



DRIPPING SPRINGS
Texas

CITY COUNCIL WORKSHOP REGULAR MEETING

City of Dripping Springs

Council Chambers, 511 Mercer St, Dripping Springs, TX

Tuesday, January 03, 2023 at 6:00 PM

AGENDA

CALL TO ORDER AND ROLL CALL

City Council Members

- Mayor Bill Foulds, Jr.
- Mayor Pro Tem Taline Manassian
- Council Member Place 2 Wade King
- Council Member Place 3 Geoffrey Tahuahua
- Council Member Place 4 Travis Crow
- Council Member Place 5 Sherrie Parks

Staff, Consultants & Appointed/Elected Officials

- City Administrator Michelle Fischer
- Deputy City Administrator Ginger Faught
- Special Counsel David Tuckfield
- City Treasurer Shawn Cox
- People & Communications Director Lisa Sullivan
- City Secretary Andrea Cunningham
- IT Director Jason Weinstock
- Parks & Community Services Director Andy Binz
- Aquatics & Athletics Manager Mack Rusick
- Public Works Director Aaron Reed
- Planning Director Tory Carpenter

PLEDGE OF ALLEGIANCE

CITY COUNCIL

PRESENTATION OF CITIZENS

A member of the public who desires to address the City Council regarding any item on an agenda for an open meeting may do so at presentation of citizens before an item or at a public hearing for an item during the City Council’s consideration of that item. Citizens wishing to discuss matters not contained within the current agenda may do so, but only during the time allotted for presentation of citizens. Speakers are allowed two (2) minutes to speak during presentation of citizens or during each public hearing. Speakers may not cede or pool time. Members of the public requiring the assistance of a translator will be given twice the amount of time as a member of the public who does not require the assistance of a translator to address the City Council. It is the request of the City Council that members of the public wishing to speak on item(s) on the agenda with a noticed Public Hearing hold their comments until the item(s) are presented for consideration. Speakers are encouraged to sign in. Anyone may

request a copy of the City's policy on presentation of citizens from the city secretary. By law no action may be taken during Presentations of Citizens.

PROCLAMATIONS & PRESENTATIONS

CONSENT AGENDA

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

- 1. Approval of the December 20, 2022, City Council regular meeting minutes.**
- 2. Approval of a Use Agreement between the City of Dripping Springs and Tiger Splash TAAF Swim Team related to use of the Founders Memorial Pool for the 2023 swim season. Sponsor: Council Member Parks**
- 3. Approval of a Resolution Accepting Improvements and Approving and Accepting a Maintenance Bond for Driftwood Club Core Phase 1 and 2 Water and Wastewater. Applicant: Jimmy Evans Company, Ltd.**
- 4. Approval of a Resolution Accepting Improvements and Approving and Accepting a Maintenance Bond for Driftwood Club Core Phase 3 Water and Wastewater. Applicant: Jimmy Evans Company, Ltd.**
- 5. Approval of a Resolution Accepting Improvements and Approving a Maintenance Bond for Heritage Subdivision Phase 1 Streets, Wastewater, and Drainage. Applicant: Capital Excavation**

BUSINESS AGENDA

- 6. Discuss and consider approval of a Resolution Establishing Priorities for the 88th Legislative Session in Texas, and Authorizing Representation of the Municipality in Advocating Certain Positions. Sponsor: Councilmember Tahuahua**

REPORTS

Reports of Staff, Boards, Commissions, Committees, Boards and Agencies. All reports are on file and available for review upon request. The City Council may provide staff direction; however, no action may be taken.

- 7. Planning Department Report**

UPCOMING MEETINGS

City Council & Board of Adjustment Meetings

January 17, 2023, at 6:00 p.m. (CC)
February 7, 2023, at 6:00 p.m. (CC & BOA)
February 21, 2023, at 6:00 p.m. (CC)

Board, Commission & Committee Meetings

January 4, 2023, DSRP Board at 11:00 a.m.
January 5, 2023, Historic Preservation Commission at 4:00 p.m.
January 9, 2023, TIRZ No. 1 & No. 2 Board at 4:00 p.m.
January 9, 2023, Founders Day Commission at 6:30 p.m.
January 10, 2023, Planning & Zoning Commission at 6:00 p.m.
January 11, 2023, Utility Commission at 4:00 p.m.
January 12, 2023 Parks & Recreation Commission at 6:00 p.m.

EXECUTIVE SESSION AGENDA

The City Council for the City of Dripping Springs has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development). The City Council for the City of Dripping Springs may act on any item listed in Executive Session in Open Session or move any item from Executive Session to Open Session for action.

- 8. Consultation with City Attorney and Deliberation of Real Property regarding property acquisition related to the South Regional Water Reclamation Project. Consultation with City Attorney, 551.071, Deliberation of Real Property, 551.072**
- 9. Consultation with Counsel related to litigation regarding the South Regional Water Reclamation Project, Wastewater Permits, Code Enforcement, and related items. Consultation with City Attorney, 551.071**

ADJOURN

TEXAS OPEN MEETINGS ACT PUBLIC NOTIFICATION & POSTING OF MEETING

All agenda items listed above are eligible for discussion and action unless otherwise specifically noted. This notice of meeting is posted in accordance with Chapter 551, Government Code, Vernon's Texas Codes. Annotated. In addition, the City Council may consider a vote to excuse the absence of any City Council Member for absence from this meeting.

*I certify that this notice of meeting was posted at the City of Dripping Springs City Hall and website, www.cityofdrippingsprings.com, on **December 30, 2022, at 1:00 p.m.***

City Secretary

This facility is wheelchair accessible. Accessible parking spaces are available. Request for auxiliary aids and services must be made 48 hours prior to this meeting by calling (512) 858-4725.



CITY COUNCIL REGULAR MEETING
City of Dripping Springs
Council Chambers, 511 Mercer St, Dripping Springs, TX
Tuesday, December 20, 2022 at 6:00 PM

MINUTES

CALL TO ORDER AND ROLL CALL

With a quorum of the City Council present, Mayor Foulds, Jr. called the meeting to order at 6:00 p.m.

City Council Members present were:

Mayor Bill Foulds, Jr.
 Mayor Pro Tem Taline Manassian
 Council Member Place 3 Geoffrey Tahuahua
 Council Member Place 4 Travis Crow
 Council Member Place 5 Sherrie Parks

Council Member absent was:

Council Member Place 2 Wade King

Staff, Consultants & Appointed/Elected Officials present were:

City Administrator Michelle Fischer
 City Attorney Laura Mueller
 City Treasurer Shawn Cox
 City Secretary Andrea Cunningham
 Emergency Management Coordinator Roman Baligad
 IT Director Jason Weinstock
 Special Counsel Ben Whitehead
 Bond Counsel Richard Donoghue (McCall, Parkhurst & Horton LLP)
 Financial Advisor Andre Ayala (Hilltop Securities Inc.)

PLEDGE OF ALLEGIANCE

Council Member Tahuahua led the Pledge of Allegiance to the Flag.

PRESENTATION OF CITIZENS

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until the item(s) are presented for consideration. Speakers are encouraged to sign in. Anyone may request a copy of the City's policy on presentation of citizens from the city secretary. By law no action may be taken during Presentations of Citizens.

No spoke during Presentation of Citizens.

CONSENT AGENDA

The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

1. **Approval of the December 6, 2022, City Council regular meeting minutes.**
2. **Approval of the November 2022 City Treasurer's Report.**
3. **Approval of an Interlocal Agreement with the Capital Area Council of Governments for use of the Regional Notification System (Warn Central System). Sponsor: Council Member Tahuahua**
4. **Approval of a Resolution Accepting Improvements and a Maintenance Bond for Driftwood Ranch Subdivision Phase 2 Water and Wastewater. Applicant: Jimmy Evans Company. Ltd.**

Filed as Resolution No. 2022-R42

5. **Approval of a Resolution Accepting Improvements and a Maintenance Bond for Driftwood Subdivision Phase 1 Section 3 Water and Wastewater. Applicant: Jimmy Evans Company Ltd.**

Filed as Resolution No. 2022-R42

A motion was made by Mayor Pro Tem Manassian to approve Consent Agenda Items 1 – 5. Council Member Tahuahua seconded the motion which carried unanimously 4 to 0.

Council Member Crow requested that the record reflect that he recused himself from Consent Agenda Item 1, as he was absent from that meeting.

BUSINESS AGENDA

6. **Discuss and consider approval of the Amended and Restated Heritage Public Improvement District Financing and Reimbursement Agreement between the City of Dripping Springs and M/I Homes of Austin, LLC.**

Developer Royce Rippy gave a presentation regarding the agreement which is on file.

Laura Mueller and Andre Ayala presented the staff report which is on file. Staff recommends approval of the agreement.

A motion was made by Council Member Crow to approve an Amended and Restated Heritage Public Improvement District Financing and Reimbursement Agreement between the City of Dripping Springs and M/I Homes of Austin, LLC. Council Member Tahuahua seconded the motion which carried unanimously 4 to 0.

REPORTS

Reports of Staff, Boards, Commissions, Committees, Boards and Agencies are on file and available for review upon request. The City Council may provide staff direction; however, no action may be taken.

Reports are on file and available for review upon request.

- 7. November Maintenance Report**
Craig Rice, Deputy Public Works Director
- 8. Emergency Management Report**
Roman Baligad, Emergency Management Coordinator
- 9. Planning Department Report**
Tory Carpenter, Planning Director

A motion was made by Mayor Pro Tem Manassian to adjourn into Executive Session under Texas Government Code Sections 551.071, Consultation with City Attorney and 551.072, Deliberation of Real Property and regarding Executive Session Agenda Items 10 – 11. Council Member Crow seconded the motion which carried unanimously 4 to 0.

EXECUTIVE SESSION AGENDA

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- 10. Consultation with City Attorney and Deliberation of Real Property regarding property acquisition related to the South Regional Water Reclamation Project.**
Consultation with City Attorney, 551.071, Deliberation of Real Property, 551.072
- 11. Consultation with Counsel related to litigation regarding the South Regional Water Reclamation Project, Wastewater Permits, Code Enforcement, and related items.**
Consultation with City Attorney, 551.071

The City Council met in Executive Session from 6:29 p.m. – 6:39 p.m.

No vote or action was taken during Executive Session. Mayor Foulds, Jr. returned the meeting to Open Session at 6:39 p.m.

UPCOMING MEETINGS**City Council & Board of Adjustment Meetings**

January 3, 2023, at 6:00 p.m. (CC & BOA)

January 17, 2023, at 6:00 p.m. (CC)

February 7, 2023, at 6:00 p.m. (CC & BOA)

February 21, 2023, at 6:00 p.m. (CC)

Board, Commission & Committee Meetings

January 4, 2023, DSRP Board at 11:00 a.m.

January 5, 2023, Historic Preservation Commission at 4:00 p.m.

January 9, 2023, TIRZ No. 1 & No. 2 Board at 4:00 p.m.

January 9, 2023, Founders Day Commission at 6:30 p.m.

January 10, 2023, Planning & Zoning Commission at 6:00 p.m.

January 11, 2023, Utility Commission at 4:00 p.m.

January 12, 2023, Parks & Recreation Commission at 6:00 p.m.

ADJOURN

A motion was made by Mayor Pro Tem Manassian to adjourn the meeting. Council Member Parks seconded the motion which carried unanimously 4 to 0.

APPROVED ON: January 3, 2023

 Bill Foulds, Jr., Mayor
ATTEST:

 Andrea Cunningham, City Secretary



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78620

Submitted By: Mack Rusick, Aquatics & Athletics Manager

Council Meeting Date: January 3, 2023

Agenda Item Wording: **Approval of a Use Agreement between the City of Dripping Springs and Tiger Splash TAAF Swim Team related to use of the Founders Memorial Pool for the 2023 swim season. Sponsor: Council Member Parks.**

Agenda Item Requestor: Sherrie Parks

Summary/Background: The 2023 Tiger Splash Founders Pool Use Agreement includes minor updates and an applied administrative 10% discount.

Changes and updates of significance include:

1. Updated program dates.
2. Increased pool usage from 2022, approx. 20 hours, as requested by Tiger Splash.
3. Increased rental fees based on city’s current fee schedule.
4. Tiger Splash permitted to hang one canvas banner on the interior fence of the pool at no cost with design approval by the City.
5. Applying City Administrator approved non-profit status and service to community qualifier 10% discount.

Tiger Splash is requesting an additional 5% discount off the proposed Use Agreement Fee.

Total Rental Fees = \$20,000
 - 10% Administrative Discount (\$2,000) = \$18,000
 - 5% PRC Recommended Discount (\$900) = \$17,100
 + Additional Guard for Swim Meets = \$1,125

Total due to the City = \$18,225

Recommendations: Staff recommends approval of the 2023 Tiger Splash Founders Memorial Pool Use Agreement as presented. The Parks & Recreation Commission also recommends approval of the agreement.

Attachments: 2023 Tiger Splash Founders Memorial Pool Facility Use Agreement

Next Steps/Schedule: Execute the 2023 Tiger Splash Founders Memorial Pool Facility Use Agreement.

TIG12062022

USE AGREEMENT

Tiger Splash and City of Dripping Springs for Founders Memorial Park Pool

THIS USE AGREEMENT (the “Agreement”) is entered into by and between the City of Dripping Springs, Hays County, Texas, (the “City”), a general law municipality organized and operating under the general laws of the state of Texas, and Tiger Splash, a registered Texas non-profit organization.

I. RECITALS

- A. Tiger Splash is a registered Texas non-profit in good standing whose purpose is to provide the youth of Dripping Springs and surrounding areas swim programs that encourage confidence, positive self-esteem and good sportsmanship.
- B. Tiger Splash wishes to enter into a use agreement with the City to allow Tiger Splash to use Founders Memorial Park Pool (“Pool”) for Tiger Splash practices and swim meets.
- C. The City desires to aid Tiger Splash and, accordingly, agrees to allow Tiger Splash to use the Pool for their practices and swim meets.

II. AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants described herein, the parties hereto agree as follows:

A. Duties of Tiger Splash

- a. Tiger Splash will collect all Swim Team Registration fees.
- b. Tiger Splash will provide all equipment needed for Swim Meets including, but not limited to, timing systems, and will provide for set-up and take down.
- c. Tiger Splash representatives may be called upon to assist aquatics staff to remove the pool covers prior to usage and replace the pool covers after each usage. Tiger Splash representatives shall timely comply with such requests.

B. Duties of the City

- a. The City will allow Tiger Splash to use the on-site storage shed at the pool for storing swim meet items.

- b. Tiger Splash shall not operate or allow the sale of concessions without City written approval, which shall be requested in advance of any sale, unless otherwise specifically authorized by this agreement.
- c. The City will allow Tiger Splash to sell coffee and breakfast tacos on Swim Meet Days: May 20, June 3, June 10, June 17, June 24, and July 1. Concessionaires may be required to obtain a food handlers permit and shall comply with the City's Food Establishment Regulations (Chapter 10 Health and Sanitation, Article 10.02 Food Establishments, City of Dripping Springs Code of Ordinances)
- d. Costs for heating the pool are covered by the facility rental fee.
- e. A minimum of 2 lifeguards will be present at every swim practice (provided that junior aquatic volunteers are present in the water during practice) and a minimum of 3 lifeguards at every swim meet or swim team party
- f. The city will allow Tiger Splash to hang one (1) canvas banner on the inside of the fence facing the pool area at Founders Memorial Pool at no cost. The banner must include the City of Dripping Springs provided logo and the design must be pre-approved by the City Administrator or other designee.

D. Rental Fees and Payment

- a. Total Rental Fee for practices, parties and meets \$18,000 as outlined in Exhibit "A".
- b. Additional Lifeguard required at meets \$1,125 as outlined in Exhibit "A".
- c. Pavilion use for pre-scheduled swim meets, practices, and team social events covered by this Agreement will be provided at no cost to Tiger Splash. (Discount of \$85 per use).
- d. Total Facility Rental Fee due to the City of Dripping Springs is \$19,125 (equivalent to ~\$96/hr which includes lifeguard staffing, use of the facilities, utilities, propane, and promotion of Tiger Splash in the 2023 Parks and Community Services Guide, website, and social media outlets).
- e. Tiger Splash will receive City Administrator approved 10% off of rental fees due to non-profit status and service to community qualifications.
- f. Payment to the City shall occur in full before the end of the first week of practice or by Friday, May 5, 2023.

E. Access to Facilities

- a. Tiger Splash swim team is permitted access to Founders Memorial Park Pool during reserved times for swim team practices and meets. If a pre-scheduled practice or swim meet

time is going to be utilized for a team social event that is not already documented in this agreement, the use change and supporting details must be communicated at least two weeks in advance, in writing to the Pool Manager to allow for proper staffing and accommodations.

- b. Tiger Splash is permitted to host social events outside the dates detailed in this Agreement. However, the organization will have to reserve amenities and pay the associated fees at the current Fee Schedule rates and terms.
- c. In order to provide the safest operational standards, no more than 150 people can be in the facility at one time including swimmers, spectators, and volunteers.
- d. A designated spectator area for families and guests is preferred. The designated location will be in an area that does not prevent ingress or egress around the pool and through the facility.
- e. Tiger Splash shall have access to the Pool for the following times on the following dates as outlined in Exhibit “A” and as follows between Monday, April 24, 2023 – Tuesday, July 25, 2023, and:
 - i. April 24, 2023 - April 25, 2023: Monday & Tuesday, 5:00 p.m. – 8:00 p.m.
 - ii. April 26, 2023 - April 27, 2023: Wednesday & Thursday, 5:00 p.m. – 7:00 p.m.
 - iii. May 1, 2023 – May 25, 2023: Monday – Thursday, 5:00 p.m. – 8:15 p.m.
 - iv. May 30 , 2023 – June 29 , 2023: Monday – Thursday, 6:00 p.m. – 9:15 p.m.
 - v. July 5,2023 – July 25, 2023: Monday – Thursday, 6:00 p.m. – 9:15 p.m.
 - vi. Six Meet Dates:
 - i. Saturday, May 20, 2023: 6:30 a.m. – 12:30 p.m.
 - ii. Saturday, June 3, 2023: 6:30 a.m. – 2:30 p.m.
 - iii. Saturday, June 10, 2023: 6:30 a.m. – 12:30 p.m.
 - iv. Saturday, June 17, 2023: 6:30 a.m. – 12:30 p.m.
 - v. Saturday, June 24, 2023: 6:30 a.m. – 12:30 p.m
 - vi. Saturday, July 1, 2023: 6:30 a.m. – 12:30 p.m
 - vii. Tiger Splash may also have exclusive use of Founders Memorial Park Pavilion for the above outlined dates and times for team social events, parent meetings, and during swim meets and practices.

- f. If there is an emergency such as inclement weather, public health emergency, or an unforeseen circumstance, the City may decide to close the Pool or limit access to the Pool on impacted days. If the pool is closed, the City will work with Tiger Splash to reschedule the canceled practice or swim meet date during the season barring that the pool space and staff is available.
- g. Tiger Splash will not have access to the pool Memorial Day, May 31, 2023, or Independence Day, July 4, 2023.

F. It is understood and agreed between the parties that:

- a. Tiger Splash will maintain its own liability insurance through Texas Amateur Athletic Federation (TAAF) and will name the City as an additional named insured and provide a copy of such policy prior to the beginning of the terms of this Use Agreement.
- b. It is specifically agreed that nothing herein is intended to convey any real property rights of the Pool to Tiger Splash.
- c. The City assumes no responsibility for any property placed by Tiger Splash or any Tiger Splash member, agent, or guest, at the Pool or in the storage facilities or any part thereof, and the City is hereby expressly released and discharged from any and all liability for any loss, injury, or damage to persons or property that may be sustained by reason of the use of the Pool and related facilities under this Agreement.
- d. Tiger Splash accepts the premises as-is. Tiger Splash may not change any part of the Pool or layout of its related facilities unless it receives prior written approval from the Aquatics and Athletics Manager or the Parks and Community Services Director for the proposed changes.
- e. Tiger Splash will cooperate with the City to comply with all applicable laws (federal, state, and local), including ordinances of the City. Tiger Splash agrees to abide by and conform with all rules and regulations from time to time adopted or prescribed by the City for the government and management of the Pool.
- f. TIGER SPLASH AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, SERVANTS, AND EMPLOYERS, FROM AND AGAINST ANY AND ALL CLAIMS FOR DAMAGES OR INJURIES TO PERSONS OR PROPERTY ARISING OUT OF OR INCIDENT TO THEIR USE OF, OR THE USE AND OCCUPANCY OF, THE POOL BY TIGER SPLASH, AND TIGER SPLASH DOES HEREBY ASSUME ALL LIABILITY AND RESPONSIBILITY FOR INJURIES, CLAIMS OR SUITS FOR DAMAGES TO PERSONS OR PROPERTY WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, OCCURRING DURING THE TERM OF THIS AGREEMENT IN CONNECTION

WITH THE USE OR OCCUPANCY OF THE POOL BY TIGER SPLASH OR ITS AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS OR SUBCONTRACTORS, MEMBERS, GUESTS OR INVITEES.

