurisdiction (as may be applicable) and release the Property from the City ETJ, then the City agrees, pursuant to Section 212.172(b) of the Texas Local Government Code that any and all City use, construction, permitting, inspection, development, environmental, drainage, subdivision, tree preservation, and /or any other regulation that might otherwise be applicable to the development of the Property in the City limits and/ or the ETJ shall not be applicable, save and except as provided in those sections set forth above in the first sentence of this subsection that will continue to apply with this election; or,

(3) Maintain this Agreement in full force and effect with the provisions in this Agreement that apply in the event the City fails to create the PID and/ or TIRZ continuing to apply. With this option, the failure to create the PID and/ or TIRZ shall be deemed an election by the City, and the City hereby agrees to take all actions necessary or appropriate, to withdraw its objection to the creation of the MUD over the Property currently pending and on file with the TCEQ and any subsequent amendments, additions, or annexations thereto.

G) Withdrawal of MUD Application. From and after the Effective Date, and for so long as the City complies with the terms of this Agreement, the Landowners agree that they will not set a date for a case hearing for approval of the MUD by the TCEQ.

Upon completion of annexation, zoning, approval and execution of all documents and agreements related to the PID and TIRZ as contemplated in this Agreement, and PID Bond issuance, the Landowners agree to withdraw the MUD application currently pending with the TCEQ unless Landowners agree to withdraw the MUD application earlier.

20. *Public Use Site*. The Landowners agree to designate and reserve a site on the Property as reasonably determined by the Landowners for use as a public use space such as a school (the "*Public Use Site*") on the following terms and conditions: (i) the Public Use Site shall be a minimum of fifteen (15) acres, (ii) the Public Use Site shall be located in an appropriate location depending on the public use as noted on Exhibit B attached hereto, (iii) the Public Use Site shall be available for purchase by a public entity on commercially reasonable terms acceptable to Landowners, (iv) the Public Use Site must be purchased by the public entity on or before the fifth anniversary date of the commencement of construction of the first Phase of the Project, and (v) if the Public Use Site is not purchased in such time period, the Site may be used and developed as allowed for the Residential Tracts as set forth in this Agreement.

21. *Emergency Services Site*. The Landowners agree to designate and dedicate a site on the Property as reasonably determined by the Landowners for use by the Hays County Emergency Services District #8 ("*HCES*") as an emergency services site (the "*ESD Site*") on the following terms and conditions: (i) the ESD Site shall be a minimum of three and one-half (3.5) acres, (ii) the ESD Site shall be donated to HCES, (iii) the ESD Site must be donated within six (6) months of plat recordation for the Phase of development in which the ESD Site is located and must be accepted by HCES before final Phase of the Project is approved for development, and (iv) if the ESD Site is not accepted by HCES in such time period, the ESD Site may be used and developed as allowed for the Residential Tracts as set forth in this Agreement.

22. *Contractors' Bonds*. The Landowners will require the contractor for any public improvements constructed to name the City as an additional beneficiary under the contractor's payment and performance bond for the public improvements.

23. *Development Obligations*. If there is a conflict between the Conceptual Plan and the written terms of this Agreement, the written terms of this Agreement will control. If there is a conflict between the UDC or other applicable City regulations and the terms of this Agreement, the terms of this Agreement will control.

24. *Eminent Domain*. Nothing in this Agreement shall obligate or require the City to exercise its eminent domain authority for any element of the Project. The City specifically reserves its authority pursuant to Chapter 251 of the *Texas Local Government Code* to exercise eminent domain over the Property.

25. *Municipal Services*. The Landowners acknowledge and agree that the City is under no obligation to provide the Landowners with any municipal services (such as police protection, fire protection, drainage and street construction, or maintenance), with respect to the ETJ Parcels prior to annexation of the ETJ Parcels, except as otherwise specifically provided for this Agreement.

26. *Extraterritorial Status*. The City hereby guarantees the extraterritorial status of the ETJ Parcels and that it shall not annex the ETJ Parcels for the time period provided for in this Agreement, subject to the terms and conditions of this Agreement.

27. *Voluntary Annexation.* By entering into this Agreement, the Landowners agree to voluntarily petition the City to annex and include the ETJ Parcels within the ETJ and subsequently the jurisdictional city limits of the City subject to and as provided in the terms and conditions set forth in this Agreement.

28. *Written Agreement Regarding Services.* The Landowners and City will enter into the written agreement regarding services, attached as **Exhibit N,** as required by Section 43.0672, *Texas Local Government Code*, regarding the provisions of services to the ETJ Parcels upon annexation as provided in this Agreement.

29. *Landowners' Right to Continue Development.* In consideration of the Landowners' agreements hereunder, except as provided herein, the City agrees that it will not, during the term of this Agreement, impose or attempt to impose (a) any moratorium on building or development within the Property, or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plats, final plats, site plans, or other necessary approvals, within the Property unless the moratorium is mandated by an agency of the State of Texas or the United States, or is applicable to the City in its entirety. The City may impose temporary moratoria provided that any such moratorium is applicable to the City's entire jurisdiction and is due to an emergency constituting an imminent threat to the public health or safety, provided that any such moratorium may continue with respect to the Property only during the duration of the emergency.

30. *Vesting of Rights.* The Conceptual Plan, which has been approved by the City as of the Effective Date of this Agreement, constitutes a development plan as provided in Section 212.172 of the *Texas Local Government Code*, is an application by the Landowners for the development of the Property, and initiates the development permit process for the Property. Except in the event and the extent that the Landowners have previously filed an application related to the development of the Property (in which event such prior development application shall be the first permit application), this Agreement shall constitute the first (permit) in a series of applications for the purposes of rights accruing as contemplated in Chapter 245 of the *Texas Local Government Code.* To the extent applicable, an accrued right under this Section 30 shall not apply to those regulations identified in Section 245.004 of the *Texas Local Government Code.* Landowners and City each acknowledge that the detailed submissions to the City (in the aggregate) regarding the planned uses and development of the ETJ Parcels illustrate the planned use for the land which existed before the 90th day before the date any annexation proceedings will be instituted in connection with the ETJ Parcels. The Landowners and City each further acknowledge that one or more licenses, certificates, permits, approvals or other forms of authorization by the City were required by law for the planned uses, and that the Landowners filed one or more completed applications for the initial authorization for such uses with the City before the date any annexation proceedings were instituted in connection with the ETJ Parcels. The Landowners and City also acknowledge that the preceding detailed submissions regarding the development of the ETJ Parcels meet all requirements and conditions set forth in Section 43.002(a) of the *Texas Local Government Code*, triggering the statutory prohibition upon annexation which prohibits the City from prohibiting the Landowners from continuing to develop the ETJ Parcels in the manner planned prior to the annexation. This acknowledgement does not otherwise constitute approval or denial of any regulatory power or contractual agreement related to the Property.

31. *Force Majeure.* If any Party is rendered unable, wholly or in part, by Force Majeure, hereinafter defined, to carry out any of its obligations under this Agreement other than an obligation to pay or provide money, such Party shall give written notice of the particulars of such Force Majeure to the other Party within a reasonable time after the occurrence thereof. The obligations of the Party giving notice, to the extent affected by such Force Majeure, will be suspended during the continuance of the inability to the extent provided above, but for no longer period. The Party giving notice shall use due diligence is being used to resume performance at the earliest practicable time. The cause, as far as possible, must be remedied with all reasonable diligence; however, the settlement of strikes and lockouts will be entirely within the discretion of the Party affected, and the requirement that any Force Majeure be remedied with all reasonable dispatch will not require the settlement of strikes and lockouts by acceding to the demand of the opposing Party or parties if settlement is unfavorable to it in the judgment of the affected Party.

32. *Severability.* If any part of this Agreement or its application to any person or circumstance is held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, the Parties agree that they will cooperate to amend or revise this Agreement to accomplish, to the greatest degree practical, the same purpose as the part determined to be invalid or unconstitutional. It is the intent of the Parties to preserve and protect, to the maximum extent possible, the Parties' contractual rights and benefits under this Agreement.

33. *Good Faith.* Each Party agrees that, notwithstanding any provision herein to the contrary, it will not unreasonably withhold or unduly delay any consent, approval, decision, determination or other action required or permitted under the terms of this Agreement, it being agreed and understood that each Party will act in good faith and will at all times deal fairly with the other Party.

34. *Default and Remedies.*

A) Default; Notice of Default; Opportunity to Cure. If a Party defaults in the performance of any obligation under this Agreement, the non-defaulting Party may give written notice to the other Party specifying the alleged event of default and extending to the defaulting Party thirty (30) days from the date of the notice in order to cure the default complained of or, if the curative action cannot reasonably be completed within thirty (30) days, thirty (30) days to commence the curative action and a reasonable additional period, not to exceed ninety (90) days, to diligently pursue the curative action to completion.

B) Dispute Resolution. If any default is not cured within the curative period specified above, the Parties agree to use good faith, reasonable efforts to resolve any dispute among them by agreement, including engaging in mediation or other non-binding alternative dispute resolution methods, before initiating any lawsuit to enforce their respective rights under this Agreement. The Parties will share the costs of any alternative dispute resolution method equally.

C) Legal or Equitable Remedies. If the Parties are unable to resolve any dispute through alternative dispute resolution methods, a non-defaulting Party will have the right to pursue all remedies existing at law or in equity. The Parties acknowledge that a default in the performance of the City's obligations hereunder could not be adequately compensated in money damages alone and that the curtailment or discontinuance of water and/or wastewater service to a residential subdivision is often an unattainable remedy because of the potential threat to the

health, safety, and welfare and property of the residents of the Property; therefore, the City agrees, in the event of any default on its part, that Landowner will have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies that may also be available. Furthermore, in the event of an uncured Default by the City, and if the ETJ Parcels have been legally added the City's ETJ and have either (i) not yet been annexed into the City' full purpose jurisdiction, or (ii) if previously annexed have been disannexed pursuant to this Agreement, at the request of Landowners, the City shall take any and all necessary legal actions to immediately release the ETJ Parcels from the City's ETJ in accordance with Section 42.023 of the *Texas Local Government Code*. In the event of an uncured Default by the City, and if the ETJ Parcels have been legally annexed into the City's full purpose jurisdiction, at the request of Landowners, the City shall take any and all necessary legal actions to immediately disannex the Property and release the Property from the City's ETJ.

D) Non-Waiver. 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 of such provision or of any other provision of this Agreement, and such Party will have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

35. *Amendments.* Neither this Agreement nor any term herein may be changed, waived, discharged, or terminated except by an agreement in writing signed by all Parties hereto.

36. *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 a service guaranteeing "next day delivery", addressed to the Party to be notified and with all charges prepaid; or (iii) by personally delivering it to the Party, or any agent of the Party listed in this Agreement. Notice will be effective only when received. For purposed of notice, the addresses of the Parties will, until changed as provided below, be as follows:

City:	City of Buda 405 E. Loop St. Building 100 Buda, Texas 78610 Attn: City Manager
With Required Copy to:	Alan Bojorquez Bojorquez Law Firm, PC 11675 Jollyville Rd. Ste. 300 Austin, Texas 78759
Landowners:	Bailey Land Investments, LP Armbruster Land Investments, LP 2100 Northland Drive Austin, Texas 78756

The Landowners and the Landowners' successors, and assigns shall give the City written notice within fourteen (14) days of any change in the agricultural exemption status of the Property.

37. *Law Governing*. This Agreement shall be deemed to be a contract under the laws of the State of Texas, which is performable in Hays, County, Texas, and for all purposes shall be construed and enforced in accordance with and governed by the laws of the State of Texas.

38. *Assignment; Binding Effect*. Neither Party may assign this Agreement or any benefit or obligation, including the selling or conveyance of any unimproved portion of the Property, under this Agreement to any other person or entity without the prior written consent of the other Party. No assignment may occur that divorces obligations from rights. This Agreement and all its terms and provisions shall be binding upon and inure to the benefit of the City and the Landowners and their respective successors and permitted assigns. The foregoing notwithstanding, as provided in Section 212.172(f), *Texas Local Government Code*, this Agreement is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property, except as to any land use and development regulations provided for by this Agreement that may apply to a specific lot developed out of the Property.

39. *Authority*. By their execution hereof, each individual signing this Agreement on behalf of a Party represents and warrants that he or she has the authority to execute this Agreement on behalf of the Party in the capacity shown below and to thereby fully bind the Party represented to the terms and obligations contained herein.

40. *Counterparts*. To facilitate execution, this Agreement may be executed in any number of counterparts, and it will not be necessary that the signatures of all Parties be contained on any one counterpart. Additionally, for purposes of facilitating the execution of this Agreement: (a) the signature pages taken from separate, individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts; and (b) a facsimile or electronic signature will be deemed to be an original signature for all purposes. All executed counterparts of this Agreement will be deemed to be originals, but all such counterparts, when taken together, will constitute one and the same instrument.

41. *Headings, Construction*. 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 include the feminine or neuter, and the singular includes the plural, and vice-versa. The Parties acknowledge that each of them has been actively and equally involved in the negotiation and drafting 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.

42. *Interested Parties*. Landowners acknowledge that Section 2252.908, *Texas Government Code* ("*Section 2252.908*") requires disclosure of certain matters by business entities entering into a contract with a local government entity such as the City. Landowners confirm that they have reviewed Section 2252.908 and that Landowners will 1) complete Form 1295, using the unique identification number specified on page 1 of this Agreement, and electronically file it with the Texas Ethics Commission ("*TEC*"); and 2) submit to the City the completed Form 1295, including the certification of filing number of the Form 1295 with the TEC, at the time the Landowners execute and submit this Agreement to the City Form 1295 is available at the TEC's website: https://www.ethics.state.tx.us/filinginfo/1295/.

43. *Verifications of Statutory Representations and Covenants*. Each of the Landowners make the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and

2276, Texas Government Code, as amended (the "*Government Code*"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Landowners within the meaning of Securities and Exchange Commission Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

(a) Not a Sanctioned Company. Each of the Landowners represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes each Landowner and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(b) No Boycott of Israel. Each of the Landowners hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, "boycott Israel" has the meaning provided in Section 2271.001, Government Code.

(c) No Discrimination Against Firearm Entities. Each of the Landowners hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the meaning provided in Section 2274.001(3), Government Code.

No Boycott of Energy Companies. Each of the Landowners hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 2276.001(1), Government Code.

44. *Recordation.* This Agreement shall be filed in the Hays County and Travis County deed records for the Property. Any filing fees shall be paid by the Landowners.

45. *Duration; Expiration.* The initial term for this Agreement shall be as set forth in Section 4 above. After the initial term of this Agreement, the term of this Agreement will be extended for an additional eight (8) years, so long as any permitted development provided for by this Agreement has occurred during the initial term. All terms of this Agreement in effect during the initial term shall remain in full force and effect during the any successive term. The Landowners' obligations to comply with the terms of this Agreement survive annexation until the uses and on-site improvements provided by this Agreement are complete and survive to bind the Landowners' successors and assigns as to all terms,

including the irrevocable agreement for voluntary annexation of the Property with this Agreement serving as a petition for voluntary annexation.

46. *Qualified Tax-Exempt Status.* In the event the issuance of PID Bonds prevents the City (including any instrumentality thereof) from issuing other debt obligations as "qualified tax-exempt obligations" under section 265(b)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, the Landowners will be required to pay the additional costs incurred by the City (including any instrumentality thereof) as result thereof, subject to the terms and conditions set forth in the PID Financing Agreement.

47. *INDEMNIFICATION.* LANDOWNERS COVENANT AND AGREE TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY (AND THEIR ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, AND AGENTS), INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE BROUGHT BY ANY THIRD PARTY AND RELATING TO LANDOWNERS' ACTIONS ON THE PROJECT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO LANDOWNERS OR LANDOWNERS' TENANTS' NEGLIGENCE, MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY SUCH ACTS OR OMISSIONS OF LANDOWNERS OR LANDOWNERS' TENANTS, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF LANDOWNERS OR LANDOWNERS' TENANTS, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT (THE "*LANDOWENR PARTIES*"), ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW, INCLUDING WITHOUT LIMITATION THE RIGHTS OF THE LANDOWNER PARTIES, IF ANY, TO THE EXTENT PERMITTED UNDER TEXAS LAW RELATED TO CONTRIBUTORY NEGLIGENCE AND COMPARATIVE LIABILITY. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. LANDOWNERS SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST CITY, RELATED TO OR ARISING OUT OF LANDOWNERS OR LANDOWNERS' TENANTS' ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT LANDOWNERS' COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT THEIR OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING LANDOWNER OF ANY OF IT.

IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY SHALL SURVIVE THE TERMINATION AND OR EXPIRATION OF THIS AGREEMENT AND SHALL ALWAYS BE BROADLY INTERPRETED TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND/OR THEIR OFFICERS, EMPLOYEES AND ELECTED OFFICIALS PERMITTED BY LAWS OBLIGATIONS UNDER THIS PARAGRAPH.

48. *Exhibits.* The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A	–	Property
Exhibit A-1	–	Bailey Tract
Exhibit A-2	–	Armbruster Tract
Exhibit B	–	Conceptual Plan
Exhibit C	–	City ETJ Parcel
Exhibit D	–	Austin ETJ Parcel
Exhibit E	–	Amenity Concept
Exhibit F	–	Subdivision Wall Design
Exhibit G-1	–	Detailed Parks Plan (Phase 1)
Exhibit G-2	-	Parks and Open Space Summary
Exhibit H	--	Trails Plan
Exhibit I	–	City Limits Parcel
Exhibit J	–	Green Building/Star Energy Elements
Exhibit K	–	Depiction of Right-of-Way Dedications and Marathon Road Segments
Exhibit L	–	Depiction of Subdivision Street Sections
Exhibit M	-	Roadway Classifications
Exhibit N	-	Written Agreement Regarding Services
Exhibit O	-	1626 Connector Conceptual Alignment
Exhibit P	-	Persimmon Development Procedures
Exhibit Q	-	Purple Pipe Locations

[SIGNATURE PAGES FOLLOW]

EXECUTED by the Parties hereto to be effective as of the Effective Date.

CITY:

City of Buda, a home rule municipality in Hays County, Texas

By:_____
Name: Micah Grau
Title: City Manager

ATTEST:

By:_____
Name: Alicia Ramirez
Title: City Clerk

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on the ____ day of _____, 2024 by Micah Grau, City Manager of City of Buda, a home rule municipality in Hays County, Texas, on behalf of said municipality.

(SEAL)

_____
Notary Public Signature

LANDOWNER:

Bailey Land Investments, LP,
a Texas limited partnership

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

By:_____
Name:_____
Title:_____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2022 by _____, _____ of Bailey Land Investments GP, LLC, a Texas limited liability company, General Partner of Bailey Land Investment, LP, a Texas limited partnership, on behalf of said company.

(SEAL)

_____
Notary Public Signature

LANDOWNER:

Armbruster Land Investments, LP,
a Texas limited partnership

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

By:_____
Name:_____
Title:_____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2022 by _____, _____ of Armbruster Land Investments GP, LLC, a Texas limited liability company, General Partner of Armbruster Land Investments, LP, a Texas limited partnership, on behalf of said company.