- g. **Mandatory Disclosures:** Texas law requires that vendors make certain disclosures. Prior to the effective date of this Contract, the Contractor must fill out Form 1295, as required by the Texas Ethics Commission, and submit it to the City. The form may be found here: <https://www.ethics.state.tx.us/filinginfo/QuickFileAReport.php>
- h. Tiger Splash shall not assign this Agreement, or any rights, obligations dates, discounts, or entitlements created under this Agreement to any other person or entity.
- i. Either party may terminate this Agreement without cause upon the terminating party giving the non-terminating party thirty (30) days written notice.
- j. This Agreement will automatically terminate if Tiger Splash fails to make any required payment or if Tiger Splash fails to adequately respond and remedy any complaints or concerns from the City within thirty (30) days of a written request by the City.
- k. All notices in connection with this Agreement shall be in writing and shall be considered given as follows:

When delivered personally to the recipient's address as stated in this Agreement; or Five (5) days after being sent by certified mail in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement:

To the City:

City of Dripping Springs
Attn: City Administrator
PO Box 384
Dripping Spring, TX 78620

To Tiger Splash:

Tiger Splash
Attn: Vice - President
1521 Kemp Hills Dr.
Austin, TX 78737

Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Tiger Splash.

- l. This Agreement shall be effective upon final signing by both parties.

IN WITNESS WHEREOF, The City of Dripping Springs and Tiger Splash have executed this Agreement on the dates indicated.

CITY OF DRIPPING SPRINGS:

TIGER SPLASH:

Michelle Fischer, City Administrator

James Landrum, President

Date

Date

ATTEST:

Andrea Cunningham, City Secretary

EXHIBIT A
Tiger Splash 2023 Calendar & Fees Outline

Tiger Splash Calendar 2023

| Date | Day | Time | Event | Location |
|---------------|--------------|------------------|--|-----------------|
| April 24 & 25 | Mon & Tues | 5:00pm – 8:00pm | JAV Training (6hrs) | Founders Pool |
| April 26 & 27 | Wed & Thurs | 5:00pm – 7:00pm | NEW Swimmer Evaluations (4hrs) | Founders Pool |
| May 1-4 | Mon - Thurs | 5:00pm – 8:15pm | Practice (13hrs) | Founders Pool |
| May 8-11 | Mon - Thurs | 5:00pm – 8:15pm | Practice (13hrs) | Founders Pool |
| May 15-17 | Mon - Wed | 5:00pm – 8:15pm | Practice (9.75hrs) | Founders Pool |
| May 18 | Thursday | 5:00pm – 8:15pm | Kick-Off Swim Party (3.25) | Founders Pool |
| May 20 | Saturday | 6:30am - 12:30pm | Time Trials Swim Meet (6hrs) | Founders Pool |
| May 22-25 | Mon - Thurs | 5:00pm – 8:15pm | Practice (13hrs) | Founders Pool |
| May 30-June 1 | Tues - Thurs | 6:00pm - 9:15pm | Practice (9.75hrs) | Founders Pool |
| June 3 | Saturday | 6:30am - 2:00pm | Founder's Swim Meet & JAV Refresher (7.5hrs) | Founders Pool |
| June 5-8 | Mon - Thurs | 6:00pm - 9:15pm | Practice (13hrs) | Founders Pool |
| June 10 | Saturday | 6:30am - 12:30pm | Home Swim Meet (6 hrs) | Founders Pool |
| June 12-15 | Mon - Thurs | 6:00pm - 9:15pm | Practice (13hrs) | Founders Pool |
| June 17 | Saturday | 6:30am - 12:30pm | Pentathlon Swim Meet (6) | Founders Pool |
| June 19-22 | Mon - Thurs | 6:00pm - 9:15pm | Practice (13hrs) | Founders Pool |
| June 24 | Saturday | 6:30am - 12:30pm | Color Splash Swim Meet (6) | Founders Pool |
| June 26-28 | Mon - Wed | 6:00pm – 9:15pm | Practice (9.75hrs) | Founders Pool |
| June 29 | Thursday | 6:00pm - 9:15pm | Team Swim Party (3.25hrs) | Founders Pool |
| July 1 | Saturday | 6:30am - 12:30pm | PR Swim Meet (6) | Founders Pool |
| July 5-6 | Wed & Thurs | 6:00pm - 9:15pm | Practice (6.5hrs) | Founders Pool |
| July 10-13 | Mon - Thurs | 6:00pm - 9:15pm | Practice (13hrs) | Founders Pool |
| July 17-20 | Mon - Thurs | 6:00pm - 9:15pm | Practice (13hrs) | Founders Pool |
| July 24-25 | Mon & Tues | 6:00pm - 9:15pm | Practice (6.5hrs) | Founders Pool |

| Event Type | Total Hours for 2023 Season |
|---------------------|------------------------------------|
| JAV Training | 6 hrs |
| Swimmer Evaluation | 4 hrs |
| Swim Practice | 146.25 hrs |
| Swim Party | 6.5 hrs |
| Swim Meet | 37.5 hrs |
| TOTAL HOURS: | 200.25 hrs |

2023 Swim Season Proposed Fee Outline

- Practices, Parties & Meets = 200hrs x \$90/hr (\$100/hr Rate – 10% discount) = \$18,000
- Additional Guard for meets \$30/hr x 37.5hrs = \$1,125
- Pavilion Rental for Meets/Practices (\$85/4hr block) 200hrs = \$4,250 (Fee Waived)
- TS Equipment and Program Supply On-Site Storage = No Charge
- City Admin Non-profit Discount 10%

Total for season = \$19,125

(Based on current Fee Schedule + including 10% discount + Lifeguard + Propane + 0 pavilion rental fee)

2022 Swim Season Fee Summary (Comparison)

- Practices & Meets = 180hrs x \$76.50/hr = \$13,770 (Includes 15% Discount off NP Rate)
- Additional Guard for meets \$25/hr x 32hrs = \$800
- Pavilion Rental for Meets/Practices (\$75/4hr block) 180hrs = \$3,375 (Fee Waived)
- TS Equipment and Program Supply On-Site Storage = No Charge
- City Admin Non-profit Discount 10% + PRC Recommended 5%

Total for season = \$14,570

(Based on current Fee Schedule + including 15% discount + Lifeguard + Propane + 0 pavilion rental fee)

2021 Swim Season Fee Summary (Comparison)

- Meet Fees = \$1,200.00
- 30% of enrollments = \$9,072 (189 swimmers @ \$160)
- Propane Reimbursement = \$2,014.95 (Council approved discounted payment, TS did not pay actual owed)

Total \$13,486.95



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Aaron Reed, Public Works Director

Council Meeting Date: January 3, 2023

Agenda Item Wording: **Approval of a Resolution Accepting Improvements and Approving and Accepting a Maintenance Bond for Driftwood Club Core Phase 1 and 2 Water and Wastewater.** *Applicant: Jimmy Evans Company, Ltd.*

Agenda Item Requestor:

Summary/Background: Jimmy Evans Company has completed Water and Wastewater Improvements for Driftwood Club Core Phase 1 and 2. City staff has inspected the project throughout all stages of construction. The City Engineer has completed a final inspection and the Design Engineer has provided concurrence. All improvements have been built per plan.

Commission Recommendations:

Recommended Council Actions: City Staff recommends approval

Attachments:

Next Steps/Schedule: Send to City Secretary for execution.

CITY OF DRIPPING SPRINGS

RESOLUTION NO. 2022-

ACCEPTING IMPROVEMENTS AND APPROVING A MAINTENANCE BOND FOR DRIFTWOOD SUBDIVISION PHASE 1 SECTION 2 WATER AND WASTEWATER IMPROVEMENTS

A RESOLUTION OF THE CITY OF DRIPPING SPRINGS, TEXAS (“CITY”), ACCEPTING WATER AND WASTEWATER IMPROVEMENTS AND APPROVING AND ACCEPTING A MAINTENANCE BOND FOR DRIFTWOOD SUBDIVISION PHASE 1 SECTION 2, PROVIDING FOR EFFECTIVE DATE; AND PROPER NOTICE & MEETING

WHEREAS, Jimmy Evans Company, Ltd. (“Contractor”) recently completed and the City Engineer for the City of Dripping Springs has inspected the water and wastewater improvements (“Improvements”) for Driftwood Subdivision Phase 1 Section 2; and

WHEREAS, the City desires to accept as being complete in accordance with applicable development the Improvements at Driftwood Subdivision Phase 1 Section 2; and

WHEREAS, the City of Dripping Springs City Council (“City Council”) seeks the Contractor to provide a Maintenance Bond (Attachment “A”) conditioned to guarantee for the period of Two (2) Years from and after the date of substantial completion of the Improvements, guaranteeing the materials and workmanship related to Contractor’s Improvements; and

WHEREAS, this Resolution conforms with the Maintenance and Guarantee regulation of the City’s Code requiring all public improvements be free from defects for a period of two (2) years; and

WHEREAS, substantial completion of the Work was verified by engineer letter (Attachment “B”) as of July 8, 2022 and the maintenance bond period of Two (2) Years begins on the date of acceptance; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dripping Springs City, Texas, that:

1. The foregoing recitals are adopted as facts and are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.
2. The City Council hereby accepts the Water and Wastewater Improvements in the Driftwood Subdivision Phase 1 Section 2.
3. The City Council hereby approves and accepts the Contractor's proposed Maintenance Bond No. 4454055, from SureTec Insurance Company ("Insurer"), included and attached herein (Attachment "A").
4. Conditioned upon the fiscal guarantee for maintenance from the Contractor and the Insurer, the City shall assume responsibility for the repair, maintenance, and regulation of the Improvements for the benefit of the public.
5. The City Council hereby authorizes the Mayor or the Mayor's designee to execute any documentation on the City's behalf necessary to effectuate the intent and purpose of this Resolution.
6. This Resolution shall take effect immediately upon passage.
7. The meeting at which this Resolution was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the [REDACTED] day of [REDACTED], 2022, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: _____
Mayor Bill Foulds Jr.

ATTEST:

Andrea Cunningham, City Secretary

Attachment "A"

(Insert Maintenance Bond No. 4454055: Jimmy Evans Company, Ltd. and SureTec Insurance Company)



SureTec Insurance Company

2103 CityWest Boulevard, Suite 1300
Houston, TX 77042
713-812-0800

Bond No. 4460948

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we Jimmy Evans Company, Ltd. as Principal, and SureTec Insurance Company, a corporation organized under the laws of the State of Texas, and duly authorized to do business in the State of Texas as Surety, are held and firmly bound unto City of Dripping Springs as Obligee, in the penal sum of One Million Three Hundred Forty Seven Thousand One Hundred Eighteen and 00/100's (\$1,347,118.00) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has completed, and owner has inspected and accepted as being complete in accordance with applicable design documents (failing which, this bond shall become effective only upon such completion and inspection) that certain work (herein referred to as the "Work") described as: Driftwood Club Core Phase 1 & 2.

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of Two (2) year (s) after substantial completion of the Work against defects in workmanship and materials which are the responsibility of the Principal under the contract under which the Work was constructed, and which did not appear prior to the final completion of the Work.

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of defective materials or workmanship which may first become apparent, and with respect to which written notice is delivered to Surety, before the expiration of the period of Two (2) year (s) from and after date of substantial completion of the Work, then this obligation shall be void, otherwise to remain in full force and effect.

This obligation does not cover normal wear and tear of materials, misuse or abuse by the Obligee or third parties, failure of Owner to perform owner-required maintenance, nor

any defects known to Obligee prior to final completion of the Work nor any defects discovered or occurring after the expiration of the period set forth above.

Surety's liability on any performance bond previously executed in connection with the Work shall terminate automatically upon acceptance of this Bond and Surety's liability shall thereafter be determined exclusively in accordance with the terms of this Bond.

No right of action shall accrue hereunder to or for the benefit of any person or entity other than the Obligee named herein, nor shall any suit be filed or action maintained on this bond more than twenty five (25) months after the date of the earliest timely notice of defect by Obligee to Surety.

SIGNED, SEALED AND DATED THIS 25th day of October, 2022.

Jimmy Evans Company, Ltd.
Principal

By:  _____

SureTec Insurance Company

By:  _____

Brad Ballew, Attorney-in-Fact

JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

David S. Ballew, Brad Ballew, Connie Davis, David Fernea

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided; however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 18th day of November, 2020.

SureTec Insurance Company

By: Michael C. Keimig
Michael C. Keimig, President



Markel Insurance Company

By: Robin Russo
Robin Russo, Senior Vice President

Commonwealth of Virginia
County of Henrico SS:

On this 18th day of November, 2020 A. D., before me, a Notary Public of the Commonwealth of Virginia, in and for the County of Henrico, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Henrico, the day and year first above written.



By: Donna Donavant
Donna Donavant, Notary Public
My commission expires 1/31/2023

We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 25th day of October, 2022.

SureTec Insurance Company

By: M. Brent Beaty
M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By: Richard R. Grinnan
Richard R. Grinnan, Vice President and Secretary

SureTec Insurance Company

THIS BOND RIDER CONTAINS IMPORTANT COVERAGE INFORMATION

Statutory Complaint Notice/Filing of Claims

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint or file a claim at: 1-866-732-0099. You may also write to the Surety at:

SureTec Insurance Company
9737 Great Hills Trail, Suite 320
Austin, Tx 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252- 3439. You may write the Texas Department of Insurance at:

PO Box 149104
Austin, TX 78714-9104
Fax#: 512-490-1007
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Aaron Reed, Public Works Director

Council Meeting Date: January 3, 2023

Agenda Item Wording: **Approval of a Resolution Accepting Improvements and Approving and Accepting a Maintenance Bond for Driftwood Club Core Phase 3 Water and Wastewater.** *Applicant: Jimmy Evans Company, Ltd.*

Agenda Item Requestor:

Summary/Background: Jimmy Evans Company has completed Water and Wastewater Improvements for Driftwood Club Core Phase 3. City staff has inspected the project throughout all stages of construction. The City Engineer has completed a final inspection and the Design Engineer has provided concurrence. All improvements have been built per plan.

**Commission
Recommendations:**

**Recommended
Council Actions:** City Staff recommends approval

Attachments:

Next Steps/Schedule: Send to City Secretary for execution.

CITY OF DRIPPING SPRINGS

RESOLUTION NO. 2022-

**ACCEPTING IMPROVEMENTS AS COMPLETE AND APPROVING A
MAINTENANCE BOND FOR DRIFTWOOD CLUB CORE PHASE 3
WATER AND WASTEWATER AND RELEASING CONSTRUCTION
BONDS**

A RESOLUTION OF THE CITY OF DRIPPING SPRINGS, TEXAS (“CITY”), ACCEPTING IMPROVEMENTS AS COMPLETE AND APPROVING AND ACCEPTING A MAINTENANCE BOND FOR DRIFTWOOD CLUB CORE PHASE 3 WATER AND WASTEWATER IMPROVEMENTS AND RELEASING CONSTRUCTION BONDS, PROVIDING FOR EFFECTIVE DATE; AND PROPER NOTICE & MEETING

WHEREAS, Jimmy Evans Company, Ltd. (“Contractor”) recently completed, and the City Engineer for the City of Dripping Springs has inspected, Driftwood Club Core Phase 3 Water and Wastewater (“Improvements”) for the City of Drippings Springs; and

WHEREAS, the City desires to accept as being complete in accordance with applicable development the Improvements in Driftwood Club Core Phase 3; and

WHEREAS, the City of Dripping Springs City Council (“City Council”) seeks the Contractor to provide a Maintenance Bond (Attachment “A”) conditioned to guarantee for the period of Two (2) Years from and after the date of substantial completion of the Improvements, guaranteeing the materials and workmanship related to Contractor’s Improvements; and

WHEREAS, this Resolution conforms with the Maintenance and Guarantee regulation of the City’s Code requiring all public improvements be free from defects for a period of two (2) years; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dripping Springs City, Texas, that:

1. The foregoing recitals are adopted as facts and are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.
2. The City Council hereby accepts the Water and Wastewater Improvements at Driftwood Club Core Phase 3 as complete.
3. The City Council hereby approves and accepts the Contractor's proposed Maintenance Bond No. 4448673MNT, from SureTec Insurance Company ("Insurer"), included and attached herein (Attachment "A").
4. The City Council hereby releases the Contractor's Construction Bond No. 1001130685. Bond.
5. The City Council hereby authorizes the Mayor or the Mayor's designee to execute any documentation on the City's behalf necessary to effectuate the intent and purpose of this Resolution.
6. This Resolution shall take effect immediately upon passage.
7. The meeting at which this Resolution was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the day of , 2022, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: _____
Mayor Bill Foulds Jr.

ATTEST:

Andrea Cunningham, City Secretary

Attachment "A"

(Insert Maintenance Bond No. 4448673MNT: Jimmy Evans Company Ltd., and Suretec Insurance Company)



SureTec Insurance Company

2103 CityWest Boulevard, Suite 1300
Houston, TX 77042
713-812-0800

Bond No. 4448673MNT

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we Jimmy Evans Company, Ltd. as Principal, and SureTec Insurance Company, a corporation organized under the laws of the State of Texas, and duly authorized to do business in the State of Texas as Surety, are held and firmly bound unto City of Dripping Springs as Obligee, in the penal sum of Two Hundred Fifty Six Thousand Seven Hundred Twenty Eight and 04/100's (\$256,728.04) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has completed, and owner has inspected and accepted as being complete in accordance with applicable design documents (failing which, this bond shall become effective only upon such completion and inspection) that certain work (herein referred to as the "Work") described as: Driftwood Club Core Phase III.

WHEREAS, said Obligee requires that the Principal furnish a bond conditioned to guarantee for the period of Two (2) year (s) after substantial completion of the Work against defects in workmanship and materials which are the responsibility of the Principal under the contract under which the Work was constructed, and which did not appear prior to the final completion of the Work.

NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of defective materials or workmanship which may first become apparent, and with respect to which written notice is delivered to Surety, before the expiration of the period of Two (2) year (s) from and after date of substantial completion of the Work, then this obligation shall be void, otherwise to remain in full force and effect.

This obligation does not cover normal wear and tear of materials, misuse or abuse by the Obligee or third parties, failure of Owner to perform owner-required maintenance, nor

any defects known to Obligee prior to final completion of the Work nor any defects discovered or occurring after the expiration of the period set forth above.

Surety's liability on any performance bond previously executed in connection with the Work shall terminate automatically upon acceptance of this Bond and Surety's liability shall thereafter be determined exclusively in accordance with the terms of this Bond.

No right of action shall accrue hereunder to or for the benefit of any person or entity other than the Obligee named herein, nor shall any suit be filed or action maintained on this bond more than twenty five (25) months after the date of the earliest timely notice of defect by Obligee to Surety.

SIGNED, SEALED AND DATED THIS 25th day of October, 2022.

Jimmy Evans Company, Ltd.
Principal

By:  _____

SureTec Insurance Company

By:  _____
Brad Ballew, Attorney-in-Fact

JOINT LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That SureTec Insurance Company, a Corporation duly organized and existing under the laws of the State of Texas and having its principal office in the County of Harris, Texas and Markel Insurance Company (the "Company"), a corporation duly organized and existing under the laws of the state of Illinois, and having its principal administrative office in Glen Allen, Virginia, does by these presents make, constitute and appoint:

David S. Ballew, Brad Ballew, Connie Davis, David Fernea

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on their own behalf, individually as a surety or jointly, as co-sureties, and as their act and deed any and all bonds and other undertaking in suretyship provided; however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

Fifty Million and 00/100 Dollars (\$50,000,000.00)

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolutions adopted by the Board of Directors of SureTec Insurance Company and Markel Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the SureTec Insurance Company and Markel Insurance Company, as the case may be, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Markel Insurance Company and SureTec Insurance Company have caused their official seal to be hereunto affixed and these presents to be signed by their duly authorized officers on the 18th day of November, 2020.