(SEAL)

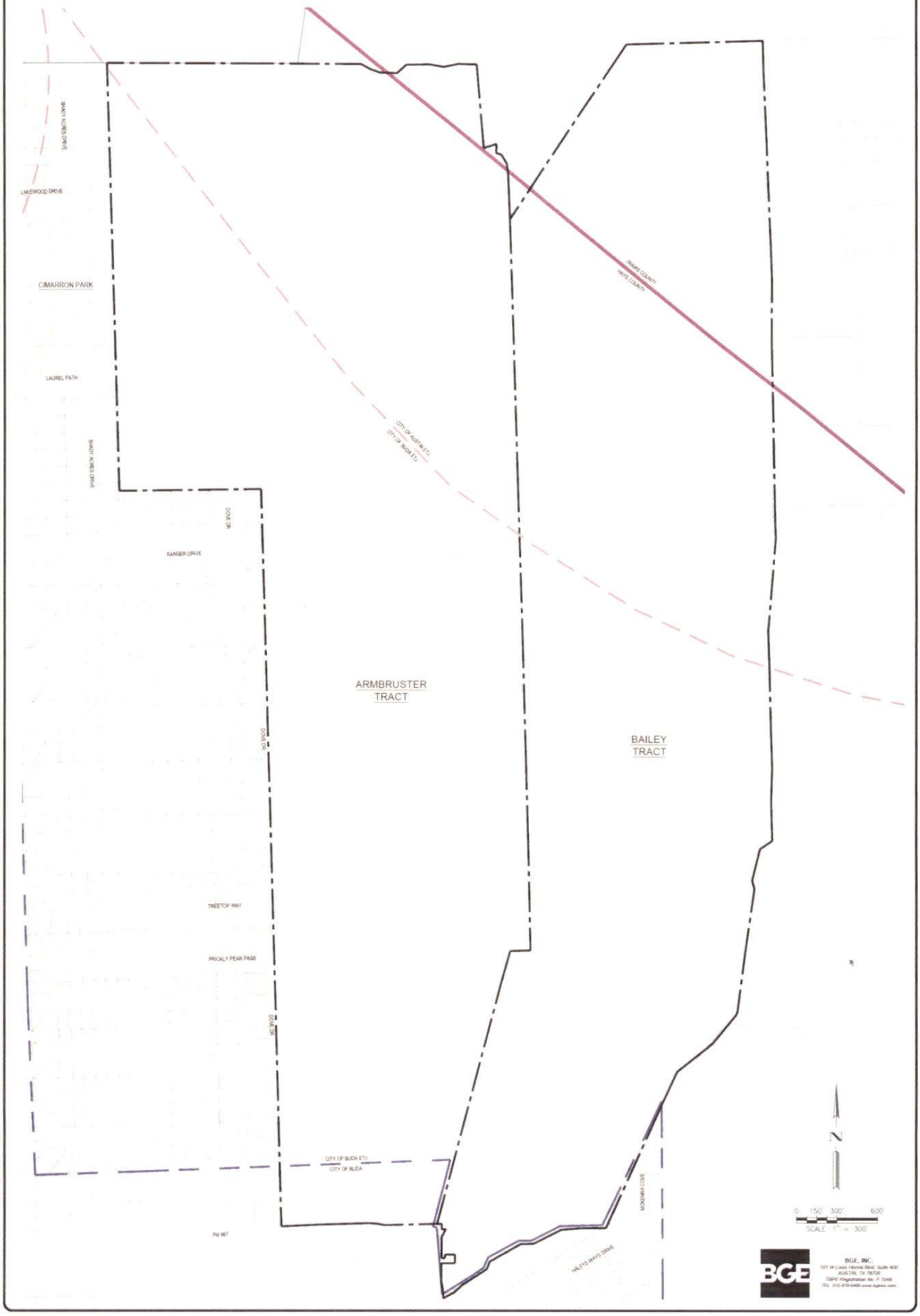
_____
Notary Public Signature

Exhibit A

PERSIMMON

OVERALL TRACTS

JULY 15, 2022



BGE, INC.
101 W Louis Henna Blvd, Suite 400
AUSTIN, TX 78728
TBPE #registration no. F-1046
TEL 512-879-0400 www.bgeinc.com

G:\TX\C\Projects\Miscellaneous\6714.00_Bailey_Posted\03_CAD\CIVIL_E and\Exhibits\Armbruster Tract\2022-07-15 Overall Cover.dwg Layout: EXHIBIT Plotted: 7/15/2022 11:36:30 AM By: MIGUEL IVAN

EXHIBIT A-1

BAILEY TRACT
348.277 ACRES

METES & BOUNDS DESCRIPTION

FIELD NOTES FOR 348.277 ACRES OF LAND OUT OF THE S.V.R. EGGLESTON SURVEY NUMBER 3, ABSTRACT NOS. 5 AND 11 OF HAYS AND TRAVIS COUNTIES, TEXAS; BEING A PORTION OF A CALLED 349.690 ACRE TRACT OF LAND AS CONVEYED TO LABENSKI BRANCH, LP BY GENERAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 2018119702 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS AND DOCUMENT NUMBER 18027027 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 5.000 ACRE TRACT OF LAND AS CONVEYED TO LABENSKI BRANCH, LP BY SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 21029795 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND FURTHER BEING A PORTION OF LOT 1, BLOCK T OF THE WOODS OF BEAR CREEK, A SUBDIVISION RECORDED IN VOLUME 3, PAGE 347 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS; SAID 348.277 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING FOR POINT OF REFERENCE at a 4x4 Concrete highway monument found on the North right-of-way line of RM 967 (80-feet wide at this point), same being the South line of a called 217.17 acre tract of land as conveyed to Henry Crews Armbruster by Boundary Line Agreement recorded in Volume 222, Page 163 of the Deed Records of Hays County, Texas; Thence, with the north right-of-way line of said RM 967, N 88°20'06" E a distance of 333.08 feet to a 4x4 Concrete highway monument found for the point of curvature of a curve to the right; Thence, continuing with the east line of said RM 967, along said curve to the right, an arc distance of 143.59 feet, having a radius of 560.87 feet, a central angle of 14°40'05" and a chord which bears S 84°19'51" E a distance of 143.20 feet to a calculated point for corner marking the most westerly corner of Tract "C" as dedicated to the State of Texas by Right-of-way Deed recorded in Volume 146, Page 335 of the Deed Records of Hays County, Texas; Thence, continuing with the north right-of-way of said RM 967, N 88°30'13" E a distance of 386.32 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the southeast corner of said 217.17 acre tract and at the southwest corner of the above described 5.000 acre tract, from which a 60d nail found at the northeast corner of said Tract "C", and at an interior corner of said 349.690 acre tract, bears N 88°30'13" E a distance of 37.14 feet; Thence, generally along a fence, with the line common to said 217.17 acre tract and said 5.000 acre tract, N 14°47'39" E, pass a 1/2-inch iron pipe found at a fence corner at a distance of 6.33 feet, and continuing on for a total distance of 59.93 to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the most westerly southwest corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, continuing generally along a fence, with the line common to said 217.17 acre tract and said 5.000 acre tract, the following three (3) courses:

1) N 14°47'39" E a distance of 1,799.53 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

2) N 15°43'56" E a distance of 240.62 feet to a 1/2-inch iron pipe found at an interior corner of said 217.17 acre tract and at the northwest corner of said 5.000 acre tract, for an exterior corner of the herein described tract; and

3) N 88°33'17" E a distance of 150.28 feet to a 1/2-inch iron rod found at an exterior corner of said 217.17 acre tract, and at an exterior corner of the remaining portion of said 349.690 acre tract, for an interior corner of the herein described tract;

THENCE, generally along a fence, with the east line of said 217.17 acre tract and the west line of said 349.690 acre tract, the following three (3) courses:

1) N 01°14'08" W a distance of 788.84 feet to a 1/2-inch iron pipe found for an angle point;

2) N 01°24'34" W a distance of 622.22 feet to a 1/2-inch iron rod found for an angle point; and

3) N 01°44'45" W a distance of 1,882.30 feet to a 1/2-inch iron rod found for an angle point;

THENCE, generally along a fence, continuing with the west line of said 349.690 acre tract and continuing partly with the east line of said 217.17 acre tract and partly the east line of a called 209.402 acre tract of land as conveyed to Chance Armbruster by Special Warranty Deed recorded in Document Number 2011006800 of the Official Public Records of Travis County, Texas, N 01°37'31" W a distance of 2,108.78 feet to a 1/2-inch iron rod found at the most southerly corner of RING TRACT PHASE TWO, a subdivision recorded in Document Number 201700120 of the Plat Records of Travis County, Texas, for the most westerly northwest corner of the herein described tract, from which a 1-inch iron pipe found for an angle point on the west line of said RING TRACT PHASE TWO, bears N 02°33'30" W a distance of 1,140.14 feet;

THENCE, partly with the southeast line of said RING TRACT PHASE TWO and partly with the southeast line of the remainder of a called 11 acre tract of land described as Tract 2 as conveyed to The Randolph Company by Correction Warranty Deed recorded in Volume 12391, Page 348 of the Real Property Records of Travis County, Texas, N 33°47'22" E a distance of 1,552.16 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set on the south line of a called 73 acre tract of land as conveyed to Robert Cyril Jerome Hejl by Executor's Deed recorded in Document Number 2011131371 of the Official Public Records of Travis County, Texas, at the most easterly corner of said 11 acre tract, for the most northerly northwest corner of the herein described tract, from which a found Railroad Spike bears S 85°14'54" W a distance of 34.19 feet;

THENCE, generally along a fence, with the south line of said 73 acre tract and the north line of said 349.690 acre tract, N 88°33'23" E a distance of 1,008.55 feet to a 1/2-inch iron pipe found at the northwest corner of a called 29.615 acre tract of land as conveyed to Walter B. Hector by General Warranty Deed recorded in Volume 11125, Page 875 of the Real Property Records of Travis County, Texas, and at the northeast corner of said 349.690 acre tract, for the northeast corner of the herein described tract;

THENCE, generally along a fence, with the west line of said 29.615 acre tract and the east line of said 349.690 acre tract, the following five (5) courses:

1) S 01°17'31" E a distance of 220.82 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a 14-inch dead tree;

2) S 02°28'42" E a distance of 414.20 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a fence post;

3) S 02°17'45" E a distance of 889.74 feet to a to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a double trunk 12-inch Hackberry;

4) S 02°03'46" E a distance of 241.91 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a fence post; and

5) S 00°13'52" W a distance of 452.24 feet to a 1/2-inch iron pipe found at the northwest corner of a called 28.09 acre tract of land as conveyed to Jeffery Lee Grubert by Warranty Deed with Vendor's Lien recorded in Document Number 2008-80014950 of the Official Public Records of Hays County, Texas, for an angle point;

THENCE, with the west line of said 28.09 acre tract and the east line of said 349.690 acre tract, S 01°07'16" E a distance of 1,318.47 feet to 1/2-inch iron pipe found at the southwest corner of said 28.09 acre tract, and at the northwest corner of a called 97.36 acre tract of land described as "First Tract" as conveyed to Gene Ledoux by Deed recorded in Volume 153, Page 490 of the Deed Records of Hays County, Texas, for an angle point;

THENCE, generally along a fence, with the west line of said 97.36 acre tract and the east line of said 349.690 acre tract, the following seven (7) courses:

1) S 01°58'05" E a distance of 140.05 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

2) S 04°43'07" W a distance of 684.44 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

3) S 01°57'53" E a distance of 291.67 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

4) S 01°18'09" E a distance of 416.20 feet to a 1/2-inch iron rod found for an angle point;

5) S 01°46'48" E a distance of 310.90 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

6) S 01°45'49" W a distance of 241.89 feet to a 60d nail found in a dead tree for an angle point; and

7) S 01°50'33" E a distance of 288.45 feet to a 26-inch Live Oak found at a west corner of said 97.36 acre tract, and at the northwest corner of a called 98.01 acre tract of land described as Second Tract as conveyed to Gene Ledoux by Deed recorded in Volume 203, Page 527 of the Deed Records of Hays County, Texas, for an exterior corner of the herein described tract, from which a 1/2-inch iron pipe bears S 19°11'27" E a distance of 28.07 feet;

THENCE, generally along a fence, with the east line of said 349.690 acre tract and the west line of said 98.01 acre tract, the following six (6) courses:

1) S 55°03'49" W a distance of 24.59 feet to a 1/2-inch iron rod found for an angle point;

2) S 56°08'39" W a distance of 85.68 feet to a 60d nail found in a fence post for an angle point;

3) S 14°07'00" W a distance of 239.07 feet to a 15-inch Cedar Elm for an angle point;

4) S 15°54'31" E a distance of 63.94 feet to a 60d nail found on the east side of a 21-inch Live Oak for an angle point;

5) S 08°18'35" W a distance of 463.00 feet to a 1/2-inch iron rod found for an angle point; and

6) S 07°22'38" W a distance of 455.90 feet to a 1/2-inch iron rod in concrete found at the apparent north corner of a graveyard as described in Volume 203, Page 527 of the Deed Records of Hays County, Texas, for an angle point;

THENCE, continuing generally along a fence, with the east line of said 349.690 acre tract, S 25°57'19" W a distance of 31.27 feet to a 60d nail found in the fence, for an angle point;

THENCE, continuing generally along a fence, with the east line of said 349.690 acre tract, S 39°05'02" W a distance of 272.60 feet to a 60d nail found at the most northerly northwest corner of a called 81.67 acre tract of land as conveyed to Robert Rembert Guinn and Nina Guinn by Deed recorded in Volume 1001, Page 24 of the Deed Records of Hays County, Texas, being further described in Volume 158, Page 362 of the Deed Records of Hays County, Texas, for an angle point;

THENCE, generally along a fence, with the northwest line of said 81.67 acre tract and the southeast line of said 349.690 acre tract, S 51°26'41" W a distance of 333.89 feet to a 1/2-inch iron pipe found for an angle point;

THENCE, continuing generally along a fence, with the northwest line of said 81.67 acre tract and the southeast line of said 349.690 acre tract, S 25°00'46" W a distance of 238.99 feet to a 1/2-inch iron rod found at the most northerly corner of CREEKSIDE PARK SECTION TWO P.U.D., a subdivision recorded in Volume 8, Page 283 of the Plat Records of Hays County, Texas, and at the most westerly northwest corner of said 81.67 acre tract, for an angle point;

THENCE, generally along a fence, with the northwest line of said CREEKSIDE PARK SECTION TWO P.U.D. and the southeast line of said 349.690 acre tract, S 24°36'19" W a distance of 35.08 feet to a 1/2-inch iron pipe found for an angle point;

THENCE, continuing generally along a fence, with the northwest line of said CREEKSIDE PARK SECTION TWO P.U.D. and the southeast line of said 349.690 acre tract, S 24°16'53" W a distance of 999.38 feet to a 1/2-inch iron rod found at an interior corner of said CREEKSIDE PARK SECTION TWO P.U.D., for the southeast corner of the herein described tract;

THENCE, generally along a fence, with the north line of said CREEKSIDE PARK SECTION TWO P.U.D. and the south line of said 349.690 acre tract, N 87°58'40" W a distance of 9.41 feet to a 1/2-inch iron rod found at a westerly corner of said CREEKSIDE PARK SECTION TWO P.U.D., and at the northeast corner of CREEKSIDE PARK SECTION ONE P.U.D., a subdivision recorded in Volume 8, Page 103 of the Plat Records of Hays County, Texas, for an angle point;

THENCE, generally along a fence, with the north line of said CREEKSIDE PARK SECTION ONE P.U.D. and the south line of said 349.690 acre tract, S 89°22'26" W a distance of 182.09 feet to a 1/2-inch iron rod found for an angle point;

THENCE, continuing with the north line of said CREEKSIDE PARK SECTION ONE P.U.D. and the south line of said 349.690 acre tract, S 85°18'14" W a distance of 140.04 feet to a calculated point on the southeast line of Lot 1, Block T of THE WOODS OF BEAR CREEK, a subdivision recorded in Volume 3, Page 347 of the Plat Records of Hays County, Texas, lying in the center of Garlic Creek;

THENCE, with the northwest lines of said CREEKSIDE PARK SECTION ONE P.U.D., the southeast lines of said Lot 1, Block T, the southeast lines of said 349.690 acre tract, and the meanders of Garlic Creek, the following seven (7) courses:

1) S 62°49'33" W a distance of 229.00 feet to a calculated angle point;

2) S 88°24'33" W a distance of 97.00 feet to a calculated angle point;

3) S 60°06'42" W a distance of 262.00 feet to a calculated angle point;

4) S 21°49'52" W a distance of 64.00 feet to a calculated angle point;

5) S 56°52'57" W a distance of 208.35 feet to a calculated angle point;

6) S 48°06'33" W a distance of 92.00 feet to a calculated angle point; and

7) S 62°01'33" W a distance of 88.26 feet to a calculated point on the east right-of-way of said RM 967 (width varies at this point), at the northwest corner of said CREEKSIDE PARK SECTION ONE P.U.D., at the southwest corner of said Lot 1, Block T, and at the southwest corner of said 349.690 acre tract, for the most southerly southwest corner of the herein described tract;

THENCE, over and across said Lot 1, Block T and said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, N 00°22'18" E a distance of 263.17 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set on the south line of a called 0.1337 acre tract of land as conveyed to the City of Buda, Texas by Special Warranty Deed recorded in Document Number 14037969 of the Official Public Records of Hays County, Texas, for an exterior corner of the herein described tract, from which a 1/2-inch iron rod set at the southwest corner of said 0.1337 acre Lift Station bears N 89°37'42" W a distance of 14.67 feet;

THENCE, with the perimeter of said 0.1337 acre Lift Station tract the following three (3) courses:

1) S 89°37'42" E a distance of 85.03 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the southeast corner of said 0.1337 acre Lift Station tract, for an interior corner of the herein described tract;

2) N 00°22'18" E a distance of 65.00 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the northeast corner of said 0.1337 acre Lift Station tract, for an interior corner of the herein described tract; and

3) N 89°37'42" W a distance of 71.90 feet to a calculated point for the beginning of a non-tangent curve to the left and an exterior corner of the herein described tract;

EXHIBIT A-1

THENCE, over and across said Lot 1, Block T and said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, along said curve to the left, an arc distance of 177.53 feet, having a radius of 127.00 feet, a central angle of 80°05'36" and a chord which bears N 21°02'27" E a distance of 163.43 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for a point of reverse curvature;

THENCE, continuing over and across said Lot 1, Block T and said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, along said curve to the right, an arc distance of 80.89 feet, having a radius of 168.00 feet, a central angle of 27°35'08" and a chord which bears N 05°12'47" W a distance of 80.11 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an interior corner of the herein described tract;

THENCE, continuing over and across said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, S 88°30'13" W a distance of 16.72 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for the beginning of a non-tangent curve to the right and an exterior corner of the herein described tract;

THENCE, continuing over and across said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, along said curve to the right, an arc distance of 30.82 feet, having a radius of 184.33 feet, a central angle of 09°34'51" and a chord which bears N 12°22'05" E a distance of 30.79 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an interior corner of the herein described tract;

THENCE, continuing over and across said 349.690 acre tract and said 5.000 acre tract, with a northerly proposed right-of-way line of RM 967, N 74°14'59" W a distance of 93.22 feet to the **POINT OF BEGINNING** and containing 348.277 acres of land, more or less.