SureTec Insurance Company

By: 
Michael C. Keimig, President



Markel Insurance Company

By: 
Robin Russo, Senior Vice President

Commonwealth of Virginia
County of Henrico SS:

On this 18th day of November, 2020 A. D., before me, a Notary Public of the Commonwealth of Virginia, in and for the County of Henrico, duly commissioned and qualified, came THE ABOVE OFFICERS OF THE COMPANIES, to me personally known to be the individuals and officers described in, who executed the preceding instrument, and they acknowledged the execution of same, and being by me duly sworn, disposed and said that they are the officers of the said companies aforesaid, and that the seals affixed to the proceeding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said companies, and that Resolutions adopted by the Board of Directors of said Companies referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Henrico, the day and year first above written.

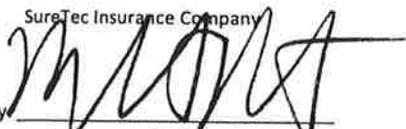


By: 
Donna Donavant, Notary Public
My commission expires 1/31/2023

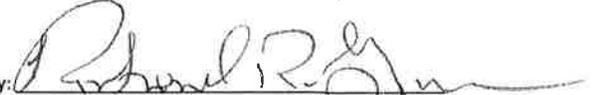
We, the undersigned Officers of SureTec Insurance Company and Markel Insurance Company do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, we have hereunto set our hands, and affixed the Seals of said Companies, on the 25th day of October, 2022.

SureTec Insurance Company

By: 
M. Brent Beaty, Assistant Secretary

Markel Insurance Company

By: 
Richard R. Grinnan, Vice President and Secretary

SureTec Insurance Company

THIS BOND RIDER CONTAINS IMPORTANT COVERAGE INFORMATION

Statutory Complaint Notice/Filing of Claims

To obtain information or make a complaint: You may call the Surety's toll free telephone number for information or to make a complaint or file a claim at: 1-866-732-0099. You may also write to the Surety at:

SureTec Insurance Company
9737 Great Hills Trail, Suite 320
Austin, Tx 78759

You may contact the Texas Department of Insurance to obtain information on companies, coverage, rights or complaints at 1-800-252- 3439. You may write the Texas Department of Insurance at:

PO Box 149104
Austin, TX 78714-9104
Fax#: 512-490-1007
Web: <http://www.tdi.state.tx.us>
Email: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim, you should contact the Surety first. If the dispute is not resolved, you may contact the Texas Department of Insurance.



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Aaron Reed, Public Works Director; Laura Mueller, City Attorney

Council Meeting Date: January 3, 2023

Agenda Item Wording: Approval of a Resolution Accepting Improvements and Approving a Maintenance Bond for Heritage Subdivision Phase 1 Streets, Wastewater, and Drainage.

Agenda Item Requestor:

Summary/Background: Capital Excavation completed construction of Street, Wastewater and Drainage Improvements in Heritage Phase 1. City Staff inspected the project throughout construction and the City Engineer completed a final inspection. The Design Engineer provided a concurrence letter and the contractor has provided the required 2 year maintenance bond.

These improvements and bond are related to the Amended and Restated Heritage Public Improvement District Financing and Reimbursement Agreement. This Agreement provides that certain improvements will be reimbursed through PID funding (bonds and assessments). These improvements, once approved and the maintenance bond is accepted, will be eligible for reimbursement. This acceptance will start this process.

**Commission
 Recommendations:**

**Recommended
 Council Actions:** City Staff recommends approval

Attachments:

Next Steps/Schedule: Send to City Secretary for execution.

Southwest Regional Office
3000 Internet Blvd., Suite 600
Frisco, TX 75034-1991
T (469) 287-3240
TF (800) 873-8212



Item # 5.

BOND #46BCSIX9288

MAINTENANCE AND WARRANTY BOND

KNOW ALL BY THESE PRESENTS, That we Capital Excavation Company as Principal, and Hartford Fire Insurance Company, a Corporation of the State of Connecticut, authorized to write Surety Bonds in the State of Texas, as Surety, are jointly and severally held and firmly bound unto the City of Dripping Springs, Texas as Obligee, in the penal sum of seven million, three hundred twenty four thousand, three hundred thirty two and ninety eight cents (\$7,324,332.98) which payment well and truly to be made we do bind ourselves, our and each of our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal has constructed the following (Improvements):

Heritage Phase 1 Public Improvements: Clearing, Grading, Streets, Drainage, Water Quality Pond, Wastewater, and Erosion Control Improvements.

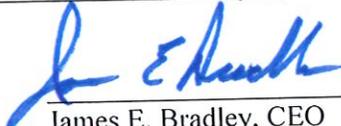
WHEREAS, the City of Dripping Springs, Texas requires the Principal to furnish a Maintenance and Warranty Bond to guarantee workmanship and materials for a period of two (2) years following acceptance of the Improvements. Further, the Maintenance and Warranty Bond guarantees that the Principal will repair, or cause to be repaired, for two (2) years from the date of acceptance by the City of Dripping Springs, Texas ("Warranty Period") all defects in workmanship and materials which may become apparent during the Warranty Period.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of defective materials or workmanship of the Improvements, which become apparent within the Warranty Period then this obligation becomes void, otherwise it remains in full force and effect.

SIGNED, SEALED AND DATED

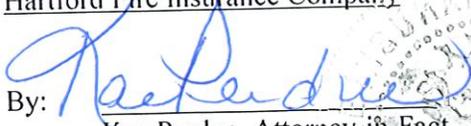
November 10, 2022

Capital Excavation Company

By: 

James E. Bradley, CEO

Hartford Fire Insurance Company

By: 

Kae Perdue, Attorney-in-Fact



IMPORTANT NOTICE

To obtain information or make a complaint:

You may contact your agent.

You may call Hartford Insurance Group at the toll free telephone number for information or to make a complaint at:

1-800-392-7805

You may also write to The Hartford:

**The Hartford
Hartford Financial Products
2 Park Avenue, 5th Floor
New York, New York 10016
1-212-277-0400**

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance

P.O. Box 149104
Austin, TX 78714-9104
Fax Number (512) 490-1007
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIMS DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY: This notice is for your information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja.

Puede comunicarse con su agente.

Usted puede llamar al numero de telefono gratis de The Hartford Insurance Group para informacion o para someter una queja al

1-800-392-7805

Usted tambien puede escribir a The Hartford.

**The Hartford
Hartford Financial Products
2 Park Avenue, 5th Floor
New York, New York 10016
1-212-277-0400**

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de compañías, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas

P.O. Box 149104
Austin, TX 78714-9104
Fax Number (512) 490-1007
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS: Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con su agente primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

POWER OF ATTORNEY

Direct Inquiries/Claims to:

THE HARTFORD
BOND, T-11
One Hartford Plaza
Hartford, Connecticut 06183
Bond.Claims@thehartford.com
call: 888-266-3488 or fax: 860-757-5835

Item # 5.

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Name: MARSH & MCLENNAN AGENCY LLC
Agency Code: 46-461496

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut, (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, up to the amount of Unlimited :

Edward R. Bowles, Dawn Davis, Walter J. DeLaRosa, DONNIE DOAN, Kristi Meek, Kae Perdue, Christen Tyner of DALLAS, Texas

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on May 23, 2016 the Companies have caused these presents to be signed by its Assistant Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



Shelby Wiggins

Shelby Wiggins, Assistant Secretary

Joelle L. LaPierre

Joelle L. LaPierre, Assistant Vice President

STATE OF FLORIDA

COUNTY OF SEMINOLE

ss. Lake Mary

On this 20th day of May, 2021, before me personally came Joelle LaPierre, to me known, who being by me duly sworn, did depose and say: that (s)he resides in Seminole County, State of Florida; that (s)he is the Assistant Vice President of the Companies, the corporations described in and which executed the above instrument; that (s)he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that (s)he signed his/her name thereto by like authority.



Jessica Ciccone

Jessica Ciccone
My Commission HH 122280
Expires June 20, 2025

I, the undersigned, Assistant Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of November 10, 2022.

Signed and sealed in Lake Mary, Florida.



Keith D. Dozois

Keith D. Dozois, Assistant Vice President

CITY OF DRIPPING SPRINGS

RESOLUTION NO. 2022-

**ACCEPTING IMPROVEMENTS AND APPROVING A MAINTENANCE
BOND FOR HERITAGE SUBDIVISION PHASE 1 WASTEWATER,
STREETS, AND DRAINAGE AND RELEASING A CONSTRUCTION
BOND**

A RESOLUTION OF THE CITY OF DRIPPING SPRINGS,
TEXAS (“CITY”), ACCEPTING IMPROVEMENTS AND
APPROVING AND ACCEPTING A MAINTENANCE BOND
FOR HERITAGE SUBDIVISION PHASE 1 WASTEWATER,
STREETS AND DRAINAGE AND RELEASING A
CONSTRUCTION BOND, PROVIDING FOR EFFECTIVE
DATE; AND PROPER NOTICE & MEETING

WHEREAS, Capital Excavation Company (“Contractor”) recently completed, and the City Engineer for the City of Dripping Springs has inspected, Heritage Subdivision Phase 1 Wastewater, Streets, and Drainage (“Improvements”) for the City of Drippings Springs; and

WHEREAS, the City desires to accept as being complete in accordance with applicable development the Improvements in Heritage Subdivision Phase 1; and

WHEREAS, the City of Dripping Springs City Council (“City Council”) seeks the Contractor to provide a Maintenance Bond (Attachment “A”) conditioned to guarantee for the period of Two (2) Years from and after the date of substantial completion of the Improvements, guaranteeing the materials and workmanship related to Contractor’s Improvements; and

WHEREAS, this Resolution conforms with the Maintenance and Guarantee regulation of the City’s Code requiring all public improvements be free from defects for a period of two (2) years; and

WHEREAS, substantial completion of the Work was verified by engineer letter (Attachment “B”) as of October 19, 2022 and the maintenance bond period of Two (2) Years begins on the date of acceptance; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dripping Springs City, Texas, that:

1. The foregoing recitals are adopted as facts and are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.
2. The City Council hereby accepts the Wastewater, Streets and Drainage Improvements at the Heritage Subdivision Phase 1.
3. The City Council hereby approves and accepts the Contractor’s proposed Maintenance Bond No. 46BCSIX9288, from Hartford Fire Insurance Company (“Insurer”), included and attached herein (Attachment “A”).
4. The City Council hereby releases the Contractor’s Construction Bond No.SUR0070782. Bond.
5. The City Council hereby authorizes the Mayor or the Mayor’s designee to execute any documentation on the City’s behalf necessary to effectuate the intent and purpose of this Resolution.
6. This Resolution shall take effect immediately upon passage.
7. The meeting at which this Resolution was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the [redacted] day of [redacted], 2022, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: _____
Mayor Bill Foulds Jr.

ATTEST:

Andrea Cunningham, City Secretary

Attachment “A”

(Insert Maintenance Bond No. 46BCSIX9288: Caital Excavation Company., and Hartford Fire Insurance Company)

AMENDED AND RESTATED HERITAGE PUBLIC IMPROVEMENT DISTRICT
FINANCING AND REIMBURSEMENT AGREEMENT

BETWEEN

M/I HOMES OF AUSTIN, LLC, an Ohio limited liability company,

AND

THE CITY OF DRIPPING SPRINGS, TEXAS

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AMENDED AND RESTATED HERITAGE PUBLIC IMPROVEMENT DISTRICT
FINANCING AND REIMBURSEMENT AGREEMENT

This Amended and Restated Heritage Public Improvement District Financing and Reimbursement Agreement (this “**Agreement**”), dated as of December 20, 2022, (the “**Effective Date**”), is entered into between M/I Homes of Austin, LLC, an Ohio limited liability company (including its successors, assigns, or transferees, the “**Owner**”), and the City of Dripping Springs, Texas (the “**City**”), a municipal corporation, acting by and through its duly authorized representative, with BobWhite Investments, L.P., a Texas limited partnership (“**BobWhite**”), and Tri Pointe Homes Texas, Inc., a Texas corporation formerly known as Trendmaker Homes (“**Tri Pointe**”), each as a consenting party (BobWhite and Tri Pointe are collectively referred to herein as the “**Consenting Party**”) (the City and the Owner are individually referred to herein as a “**Party**” and collectively as the “**Parties**”).

RECITALS:

WHEREAS, Owner, together with the Consenting Party, owns a total of approximately 189 acres of land more particularly described on Exhibit “B” attached hereto and made a part hereof (the “**Property**”);

WHEREAS, the Property is being developed as a master planned community by Owner, its affiliates and/or their successors and assigns, including future owners and developers (the “**Project**”);

WHEREAS, on June 29, 2017, SLF IV – Dripping Springs JV, L.P., a Texas limited partnership (“**SLF**”), submitted and filed with the City Secretary of the City an Amended and Restated Petition (the “**PID Petition**”) requesting the creation of the Heritage Public Improvement District (the “**District**”);

WHEREAS, the City Council of the City (the “**City Council**”) authorized the full purpose annexation of the Property pursuant to Ordinance No. 1803.91 adopted on October 17, 2017;

WHEREAS, the City adopted Ordinance No. 1220.124 on October 10, 2017, establishing zoning for the Property;

WHEREAS, SLF sold the land subject to the Original Agreement to Owner and Tri Pointe on May 3, 2021;

WHEREAS, the City Council approved that certain Annexation and Development Agreement, by and between SLF, BobWhite, and the City, dated October 17, 2017, covering the Property which, among other things, addresses certain aspects of the annexation, and zoning and development of the Property, and on May 3, 2021, SLF, the Owner, and Tri Pointe entered into that certain Assignment of Annexation and Development Agreement, in which SLF assigned all its right, title and interest in the Annexation and Development Agreement to the Owner and Tri Pointe (collectively, the “**Annexation and Development Agreement**”);

WHEREAS, the City Council approved that certain Offsite Road and Trail Agreement, by and between SLF and the City, on October 17, 2017, and on May 3, 2021, SLF, the Owner, and

Tri Pointe entered into that certain Assignment of Offsite Road and Trail Agreement, in which SLF assigned all its right, title and interest in the Offsite Road and Trail Agreement to the Owner and Tri Pointe (collectively, the “**Offsite Road and Trail Agreement**”);

WHEREAS, the City Council approved that certain Wastewater Service and Impact Fee Agreement, by and between SLF and the City, on October 17, 2017, and on May 3, 2021, SLF, the Owner, and Tri Pointe entered into that certain Assignment of Wastewater Service and Impact Fee Agreement, in which SLF assigned all its right, title and interest in the Wastewater Service and Impact Fee Agreement to the Owner and Tri Pointe (collectively, the “**Wastewater Agreement**”);

WHEREAS, the City Council approved that certain Heritage Public Improvement District Financing Agreement on October 17, 2017, by and between SLF and the City (the “**Original Agreement**”), and on May 3, 2021, SLF, the Owner, and Tri Pointe entered into that certain Assignment of Heritage Public Improvement District Financing Agreement, in which SLF assigned all its right, title and interest in the Original Agreement to the Owner and Tri Pointe;

WHEREAS, the City Council approved the Assignments and confirmed Owner’s satisfaction of the requirements for the Assignments on November 10, 2020;

WHEREAS, pursuant to the terms of the Original Agreement, the City agreed to allow financing of certain Authorized Improvements (defined herein) within and/or benefitting or serving the Property via a public improvement district;

WHEREAS, pursuant to that certain Joint Ownership and Development Agreement, made and entered into on July 27, 2020, by and between Owner and Tri Pointe (the “**JODA**”), all decisions respecting the planning, approval and completion of the Authorized Improvements that do not constitute Major Decisions (defined in the JODA) shall be made by Owner, and Owner agrees to reimburse Tri Pointe for its Percentage interest (defined in the JODA) in any and all rights under this Agreement, including the Reimbursement Balance and PID Bond (defined herein) proceeds, pursuant to the terms contained therein;

WHEREAS, this Agreement amends, restates, and replaces the Original Agreement in its entirety;

WHEREAS, the City acknowledges that Owner’s cooperation in this endeavor enables the City to establish, define, and protect the City’s jurisdiction and regulatory authority over the Property, and that Owner undertook, as assignee of and/or successor to the Owner’s predecessor, the rights and obligations under the prior agreements relating to the Property, including the Annexation and Development Agreement, the Offsite Trail and Road Agreement, the Wastewater Agreement, and the Original Agreement, in contemplation of entering into this Agreement;

WHEREAS, the Owner of the Property (and/or its successors and assigns) desires and intends to design, construct and install certain amenities to serve residents of the Project (the “**Private Improvements**”), which Private Improvements, including major components that are critical to the Project, are generally described but not limited to, those in Exhibit “C”;

WHEREAS, pursuant to the terms of this Agreement, the City has agreed to accept and to pay or reimburse the Owner via the District for certain of the improvements that will serve the

Property in the District being the Improvement Area #1 Authorized Improvements, the Future Improvement Area Authorized Improvements all as shown in the Assessment Plan (defined herein) (collectively, the “**Authorized Improvements**”);

WHEREAS, the Owner (and/or its successors and assigns) proposes to construct certain internal phase improvements within the District, including water infrastructure, including all major components that are critical to the Project, (the “**Non-PID Funded Authorized Improvements**”) and transfer these improvements to the City or other applicable entity in accordance with the terms and provisions of this Agreement and the Annexation and Development Agreement;

WHEREAS, the Owner and the City estimate that the total costs of the Project will be \$55,127,650, consisting of the cost of the Authorized Improvements in the amount of \$24,048,376, the costs of the Non-PID Funded Authorized Improvements anticipated to be \$17,182,682 and the cost of the Private Improvements anticipated to be \$13,896,593 (provided that such estimates are for informational purposes and may deviate from the final amounts);

WHEREAS, the City, subject to the consent and approval of the City Council, the satisfaction of all conditions for PID Bond issuance and Owner’s compliance with this Agreement and the Annexation and Development Agreement, and in accordance with the terms of this Agreement and all legal requirements, including but not limited to the Indentures, intends to: (i) adopt an Assessment Plan; (ii) adopt an Assessment Ordinance (defined herein) (which will levy special assessments on the Property located within the District to pay for Authorized Improvements and the costs associated with the administration of the District and the issuance of the PID Bonds); and (iii) issue, in multiple series, up to \$27,500,000 in the principal amount of PID Bonds for the purpose of financing the costs of the Improvements and paying associated costs as described herein;

WHEREAS, all or a portion of the Wastewater Improvements may be constructed by the City, in which case a portion of the proceeds of the PID Bonds may be used to reimburse the Owner for Owner's proportionate share of the costs of such Wastewater Improvements as provided in the Wastewater Agreement;

WHEREAS, prior to the sale of PID Bonds: (a) the City Council shall have approved and adopted the Assessment Plan and Assessment Ordinance; (b) owners of the Property constituting all of the acreage in the PID shall have executed a Landowner Certificate (as defined in Section 2.04, herein); and (c) the Owner, BobWhite, and Tri Pointe shall have delivered a fully executed copy of the Landowner Certificate to the City;

WHEREAS, the City will, upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement, accept the Authorized Improvements (or Segments thereof) provided for in this Agreement and the Owner will be paid or reimbursed for the Costs of such accepted Authorized Improvements (or Segments thereof), solely from Special Assessments or the proceeds of the PID Bonds;

WHEREAS, it is also intended that Owner will be reimbursed for its Costs (as defined herein) not covered by the PID Bonds by allowing Owner to receive a portion of available Special Assessments (as defined herein) over time, as more particularly described herein, all to the extent sufficient Special Assessment Revenues (defined herein) are available for such reimbursement.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I. SCOPE OF AGREEMENT

The Recitals set forth in the Preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Article. Definitions used herein, and not otherwise defined, are set forth in Exhibit "A" attached hereto and made a part hereof and in the Assessment Plan. This Agreement amends, restates, and replaces in its entirety the Original Agreement.

ARTICLE II. APPORTIONMENT, LEVY AND COLLECTION OF SPECIAL ASSESSMENTS

Section 2.01. Preliminary Matters

(a) The Property is intended to be developed in Phases. It is anticipated that some of the Authorized Improvements will be constructed that benefit only one or more Phases, while other Authorized Improvements will benefit the entire District. As a result, Special Assessments will be levied on a given Improvement Area from time to time as provided in this Agreement. The Costs for the Improvement Area #1 Authorized Improvements are anticipated to be initially funded by the Owner and then reimbursed from the proceeds of the Special Assessments on Improvement Area #1 and the proceeds of Improvement Area #1 Bonds. The Costs for the Future Improvement Area Authorized Improvements are anticipated to be initially funded by the Owner and then reimbursed from the proceeds of the Special Assessments on Future Improvement Areas and the proceeds of Future Improvement Area Bonds, as applicable. Notwithstanding the foregoing, with respect to the Shared Authorized Improvements, the pro rata benefit of the Cost of those Shared Improvements also constituting Authorized Improvements to each Improvement Area (as set forth in the Assessment Plan) will be allocated to each Improvement Area based on the benefit to that Improvement Area (as set forth in the Assessment Plan), such that only the Allocable Share of the Cost of a Shared Authorized Improvement will be funded by the PID Bonds secured by the Special Assessments on each Improvement Area. The Parties hereby acknowledge and agree that any references in this Agreement to the Owner's obligation to construct any given Wastewater Improvements and offsite road and/or offsite trail may be disregarded should the City build such improvement and in such event the provisions of this Agreement pertaining to design, construction, acquisition and administration of Authorized Improvements do not apply to those improvements built by the City.

(b) The Owner acknowledges and agrees that the Assessment Plan must meet the requirements of Texas Local Government Code §§ 372.013 and 372.014 and be presented to the City Council for review and approval prior to levy of assessments and issuance of PID Bonds. The final Assessment Plan approved pursuant to the initial Assessment Ordinance shall contain an engineering report accepted and approved by the City. Each time a new assessment levy is requested an updated engineering report shall be provided by the Owner and submitted for review and approval by the City prior to levy of assessments. After approval, the Assessment Plan will be updated and amended by the PID Administrator at least once per year, and submitted for the City Council's review and approval. Notwithstanding the above, it is hereby understood and acknowledged by the Parties that the Assessment Plan may need to be amended over time if there are any changes in the Authorized Improvements, in accordance with the terms set forth in this

Agreement. Nevertheless, the basic terms and methodology described in the initial Assessment Plan will generally apply to all series of the PID Bonds.

(c) Special Assessments on any portion of the Property will bear a direct proportional relationship to and be less than or equal to the special benefit of the Authorized Improvements to that portion of the Property.

(d) Special Assessments on any portion of the Property may be updated or reduced in connection with subsequent PID Bond issues or otherwise so long as the Special Assessments are determined in accordance with the Assessment Plan.

(e) Prior to issuing any PID Bonds, and in the event the City determines to use an Appraisal, the City shall obtain an Appraisal at the expense of the Owner covering the Improvement Areas that will be subject to the Special Assessments securing such PID Bonds. The City shall select the appraiser, with input from the Owner, and all reasonable fees of the Appraisal shall be paid by the Owner. Notwithstanding the foregoing, the City has the authority to make the final decision on the appraiser.

(f) Upon approval of an Assessment Ordinance, the City will then levy the Special Assessments pursuant to the Assessment Plan.

(g) If the Owner provides a Bond Issuance Request, the City will consider the issuance of PID Bonds as set forth in Section 5.01 (a) below.

(h) It is anticipated that the Owner will construct, or cause the construction of, the applicable Authorized Improvements, except as provided in Section 2.01(b) above.

Section 2.02. Apportionment and Levy of Special Assessments.

The City intends to levy Special Assessments on the Property in accordance herewith (including Article IV hereof) and with the Assessment Plan at such time as an Assessment Ordinance is approved by the City. The City's apportionment and levy of Special Assessments shall be made in accordance with the PID Act.

Section 2.03. Collection of Special Assessments.

(a) The City covenants and agrees that it shall, as authorized by the PID Act and other applicable law, continuously collect or cause to be collected Special Assessments levied pursuant to the Assessment Plan during the term of this Agreement in the manner and to the maximum extent permitted by applicable law. The City covenants and agrees that to the extent permitted by applicable law, it will not permit a reduction, abatement, or exemption in the Special Assessments due on any portion of the Property until the PID Bonds secured by that particular portion of the Property are no longer outstanding, whether as a result of payment in full or in part, defeasance or otherwise and until the Owner has been reimbursed for the unreimbursed Costs eligible to be paid from the Special Assessments; provided that certain portions of the Property, as defined in the Assessment Plan, will not be subject to the Special Assessments. The City shall use good and sound practices to collect, or cause to be collected, the Special Assessments consistent with the City's policies and standard practices applicable to the collection of City taxes and assessments, as permitted by law.

(b) The Special Assessments can be used for the following purposes: (i) after completion of the applicable Authorized Improvements (or Segments), but prior to the issuance of PID Bonds for those Authorized Improvements secured by assessments levied on a specific Improvement Area, Owner will be reimbursed for Costs associated with those Authorized Improvements (or Segments) from Special Assessment Revenues collected by the City from the Improvement Area in question and (ii) after PID Bonds are issued secured by any assessments levied on a specific Improvement Area, the Special Assessment Revenues from such Improvement Area will be used first to fund debt service, prepayment and delinquency reserves and Administrative Expenses payable for such year pursuant to the Indenture, and second, to the extent (and only to the extent) any such Special Assessment Revenues are remaining, to reimburse Owner for any Costs not reimbursed by the PID Bonds. Any reimbursement obligation to Owner under Sections 4.01, 4.02, or 4.03 hereof or from Special Assessments as provided above, will be subordinate to use of Special Assessments for payment of the applicable PID Bonds as provided in an Indenture and will terminate immediately at the earlier of (i) the date that the Owner has been reimbursed for all reimbursable Costs or (ii) the date that all PID Bonds have been issued.

(c) Notwithstanding anything to the contrary contained herein or in the Assessment Plan, once PID Bonds have been issued, the Special Assessment Revenues collected annually from the applicable Improvement Area will be deposited in the Pledged Revenue Fund and thereafter transferred in the priority as set forth in the Indenture.

(d) Further, notwithstanding anything to the contrary contained herein, the City covenants to use diligent, good faith efforts to contract with Hays County for the collection of the Annual Installments such that the Annual Installments will be included on the ad valorem tax bill(s) for the Property and will be collected as part of and in the same manner as ad valorem taxes. Owner will cooperate with the City regarding any such effort with Hays County.

Section 2.04. Approval and Recordation of Special Assessments through Landowner Certificate.

Concurrently with the levy of the Special Assessments for any portion of the Property, the Owner shall execute (and shall cause any other owner of any of the Property at the time of execution that will be subject to the Special Assessments, including the Consenting Parties, to execute) a “**Landowner Certificate**” (herein so called) in which such landowners shall approve and accept the apportionment of assessments in the Assessment Plan and the levy of the Special Assessments by the City. The Landowner Certificate shall further (a) evidence each landowner’s intent that the Special Assessments be covenants running with the land that (i) will bind any and all current and successor owners of the Property to the Special Assessments, including applicable interest thereon, as and when due and payable thereunder and (ii) provide that subsequent purchasers of such land take their title subject to and expressly assume the terms and provisions of the Special Assessments; and (b) provide that the liens created by the levy of the Special Assessments are a first and prior lien on the Property, subject only to liens for ad valorem taxes of the City, county, school district, any special district with taxing authority overlapping the Property or other political subdivision.

Section 2.05. Costs

(a) Notwithstanding anything to the contrary contained herein, the City and Owner hereby acknowledge and agree that the Costs expended by Owner may not be fully reimbursed

from Special Assessments or the applicable series of PID Bonds. The Costs expended by Owner, but not funded by the applicable series of PID Bonds, are payable solely from the applicable PID Reimbursement Fund as more particularly described herein; provided that sufficient Special Assessment Revenues are available for the foregoing.

(b) The provisions of this Section 2.05 shall hereby constitute a “reimbursement” under Chapter 372 of the Texas Local Government Code.

(c) The Owner Reimbursement provisions contained in this Section 2.05 shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than net proceeds from the PID Bonds and Special Assessment Revenues.

(d) Owner’s right, title and interest into the payments of unreimbursed Costs shall be the sole and exclusive property of Owner (or its Transferee) and no other third party shall have any claim or right to such funds unless Owner transfers its rights to its unreimbursed Costs to a Transferee in writing and otherwise in accordance with the requirements set forth herein. Owner has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole without the consent of (but with prior written notice to) the City, all of Owner’s right, title, or interest under this Agreement including, but not limited to, any right, title or interest of Owner in and to payment of its unreimbursed Costs (a “**Transfer**,” and the person or entity to whom the transfer is made, a “**Transferee**”). Owner waives all rights or claims against the City for any funds paid to a third party as a result of a Transfer for which the City received notice. The foregoing notwithstanding, no Transfer of payments hereunder may be pledged to the payment of debt service on public securities issued by any state of the United States or any political subdivision thereof without the approval of the City Council.

Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City. The City may rely conclusively on any written notice of a Transfer provided by Owner without any obligation to investigate or confirm the Transfer.

If the applicable portion of Authorized Improvements has not already been constructed and to the extent PID Bond proceeds are insufficient to fund such Cost, Owner shall, at the time of closing the PID Bonds, fund or provide evidence of funding sources (including, but not limited to a letter of credit or evidence of available funds through a loan to Owner) sufficient to fund the difference between the Costs and the PID Bond proceeds available to fund such Costs related to the applicable Authorized Improvement (without limiting any other provision, in the event Owner does not or cannot provide such funding or evidence of funding sources, the City shall not be required to sell such PID Bonds, and Owner shall reimburse the City for all expenses and liabilities incurred by the City in connection with the proposed issuance of the PID Bonds).

Section 2.06. Obligations Payable from Special Assessment Revenues.

THE PID BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE CITY SECURED SOLELY BY PLEDGED REVENUES (AS DEFINED IN THE INDENTURE) AND ANY OTHER FUNDS HELD UNDER THE INDENTURE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE PID BONDS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY

AND ARE NOT SECURED EXCEPT AS PROVIDED IN THE INDENTURE. THE OWNERS OF THE PID BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND ANY OTHER FUNDS HELD UNDER THE INDENTURE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO THE OWNERS OF THE PID BONDS TO PAY THE PID BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES.

FURTHERMORE, ALL REIMBURSEMENTS FROM THE CITY TO OWNER FROM SPECIAL ASSESSMENTS ARE SUBORDINATE TO PAYMENT OF THE APPLICABLE PID BONDS AND THE ESTABLISHMENT OF ANY OTHER FUNDS HELD UNDER THE INDENTURE ALL AS SET FORTH IN THE INDENTURE. SUCH REIMBURSEMENTS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY. THE OWNER SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF ANY FUNDS OF THE CITY OTHER THAN AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO THE OWNER TO PAY REIMBURSEMENTS OUT OF ANY FUNDS OF THE CITY OTHER THAN AS PROVIDED IN THE INDENTURE.

ARTICLE III. CONSTRUCTION AND ACQUISITION

Section 3.01. Acquisition of Authorized Improvements

(a) The Owner will obtain approval of construction plans, or landscaping plans, as appropriate, for the Authorized Improvements from the City prior to commencing construction of the Authorized Improvements.

(b) The Owner will dedicate those Authorized Improvements not addressed by Subsection (c) or (d) below to the City upon completion of said Authorized Improvements, and the City will accept dedication of such Authorized Improvements after confirming that the Authorized Improvements have been completed in accordance with this Agreement, applicable Code provisions and have been accepted by the City Council.

(c) The Owner will dedicate, convey, or otherwise provide to or for the benefit of the City or an Owners Association the Authorized Improvements. The City hereby acknowledges and agrees that (i) the Authorized Improvements will be dedicated, conveyed, leased or otherwise provided to or for the benefit of the City or an Owner's Association, and (ii) that any Authorized Improvements conveyed or dedicated to an Owners Association are provided "for the benefit of" the City in accordance with Section 372.023 (a) of the PID Act and such Owner's Association will be an entity authorized and approved by the City Council and authorized by the City to own, operate and maintain such Authorized Improvements for the City in accordance with Section 372.023(a)(3) of the PID Act. Without limiting the generality of any of the foregoing, with respect to the HOA Maintained Improvements (other than landscaping in public right of way), the Owner will grant the City an easement in a form acceptable to the City granting the City and the public the right of access to and use of such Authorized Improvements in order to evidence that although

such Authorized Improvements are owned and maintained by such Owner's Association, the Authorized Improvements are provided for the use and benefit of the public.

(d) With respect to the (i) HOA Maintained Improvements consisting of landscaping in public right of way and (ii) detention/amenity ponds dedicated to the City, the City will grant a license in a form acceptable to the City to the Owner's Association granting the Owner's Association the right to maintain such Authorized Improvements.

(e) If any of the water infrastructure serving the Property becomes eligible to be an Authorized Improvement because the water service provider becomes an entity described under Section 372.023(a) of the PID Act, such water infrastructure may be considered as an Authorized Improvement and will be provided for in an amendment in writing to this Agreement between the City and Owner and an amended and restated Assessment Plan, and Owner will dedicate such infrastructure in the same manner identified in subparagraph (b) above.

Section 3.02. Designation of Construction Manager, Construction Engineers

(a) The City hereby designates the Owner, or its assignees, as the Construction Manager with full responsibility for the design, the designation of easement locations, facilities site designations and acquisitions, supervision of construction, and the bidding and letting of construction contracts for the construction of the Authorized Improvements in accordance with the provisions of this Article III, subject to the City's review and approval of design specifications and easement locations.

(b) Inspection of the construction of all Authorized Improvements shall be performed by the City Construction Representative or its designees. The Owner shall pay inspection fees which shall be included in the Cost and may later be reimbursed to Owner out of PID Bond proceeds when PID Bonds are issued or Special Assessment Revenues when levied.

(c) The Owner shall be entitled to a separate pro rata Construction Management Fee for the construction of the Roger Hanks connection offsite improvement described in the Assessment Plan, unless Owner contracts with a third party to act as the Construction Manager with respect to construction of such Authorized Improvements in which case such third party shall be entitled to a Construction Management Fee. Except for authorizing payment out of the proceeds of PID Bonds the City shall have no obligation to pay any such Construction Management Fee.

(d) The City shall cooperate with the Owner in connection with its services as Construction Manager.

(e) The Owner shall designate engineers licensed by the Texas Board of Professional Engineers for the Authorized Improvements for the compensation specified by the Owner. If Owner replaces the consulting engineer, within ten (10) days, the Owner shall provide written notice to the City of the replacement of the consulting engineer.

Section 3.03. Designation of Construction Manager Subcontractor

Owner may subcontract out all or some of the duties of Construction Manager to a third party. Owner may designate an individual, company, or partnership or other entity as a subcontractor for construction management services for one or more Authorized Improvements or

distinct Segments thereof. The Owner shall provide the City with written notice within ten (10) days of such subcontract or designation.

Section 3.04. Fiscal Security

The Owner shall be required to post fiscal security for Authorized Improvements in accordance with the Annexation and Development Agreement provisions for Insurance, Indemnity and Performance and Payment bond requirements.

Section 3.05. Maintenance of Project, Warranties

Unless otherwise provided for herein or in the Annexation and Development Agreement, the Owner shall maintain each Authorized Improvement constructed by Owner (or Segment thereof) in good and safe condition until such Authorized Improvement (or Segment thereof) is accepted by the City or the Owner's Association, as applicable. The City's acceptance of Authorized Improvements shall be in accordance with the City standard rules and procedures for the acceptance of subdivision improvements as modified by the Annexation and Development Agreement. Prior to such acceptance, the Owner shall be responsible for performing any required maintenance on such Authorized Improvement. On or before the acceptance by the City of an Authorized Improvement (or Segment thereof), the Owner shall assign to the City all of the Owner's rights in any warranties, guarantees, maintenance obligations or other evidences of contingent obligations of third persons with respect to such Authorized Improvement (or Segment thereof). A two year maintenance bond shall be required as provided for in the Annexation and Development Agreement.

Section 3.06. Sales and Use Tax Exemptions

(a) The City will use best efforts to provide such certifications to the Owner and/or to suppliers and contractors as may be reasonably requested by Owner regarding exemptions from sales and use taxes under Texas Tax Code Section 151.309, but makes no representation or warranty that such exemptions will be applicable.

(b) The City and the Owner shall cooperate in structuring the construction contracts for the Authorized Improvements to comply with requirements (including those set forth in 34. Tex. Admin. Code, sec. 3.291) for exemption from sales and use taxes.

Section 3.07. Regulatory Requirements

(a) The Owner shall be responsible for the costs of designing, constructing, and obtaining the City's or Owner's Association, as applicable, acceptance of the Authorized Improvements, in accordance with applicable local, state, and federal regulations, the City-approved plans and specifications, and Good Engineering Practices.

(b) The Owner will request bids from at least three (3) independent, competent contractors for the construction of the Authorized Improvements and provide copies of the bids to the City. The Authorized Improvements shall be bid based on the construction plans and specifications approved by the City.

(c) The City Construction Representative will cooperate with the Owner to the extent

reasonably possible for proper engineering review, comment, and revision on the review and approval of the engineering, design, plans, and specifications of all Authorized Improvements submitted by the Owner.

Section 3.08. Owner's Association

(a) The Owner will create one or more home owners associations for the Property (collectively the "**Owner's Association**"), and shall establish bylaws, rules, regulations and restrictive covenants (collectively the "**Association Regulations**") to assure the Owner's Association performs and accomplishes the duties and purposes required to be performed and accomplished by the Owner's Association pursuant to this Section and the Annexation and Development Agreement. The Owner's Association will have binding, continuing responsibility for the maintenance, repair and operation of the HOA Maintained Improvements maintained by the Owner's Association. The Association Regulations will establish periodic Owner's Association dues and assessments, to be charged and paid by the lot owners within the Property, which are and will be sufficient to maintain the HOA Maintained Improvements. The Association Regulations will require the periodic dues and assessments to be increased from time to time as necessary to provide the funds required for the maintenance of the HOA Maintained Authorized Improvements, and to provide funds required for the management and operation of the Association.

(b) The Owner's Association dues and assessments required to be established, maintained and collected by the Owner's Association pursuant to this Agreement shall be in addition to, and not in lieu of, any and all other fees, charges and assessments that will be applicable to the Property.

ARTICLE IV. PAYMENT FOR PUBLIC IMPROVEMENTS

Section 4.01. Overall Requirements

(a) Except as otherwise provided in the Wastewater Agreement or Offsite Road and Trail Agreement, the City shall not be obligated to provide funds for any Authorized Improvement except from the proceeds of the PID Bonds or from Special Assessments. The City makes no warranty, either express or implied, that the proceeds of the PID Bonds available for the payment of the Costs of the Authorized Improvements to be constructed for or acquired by the City or the Owner's Association will be sufficient for the construction or acquisition of all of those particular Authorized Improvements. The Parties anticipate that Cost to construct the Authorized Improvements may be greater than the proceeds of the PID Bonds and reimbursements available for Authorized Improvements and any shortfalls with respect to Costs (not to be funded by the City pursuant to the Wastewater Agreement or Offsite Road and Trail Agreement) incurred by Owner will be funded by the Owner.

(b) Owner may enter into agreements with one or more real estate owners or builders to construct certain Authorized Improvements (each such Owner, a "**Co-Owner**") in accordance with the terms and conditions of this Agreement. The Owner may submit Costs paid for by a Co-Owner and obtain reimbursement of such Costs on behalf of and to be paid to Owner or to such Co-Owner, at Owner's discretion.

(c) The Authorized Improvements are intended to be constructed pursuant to this Agreement and paid for by the Owner prior to the issuance of PID Bonds intended to fund such

Authorized Improvements. Such funding of the Authorized Improvements will be governed generally by the terms of this Section 4.01, Section 4.02 (for Improvement Area #1 Authorized Improvements) and Section 4.03 (for Future Improvement Area Authorized Improvements) of this Agreement.

(d) In the event that the City adopts an Assessment Ordinance or ordinances levying Special Assessments without the intention to immediately issue PID Bonds secured by such Special Assessments, the City hereby undertakes to establish a fund corresponding to each such Assessment Ordinance, to be segregated from all other City funds, into which the City shall deposit Special Assessment Revenues corresponding to such Assessment Ordinance (each, a “**PID Reimbursement Fund**”).