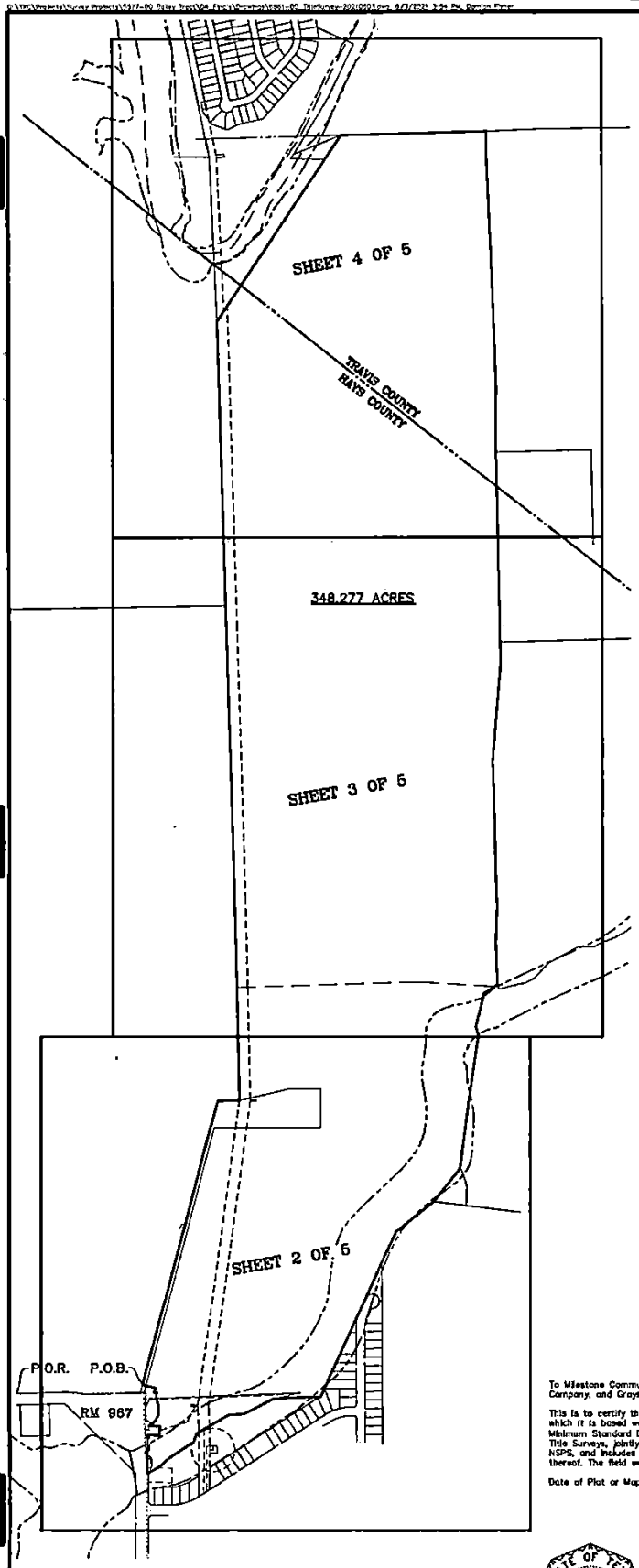
I hereby certify that these notes were prepared from a survey made on the ground by BGE Inc., under my supervision on August 3, 2019 and are true and correct to the best of my knowledge. Bearing orientation is based on the Texas State Plane Coordinate System, NAD 83, Texas South Central Zone 4204. A survey plat of even date accompanies this description.

6/3/2021
Date

Jonathan O. Nobles RPLS No. 5777
BGE, Inc.
101 West Louis Henna Blvd, Suite 400
Austin, Texas 78728
Telephone: (512) 879-0400
TBPLS Licensed Surveying Firm No. 10106502

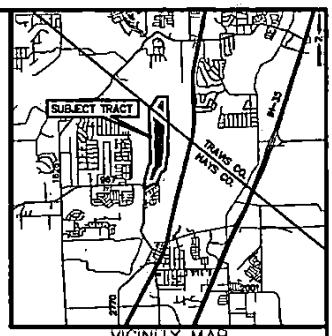
Client: Milestone Community Builders
Date: June 3, 2021
Job No: 6861-01

EXHIBIT A-1

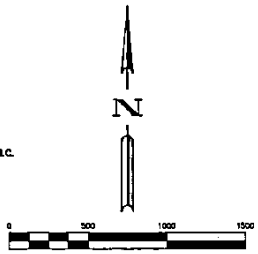


LEGEND

BLDG.	BUILDING
CONC.	CONCRETE
D.E.	DRAINAGE EASEMENT
DOC.	DOCUMENT
D.R.H.C.	DEED RECORDS HAYS COUNTY
E.C.R.	ELECTRIC CONDUIT RISER
E.M.P.	ELECTRIC METER POLE
ESMT.	EASEMENT
F.H.	FIRE HYDRANT
H.C.	HANDICAP
M.H.	MANHOLE
NO.	NUMBER
O.P.R.H.C.	OFFICIAL PUBLIC RECORDS OF HARRIS COUNTY
O.P.R.T.C.	OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY
PED.	PEDESTAL
PG.	PAGE
P.O.B.	POINT OF BEGINNING
P.O.R.	POINT OF REFERENCE
P.P.	POWER POLE
P.R.H.C.	PLAT RECORDS HAYS COUNTY
P.U.E.	PUBLIC UTILITY EASEMENT
RCP	REINFORCED CONCRETE PIPE
R.O.W.	RIGHT-OF-WAY
SAN.	SANITARY
SQ. FT.	SQUARE FEET
ST.C.	STONE COLUMN
S.V.	SPRINKLER VALVE
TEL.	TELEPHONE
TRANS.	TRANSFORMER
U.C.M.	UNDERGROUND CABLE MARKER
VOL.	VOLUME
W.F.	WATER FAUCET
W.V.	WATER VALVE
( )	RECORD INFORMATION, DOC. NO. 2018119702 O.P.R.T.C.
[ ]	RECORD INFORMATION, VOL. 222, PG. 183 H.C.D.R.
< >	RECORD INFORMATION, VOL. 158, PG. 362 H.C.D.R.
[ ]	RECORD INFORMATION, VOL. 144, PG. 335 H.C.D.R.
(( ))	RECORD INFORMATION, VOL. 8, PG. 283 P.R.H.C.
[[ ]]	RECORD INFORMATION, DOC. NO. 14037959 O.P.R.H.C.
‖ ‖	RECORD INFORMATION, VOL. 8, PG. 103, P.R.H.C.
/ /	RECORD INFORMATION, VOL. 153, PG. 490 H.C.D.R.
~ ~	RECORD INFORMATION, DOC. NO. 2011006600 O.P.R.T.C.
• •	RECORD INFORMATION, VOL. 11125, PG. 875 R.P.R.T.C.
•• ••	RECORD INFORMATION, VOL. 203, PG. 527 H.C.D.R.
((( )))	RECORD INFORMATION, DOC. NO. 2011131371 O.P.R.T.C.
[[[ ]]]	RECORD INFORMATION, DOC. NO. 2017000120 P.R.T.C.
‖‖ ‖‖	RECORD INFORMATION, DOC. NO. 2008-80014950 O.P.R.H.C.
<< >>	RECORD INFORMATION, VOL. 12391, PG. 348 R.P.R.T.C.
// //	RECORD INFORMATION, DOC. NO. 21029795 O.P.R.H.C.
●	FOUND 1/2" IRON ROD (UNLESS OTHERWISE NOTED)
⊙	FOUND 1/2" IRON PIPE
▲	FOUND 60D NAIL
■	FOUND 4X4 CONCRETE MONUMENT
○	SET 1/2" IRON ROD W/CAP "BGE INC"
△	CALCULATED POINT
—A—	EDGE OF ASPHALT
—OH—	OVERHEAD UTILITIES
—X—	BARBED WIRE FENCE
(10C)	SCHEDULE B ITEM



VICINITY MAP
NOT TO SCALE



GENERAL NOTES

1. BEARING ORIENTATION IS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204, NAD83. COMBINED SCALE FACTOR = 0.9999247824
2. THE PROPERTY LIES IN UNSHADED ZONE "X" (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), IN ZONE "A" AND ZONE "AE" (SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD EVENT – BASE FLOOD ELEVATIONS DETERMINED) AS DELINEATED ON THE FLOOD INSURANCE RATE MAP FOR HAYS COUNTY, TEXAS AND INCORPORATED AREAS, MAP NUMBER 48209C0285F, REVISED SEPTEMBER 2, 2005, AS DELINEATED ON THE FLOOD INSURANCE RATE MAP FOR TRAVIS COUNTY, TEXAS AND INCORPORATED AREAS, MAP NUMBER 48453C0580H, REVISED SEPTEMBER 26, 2008. ALL FLOODPLAIN BOUNDARIES SHOWN HEREON ARE APPROXIMATE AND ARE NOT DEPICTED AS A RESULT OF AN ON THE GROUND SURVEY.
3. THIS SURVEY WAS MADE IN RELIANCE UPON THAT CERTAIN COMMITMENT FOR TITLE INSURANCE ISSUED BY STEWART TITLE GUARANTY COMPANY AND COUNTERSIGNED BY GRAYSTONE TITLE COMPANY, LLC UNDER FILE NUMBER 1267957, DATED EFFECTIVE MAY 5, 2021 AND ISSUED ON MAY 26, 2021.

To Milestone Community Builders, Stewart Title Guaranty Company, and Graystone Title Company, LLC:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1–4, 7a, 9, 14 & 16 of Table A thereof. The field work was completed on August 3, 2019.