(e) Until PID Bonds are issued, the Special Assessments (to be levied and collected as provided below) will reimburse the Owner for Costs incurred in connection with the applicable Authorized Improvements until the PID Bonds are issued in an amount necessary to reimburse Owner for the Costs of the Improvement Area #1 Authorized Improvements or Future Improvement Area Authorized Improvements, as applicable, less any amounts already reimbursed to Owner out of the PID Reimbursement Fund as provided in the following Sections. In such event, until PID Bonds for a given Improvement Area secured by such Special Assessments are issued, the City shall bill, collect, and deposit into the applicable PID Reimbursement Fund all such Special Assessment Revenues consisting of: (1) revenue collected from the payment of such Special Assessments (including prepayments and amounts received from the foreclosure of liens but excluding costs and expenses related to collection); (2) revenue collected from the payment of Annual Installments of such Special Assessments (excluding costs and expenses related to collection), and (3) any other revenue authorized by the PID Act and approved by the City Council.

(f) Strictly subject to the terms, conditions and requirements hereof and solely from the Special Assessment Revenues herein provided or the proceeds of PID Bonds, the Owner shall be entitled to receive payment from the PID Reimbursement Fund, until the date after the last Annual Installment is collected (the “**Maturity Date**”), a principal amount not to exceed Twenty Seven Million Five Hundred Thousand AND NO/100 DOLLARS (\$27,500,000) (the “**Reimbursement Balance**”); provided, however, that (1) the amount to be reimbursed hereunder shall not exceed the Costs of the Authorized Improvements actually incurred by the Owner, and (2) the Reimbursement Balance shall be reduced by the costs of issuance associated with the issuance of any PID Bonds issued pursuant to this Agreement, including, but not limited to, any underwriter’s discount and reserved fund deposits, if any, required by an applicable Indenture, notwithstanding that such funds shall not actually be paid by the Owner.

(g) Prior to the issuance of PID Bonds, the applicable portion of the unpaid Reimbursement Balance shall bear simple interest at the rate not to exceed five percent (5%) above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index reported in the month before the date the obligation was incurred (which date is the same as the approval by the City of the Assessment Ordinance levying the applicable Special Assessments from which the Reimbursement Balance, or a portion thereof, shall be paid) for years one through five and (2) at the rate not to exceed two percent (2%) above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index reported in the month before the date the obligation was incurred (which date is the same as the approval by the City of the Assessment Ordinance levying the applicable Special Assessments from which the Reimbursement Balance, or a portion thereof, shall be paid) for years six through the Maturity Date or until the entire

Reimbursement Balance has been paid to Owner; provided, however, upon the issuance of the applicable series of PID Bonds, the interest rate due and unpaid on amounts shown on each Certification for Payment to be paid to the Owner shall be the same as the interest rate on applicable series of PID Bonds issued to finance the costs of the Authorized Improvements for which the Certification for Payment was filed. The interest rate on any portion of the outstanding Reimbursement Balance shall accrue from and be calculated (a) commencing upon the later of (a) the date of the City's adoption of an Assessment Ordinance to levy the Special Assessments within the applicable Improvement Area for the Authorized Improvements or (b) the date the City accepts (i) by recording of the final plat in association with which the applicable Authorized Improvement(s) was/were constructed or (ii) if such Authorized Improvement is not constructed in association with development of Property within the boundaries of a specific recorded final plat, the latter of (y) the date an authorized City representative provides a written notice to Owner of acceptance for City ownership and maintenance of the completed Authorized Improvement(s) and (z) the date the document conveying to City an easement in which such Authorized Improvement is located is recorded. The method for determining the interest rate for the unpaid balance of the Reimbursement Balance as set forth in this paragraph is authorized by and complies with the PID Act, including specifically subsections (e)(1) and (e)(2) of Section 372.023 of the PID Act. The principal amount of each portion of the Reimbursement Balance to be paid under each Assessment Ordinance, and the interest rate for such portion of the Reimbursement Balance, is shown on Schedule II attached to this Agreement and incorporated as a part of this Agreement for all purposes. As the City passes and approves additional Assessment Ordinances and/or issues PID Bonds, the City shall approve an updated Schedule II to this Agreement as part of the updated or amended Service and Assessment Plan. Such updated Schedule II attached to the Service and Assessment shall automatically be incorporated as part of this Agreement for all purposes as if attached hereto without any further action from the Parties.

(h) Payments from the PID Reimbursement Fund shall be applied in accordance with this Agreement. If there is a dispute over the amount of any payment, City shall nevertheless pay the undisputed amount, and the Parties shall use all reasonable efforts to resolve the disputed amount before the next payment is made; however, if the parties are unable to resolve the disputed amount, then the City's determination of the disputed amount (as determined by the City Administrator in their reasonable and good faith judgment) shall control.

(i) After completion of construction of any of the Authorized Improvements, the Owner may submit to the City a Certification for Payment in the form attached hereto in Schedule 1, requesting payment from the PID Reimbursement Fund. Owner may submit Certification for Payments not more than once every ninety (90) days after the initial Certification for Payment. This process will continue until the Reimbursement Balance is paid in full, whether through the payments from the PID Reimbursement Fund or issuance of PID Bonds. After issuance of PID Bonds, amounts in the PID Reimbursement Fund shall be transferred to the applicable Project Fund and disbursed according to the terms hereof and the applicable Indenture.

(j) The Reimbursement Balance, as described above, is payable to the Owner and secured under this Agreement solely as described herein. No other City funds, revenue, taxes, income, or property shall be used even if the Reimbursement Balance is not paid in full at the Maturity Date.

Section 4.02. Improvement Area #1 Authorized Improvements

(a) Owner shall convey, and the City shall acquire, as more particularly described in Section 3.01 above, the given Improvement Area #1 Authorized Improvement (including Shared Authorized Improvements) for the Cost, after such Improvement Area #1 Authorized Improvement (including Shared Authorized Improvements) are completed and have been accepted by the City in accordance with all applicable law. The general process for funding of the Improvement Area #1 Authorized Improvements is outlined in herein and in Section 4.01(e)-(j) above and as follows.

(1) As soon as practical after the Owner's written request, and prior to the transfer of any Parcel to a homebuyer, the City will adopt an Assessment Ordinance which will include the initial Assessment Plan. The City will levy the Special Assessments on Improvement Area #1 for the Improvement Area #1 Authorized Improvements in accordance with the Assessment Plan and the applicable Assessment Ordinance.

(2) As requested by Owner and as set forth in the Assessment Ordinance, after the completion of some or all of the Improvement Area #1 Authorized Improvements, the City will begin collecting the Special Assessments on Improvement Area #1.

(3) Upon completion of the Improvement Area #1 Authorized Improvements (including Shared Authorized Improvements) listed on Exhibit "F", save and except those Authorized Improvements described on Exhibit "G", the City Council will consider the issuance of the Improvement Area #1 Bonds, subject to meeting the requirements and conditions stated herein, in Section 5.01, and State law, to reimburse the Owner for the Cost of those Improvement Area #1 Authorized Improvements that are complete at the time of bond issue less any amounts already reimbursed to Owner from the PID Reimbursement Fund for Improvement Area #1. Owner may provide the City a Bond Issuance Request including the anticipated completion date for the Improvement Area #1 Authorized Improvements that are to be funded by the initial Improvement Area #1 Bonds one hundred and twenty (120) days prior to the anticipated completion date for such Improvement Area #1 Authorized Improvements. The City will consider commencing the documentation and preparation for sale of the initial Improvement Area #1 Bonds based upon receipt of such Bond Issuance Request from the Owner and approval of issuance of the PID Bonds by the City Council.

(b) In order for the Owner to receive funds from the proceeds of the Special Assessments levied on Improvement Area #1 (the "**Improvement Area #1 Special Assessments**") and/or proceeds from the Improvement Area #1 Bonds to reimburse the Cost of the Improvement Area #1 Authorized Improvements, the Owner shall deliver to the City, the PID Administrator and the Project Engineer (i) a Certification for Payment evidencing the Cost, (ii) evidence of the acceptance by the City of those Improvement Area #1 Authorized Improvements to be funded by the Improvement Area #1 Special Assessments or PID Bonds in question and the conveyance to the City of those Improvement Area #1 Authorized Improvements to be funded by the Improvement Area #1 Special Assessments or PID Bonds in question as described in Section 3.01 above, and (iii) an assignment of the warranties and guaranties, if applicable, to those Improvement Area #1 Authorized Improvements to be funded by the Improvement Area #1 Bonds in question, in a form reasonably acceptable to the City. Nothing herein shall prohibit Owner from being reimbursed for design costs associated with the Improvement Area #1 Authorized Improvements.

(c) After the Certification for Payment is submitted to the City, the City shall conduct a review to confirm those Improvement Area #1 Authorized Improvements to be funded by the Improvement Area #1 Special Assessments or PID Bonds in question were constructed in accordance with the plans therefor and to verify the Cost of the Improvement Area #1 Authorized Improvements specified in such Certification for Payment. The City will conduct such review within ten (10) days after the Certification for Payment is submitted to the City and the Owner will cooperate with the City in conducting each such review and provide the City with such additional information and documentation as is reasonably necessary for the City to conclude each such review. Upon confirmation by the City that the Improvement Area #1 Authorized Improvements to be funded by the Improvement Area #1 Special Assessments or PID Bonds in question have been constructed in accordance with the plans therefor, and verification and approval of the Cost of those Improvement Area #1 Authorized Improvements, the City shall, within thirty (30) calendar days thereafter, accept those Improvement Area #1 Authorized Improvements not previously accepted by the City, and an authorized representative of the City shall sign the Certification for Payment and forward the same to the City Administrator. The City Administrator shall then have up to ten (10) calendar days to forward the executed Certification for Payment to the Trustee for payment.

(d) At the time of the closing of any Improvement Area #1 Bonds, Owner shall, concurrently with the draw from the proceeds of the Improvement Area #1 Bonds, submit a Closing Disbursement Request, in the form attached hereto as Schedule III, to the City and the Trustee to be reimbursed for, as applicable, costs of issuance of PID Bonds and payments of costs incurred in the establishment, administration, and operation of the PID, and any other eligible items expended by the Owner. Prior to disbursement of proceeds of any Improvement Area #1 Bonds, the City will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of any such Improvement Area #1 Bonds, Owner shall be reimbursed the amount approved in the Closing Disbursement Request from amounts on deposit in the costs of issuance account created under the Indenture and such amount shall be transferred by the Trustee for distribution to the Owner or the Owner's designee as provided for in the Indenture.

Section 4.03. Future Improvement Area Authorized Improvements

(a) The costs of the Future Improvement Area Authorized Improvements will be initially financed through this Section 4.03. The Owner shall convey, and the City shall acquire, as more particularly described in Section 3.01 above, the given Future Improvement Area Authorized Improvement for the Cost, after such Future Improvement Area Authorized Improvement is completed and has been accepted by the City. It being acknowledged that those Shared Authorized Improvements not completed at the time of the Improvement Area #1 Bond issue do not benefit Improvement Area #1 and will be funded by the Future Improvement Areas, as applicable. Each Future Improvement Area will be allocated its proportionate share of the cost of those Shared Authorized Improvements, and the concept generally described in the preceding sentence shall similarly apply to those Shared Authorized Improvements not completed at the time of any given Future Improvement Area Bonds. The general process for funding of Future Improvement Area Authorized Improvements is outlined in Section 4.01(e)-(j) above and as follows.

(1) As soon as practical after the Owner's written request, and prior to the transfer of any Parcel to a homebuyer in the applicable Future Improvement Area, the City will adopt an Assessment Ordinance levying the Special Assessments on a given Future Improvement Area for the Authorized Improvements relating to such Future Improvement Area. The City will

levy and collect the Special Assessments on the applicable Future Improvement Area for the Future Improvement Area Authorized Improvements in accordance with the Assessment Plan and the applicable Assessment Ordinance.

(2) At the request of Owner, after the completion of some or all of the Future Improvement Area Authorized Improvements, the City will begin collecting the Special Assessments for the Future Improvement Area Authorized Improvements.

(3) Upon completion of the Future Improvement Area Authorized Improvements for a given Future Improvement Area and as requested by Owner, the City will consider the issuance of Future Improvement Area Bonds, subject to meeting the requirements and conditions stated in this Section, Section 5.01, and State law, to reimburse the Owner for the Cost of the Future Improvement Area Authorized Improvements for the applicable Future Improvement Area that are completed at the time the Future Improvement Area Bonds are issued less any amounts already reimbursed to Owner from the applicable PID Reimbursement Fund. Owner may provide the City a Bond Issuance Request including the anticipated completion date for the applicable Future Improvement Area Authorized Improvements that are to be funded by the given Future Improvement Area Bond issue one hundred and twenty (120) days prior to such anticipated date. The City shall commence the documentation and preparation for sale of any Future Improvement Area Bonds based upon receipt of such Bond Issuance Request from the Owner and approval by City Council to issue the Bonds.

(b) To receive funds from the proceeds of the Future Improvement Area Bonds to reimburse the Owner for the Cost of the Future Improvement Area Authorized Improvements, the Owner shall deliver to the City, the PID Administrator and the Project Engineer (i) a Certification for Payment evidencing the Cost, (ii) evidence of the acceptance by the City of the Future Improvement Area Authorized Improvements to be funded by the Future Improvement Area Bonds in question and the conveyance to the City of those Future Improvement Area Authorized Improvements to be funded by the Future Improvement Area Bonds in question as described in Section 3.01 above, and (iii) an assignment of the warranties and guaranties, if applicable, for the Future Improvement Area Authorized Improvements to be funded by the PID Bonds in question, in a form reasonably acceptable to the City. Nothing herein shall prohibit Owner from being reimbursed for design costs associated with Future Improvement Area Authorized Improvements.

(c) After the Certification for Payment is submitted to the City, the City shall conduct a review to confirm those Future Improvement Area Authorized Improvements to be funded by the Future Improvement Area Bonds in question were constructed in accordance with the plans therefor and to verify the Cost of the Future Improvement Area Authorized Improvements specified in such Certification for Payment. The City agrees to conduct such review in an expeditious manner after the Certification for Payment is submitted to the City and the Owner agrees to cooperate with the City in conducting each such review and to provide the City with such additional information and documentation as is reasonably necessary for the City to conclude each such review. Upon confirmation by the City that Future Improvement Area Authorized Improvements to be funded by the Future Improvement Area Bonds in question have been constructed in accordance with the plans therefor, and verification and approval of the Cost of those Future Improvement Area Authorized Improvements, the City shall within thirty (30) calendar days thereafter accept those Future Improvement Area Authorized Improvements that have not been previously accepted by the City and an authorized representative of the City shall sign the Certification for Payment and forward the same to the City Administrator. The City

Administrator shall then have up to ten (10) calendar days to forward the executed Certification for Payment to the Trustee for payment.

(d) At the time of the closing of any Future Improvement Area Bonds, Owner shall, concurrently with the draw from the proceeds of the Future Improvement Area Bonds, submit a Closing Disbursement Request, in the form attached hereto as Schedule III, to the City and the Trustee to be reimbursed for, as applicable, costs of issuance of PID Bonds and payments of costs incurred in the establishment, administration, and operation of the PID, and any other eligible items expended by the Owner. Prior to disbursement of proceeds of any Future Improvement Area Bonds, the City will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of any such Future Improvement Area Bonds, Owner shall be reimbursed the amount approved in the Closing Disbursement Request from amounts on deposit in the costs of issuance account created under the Indenture and such amount shall be transferred by the Trustee for distribution to the Owner or the Owner's designee as provided for in the Indenture.

(e) The Project may be developed in phases. It is hereby acknowledged that the Future Improvement Area consists of Phase 2, 3, 4, or 5 of the Project, as depicted on Exhibit "B-3". There may be up to three (3) Future Improvement Area bond issues. A Future Improvement Area may include all or portions of Phases 2, 3, 4, or 5.

Section 4.04. Segments.

The provisions of Section 4.01, 4.02, and 4.03 above regarding funding of Authorized Improvements also apply to Segments of those Authorized Improvements.

Section 4.05. Qualified Tax-Exempt Status.

(a) In any calendar year in which PID Bonds are issued, the Owner agrees to pay the City additional costs ("**Additional Costs**") the City may incur in the issuance of City obligations (the "**City Obligations**") as described in this Section if the City Obligations are deemed not to qualify for the designation of "qualified tax-exempt obligations" ("**QTEO**") as defined in section 265(b)(3) of the Internal Revenue Code of 1986, as amended, as a result of the issuance of PID Bonds by the City in any given year. The City agrees to deposit all funds for the payment of such Additional Costs received under this Section into a segregated account of the City, and such funds shall remain separate and apart from all other funds and accounts of the City until December 31 of the calendar year in which the PID Bonds are issued, at which time the City is authorized to utilize such funds for any purpose permitted by law; if the City does not issue the PID Bonds by the end of the calendar year in which the Additional Costs would be incurred by the City in the issuance of the City Obligations, the City will refund to the Owner the Additional Costs paid by the Owner in such calendar year within ten (10) business days after the end of such calendar year. Additionally, the City will provide the Owner on an annual basis no later than December 15th each year the projected amount of City Obligations to be issued in the upcoming year based on its annual budget process.

(b) In the event the City issues PID Bonds prior to the issuance of City Obligations, the City, with assistance from its Financial Advisor, shall calculate the estimated Additional Costs based on the market conditions as they exist approximately forty-five (45) days prior to the pricing of the PID Bonds using independent third party public pricing information to the date of the pricing

of the PID Bonds (the “**Estimated Additional Costs**”), the City shall provide a written invoice to the Owner, and the Owner shall have 10 days to review and provide input on the calculation to the City. The Owner shall pay such Estimated Additional Costs to the City on or before the earlier of (i) ten (10) business days after the date of the City’s invoice or (ii) fifteen (15) business days prior to pricing the PID Bonds. The City shall not be required to price or sell any issue of PID Bonds until the Owner has paid to the City the Estimated Additional Costs related to the PID Bonds then being issued. The Estimated Additional Costs are an estimate of the increased cost to the City to issue its City Obligations as non-QTEO. Upon the City’s issuance of the City Obligations, the City’s Financial Advisor shall calculate the actual Additional Costs to the City of issuing its City Obligations as non-QTEO (the “**Actual Increased Costs**”). The City will, within five (5) business days after the issuance of the City Obligations, notify the Owner of the Actual Increased Costs. In the event the Actual Increased Costs are less than the Estimated Additional Costs, the City will refund to the Owner the difference between the Actual Increased Costs and the Estimated Additional Costs within ten (10) business days of the date of the City’s notice to the Owner of the Actual Increased Costs. If the Actual Increased Costs are more than the Estimated Additional Costs, the Owner will pay to the City the difference between the Actual Increased Costs and the Estimated Additional Costs within ten (10) business days of the date of the City’s notice to the Owner of the Actual Increased Costs. If the Owner does not pay the City the difference between the Actual Increased Costs and the Estimated Additional Costs within ten (10) business days of the date of the City’s notice to the Owner of the Actual Increased Costs, the Owner shall not be paid any reimbursement amounts from the PID Reimbursement Fund related to the PID or the Project until such payment is made in full. If the City does not issue the City Obligations by the end of the calendar year in which PID Bonds are issued, the City will refund to the Owner the Additional Costs paid by the Owner in such calendar year within ten (10) business days after the end of such calendar year.

(c) In the event the City issues City Obligations prior to the issuance of PID Bonds, the City’s Financial Advisor shall calculate the estimated Additional Costs based on the market conditions as they exist approximately forty-five (45) days prior to the date of the pricing using independent third party public pricing information of the City Obligations (the “**Estimated Additional City Obligation Costs**”), the City shall provide a written invoice to the Owner, and the Owner shall have 10 days to review and provide input on the calculation to the City. In the event Owner intends to issue PID Bonds in that calendar year, the Owner shall pay such Estimated Additional City Obligation Costs to the City at least fifteen (15) days prior to pricing the City Obligations. If the Owner has not paid the Estimated Additional City Obligation Costs to the City by the required time, the City, at its option, may elect to designate such City Obligations as QTEO, and the City shall not be required to issue any PID Bonds in such calendar year. The Estimated Additional City Obligation Costs are an estimate of the increased cost to the City to issue its City Obligations as non-QTEO. Upon the City’s issuance of the City Obligations, the City’s Financial Advisor shall calculate the actual Additional Costs to the City of issuing its City Obligations as non-QTEO (the “**Actual Increased City Obligation Costs**”). The City will, within five (5) business days after the issuance of the City Obligations, notify the Owner of the Actual Increased City Obligation Costs. In the event the Actual Increased City Obligation Costs are less than the Estimated Additional City Obligation Costs, the City will refund to the Owner the difference between the Actual Increased City Obligation Costs and the Estimated Additional City Obligation Costs within ten (10) business days of the date of the City’s notice to the Owner of the Actual Increased City Obligation Costs. If the Actual Increased City Obligation Costs are more than the Estimated Additional City Obligation Costs, the Owner will pay to the City the difference between the Actual Increased City Obligation Costs and the Estimated Additional City Obligation Costs

within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased City Obligation Costs. If the Owner does not pay the City the difference between the Actual Increased City Obligation Costs and the Estimated Additional City Obligation Costs within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased City Obligation Costs, the Owner shall not be paid any reimbursement amounts from the PID Reimbursement Fund related to the PID or the Project until such payment is made in full.

(d) To the extent any developer(s) or the Owner(s) (including the Owner, as applicable) has (have) paid Additional Costs for any particular calendar year, any such Additional Costs paid subsequently by a developer or Owner(s) (including the Owner, as applicable) to the City applicable to the same calendar year shall be reimbursed by the City to the developer(s) or Owner(s) (including the Owner, as applicable) as necessary so as to put all developers and the Owner so paying for the same calendar year in the proportion set forth in subsection (e), below, said reimbursement to be made by the City within ten (10) business days after its receipt of such subsequent payments of such Additional Costs.

(e) The City shall charge Additional Costs attributable to any other developer or the Owner on whose behalf the City has issued debt in the same manner as described in this Section 4.05, and the Owner shall only be liable for its portion of the Additional Costs under this provision, and if any Additional Costs in excess of the Owner's portion had already been paid to the City under this provision, then such excess of Additional Costs shall be reimbursed to the Owner. The portion owed by the Owner shall be determined by dividing the total bond proceeds from any debt issued on behalf of the Owner in such calendar year by the total bond proceeds from any debt issued by the City for the benefit of all developers or Owner(s) (including the Owner) in such calendar year.

ARTICLE V. PID BONDS

Section 5.01. Issuance of PID Bonds.

(a) Subject to the terms and conditions set forth in this Article, if the Owner provides a Bond Issuance Request, the City will consider the issuance of the PID Bonds to pay for the Costs with respect to the Authorized Improvements as contemplated by Article IV. The City will consider the issuance of PID Bonds within four (4) to six (6) months after receiving a Bond Issuance Request from the Owner provided that Owner can reasonably demonstrate to the City and its Financial Advisors that (i) the Future Bond Test has been satisfied, if applicable, and (ii) there is sufficient security for the PID Bonds as set forth in subsection 2.05(d) above, based upon the market conditions existing at the time of such proposed sale. The City shall promptly obtain the Appraisal and any other financial analysis required hereby. The Authorized Improvements anticipated to be constructed and funded in connection with the PID Bonds shall be described in the initial Assessment Plan.

(b) The aggregate principal amount of PID Bonds required to be issued hereunder shall not exceed an amount sufficient to fund: (i) the Costs of the Authorized Improvements, (ii) required reserves, including any amounts contemplated pursuant to Section 5.01(i) herein, (iii) the PID Reserve Fund and all or a portion of the first year's installment of the Administrative Fund (as will be defined in the Indenture), and (iv) any costs of issuance for the PID Bonds.

(c) The final maturity for each series of PID Bonds secured by a given Improvement Area shall occur no later than 30 fiscal years from the issuance date of the first series of PID Bonds secured by the Improvement Area in question.

(d) Owner may request the issuance of the PID Bonds, subject to the condition that the maximum aggregate par amount of all of the PID Bonds shall not exceed \$27,500,000.

(e) The targeted annual PID installment equivalent tax rate (inclusive of total debt service, prepayment and delinquency reserve fund contributions, and Administrative Expenses) at the time the Special Assessments are levied is \$0.73 per \$100.00 of valuation (based on estimated build out values at the time the Assessment Plan is adopted and as agreed upon by the Owner and the City). The Owner and the City understand that it is the intent to have a fixed assessment for all the assessed property categories throughout the District regardless of annual PID installment equivalent tax rate metrics as recommended by the City's consultants or PID Administrator. As a result, the equivalent tax rate may be adjusted accordingly.

(f) The City will (i) select the underwriter for each series of PID Bonds, (ii) determine credit criteria; (iii) investor suitability; (iv) structure of each series of PID Bonds; and (v) the continuing disclosure requirements for each series of PID Bonds, each with input from the Owner, but in every instance the City shall make the final decision regarding all terms and matters related to the issuance and sale of a series of PID Bonds.

(g) PID Bonds are not required to be issued under this Article V unless (i) the statutory requirements set forth in Chapter 372 of the Texas Local Government Code have been satisfied; (ii) the City shall receive at the time of issuance an opinion of counsel selected by the City stating in effect that the PID Bonds are legal and valid under Texas law and that all preconditions to their issuance under State law have been satisfied, as well as the approving opinion of the Attorney General of the State of Texas as required by the PID Act; and (iii) the water infrastructure is in place to serve the Phase of the Project for which the PID Bonds are requested.

(h) The City agrees to use its best efforts to issue the PID Bonds such that interest on the PID Bonds is excludable from the gross income of the owners thereof for federal income tax purposes, including providing such certifications as may be required by the City's Bond Counsel with respect to the City's ongoing compliance with the applicable requirements of federal tax law.

(i) For any PID Bonds issued by the City, there will be no capitalized interest set aside from the gross bond proceeds except for any interest due on the PID Bonds subsequent to the issue date but prior to the date the initial Annual Installment is due.

(j) Prior to the levy of Special Assessments and issuance of PID Bonds the Owner must be current on all taxes, Special Assessments, fees and not in default under the Annexation and Development Agreement, the Offsite Road and Trail Agreement, the Wastewater Agreement or the PDD #5 Ordinance, including information required from Owner for timely disclosures as required by the applicable continuing disclosure agreements.

(k) The foregoing requirements apply to each series of PID Bonds issued.

Section 5.02. Project Fund

The City hereby covenants and agrees that the Indenture will establish a Project Fund as a separate fund to be held by the Trustee under the Indenture. The portion of the proceeds of the PID Bonds issued to pay Costs of Authorized Improvements and Bond Issuance Costs shall be

deposited upon issuance into separate accounts within the Project Fund, as provided in the Indenture.

Section 5.03. Sale of PID Bonds.

The PID Bonds, when issued by the City, shall be marketed and sold as determined by the City with the cooperation and assistance of the Owner in all respects with respect to the preparation of marketing documents, such as preliminary and final official statements.

Section 5.04. Phased Issuance of Debt.

As previously stated, the proposed bond issuance program is anticipated to entail up to four (4) series of Improvement Area Bond financings that will reimburse Owner for the costs of the Authorized Improvements required for the development of the Project. This financing will be undertaken in phases to coincide with the private investment and development of the Authorized Improvements.

Section 5.05. Dissolution Upon Non-Issuance of PID Bonds.

Owner's predecessor-in-interest has petitioned the City to dissolve the District if no Special Assessments have been levied by October 17, 2024, so long as the City has made reasonable efforts to levy the Special Assessments in accordance with the terms hereof. Contemporaneously with the creation of the District, Owner's predecessor-in-interest provided the Petition for Dissolution of the District, which is being held in escrow pursuant to the Escrow Agreement.

ARTICLE VI. REPRESENTATIONS AND WARRANTIES

Section 6.01. Representations and Warranties of City.

The City makes the following representation and warranty for the benefit of the Owner:

(a) that the City is a municipal corporation and political subdivision of the State of Texas, duly incorporated, organized and existing under the Constitution and general laws of the State, and has full legal right, power and authority under the PID Act and other applicable law (i) to enter into, execute and deliver this Agreement, (ii) to adopt any Assessment Ordinance, and (iii) to carry out and consummate the transactions contemplated by this Agreement.

Section 6.02. Representation and Warranties of Owner

The Owner makes the following representations, warranties and covenants for the benefit of the City:

(a) The Owner represents and warrants that the Owner is a limited liability company duly organized and validly existing under the laws of the State of Ohio, is authorized to conduct business and enter into and perform under this Agreement in compliance with the laws of the State of Texas, is in compliance with the laws of the State of Texas, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(b) The Owner represents and warrants that the Owner has 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 on behalf of the Owner.

(c) The Owner represents and warrants that this Agreement is valid and enforceable obligation of the Owner and is enforceable against the Owner in accordance with its terms, subject to bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) The Owner covenants that once it commences construction of a Segment it will use its reasonable and diligent efforts to do all things which may be lawfully required of it in order to cause such Segment of the Authorized Improvements to be completed in accordance with this Agreement.

(e) The Owner covenants that it will not commit any act in, upon or to the Property or the Project 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 Property or the Project.

(f) The Owner represents and warrants that (i) it will not request payment from the City for the acquisition of any Authorized Improvements that are not part of or benefit the Project, and (ii) it will diligently follow all procedures set forth in this Agreement with respect to payment requests.

(g) Until the final maturity date of the PID Bonds, the Owner covenants to maintain proper books of record and account for the Authorized Improvements and all costs related thereto. The Owner covenants that such accounting books will be maintained in accordance with sound accounting practices, and will be available for inspection by the City or its agent at any reasonable time during regular business hours upon at least 72 hours' notice.

ARTICLE VII. DEFAULT AND REMEDIES

(a) A Party shall be deemed in default under this Agreement (which shall be deemed a breach hereunder) if such Party fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement.

(b) Before any failure of any Party to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such failure shall notify, in writing, the Party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within thirty (30) days of the receipt of such notice, subject, however, in the case of non-monetary default, to the terms and provisions of subparagraph (c). Upon a breach of this Agreement, the non-defaulting Party in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained (and/or an action for mandamus as and if appropriate). Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Article VII or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in

this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any Party at law or in equity. Each of the Parties shall have the affirmative obligation to mitigate its damages in the event of a default by the other Party. Notwithstanding any provision contained herein to the contrary, the Owner shall not be required to construct any portion of the Authorized Improvements (or take any other action related to or in furtherance of same) while the City is in default under this Agreement. Each party shall be responsible for the expenses incurred by such party in connection with the institution of legal proceedings, including, without limitation, court costs and attorney fees.

(c) Notwithstanding any provision in this Agreement to the contrary, if the performance of any covenant or obligation to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, widespread pestilence, fire or other casualty, shortage of materials, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or tornadoes, labor action, strikes, changes in the law affecting the obligations of the Parties hereunder, or similar acts), the time for such performance shall be extended by the amount of time of the delay directly caused by and relating to such uncontrolled circumstances. The Party claiming delay of performance as a result of any of the foregoing “force majeure” events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming Party becomes aware of the same, and if the claiming Party fails to so notify the other Party of the occurrence of a “force majeure” event causing such delay, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this Article.

ARTICLE VIII. GENERAL PROVISIONS

Section 8.01. Notices.

Any notice, communication or disbursement required to be given or made hereunder shall be in writing and shall be given or made by facsimile, hand delivery, overnight courier, or by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below or at such other addresses as may be specified in writing by any Party hereto to the other parties hereto. Each notice which shall be mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent and received for all purpose at such time as it is received by the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such receipt) at the following addresses:

If to City: City of Dripping Springs
 Attn: City Administrator
 P.O. Box 384
 511 Mercer Street
 Dripping Springs, Texas 78641

With a copy to: City of Dripping Springs
 Attn: City Attorney
 511 Mercer Street
 Dripping Springs, Texas 78620

If to Owner: M/I Homes of Austin, LLC
 Attn: Royce Rippy
 7600 N. Capital of Texas Hwy Bldg. C Suite 250
 Austin, Texas 78731
rrippy@mihomes.com

With a copy to: Metcalfe Wolff Stuart & Williams, LLP
 Attn: Steven C. Metcalfe
 221 W. 6th, Suite 1300
 Austin, Texas 78701
smetcalfe@mwswtexas.com

Section 8.02. Fee Arrangement

(a) The Owner agrees that it will pay all of the City's costs and expenses (including the City's third party advisors and consultants) related to the creation of the District. The City will pay costs and expenses related to the issuance of any PID Bonds (including, but not limited to legal and financial advisors, underwriters, District administrators, bond documentation, trustee, paying agent, printing, etc.). The Owner agrees that it will pay for certain costs and expenses required by the City and related to the issuance of non-refunding PID Bonds such as, but not limited to, appraisals, engineers reports, market studies, etc. Prior to closing of any non-refunding PID Bonds, the Owner shall submit to the City invoices and other supporting documentation evidencing costs related to the creation of the District and the issuance of non-refunding PID Bonds; and the City will pay or reimburse the Owner for these costs, as applicable, from proceeds of the PID Bonds. The City is not responsible for payment of the Owner's third party legal and financial consultants. Further, prior to the sale of any PID Bonds, the City will provide the Owner with a reasonable market rate budget of all costs and expenses of the City that are to be reimbursed by the Owner or from proceeds of such PID Bonds.

(b) Pursuant to a separate agreement, the City may contract with a third party to serve as the PID Administrator and to administer the PID after Closing. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts set forth in the Assessment Plan.

Section 8.03. Assignment

(a) This Agreement and the rights and obligations of Owner hereunder may be assigned by Owner to an affiliate of Owner without the consent of the City, provided that the assignee assumes all of the obligations of Owner hereunder.

(b) For assignments to other than an affiliate as provided above, Owner may, at its sole and absolute discretion, assign this Agreement from time to time to any party that (i) does not owe delinquent taxes or fees to the City, (ii) is not in material default (beyond any applicable notice and cure period) under any development agreement with the City and (iii) has the experience, expertise and the financial capacity and ability to perform the duties or obligations so assigned under this Agreement. Owner shall provide the City sixty (60) days prior written notice of any such assignment. If the City has objections to such assignment satisfying the requirements described above, the City shall provide written notice of such objections to the Owner within ten (10) days of receiving the assignment notice from Owner. Owner will not be released from its

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

(c) Upon such assignment, Owner shall be deemed to be automatically released of any obligations under this Agreement.

(d) Any assignment must be in writing, set forth the assigned rights and obligations and be executed by the proposed assignee. A copy of the assignment document must be delivered to the City.

(e) The mere conveyance of a lot or any portion of the Property without a written assignment of the rights of Owner shall not be sufficient to constitute an assignment of the rights or obligations of Owner hereunder.

Section 8.04. Construction of Certain Terms

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

- (a) Words importing a gender include either gender.
- (b) Words importing the singular include the plural and vice versa.
- (c) A reference to a document includes an amendment, supplement, or addition to, or replacement, substitution, or novation of, that document but, if applicable, only if such amendment, supplement, addition, replacement, substitution, or novation is permitted by and in accordance with that applicable document.
- (d) Any term defined herein by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.
- (e) A reference to any Party in a particular capacity excludes such Party in any other capacity or individually.
- (f) All references in this Agreement to designated "Articles," "Sections," and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Agreement. All references in this Agreement to "Exhibits" are to the designated Exhibits to this Agreement.
- (g) The words "herein," "hereof," "hereto," "hereby," "hereunder," and other words of similar import refer to this Agreement as a whole and not to the specific Section or provision where such word appears.
- (h) The words "including" and "includes," and words of similar import, are deemed to be followed by the phrase "without limitation."
- (i) Unless the context otherwise requires, a reference to the "Property," the "Authorized Improvements," or the "District" is deemed to be followed by the phrase "or a portion thereof."

(j) Every “request,” “order,” “demand,” “direction,” “application,” “appointment,” “notice,” “statement,” “certificate,” “consent,” “approval,” “waiver,” “identification,” or similar action under this Agreement by any Party shall, unless the form of such instrument is specifically provided, be in writing duly signed by a duly authorized representative of such Party.

(k) The Parties hereto acknowledge that each such party and their respective counsel have participated in the drafting and revision of this Agreement. Accordingly, the Parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Agreement.

Section 8.05. Table of Contents; Titles and Headings

The titles of the articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 8.06. Amendments.

This Agreement may be amended, modified, revised or changed by written instrument executed by the Parties.

Section 8.07. Time

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

Section 8.08. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 8.09. Entire Agreement

This Agreement contains the entire agreement of the Parties.

Section 8.10. Severability; Waiver

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

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

Section 8.11. Owner as Independent Contractor

In performing under this Agreement, it is mutually understood that the Owner is acting as an independent contractor, and not an agent of the City.

Section 8.12. Supplemental Agreements

Other agreements and details concerning the obligations of the Parties under and with respect to this Agreement are included in the Assessment Plan, any Assessment Ordinance, PID Bond Ordinance and Indenture.

Section 8.13. City's Acceptance of Authorized Improvements.

The City hereby agrees that it will not unreasonably withhold the final acceptance of any of the Authorized Improvements and will work with the Owner in good faith to expedite review and acceptance of such Authorized Improvements.

Section 8.14. No Boycott Israel

The Owner, BobWhite, and Tri Pointe (collectively, the “**Verifying Party**”) hereby verify, for purposes of Section 2271 of the Texas Government Code, that at the time of execution and delivery of this Agreement, neither the Verifying Party, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or, to the extent this Agreement is a contract for goods or services, will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycotts Israel” and “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Verifying Party understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

Section 8.15. No Foreign Terrorist Organization

The Verifying Party hereby verifies that, neither the Verifying Party, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

- (a) <https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>;
- (b) <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>; or
- (c) <https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>.

The foregoing verification is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Verifying Party and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has

affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Verifying Party understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

Section 8.16. No Firearm Entity Boycott

Pursuant to Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Verifying Party 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, to the extent this Agreement is a contract for goods or services, will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” (A) means, with respect to the entity or association, to (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. The Verifying Party understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

Section 8.17. No Energy Company Boycotts

Pursuant to Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Verifying Party hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, to the extent this Agreement is a contract for goods or services, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does

business with a company described by (A) above. The Verifying Party understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

Section 8.18. Disclosure of Interested Parties.

Pursuant to Section 2252.908(c)(4), Texas Government Code, the Owner hereby certifies that it is a publicly traded business entity and is not required to file a Certificate of Interested Parties Form 1295 related to this Agreement.

Pursuant to Section 2252.908(c)(4), Texas Government Code, Tri Pointe hereby certifies that it is a publicly traded business entity and is not required to file a Certificate of Interested Parties Form 1295 related to this Agreement.

Submitted herewith is a completed Form 1295 in connection with BobWhite’s participation in the execution of this Agreement generated by the Texas Ethics Commission’s (the “TEC”) electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the “Form 1295”). The City hereby confirms receipt of the Form 1295 from BobWhite, and BobWhite agrees to acknowledge such form with the TEC through its electronic filing application not later than the 30th day after the receipt of such form. BobWhite and the City understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by BobWhite; and, neither the City nor its consultants have verified such information.

Section 8.19. Exhibits

The following exhibits are attached to and incorporated into this Agreement for all purposes:

- | | | |
|--------------|---|---|
| Exhibit A | - | Definitions |
| Exhibit B | - | Property |
| Exhibit B-1 | - | Phasing Map |
| Exhibit B-2 | - | Improvement Area #1 |
| Exhibit B-3 | - | Future Improvement Area |
| Exhibit C | - | Private Improvements |
| Exhibit D | - | Intentionally Omitted |
| Exhibit E | - | Intentionally Omitted |
| Exhibit F | - | Improvement Area #1 Authorized Improvements |
| Exhibit G | - | Authorized Improvements for which Acceptance by City Prior to Bond Issuance Request Not Required |
| Schedule I | - | Form of Certification for Payment |
| Schedule II | - | Reimbursement Balances |
| Schedule III | - | Form of Closing Disbursement Request |

M/I Homes of Austin, LLC, an Ohio limited liability company

By: [Signature]

Name: William G. Peckman

Title: Area President

STATE OF TEXAS §

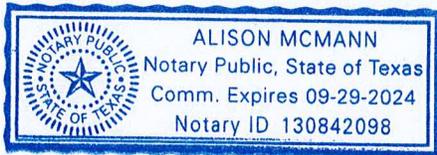
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this 21 day of DECEMBER 2022, by William G. Peckman, Area President of M/I Homes of Austin, LLC, an Ohio limited liability company, on behalf of said company.