Date of Plat or Map: June 3, 2021

STATE OF TEXAS
REGISTERED
JONATHAN O. NOBLES
5777
LICENSED
LAND SURVEYOR

JONATHAN O. NOBLES RPLS NO. 5777
BGE, INC.
101 WEST LOUIS HENNA BLVD., SUITE 400
AUSTIN, TEXAS 78728
TELEPHONE: (512) 879-0400

1420 RM 967 BUDA, TX 78610

BGE, Inc.
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TBPELS Licensed Surveying Firm No. 10106502

ALTA/NSPS LAND TITLE SURVEY OF 348.277 ACRES SITUATED IN THE S.V.R. EGGLESTON SURVEY NO. 3 ABSTRACT NOS. 5 & 11 HAYS AND TRAVIS COUNTY, TEXAS

PARTY CHIEF:	M.G.	ISSUE DATE:	06/03/2021	SHEET	1
TECHNICIAN:	D.G.F.	SCALE:	1"=500'	OF	5
R.P.L.S.:	J.N.	JOB NUMBER:	6851-01		
FIELD BOOK NAME:		22/51			
BASE FILE:	G:\TFC\Projects\Survey Projects\5577-00 Bailey Tract\01_Calcs				

Exhibit A-2

METES & BOUNDS DESCRIPTION

FIELD NOTES FOR 348.277 ACRES OF LAND OUT OF THE S.V.R. EGGLESTON SURVEY NUMBER 3, ABSTRACT NOS. 5 AND 11 OF HAYS AND TRAVIS COUNTIES, TEXAS; BEING A PORTION OF A CALLED 349.690 ACRE TRACT OF LAND AS CONVEYED TO LABENSKI BRANCH, LP BY GENERAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 2018119702 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS AND DOCUMENT NUMBER 19027027 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, BEING A PORTION OF A CALLED 5.000 ACRE TRACT OF LAND AS CONVEYED TO LABENSKI BRANCH, LP BY SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 21029795 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND FURTHER BEING A PORTION OF LOT 1, BLOCK T OF THE WOODS OF BEAR CREEK, A SUBDIVISION RECORDED IN VOLUME 3, PAGE 347 OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS; SAID 348.277 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING FOR POINT OF REFERENCE at a 4x4 Concrete highway monument found on the North right-of-way line of RM 967 (80-feet wide at this point), same being the South line of a called 217.17 acre tract of land as conveyed to Henry Crews Armbruster by Boundary Line Agreement recorded in Volume 222, Page 163 of the Deed Records of Hays County, Texas; Thence, with the north right-of-way line of said RM 967, N 88°20'06" E a distance of 333.08 feet to a 4x4 Concrete highway monument found for the point of curvature of a curve to the right; Thence, continuing with the east line of said RM 967, along said curve to the right, an arc distance of 143.59 feet, having a radius of 560.87 feet, a central angle of 14°40'05" and a chord which bears S 84°19'51" E a distance of 143.20 feet to a calculated point for corner marking the most westerly corner of Tract "C" as dedicated to the State of Texas by Right-of-way Deed recorded in Volume 146, Page 335 of the Deed Records of Hays County, Texas; Thence, continuing with the north right-of-way of said RM 967, N 88°30'13" E a distance of 386.32 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the southeast corner of said 217.17 acre tract and at the southwest corner of the above described 5.000 acre tract, from which a 60d nail found at the northeast corner of said Tract "C", and at an interior corner of said 349.690 acre tract, bears N 88°30'13" E a distance of 37.14 feet; Thence, generally along a fence, with the line common to said 217.17 acre tract and said 5.000 acre tract, N 14°47'39" E, pass a 1/2-inch iron pipe found at a fence corner at a distance of 6.33 feet, and continuing on for a total distance of 59.93 to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the most westerly southwest corner and POINT OF BEGINNING of the herein described tract;

THENCE, continuing generally along a fence, with the line common to said 217.17 acre tract and said 5.000 acre tract, the following three (3) courses:

1) N 14°47'39" E a distance of 1,799.53 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

2) N 15°43'56" E a distance of 240.62 feet to a 1/2-inch iron pipe found at an interior corner of said 217.17 acre tract and at the northwest corner of said 5.000 acre tract, for an exterior corner of the herein described tract; and

3) N 88°33'17" E a distance of 150.28 feet to a 1/2-inch iron rod found at an exterior corner of said 217.17 acre tract, and at an exterior corner of the remaining portion of said 349.690 acre tract, for an interior corner of the herein described tract;

THENCE, generally along a fence, with the east line of said 217.17 acre tract and the west line of said 349.690 acre tract, the following three (3) courses:

1) N 01°14'08" W a distance of 788.84 feet to a 1/2-inch iron pipe found for an angle point;

2) N 01°24'34" W a distance of 622.22 feet to a 1/2-inch iron rod found for an angle point; and

3) N 01°44'45" W a distance of 1,882.30 feet to a 1/2-inch iron rod found for an angle point;

THENCE, generally along a fence, continuing with the west line of said 349.690 acre tract and continuing partly with the east line of said 217.17 acre tract and partly the east line of a called 209.402 acre tract of land as conveyed to Chance Armbruster by Special Warranty Deed recorded in Document Number 2011006800 of the Official Public Records of Travis County, Texas, N 01°37'31" W a distance of 2,108.78 feet to a 1/2-inch iron rod found at the most southerly corner of RING TRACT PHASE TWO, a subdivision recorded in Document Number 201700120 of the Plat Records of Travis County, Texas, for the most westerly northwest corner of the herein described tract, from which a 1-inch iron pipe found for an angle point on the west line of said RING TRACT PHASE TWO, bears N 02°33'30" W a distance of 1,140.14 feet;

THENCE, partly with the southeast line of said RING TRACT PHASE TWO and partly with the southeast line of the remainder of a called 11 acre tract of land described as Tract 2 as conveyed to The Randolph Company by Correction Warranty Deed recorded in Volume 12391, Page 348 of the Real Property Records of Travis County, Texas, N 33°47'22" E a distance of 1,552.16 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set on the south line of a called 73 acre tract of land as conveyed to Robert Cyril Jerome Hejl by Executor's Deed recorded in Document Number 2011131371 of the Official Public Records of Travis County, Texas, at the most easterly corner of said 11 acre tract, for the most northerly northwest corner of the herein described tract, from which a found Railroad Spike bears S 85°14'54" W a distance of 34.19 feet;

THENCE, generally along a fence, with the south line of said 73 acre tract and the north line of said 349.690 acre tract, N 88°33'23" E a distance of 1,008.55 feet to a 1/2-inch iron pipe found at the northwest corner of a called 29.615 acre tract of land as conveyed to Walter B. Hector by General Warranty Deed recorded in Volume 11125, Page 875 of the Real Property Records of Travis County, Texas, and at the northeast corner of said 349.690 acre tract, for the northeast corner of the herein described tract;

THENCE, generally along a fence, with the west line of said 29.615 acre tract and the east line of said 349.690 acre tract, the following five (5) courses:

1) S 01°17'31" E a distance of 220.82 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a 14-inch dead tree;

2) S 02°28'42" E a distance of 414.20 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a fence post;

3) S 02°17'45" E a distance of 889.74 feet to a to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a double trunk 12-inch Hackberry;

4) S 02°03'46" E a distance of 241.91 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point at a fence post; and

5) S 00°13'52" W a distance of 452.24 feet to a 1/2-inch iron pipe found at the northwest corner of a called 28.09 acre tract of land as conveyed to Jeffery Lee Grubert by Warranty Deed with Vendor's Lien recorded in Document Number 2008-80014950 of the Official Public Records of Hays County, Texas, for an angle point;

THENCE, with the west line of said 28.09 acre tract and the east line of said 349.690 acre tract, S 01°07'16" E a distance of 1,318.47 feet to 1/2-inch iron pipe found at the southwest corner of said 28.09 acre tract, and at the northwest corner of a called 97.36 acre tract of land described as "First Tract" as conveyed to Gene Ledoux by Deed recorded in Volume 153, Page 490 of the Deed Records of Hays County, Texas, for an angle point;

THENCE, generally along a fence, with the west line of said 97.36 acre tract and the east line of said 349.690 acre tract, the following seven (7) courses:

1) S 01°58'05" E a distance of 140.05 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

2) S 04°43'07" W a distance of 684.44 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

3) S 01°57'53" E a distance of 291.67 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

4) S 01°18'09" E a distance of 416.20 feet to a 1/2-inch iron rod found for an angle point;

5) S 01°46'48" E a distance of 310.90 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an angle point;

6) S 01°45'49" W a distance of 241.89 feet to a 60d nail found in a dead tree for an angle point; and

7) S 01°50'33" E a distance of 288.45 feet to a 26-inch Live Oak found at a west corner of said 97.36 acre tract, and at the northwest corner of a called 98.01 acre tract of land described as Second Tract as conveyed to Gene Ledoux by Deed recorded in Volume 203, Page 527 of the Deed Records of Hays County, Texas, for an exterior corner of the herein described tract, from which a 1/2-inch iron pipe bears S 19°11'27" E a distance of 28.07 feet;

THENCE, generally along a fence, with the east line of said 349.690 acre tract and the west line of said 98.01 acre tract, the following six (6) courses:

1) S 55°03'49" W a distance of 24.59 feet to a 1/2-inch iron rod found for an angle point;

2) S 56°08'39" W a distance of 85.68 feet to a 60d nail found in a fence post for an angle point;

3) S 14°07'00" W a distance of 239.07 feet to a 15-inch Cedar Elm for an angle point;

4) S 15°54'31" E a distance of 63.94 feet to a 60d nail found on the east side of a 21-inch Live Oak for an angle point;

5) S 08°18'35" W a distance of 463.00 feet to a 1/2-inch iron rod found for an angle point; and

6) S 07°22'38" W a distance of 455.90 feet to a 1/2-inch iron rod in concrete found at the apparent north corner of a graveyard as described in Volume 203, Page 527 of the Deed Records of Hays County, Texas, for an angle point;

THENCE, continuing generally along a fence, with the east line of said 349.690 acre tract, S 25°57'19" W a distance of 31.27 feet to a 60d nail found in the fence, for an angle point;

THENCE, continuing generally along a fence, with the east line of said 349.690 acre tract, S 39°05'02" W a distance of 272.60 feet to a 60d nail found at the most northerly northwest corner of a called 81.67 acre tract of land as conveyed to Robert Rembert Guinn and Nina Guinn by Deed recorded in Volume 1001, Page 24 of the Deed Records of Hays County, Texas, being further described in Volume 158, Page 362 of the Deed Records of Hays County, Texas, for an angle point;

THENCE, generally along a fence, with the northwest line of said 81.67 acre tract and the southeast line of said 349.690 acre tract, S 51°26'41" W a distance of 333.89 feet to a 1/2-inch iron pipe found for an angle point;

THENCE, continuing generally along a fence, with the northwest line of said 81.67 acre tract and the southeast line of said 349.690 acre tract, S 25°00'46" W a distance of 238.99 feet to a 1/2-inch iron rod found at the most northerly corner of CREEKSIDE PARK SECTION TWO P.U.D., a subdivision recorded in Volume 8, Page 283 of the Plat Records of Hays County, Texas, and at the most westerly northwest corner of said 81.67 acre tract, for an angle point;