(SEAL)

[Signature]

Notary Public, State of Texas



The Consenting Party is executing this Agreement solely due to the fact that it is an owner of a portion of the Property and, except for its obligations expressly set forth under the Landowner's Certificate, Consenting Party has no rights, duties or obligations under this Agreement.

CONSENTING PARTY:

Tri Pointe Homes Texas, Inc., a Texas corporation formerly known as Trendmaker Homes, Inc.

By: [Signature]
Name: **Bryan Havel**
Title: **Division President - Austin**

STATE OF TEXAS §
 §
COUNTY OF Williamson §

THIS INSTRUMENT was acknowledged before me on this 19 day of December 2022, by Bryan Havel, Division President - Austin of Tri Pointe Homes Texas, Inc., a Texas corporation, on behalf of said corporation.

(SEAL)

[Signature]
Notary Public, State of Texas



The Consenting Party is executing this Agreement solely due to the fact that it is an owner of a portion of the Property and, except for its obligations expressly set forth under the Landowner's Certificate, Consenting Party has no rights, duties or obligations under this Agreement.

CONSENTING PARTY:
BobWhite Investments, LP,
a Texas limited partnership

By: BobWhite GP, LLC, a Texas limited liability company
Its: General Partner

By: *Missy Atwood*
Name: Missy Atwood
Title: General Manager

STATE OF TEXAS §
 §
COUNTY OF Travis §

THIS INSTRUMENT was acknowledged before me on this 20th day of Dec, 2022, by Missy Atwood, General Manager of BobWhite GP, LLC, a Texas limited liability company and the General Partner of BobWhite Investments, LP, a Texas limited partnership, on behalf of said partnership.

(SEAL)

Wanda Bostic
Notary Public, State of Texas

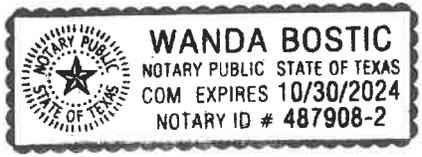


EXHIBIT A

Definitions

DEFINITIONS

Unless the context requires otherwise, and in addition to the terms defined above, each of the following terms and phrases used in this Agreement has the meaning ascribed thereto below:

“**Actual Increased Costs**” has the meaning given in Section 4.05(b) of this Agreement.

“**Actual Increased City Obligation Costs**” has the meaning given in Section 4.05(c) of this Agreement.

“**Additional Costs**” has the meaning given in Section 4.05(a) of this Agreement.

“**Administrative Expenses**” means the administrative, organization, and operation costs and expenses associated with, or incident to, the administration, organization, and operation of the PID, including, but not limited to, the costs of (i) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, (ii) organizing the PID and preparing the assessment roll, (iii) computing, levying, collecting and transmitting the Special Assessments or the installments thereof, (iv) maintaining the record of installments, payments and reallocations and/or cancellations of the Special Assessments, (v) issuing, paying and redeeming the PID Bonds, (vi) investing or depositing the Special Assessments, (vii) complying with the PID Act with respect to the PID Bonds, and (viii) paying the paying agent/registrar’s and trustee’s fees and expenses (including the fees and expenses of its legal counsel), in accordance with the terms of this Agreement or the Assessment Plan.

“**Agreement**” has the meaning given in the recitals to this Agreement.

“**Allocable Share**” means Improvement Area #1’s or a Future Improvement Area, as applicable, pro rata share of the Shared Authorized Improvements, as specified in the Assessment Plan.

“**Annexation and Development Agreement**” has the meaning given in the recitals to this Agreement.

“**Annual Installments**” will have the meaning set forth in the Assessment Plan.

“**Appraisal**” means an appraisal of the applicable Improvement Area prepared by a duly qualified, licensed appraiser in the State of Texas acceptable to the Owner and the City.

“**Assessment Ordinance**” means each ordinance, resolution or order adopted by the City Council levying the Special Assessments, as required by Article II of this Agreement.

“**Assessed Property**” means for any year, Parcels within the District on which Special Assessments have been levied in accordance with the Assessment Plan, other than Non-Benefited Property.

“Assessment Plan” means the Heritage Public Improvement District Service and Assessment Plan (as such plan is amended from time to time), to be initially adopted by the City Council in the initial Assessment Ordinance for the purpose of assessing allocated costs against property located within the boundaries of the District having terms, provisions and findings approved and agreed to by the Owner, as required by Article II of this Agreement. The Parties hereby acknowledge that the Assessment Plan may be amended from time to time.

“Attorney General” means the Texas Attorney General’s Office.

“Authorized Improvements” means collectively any and all improvements, as mutually agreed by the City and Owner, which are included in the Assessment Plan as such plan is amended and updated from time to time, currently contemplated to include the Improvement Area #1 Authorized Improvements, the Future Improvement Area Authorized Improvements, and the Shared Authorized Improvements. Non-PID Funded Authorized Improvements and Private Improvements do not constitute Authorized Improvements.

“Bond Counsel” shall mean McCall, Parkhurst & Horton, LLP.

“Bond Issuance Costs” means costs relating to the authorization, sale and issuance of the given series of PID Bonds including, printing costs, costs of reproducing and binding documents, closing costs, filing and recording fees, initial fees, expenses and charges of the Trustee, expenses incurred by the City or Owner in connection with the issuance of the PID Bonds, Financial Advisor fees, the Assessment Plan consultant fees, PID Administrator fees, the bond (underwriter’s) discount or underwriting fee, legal fees and charges, including Bond Counsel, charges for execution, transportation and safekeeping of the PID Bonds and other costs, charges and fees in connection with the issuance of the PID Bonds.

“Bond Issuance Request” means written request made by Owner to the City Administrator in good faith including any financial analysis, appraisals, and due diligence necessary to support the request to the full degree that the City Council may act on it and issue PID Bonds.

“Certification for Payment” is attached hereto as Schedule I.

“City” has the meaning given in the recitals to this Agreement.

“City Administrator” means the City Administrator of the City or his/her designee(s).

“City Construction Representative” means the employee or designee of the City carrying out the duties as described in this Agreement.

“City Council” means the duly elected governing body and council of the City.

“City Obligations” has the meaning given in Section 4.05(a) of this Agreement.

“Closing Disbursement Request” means the request attached hereto as Schedule III.

“Code” means the City’s Code of Ordinances, as such Code exists on the Effective Date of this Agreement, as modified by the PDD #5 Ordinance or the Annexation and Development Agreement.

“Construction Manager” means initially the Owner, and thereafter subject to change in accordance with Section 3.03 of this Agreement. The City acknowledges and agrees that (i) the Owner intends to subcontract out the duties of Construction Manager to a third party and (ii) Owner’s hiring of the initial subcontractor to serve as the Construction Manager shall not be deemed a change in the Construction Manager pursuant to the terms and conditions of Section 3.03.

“Construction Management Fee” means 4.0% of the hard and soft costs incurred by or on behalf of Owner for the construction of the Authorized Improvements referenced in Section 3.02 of this Agreement.

“Co-Owner” has the meaning given in Section 4.01 of this Agreement.

“Cost(s)” means (i) prior to completion of the construction of a Authorized Improvement, the budgeted costs of the design, planning, acquisition, installation, and construction of such Authorized Improvement as set forth in the Assessment Plan and (ii) following completion of the construction of a Authorized Improvement, the costs incurred by or on behalf of the Owner (either directly or through affiliates) for the design, planning, acquisition, installation, and construction of such Authorized Improvement, including (a) the fees paid for obtaining permits, licenses or other governmental approvals for such Authorized Improvements, (b) a Construction Management Fee for such Authorized Improvement as permitted under this Agreement, (c) the costs incurred by or on behalf of the Owner for external professional costs, such as engineering, geotechnical, surveying, and planning, landscape architects related to such Authorized Improvement; (d) all labor, bonds and materials, including equipment and fixtures, by contractors, builders and materialmen in connection with the acquisition, installation, and construction of such Authorized Improvement, and (d) all related permitting, zoning and public approval expenses, architectural, engineering, and consulting fees, governmental fees and charges, insurance premiums, and interest, if any, calculated in accordance with this Agreement from the respective dates of the expenditures until the date of reimbursement thereof. “Cost(s)” with respect to the Wastewater Improvements constructed by the City means Owner’s share of the cost thereof, to the extent and at the time required to be paid by the Owner to the City pursuant to the Wastewater Agreement.

“County” means Hays County, Texas.

“District” has the meaning given in the recitals to this Agreement.

“Effective Date” has the meaning given in the recitals to this Agreement.

“Escrow Agreement” means that certain Escrow Agreement by and between the City, BobWhite, SLF, and Corridor Title, LLC, dated effective November 14, 2017; as assigned pursuant to that certain Assignment of Escrow Agreement by and between SLF, the Owner, and Tri Pointe, entered into on May 3, 2021.

“Estimated Additional Costs” has the meaning given in Section 4.05(b) of this Agreement.

“Estimated Additional City Obligation Costs” has the meaning given in Section 4.05(c) of this Agreement.

“Financial Advisor” means Hilltop Securities, Inc.

“Form 1295” has the meaning given in Section 8.18 of this Agreement.

“Future Bond Test” means the additional investment and underwriting criteria which must be met prior to the issuance of PID Bonds, as may be more particularly described in the Indenture.

“Future Improvement Area” means a distinct portion of Phases 2, 3, 4, and/or 5, described by metes and bounds and developed as an individual Improvement Area at a future time, with such area(s) to be described and designated in updates to the Assessment Plan, as generally depicted on Exhibit “B-3”, attached hereto.

“Future Improvement Area Authorized Improvements” means Authorized Improvements that only benefit the applicable Future Improvement Area, and such Future Improvement Area’s allocable share of the Shared Authorized Improvements, as applicable.

“Future Improvement Area Bonds” means PID Bonds issued to finance Future Improvement Area Authorized Improvements and Bond Issuance Costs, as applicable, related to such Future Improvement Area Bonds. If issued, Future Improvement Area Bonds will be secured by and paid from only the Special Assessments levied on Parcels located within the Future Improvement Area benefiting from the Future Improvement Area Authorized Improvements and Bond Issuance Costs being financed.

“Good Engineering Practices” means the standard of care utilized by licensed engineers with the degree of skill and diligence normally practiced by professional engineers performing the same or similar engineering services licensed by the State of Texas.

“HOA Maintained Improvements” means any parks, trails or landscaping funded as a Authorized Improvement or a Private Improvement to be maintained by the Owner’s Association in accordance with this Agreement.

“Improvement Area #1” means the land (being Phase 1 of the Project) which is more particularly described and/or depicted on Exhibit “B-2” attached hereto.

“Improvement Area #1 Authorized Improvements” means those Authorized Improvements that confer a special benefit only on Improvement Area #1, and Improvement Area #1’s Allocable Share of the Shared Authorized Improvements, and are to be financed with Improvement Area #1 Bonds.

“Improvement Area #1 Bonds” means PID Bonds that are secured by Special Assessments levied on an Assessed Parcel within Improvement Area #1 in order to fund

Improvement Area #1 Authorized Improvements.

“**Improvement Area #1 Special Assessments**” has the meaning given in Section 4.02 of this Agreement.

“**Improvement Area(s)**” means collectively Improvement Area #1 and any Future Improvement Areas.

“**Indenture**” means the applicable Indenture of Trust between the City and Trustee relating to the issuance of a series of PID Bonds for financing costs of Authorized Improvements, as it may be amended from time to time.

“**Interest**” shall mean the interest rate charged for the PID Bonds or such other interest rate as may be required by applicable law or as provided herein.

“**Issue Date**” means the date of the initial delivery of a given series of PID Bonds.

“**JODA**” has the meaning given in the recitals to this Agreement.

“**Non-Benefitted Property**” means Parcels within the boundaries of the District that accrue no special benefit from Authorized Improvements, as determined by the City Council, which include Public Property and any homeowner association amenity centers. Property identified as Non-Benefitted Property at the time the Special Assessments (i) are levied or (ii) are reallocated pursuant to a subdivision of a Parcel is not assessed.

“**Non-PID Funded Authorized Improvement**” has the meaning given in the recitals to this Agreement.

“**Notice**” means any notice, writing, or other communication given under this Agreement.

“**Offsite Road and Trail Agreement**” has the meaning given in the recitals to this Agreement.

“**Original Agreement**” has the meaning given in the recitals to this Agreement.

“**Owner**” has the meaning given in the recitals to this Agreement.

“**Owner’s Association**” has the meaning given in Section 3.08 of this Agreement.

“**Owner Reimbursement**” means the unreimbursed Costs eligible to be paid from Special Assessments, as further described in Section 2.05.

“**Parcel**” means a property identified by either a tax map identification number assigned by the Hays County Appraisal District for real property tax purpose, by metes and bounds description, by lot and block number in a final subdivision plat recorded in the Official Public Records of Hays County, or by any other means determined by the City.

“**Party**” means the Owner or the City, as parties to this Agreement, and “**Parties**” means collectively, the Owner and the City.

“**PDD #5 Ordinance**” means the Heritage Planned Development District approved by the City on October 10, 2017.

“**Phase**” means any one of Phase 1, 2, 3, 4, and/or 5 of the Project as conceptually shown on Exhibit B-1 and as more particularly described in the Assessment Plan.

“**PID Act**” means Chapter 372, Texas Local Government Code, as amended.

“**PID Administrator**” means the employee or designee of the City, including a third party designee whom the City designates by contract, who shall have the responsibilities provided for herein and in the Assessment Plan.

“**PID Bond Ordinance**” means and refers to the ordinance or ordinances of the City Council that will authorize and approve the issuance and sale of the PID Bonds and provide for their security and payment, under the terms of the PID Bond Ordinance or Indenture related to the PID Bonds.

“**PID Bond Security**” means the funds that are to be pledged in or pursuant to the PID Bond Ordinance or the Indenture to the payment of the debt service requirements on the PID Bonds, consisting of the Special Assessments, including earnings and income derived from the investment or deposit of Special Assessments in the special funds or accounts created and established for the payment and security of the PID Bonds, unless such earnings are required to be deposited into a rebate fund for payment to the federal government.

“**PID Bonds**” means the bonds expected to be issued by the City, including the Improvement Area #1 Bonds and the Future Improvement Area Bonds which may include funds for any required reserves and amounts necessary to pay the Bond Issuance Costs, and to be secured by a pledge of the PID Bond Security pursuant to the authority granted in the PID Act, and as required by this Agreement for the purposes of (i) financing the costs of the Authorized Improvements and related costs, and (ii) reimbursing the Owner for Costs paid prior to the issuance of and payment for the PID Bonds.

“**PID Petition**” has the meaning given in the recitals to this Agreement.

“**PID Reimbursement Fund**” means the separate and unique fund or funds established by the City under such name wherein the portion of the Special Assessment Revenues allocated to the repayment of the Owner Reimbursement will be deposited.

“**PID Reserve Fund**” will have the meaning set forth in the Indenture.

“**Pledged Revenue Fund**” means the separate and unique fund or funds to be established by the City under such name pursuant to the Indenture wherein the Special Assessment Revenues are deposited.

“Prepayment” means the payment of all or a portion of a Special Assessment before the due date thereof. Amounts received at the time of a Prepayment which represent a payment of principal, interest or penalties on a delinquent installment of a Special Assessment are not to be considered a Prepayment, but rather are to be treated as the payment of the regularly scheduled Special Assessment.

“Project” has the meaning given in the recitals to this Agreement.

“Project Engineer” means the civil engineer or firm of civil engineers selected by the Owner to perform the duties set forth herein, which is currently Stantec.

“Project Fund” means the separate and unique fund or funds to be established by the City under such name pursuant to the Indenture as described in Section 5.02 hereof.

“Property” has the meaning given in the recitals to this Agreement.

“QTEO” has the meaning given in Section 4.05(a) of this Agreement.

“Public Property” means real property, right of way and easements located within the boundaries of the District owned by or irrevocably offered for dedication to the federal government, the State, the County, the City, a school district, a public utility provider or any other political subdivision or public agency, whether in fee simple, through an easement or by plat.

“Segment” or Segments” means the discrete portions of the Authorized Improvements necessary to serve a Phase identified as such herein.

“Shared Authorized Improvements” means those Authorized Improvements that benefit both Improvement Area #1 and a given Future Improvement Area which will be funded by both Improvement Area #1 Bonds and Future Improvement Area Bonds.

“Special Assessments” means the assessments levied against property in the District, as provided for in the applicable Assessment Ordinance and in the Assessment Plan, including any supplemental assessments or reallocation of assessments levied in accordance with Sections 372.019 and 372.020 of the PID Act.

“Special Assessment Revenues” means the monies collected from (1) the payment of Special Assessments, including supplemental assessments and reassessments, interest, expenses, or penalties on Special Assessments, prepayments, foreclosure proceeds, and proceeds from a guarantor, if any, of the Special Assessments, (2) revenue collected from the payment of Annual Installments of Special Assessments, and (3) any other revenue authorized by the PID Act and approved by the City Council.

“State” means the State of Texas.

“TEC” has the meaning given in Section 8.18 of this Agreement.

“Trustee” means the trustee under the Indentures, and any successor thereto permitted under the Indentures and any other Trustee under a future Indenture.

“Underwriter” means any investment banking firm designated by the City to underwrite an issuance of PID Bonds.

“Wastewater Agreement” has the meaning given in the recitals to this Agreement.

“Wastewater Improvements” means those Authorized Improvements constructed or to be constructed as contemplated pursuant to the Wastewater Agreement.

EXHIBIT B

Property

"Property"

Page 1 of 8

TRACT 1:

A DESCRIPTION OF 34.247 ACRES IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 34.29 ACRE TRACT CONVEYED TO JOHN MARCUS BAIRD BY DEED DATED JANUARY 13, 1993 AND RECORDED IN VOLUME 971, PAGE 116 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 34.247 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar found for the southeast corner of the said 34.29 acre tract, being also the northeast corner of a 10.11 acre tract described in Volume 3444, Page 347 of the Official Public Records of Hays County, Texas, and being in the west line of Tract 1 of the P.L. Turner Subdivision, a subdivision of Record in Volume 133, Page 444 of the Deed Records of Hays County, Texas;

THENCE with the south line of the 34.29 acre tract, being also the north line of the 10.11 acre tract, the following four (4) courses and distances:

- 1. South 81°14'08" West, a distance of 397.32 feet to a 1/2" rebar with Chaparral cap set;
- 2. South 84°24'01" West, a distance of 7.97 feet to a 1/2" rebar found;
- 3. South 85°19'17" West, a distance of 78.51 feet to a fence post found;
- 4. South 37°56'47" West, a distance of 97.35 feet to a 1/2" rebar found for the northwest corner of the 10.11 acre tract, being also the northeast corner of Lot 3 of Burrows Subdivision, a subdivision of record in Book 15, Page 69 of the Plat Records of Hays County, Texas;

THENCE with the south line of the 34.29 acre tract, being also the north line of Burrows Subdivision, the following four (4) courses and distances:

- 1. South 82°29'22" West, a distance of 88.75 feet to a nail found;
- 2. South 79°23'37" West, a distance of 76.64 feet to a nail found in a live oak for the northwest corner of Lot 3, being also the northeast corner of Lot 2;
- 3. South 81°55'21" West, a distance of 126.68 feet to a 1/2" rebar with a 3984 cap found for the northwest corner of Lot 2, being also the northeast corner of Lot 1;

- 4. South 81°56'23" West, a distance of 126.62 feet to a 1/2" rebar found for the northwest corner of Lot 1, being also the northeast corner of a 2.107 acre tract described in Volume 2840, Page 300 of the Official Public Records of Hays County, Texas;

THENCE continuing with the south line of the 34.29 acre tract, being also the north line of the 2.107 acre tract, the following two (2) courses and distances:

- 1. South 82°31'24" West, a distance of 142.51 feet to a nail found in a live oak;
- 2. South 81°27'49" West, a distance of 160.55 feet to a 1/2" rebar found for the northwest corner of the 2.107 acre tract, being also the northeast corner of Lot 1 of Sportsplex Subdivision No. 1, a subdivision of record in Book 7, Page 157 of the Plat Records of Hays County, Texas;

THENCE continuing with the south line of the 34.29 acre tract, being also the north line of Lot 1, the following two (2) courses and distances:

- 1. South 78°46'14" West, a distance of 283.22 feet to a 5/8" rebar found;
- 2. South 87°33'15" West, a distance of 75.24 feet a 1/2" rebar found for the northwest corner of Lot 1, being in the east line of Sportsplex Drive, described in Volume 784, Page 217 of the Deed Records of Hays County, Texas;

THENCE with the east line of Sportsplex Drive, crossing the 34.29 acre tract the following two (2) courses and distances:

- 1. With a curve to the left, having a radius of 309.60 feet, a delta angle of 14°55'01", an arc length of 80.60 feet, and a chord which bears North 67°03'32" West, a distance of 80.38 feet to a calculated point;
- 2. North 74°27'23" West, a distance of 19.74 feet to a calculated point in the center of a road, being in the west line of the 34.29 acre tract;

THENCE with the west line of the 34.29 acre tract, 25' from and parallel to the east line of a 20.518 acre tract described in Volume 784, Page 210 of the Deed Records of Hays County, Texas, the following six (6) courses and distances:

- 1. North 15°32'13" East, a distance of 7.31 feet to a calculated point;
- 2. North 14°52'44" East, a distance of 170.09 feet to a calculated point;
- 3. North 42°12'50" East, a distance of 247.76 feet to a calculated point;
- 4. North 34°57'13" East, a distance of 299.47 feet to a calculated point;
- 5. North 35°47'18" East, a distance of 429.51 feet to a calculated point;



EXHIBIT B - PROPERTY

Planned Development District No.5 Heritage Subdivision

Dripping Springs, TX



18 April 2016

- 6. North 43°12'18" East, a distance of 469.74 feet to a 1/2" rebar with Chaparral cap set for the northwest corner of the 34.29 acre tract, from which a 1/2" rebar with Zamorra Warrick Associates cap found for the northeast corner of the 20.518 acre tract, bears South 89°12'58" West, a distance of 34.79 feet;

THENCE North 89°12'58" East, with the north line of the 34.29 acre tract, a distance of 764.65 feet to a 1/2" rebar found for the northeast corner of the 34.29 acre tract, being also in the west line of said Tract 1;

THENCE with the east line of the 34.29 acre tract, being also the west line of Tract 1, the following two (2) courses and distances:

- 1. South 01°00'24" West, a distance of 791.82 feet to a nail in a fence post found;
- 2. South 01°57'23" West, a distance of 240.27 feet to the **POINT OF BEGINNING**, containing 34.247 acres of land, more or less.