THENCE, generally along a fence, with the northwest line of said CREEKSIDE PARK SECTION TWO P.U.D. and the southeast line of said 349.690 acre tract, S 24°36'19" W a distance of 35.08 feet to a 1/2-inch iron pipe found for an angle point;

THENCE, continuing generally along a fence, with the northwest line of said CREEKSIDE PARK SECTION TWO P.U.D. and the southeast line of said 349.690 acre tract, S 24°16'53" W a distance of 999.38 feet to a 1/2-inch iron rod found at an interior corner of said CREEKSIDE PARK SECTION TWO P.U.D., for the southeast corner of the herein described tract;

THENCE, generally along a fence, with the north line of said CREEKSIDE PARK SECTION TWO P.U.D. and the south line of said 349.690 acre tract, N 87°58'40" W a distance of 9.41 feet to a 1/2-inch iron rod found at a westerly corner of said CREEKSIDE PARK SECTION TWO P.U.D., and at the northeast corner of CREEKSIDE PARK SECTION ONE P.U.D., a subdivision recorded in Volume 8, Page 103 of the Plat Records of Hays County, Texas, for an angle point;

THENCE, generally along a fence, with the north line of said CREEKSIDE PARK SECTION ONE P.U.D. and the south line of said 349.690 acre tract, S 89°22'26" W a distance of 182.09 feet to a 1/2-inch iron rod found for an angle point;

THENCE, continuing with the north line of said CREEKSIDE PARK SECTION ONE P.U.D. and the south line of said 349.690 acre tract, S 85°18'14" W a distance of 140.04 feet to a calculated point on the southeast line of Lot 1, Block T of THE WOODS OF BEAR CREEK, a subdivision recorded in Volume 3, Page 347 of the Plat Records of Hays County, Texas, lying in the center of Garlic Creek;

THENCE, with the northwest lines of said CREEKSIDE PARK SECTION ONE P.U.D., the southeast lines of said Lot 1, Block T, the southeast lines of said 349.690 acre tract, and the meanders of Garlic Creek, the following seven (7) courses:

1) S 62°49'33" W a distance of 229.00 feet to a calculated angle point;

2) S 88°24'33" W a distance of 97.00 feet to a calculated angle point;

3) S 60°06'42" W a distance of 262.00 feet to a calculated angle point;

4) S 21°49'52" W a distance of 64.00 feet to a calculated angle point;

5) S 56°52'57" W a distance of 208.35 feet to a calculated angle point;

6) S 48°06'33" W a distance of 92.00 feet to a calculated angle point; and

7) S 62°01'33" W a distance of 88.26 feet to a calculated point on the east right-of-way of said RM 967 (width varies at this point), at the northwest corner of said CREEKSIDE PARK SECTION ONE P.U.D., at the southwest corner of said Lot 1, Block T, and at the southwest corner of said 349.690 acre tract, for the most southerly southwest corner of the herein described tract;

THENCE, over and across said Lot 1, Block T and said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, N 00°22'18" E a distance of 263.17 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set on the south line of a called 0.1337 acre tract of land as conveyed to the City of Buda, Texas by Special Warranty Deed recorded in Document Number 14037969 of the Official Public Records of Hays County, Texas, for an exterior corner of the herein described tract, from which a 1/2-inch iron rod set at the southwest corner of said 0.1337 acre Lift Station bears N 89°37'42" W a distance of 14.67 feet;

THENCE, with the perimeter of said 0.1337 acre Lift Station tract the following three (3) courses:

1) S 89°37'42" E a distance of 85.03 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the southeast corner of said 0.1337 acre Lift Station tract, for an interior corner of the herein described tract;

2) N 00°22'18" E a distance of 65.00 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set at the northeast corner of said 0.1337 acre Lift Station tract, for an interior corner of the herein described tract; and

3) N 89°37'42" W a distance of 71.90 feet to a calculated point for the beginning of a non-tangent curve to the left and an exterior corner of the herein described tract;

THENCE, over and across said Lot 1, Block T and said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, along said curve to the left, an arc distance of 177.53 feet, having a radius of 127.00 feet, a central angle of 80°05'36" and a chord which bears N 21°02'27" E a distance of 163.43 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for a point of reverse curvature;

THENCE, continuing over and across said Lot 1, Block T and said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, along said curve to the right, an arc distance of 80.89 feet, having a radius of 168.00 feet, a central angle of 27°35'08" and a chord which bears N 05°12'47" W a distance of 80.11 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an interior corner of the herein described tract;

THENCE, continuing over and across said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, S 88°30'13" W a distance of 16.72 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for the beginning of a non-tangent curve to the right and an exterior corner of the herein described tract;

THENCE, continuing over and across said 349.690 acre tract, with an easterly proposed right-of-way line of RM 967, along said curve to the right, an arc distance of 30.82 feet, having a radius of 184.33 feet, a central angle of 09°34'51" and a chord which bears N 12°22'05" E a distance of 30.79 feet to a 1/2-inch iron rod with cap stamped "BGE Inc" set for an interior corner of the herein described tract;

THENCE, continuing over and across said 349.690 acre tract and said 5.000 acre tract, with a northerly proposed right-of-way line of RM 967, N 74°14'59" W a distance of 93.22 feet to the POINT OF BEGINNING and containing 348.277 acres of land, more or less.

BGE, Inc.
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TBPELS Licensed Surveying Firm No. 10106502

SCALE: N/A

Chaparral
Professional Land Surveying, Inc.
Surveying and Mapping
Office: 512-443-1724
Fax: 512-389-0943
5725 West Hwy 290, Suite 103
Austin, Texas 78735

217.066 ACRES
S.V.R. EGGLESTON SURVEY NO. 3, ABS. NO. 5,
HAYS COUNTY, TEXAS

A DESCRIPTION OF 217.066 ACRES IN THE S.V.R. EGGLESTON SURVEY NO. 3, ABSTRACT NO. 5, HAYS COUNTY, TEXAS , BEING ALL OF A 217.17 ACRE TRACT DESCRIBED IN VOLUME 222, PAGE 163 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 217.066 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3/8" rebar found in the north right-of-way line of F.M. 967 (right-of-way width varies), being the southeast corner of said 217.17 acre tract, also being the south termination of the agreed boundary line described in Volume 222, Page 163 of the Deed Records of Hays County, Texas and also being the southwest corner of Lot 1, Cimarron Professional Park Section One, a subdivision of record in Volume 7, Page 306 of the Plat Records of Hays County, Texas;

THENCE North 01°35'28" West, with said agreed boundary line, being the west line of the 217.17 acre tract, with the east lines of Lots 1 and 2, said Cimarron Professional Park, Section one, also with the east right-of-way line of Dove Drive (right-of-way width varies), described in Volume 4, Page 126, Volume 3, Page 99 and Volume 4, Page 363, all of the Plat Records of Hays County, Texas, also with the east lines of Coves of Cimmaron, a subdivision of record in Volume 3, Page 99, corrected in Volume 4, Page 363, both of the Plat Records of Hays County, Texas, with the east line of Cimmaron Park Section III, Phase III, a subdivision of record in Volume 3, Page 37 of the Plat Records of Hays County, Texas, distance of 5463.29 feet to a 1/2" iron pipe found for the northwest corner of the 217.17 acre tract, being the northeast corner of Lot 42, Block F, said Cimarron Park Section III, Phase III and also being in the south line of a 211.4 acre tract described in Volume 711, Page 598 and Volume 713, Page 536, both of the Deed Records of Travis County, Texas, from which an 18" Live Oak tree bears North 23°29'51" East, a distance of 36.52 feet and also from which a 9" Elm bears South 58°41'16" East, a distance of 49.77 feet, both trees having been referenced in Volume 222, Page 163 of the Deed Records of Hays County, Texas;

THENCE North 89°18'45" East, with the north line of the 217.17 acre tract, same being the south line of said 211.4 acre tract, a distance of 1898.75 feet to a 1/2" iron pipe found for the northeast corner of the 217.17 acre tract, being the southeast corner of the 211.4 acre tract and also being in the west line of a 248.277 acre tract, described in Document No. 21030465 of the Official Public Records of Hays County, Texas;

THENCE with the east line of the 217.17 acre tract, same being the west line of the 348.277 acre tract, the following seven (7) courses and distances:

1. South 01°45'39" East, a distance of 1178.74 feet to a 1/2" rebar with "Chaparral" cap set;

2. South 01°37'39" East, a distance of 790.58 feet to a 1/2" rebar with "Chaparral" cap set;

3. South 01°33'39" East, a distance of 674.64 feet to a 1/2" iron pipe found;

4. South 01°15'34" East, a distance of 788.84 feet to a 1/2" rebar found;

5. South 88°30'10" West, a distance of 150.63 feet to a 1/2" iron pipe found;

6. South 15°38'43" West, a distance of 240.66 feet to a 1/2" iron pipe found;

7. South 14°48'18" West, a distance of 1799.41 feet to a 1/2" rebar with "BGE" cap found for an angle point in the proposed north right-of-way line of F.M. 967, being the southeast corner of the 348.277 acre tract;

THENCE with the continuing with the east line of the 217.17 acre tract, same being the proposed north right-of-way line of F.M. 967, the following two (2) courses and distances:

1. South 14°59'24" West, a distance of 53.72 feet to a 1/2" iron pipe found;

2. South 12°21'43" West, a distance of 6.44 feet to a 1/2" rebar with "BGE cap found for the southeast corner of 217.17 acre tract, being in the existing north right-of-way line of F.M. 967;

THENCE with the north right-of-way line of F.M. 967, same being the south line of the 217.17 acre tract, the following four (4) courses and distances:

1. South 88°34'15" West, a distance of 386.36 feet to a 1/2" rebar with "Chaparral" cap set;

2. With a curve to the left, having a radius of 560.87 feet, a delta angle of 14°40'07", an arc length of 143.59 feet, and a chord which bears North 84°21'53" West, a distance of 143.20 feet to a concrete highway monument found;

3. South 88°18'03" West, a distance of 333.04 feet to a concrete highway monument found;

4. South 87°19'41" West, a distance of 289.44 feet to the **POINT OF BEGINNING**, containing 217.066 acres of land, more or less.

Surveyed on the ground on November 12, 2021. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from The National Geodetic Survey (RTN) on-line positioning user service (OPUS) for Chaparral control point "3". Attachments: Survey Drawing No. 759-022-TR2.

Steven P. Timberlake Date
Registered Professional Land Surveyor
State of Texas No. 6240
TBPLS Firm No. 10124500

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Professional Land Surveying, Inc.
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5725 West Hwy 290, Suite 103
Austin, Texas 78735

208.892 ACRES
S.V.R. EGGLESTON SURVEY NO. 3, ABS. NO. 5,
HAYS COUNTY, TEXAS AND THE
S.V.R. EGGLESTON SURVEY NO. 3, ABS. NO. 11
TRAVIS COUNTY, TEXAS

A DESCRIPTION OF 208.892 ACRES IN THE S.V.R. EGGLESTON SURVEY NO. 3, ABSTRACT NO. 5, HAYS COUNTY, TEXAS AND THE S.V.R. EGGLESTON SURVEY NO. 3, ABSTRACT NO. 11, TRAVIS COUNTY, TEXAS, BEING ALL OF 211.4 ACRES OF LAND, MORE OR LESS, OUT OF THE S.V.R. EGGLESTON SURVEY NUMBER 3, ABSTRACT NUMBERS 5 AND 11 OF HAYS AND TRAVIS COUNTIES, TEXAS, DESCRIBED IN VOLUME 711, PAGE 598 AND VOLUME 713, PAGE 536, BOTH OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, SAVE AND EXCEPT THAT CERTAIN 1.998 ACRE TRACT OF LAND OUT OF THE S.V.R. EGGLESTON SURVEY NUMBER 3, ABSTRACT NUMBERS 5 AND 11 OF HAYS AND TRAVIS COUNTIES, TEXAS, DESCRIBED IN VOLUME 12391, PAGE 348 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 208.892 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron pipe found in the south line of said 211.4 acre tract, being the north termination of the agreed boundary line described in Volume 222, Page 163 of the Deed Records of Hays County, Texas, also being the northwest corner of a 217.17 acre tract described in Volume 222, Page 163 of the Deed Records of Hays County, Texas, and being also the northeast corner of Lot 42, Block F, Cimarron Park Section III, Phase III, a subdivision of record in Volume 3, Page 37 of the Plat Records of Hays County, Texas, from which a 3/8" rebar found in the north right-of-way line of F.M. 967 (right-of-way width varies), being the southwest corner of said 217.17 acre tract, also being the south termination of the said agreed boundary line and also being the southwest corner of Lot 1, Cimarron Professional Park Section One, a subdivision of record in Volume 7, Page 306 of the Plat Records of Hays County, Texas, bears South 01°35'28" East, a distance of 5463.29 feet and also from which an 18" Live Oak tree bears North 23°29'51" East, a distance of 36.52 feet and from which also a 9" Elm bears South 58°41'16" East, a distance of 49.77 feet, both trees having been referenced in Volume 222, Page 163 of the Deed Records of Hays County, Texas;

THENCE South 89°18'45" West, with the south line of the 211.4 acre tract, same being the north line of said Cimarron Park Section III, Phase III, a distance of 1050.80 feet to a 1/2" rebar with "Chaparral" cap set for the southwest corner of the 211.4 acre tract, being the northwest corner of Lot 14, Block E and also being in the east line of Lot 7, Block E, both of Cimarron Park Section III, Phase III;

THENCE North 01°36'39" West, with the west line of the 211.4 acre tract, same being the west line of Cimarron Park Section III, Phase III, the east line of Cimarron Park Section Three Phase Two, a subdivision of record in Volume 2, Page 321 of the Plat Records of Hays County, Texas, the east line of a 0.629 acre tract described in Document No. 18022446 of the Official Public Records, the east line of a 0.83 acre tract described in Volume 962, Page 90 of the Deed Records, the east line of a 0.852 acre tract described in Volume 525, Page 85 of the Deed Records, the east line of a 0.346 acre tract described in Volume 988, Page 579 of the Deed Records, the east line of a 1.00 acre tract described in Volume 2656, Page 108 of the Deed Records, the east line of a 1.00 acre tract described in Volume 388, Page 516 of the Deed Records, the east line of a 1.00 acre tract described in Document No. 20056742 of the Official Public Records, the east line of a 1.00 acre tract described in Volume 742, Page 640 of the Deed Records, the east line of a 1.00 acre tract described in Volume 1100, Page 212 of the Deed Records and the east line of a 1.46 acre tract described in Volume 796, Page 317 of the Deed Records, all of Hays County, Texas, a distance of 3161.12 feet to a 1/2" iron pipe found for the northwest corner of the 211.4 acre tract, being the northeast corner of said 1.46 acre tract and also being an angle point in the south line of a 65.112 acre tract described in Document No. 14021499 of the Official Public Records of Hays County, Texas, from which a 5/8" rebar found for the northwest corner of the 1.46 acre tract, being in the south line of said 65.112 acre tract, bears South 89°49'07" West, a distance of 350.15 feet;

THENCE South 89°42'36" East, with the north line of the 211. 4 acre tract, same being the south line of the 65.112 acre tract, a distance of 1044.87 feet to a 5/8" iron pipe found for an angle point in the north line of the 211.4 acre tract, same being the south line of the 65.112 acre tract;

THENCE South 89°36'55" East, continuing with the north line of the 211. 4 acre tract, same being the south line of the 65.112 acre tract and the south line of a 48.354 acre tract described in Volume 7588, Page 451 of the Deed Records of Travis County, Texas, a distance of 839.72 feet to a 5/8" iron pipe found for an angle point in the north line of the 211.4 acre tract, same being the south line of said 48.354 acre tract;

THENCE continuing with the north line of the 211.4 acre tract, same being the south line of the 48.354 acre tract, the following seven (7) courses and distances:

1. South 60°49'12" East, a distance of 74.39 feet to a 1/2" iron pipe found;

2. South 69°02'36" East, a distance of 76.33 feet to a 1/2" iron pipe found;

3. South 87°22'15" East, a distance of 127.86 feet to a 3/4" iron pipe found;

4. North 47°43'15" East, a distance of 94.70 feet to a 1/2" rebar with "Chaparral" cap set;

5. North 89°13'53" East, a distance of 172.17 feet to a 5/8" iron pipe found;

6. South 79°37'01" East, a distance of 105.27 feet to a 1/2" rebar with "Chaparral" cap set;

7. North 78°37'51" East, a distance of 113.30 feet to a 1" iron pipe found;

THENCE continuing with the north line of the 211.4 acre tract, the following two (2) courses and distances:

1. South 87°19'55" East, crossing Little Bear Creek, a distance of 90.88 feet to a 1/2" iron pipe found;

2. North 89°43'14" East, a distance of 42.23 feet to a 1/2" iron pipe found for the northwest corner of said 1.998 acre tract, being in the south line of a 2.143 acre tract described in Volume 7628, page 817 of the Deed Records of Travis County, Texas, from which a 1" iron pipe found for the northeast corner of the 211.4 acre tract, being the northeast corner of the 1.998 acre tract, also being in the south line of a 77.09 acre tract described in Volume 12391, Page 348 of the Real Property Records of Travis County, Texas and also being in the west line of Lot 16, Block A, Ring Tract Phase Two, Final Plat, a subdivision of record in Document No. 201700120 of the Official Public Records of Travis County, Texas, bears South 89°29'29" East, a distance of 193.57 feet;

THENCE South 04°39'05" East, with the west line of the 1.998 acre tract, crossing the 211.4 acre tract, a distance of 623.74 feet to a 1" iron pipe found for the southwest corner of the 1.998 acre tract;

THENCE North 72°24'34" East, with the south line of the 1.998 acre tract, continuing across the 211.4 acre tract, a distance of 100.28 feet to a 1/2" iron pipe found for the southeast corner of the1.998 acre tract, being in the east line of the 211.4 acre tract;

THENCE with the east line of the 211.4 acre tract, the following four (4) courses and distances:

1. South 03°58'54" West, a distance of 67.95 feet to a 5/8" iron pipe found on the north bank of Little Bear Creek;

2. South 73°19'44" East, a distance of 42.20 feet to a calculated point in Little Bear Creek;

3. South 30°12'44" East, a distance of 79.49 feet to a 10" Elm tree found on the south bank of Little Bear Creek, as referenced in Volume 711, Page 598 of the Deed Records of Hays County, Texas;

4. South 05°45'08" East, a distance of 87.94 feet to a 1/2" iron pipe found in the west line of said Lot 16;

THENCE South 02°16'55" East, with the east line of the 211.4 acre tract, same being the west line of Lot 16, a distance of 320.31 feet to a 1/2" iron pipe found in the west line of a 348.277 acre tract described in Document No. 21030465 of the Official Public Records of Hays County, Texas;

THENCE South 01°38'47" East, with the east line of the 211.4 acre tract, same being the west line of said 348.277 acre tract, a distance of 1962.76 feet to a 1/2" iron pipe found for the southeast corner of the 211.4 acre tract, being the northeast corner of the 217.17 acre tract;

THENCE South 89°18'45" West, with the south line of the 211.4 acre tract, same being the north line of the 217.17 acre tract, a distance of 1898.75 feet to the **POINT OF BEGINNING**, containing 208.892 acres of land, more or less.

Surveyed on the ground on November 12, 2021. Bearing Basis: The Texas Coordinate System of 1983 (NAD83), South Central Zone, based on GPS solutions from The National Geodetic Survey (RTN) on-line positioning user service (OPUS) for Chaparral control point "3". Attachments: Survey Drawing No. 759-022-TR1.

Steven P. Timberlake Date
Registered Professional Land Surveyor
State of Texas No. 6240
TBPLS Firm No. 10124500