TRACT 2:

A DESCRIPTION OF 50.206 ACRES IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A TRACT CALLED THE EAST PART OF 152.47 ACRES CONVEYED TO JOHN MARCUS BAIRD BY GENERAL WARRANTY DEED DATED MAY 9, 1978 AND RECORDED IN VOLUME 310, PAGE 718 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, SAME BEING A PORTION OF A 152.47 ACRE TRACT CONVEYED TO EDNA EARL BAIRD BY DEED DATED FEBRUARY 19, 1937 AND RECORDED IN VOLUME 154, PAGE 59 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 50.206 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an axle found for the northeast corner of the said 152.47 acre tract, being an angle point in the south line of Tract 76 A-1, Replat of the Remainder of Tract 76A, Springlake and Subdivision of Reed Acreage, a subdivision of record in Book 9, Page 47 of the Plat Records of Hays County, Texas;

THENCE South 00°16'33" West, with the east line of the 152.47 acre tract, being a south line of said Tract 76 A-1, a distance of 70.71 feet to a fence post found for an angle point in the south line of Tract 76 A-1, for the northwest corner of a tract of land described in Volume 130, Page 231 of the Deed Records of Hays County, Texas;

THENCE South 02°57'28" West, with the east line of the 152.47 acre tract, and with the west line of a 2 acre tract described in Volume 130, Page 231, and Volume 1658, Page 147 of the Official Public Records of Hays County, Texas, a distance of 174.43 feet to fence post found for the southwest corner of the 2 acre tract, being also the northwest corner of Tract 1 of the P.L. Turner Subdivision, a subdivision of record in Volume 133, Page 444 of the Deed Records of Hays County, Texas;

THENCE with the east line of the 152.47 acre tract, being the west line of Tract 1, with the fence, the following five (5) courses and distances:

- 1. South 02°48'03" West, a distance of 431.51 feet to a calculated point;
- 2. South 02°54'13" West, a distance of 484.14 feet to a calculated point;
- 3. South 02°03'04" West, a distance of 259.80 feet to a calculated point;
- 4. South 01°35'37" West, a distance of 300.57 feet to a calculated point;
- 5. South 01°07'29" West, a distance of 353.19 feet to a 1/2" rebar found for the northwest corner of a 34.29 acre tract described in Volume 971, Page 116 of the Deed Records of Hays County, Texas;

THENCE South 89°12'58" West, with the north line of the 34.29 acre tract, over and across the 152.47 acre tract, a distance of 764.65 feet to a 1/2" rebar with Chaparral cap set for the northwest corner of the 34.29 acre tract, being in the division line of the 152.47 acre tract described in Volume 310, Page 718 and Volume 310, Page 721 of the Deed Records of Hays County, Texas;

THENCE South 89°12'58" West, continuing across the 152.47 acre tract, with the said division line, a distance of 34.79 feet to a 1/2" rebar with Zamorra Warrick Associates cap found for the northwest corner of a 20.518 acre tract described in Volume 784, Page 210 of the Deed Records of Hays County, Texas;

THENCE South 89°12'49" West, with the north line of the 20.518 acre tract, with the said division line, a distance of 196.26 feet to a fence post found for the southeast corner of a 45.53 acre tract described in Volume 2953, Page 181 of the Official Public Records of Hays County, Texas;

THENCE with the east line of the 45.53 acre tract, with the said division line, crossing the 152.57 acre tract, the following four (4) courses and distances:

- 1. North 01°23'38" West, a distance of 440.21 feet to a 1/2" rebar with Carson Bush cap found;
- 2. North 00°57'16" West, a distance of 525.11 feet to a nail found at the base of a 13" and 14" live oak;
- 3. North 09°31'45" West, a distance of 154.92 feet to a 1/2" rebar with Chaparral cap set;
- 4. North 01°24'08" West, a distance of 484.34 feet to a 1/2" rebar found for the northeast corner of the 45.53 acre tract, being also the southeast corner of Lot 18 of Hidden Springs



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Ranch Section II, a subdivision of record in Book 14, Page 69 of the Plat Records of Hays County, Texas;

THENCE with the east line of Hidden Springs Ranch Section II, continuing with the said division line, crossing the 152.57 acre tract, the following five (5) courses and distances:

1. North 01°22'12" West, a distance of 155.30 feet to a nail found in concrete;
 2. North 15°23'51" East, a distance of 18.43 feet to a 1/2" rebar found;
 3. North 03°04'23" West, a distance of 27.45 feet to a 1/2" rebar with 4404 cap found for the northeast corner of Lot 18, being also the southeast corner of Lot 17;
 4. North 02°18'43" West, a distance of 190.70 feet to a 1/2" rebar with 4542 cap found for the northeast corner of Lot 17, being also the southeast corner of Lot 14;
 5. North 01°02'42" West, a distance of 50.06 feet to an axle found for an angle point in the north line of the 152.47 acre tract, being also the southwest corner of Tract 76 A-1;
- THENCE** North 87°50'05" East, with the north line of the 152.47 acre tract, being also the south line of Tract 76 A-1, a distance of 1141.82 feet to the **POINT OF BEGINNING**, containing 50.206 acres of land, more or less.

TRACT 3:

A DESCRIPTION OF 94.695 ACRES (APPROX. 4,124,910 SQ. FT.) IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 119.7 ACRE TRACT CONVEYED TO NELSON M. DAVIDSON AND DORIS BREED DAVIDSON BY DEED DATED JUNE 23, 1952 AND RECORDED IN VOLUME 154, PAGE 290 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND BEING A PORTION OF TRACT 1, P. L. TURNER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 133, PAGE 444 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 94.695 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" rebar with 3984 cap found in the west line of Old Fredericksburg Road (right-of-way width varies), for the northeast corner of the Doris Breed Davidson Subdivision, a subdivision of record in Book 10, Page 395 of the Plat Records of Hays County, Texas;

THENCE North 01°30'02" West, with the west line of Old Fredericksburg Road, across Tract 1, a distance of 425.26 feet to a 1/2" rebar with Chaparral cap set for the **POINT OF BEGINNING**;

THENCE over and across Tract 1, the following four (4) courses and distances:

1. South 89°48'55" West, a distance of 259.27 feet to a 1/2" rebar with Chaparral cap set;

2. With a curve to the left, having a radius of 970.00 feet, a delta angle of 06°06'33", an arc length of 103.43 feet, and a chord which bears South 86°45'39" West, a distance of 103.38 feet to a 1/2" rebar with Chaparral cap set

3. South 38°42'22" West, a distance of 192.59 feet to a 1/2" rebar with Chaparral cap set;

4. South 00°43'30" West, a distance of 587.78 feet to a 1/2" rebar with Chaparral cap set in the north line of a 9,008 acre tract described in Volume 2102, Page 453 of the Official Public Records of Hays County, Texas, from which a 1/2" rebar with 3984 cap found in the north line of the 9,008 acre tract, for the southwest corner of the Doris Breed Davidson Subdivision, bears North 87°06'31" East, a distance of 205.48 feet;

THENCE South 87°06'31" West, with the north line of the 9,008 acre tract, continuing across Tract 1, a distance of 304.58 feet to a 1/2" rebar found for the northwest corner of the 9,008 acre tract;

THENCE South 07°58'13" West, with the west line of the 9,008 acre tract, continuing across Tract 1, a distance of 1318.37 feet to a nail in concrete found for the southwest corner of the 9,008 acre tract, being also in the north line of a 6.38 acre tract described in Volume 1489, Page 391 of the Official Public Records of Hays County, Texas, for an angle point in the east line of Tract 1;

THENCE South 13°58'09" West, with the east line of Tract 1, being also the west line of the 6.38 acre tract, a distance of 743.78 feet to a 1/2" rebar with 3984 cap found for the southeast corner of Tract 1, being also the southwest corner of the 6.38 acre tract, and being in the north line of a 3.91 acre tract described in Volume 269, Page 226 of the Deed Records of Hays County, Texas;

THENCE South 88°04'18" West, with the south line of Tract 1, being also the north line of the 3.91 acre tract, a distance of 101.94 feet to a nail found in a 6" post for the northwest corner of the 3.91 acre tract, being also the apparent northeast corner of a 6 acre tract described in Volume 110, Page 563 of the Deed Records of Hays County, Texas;

THENCE North 89°32'58" West, with the south line of Tract 1, being also the apparent north line of the 6 acre tract, a distance of 152.30 feet to a fence post found for the apparent northwest corner of the 6 acre tract, and being a northeast corner of the 76.73 acre tract described in Volume 124, Page 515 of the Deed Records of Hays County, Texas;

THENCE South 89°52'25" West, with the south line of Tract 1, being also the north line of the 76.73 acre tract, distance of 311.97 feet to a fence post found for the southwest corner of Tract 1, being an angle point in the east line of the 76.73 acre tract;

THENCE North 01°40'35" East, with the west line of Tract 1, being also the east line of the 76.73 acre tract, a distance of 550.52 feet to a 1/2" rebar found for the northeast corner of the



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76.73 acre tract, being also the southeast corner of a 10.11 acre tract described in Volume 3444, Page 347 of the Official Public Records of Hays County, Texas.

THENCE North 01°55'45" East, with the west line of Tract 1, being also the east line of the 10.11 acre tract, a distance of 660.61 feet to a 1/2" rebar found for the northeast corner of the 10.11 acre tract, being also the southeast corner of a 34.29 acre tract described in Volume 971, Page 116 of the Deed Records of Hays County, Texas.

THENCE with the west line of Tract 1, being also the east line of the 34.29 acre tract, the following two (2) courses and distances:

1. North 01°57'23" East, a distance of 240.27 feet to a nail in fence post found;
2. North 01°00'24" East, a distance of 791.82 feet to a 1/2" rebar found for the northeast corner of the 34.29 acre tract being in the east line of a 152.47 acre tract described in Volume 310, Page 718 of the Deed Records of Hays County, Texas.

THENCE with the west line of Tract 1, being the east line of the 152.47 acre tract, with the fence, the following five (5) courses and distances:

1. North 01°07'29" East, a distance of 353.19 feet to a calculated point;
2. North 01°35'37" East, a distance of 300.57 feet to a calculated point;
3. North 02°03'04" East, a distance of 259.80 feet to a calculated point;
4. North 02°54'13" East, a distance of 484.14 feet to a calculated point;
5. North 02°48'03" East, a distance of 431.51 feet to a fence post found for the northwest corner of Tract 1, being the southwest corner of a 2 acre tract described in Volume 130, Page 231 of the Deed Records of Hays County, Texas.

THENCE North 86°52'58" East, with the north line of Tract 1, being also the south line of the 2 acre tract, a distance of 1245.48 feet to a fence post found for the northwest corner of a 7.749 acre tract described in Volume 374, Page 743 of the Deed Records of Hays County, Texas.

THENCE South 02°29'58" East, with the west line of the 7.749 acre tract, over and across Tract 1, a distance of 390.22 feet to a 1/2" iron pipe found for the southwest corner of the 7.749 acre tract, being also the northwest corner of a 1.50 acre tract described in Volume 207, Page 49 of the Deed Records of Hays County, Texas;

THENCE South 02°17'26" East, with the west line of the 1.50 acre tract, continuing across Tract 1, a distance of 208.99 feet to a 1/2" iron pipe found for the southwest corner of the 1.50 acre tract;

THENCE North 85°08'49" East, with the south line of the 1.50 acre tract, continuing across Tract 1, a distance of 104.25 feet to a 3/4" rebar found for an angle point in the east line of Tract 1, being also the northwest corner of a 1.00 acre tract described in Volume 1924, Page 385 of the Deed Records of Hays County, Texas, and being the northwest corner of the Turner Tract as shown on the plat of said P.L. Turner Subdivision;

THENCE South 02°05'28" East, with the east line of Tract 1, being also the west line of the 1.00 acre tract, the Turner Tract, a 1.00 acre tract described in Volume 275, Page 499 of the Deed Records of Hays County, Texas, and the west line of Tract 4 of said P.L. Turner Subdivision, a distance of 86.45 feet to a 1/2" rebar with Chaparral cap set, from which a fence corner at a 13" live oak for the southwest corner of the 1.00 acre tract, being also the southwest corner of Tract 4, and being in the north line of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas, bears South 02°05'28" East, a distance of 329.42 feet;

THENCE over and across Tract 1, the following eight (8) courses and distances:

1. South 87°52'26" West, a distance of 119.99 feet to a 1/2" rebar with Chaparral cap set;
2. South 02°07'34" East, a distance of 330.24 feet to a 1/2" rebar with Chaparral cap set;
3. South 87°52'26" West, a distance of 25.11 feet to a 1/2" rebar with Chaparral cap set;
4. South 02°07'34" East, a distance of 254.30 feet to a 1/2" rebar with Chaparral cap set;
5. With a curve to the left having a radius of 25.00 feet, a delta angle of 91°03'12", an arc length of 39.73 feet, and a chord which bears South 47°39'11" East, a distance of 35.68 feet to a 1/2" rebar with Chaparral cap set;
6. With a curve to the right, having a radius of 1030.00 feet, a delta angle of 02°59'42", an arc length of 53.84 feet, and a chord which bears North 88°19'04" East, a distance of 53.84 feet to a 1/2" rebar with Chaparral cap set;
7. North 89°48'55" East, a distance of 40.73 feet to a 1/2" rebar with Chaparral cap set;
8. North 89°48'55" East, a distance of 217.16 feet to a 1/2" rebar with Chaparral cap set in the west right-of-way line of Old Fredericksburg Road, from which a 1/2" rebar found in the west right-of-way line of Old Fredericksburg Road, for the southeast corner of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas, bears North 01°30'02" West, a distance of 108.46 feet;

THENCE South 01°30'02" East, with the west right-of-way line of Old Fredericksburg Road, crossing Tract 1, a distance of 60.02 feet to the **POINT OF BEGINNING**, containing 94.695 acres of land, more or less.

TRACT 4:

A DESCRIPTION OF 8.119 ACRES (APPROX. 353,664 SQ. FT.) IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 9,008 ACRE TRACT CONVEYED TO MICKEY DAVIDSON KROLL, NELSON M. DAVIDSON, JR., AND WIFE, BARBARA WATKINS DAVIDSON BY WARRANTY DEED WITH VENDORS LIEN DATED NOVEMBER 7, 2002 AND RECORDED IN VOLUME 2102, PAGE 453 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, AND BEING A PORTION OF TRACT 1, P.L. TURNER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 133, PAGE 444 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS; SAID 8.119 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" rebar, being an angle point in the east line of the said 9,008 acre tract, being also the northeast corner of Tract 3 of the said P.L. Turner Subdivision, and being also the southwest corner of a 0.754 acre tract described in Volume 4258, Page 404 of the Official Public Records of Hays County, Texas, and being also the northwest corner of a 1 acre tract described in Volume 144, Page 563 of the Deed Records of Hays County, Texas, from which a 3/4" iron pipe found for the southeast corner of the 0.754 acre tract, being in the north line of the 1 acre tract, and being in the west line of Old Fredericksburg Road (right-of-way width varies), bears North 87°52'37" East, a distance of 216.79 feet;

THENCE South 87°35'26" West, with the common line of the 9,008 acre tract and Tract 3, a distance of 236.90 feet to a 1/2" rebar found for an angle point in the east line of the 9,008 acre tract, being also the northwest corner of Tract 3, for the **POINT OF BEGINNING**;

THENCE with the common line of the 9,008 acre tract and Tract 3, the following two (2) courses and distances:

1. South 15°43'23" West, a distance of 521.70 feet to a 1/2" rebar found at the northwest corner of a 3.59 acre tract out of Tract 3, described in Volume 4073, Page 818 of the Official Public Records of Hays County, Texas;
2. South 15°32'41" West, with the west line of the 3.59 acre tract, a distance of 499.23 feet to a 2" iron pipe found for an angle point in the east line of the 9,008 acre tract, being also the southwest corner of the 3.59 acre tract, being also the southwest corner of Tract 3, and being in the north line of a 2.07 acre tract described in Volume 178, Page 571 of the Deed Records of Hays County, Texas;

THENCE with the common line of the 9,008 acre tract and the 2.07 acre tract, the following two (2) courses and distances:

1. North 89°33'06" West, a distance of 183.84 feet to a 1/2" rebar found for an angle point in the east line of the 9,008 acre tract, for the northwest corner of the 2.07 acre tract;

2. South 09°15'30" West, a distance of 216.46 feet to a nail found in an 18" live oak for the southwest corner of the 2.07 acre tract, being also the southeast corner of the 9,008 acre tract, and being in the north line of a 6.39 acre tract described in Volume 1489, Page 391 of the Official Public Records of Hays County, Texas;

THENCE North 89°25'09" West, with the south line of the 9,008 acre tract, being also the north line of the 6.38 acre tract, a distance of 53.15 feet to a nail in concrete found for the southwest corner of the 9,008 acre tract;

THENCE North 07°58'13" East, with the west line of the 9,008 acre tract, crossing said Tract 1, a distance of 1318.37 feet to a 1/2" rebar found for the northwest corner of the 9,008 acre tract;

THENCE North 87°06'31" East, with the north line of the 9,008 acre tract, crossing said Tract 1, a distance of 304.58 feet to a 1/2" rebar with Chaparral cap set, from which a 1/2" rebar with 3984 cap found for the southwest corner of the Doris Breed Subdivision, a subdivision of record in Book 10, Page 395 of the Plat Records of Hays County, Texas, bears North 87°06'31" East, a distance of 205.48 feet;

THENCE over and across the 9,008 acre tract, the following two (2) courses and distances:

1. South 00°43'30" West, a distance of 129.06 feet to a 1/2" rebar with Chaparral cap set;
2. North 87°20'25" East, a distance of 61.68 feet to the **POINT OF BEGINNING**, containing 8.119 acres of land, more or less.

TRACT 5:

A DESCRIPTION OF 1.676 ACRES (APPROX. 73,006 SQ. FT.) IN THE PHILIP SMITH SURVEY, ABSTRACT 415, HAYS COUNTY, TEXAS, BEING A PORTION OF A 119.7 ACRE TRACT CONVEYED TO NELSON M. DAVIDSON AND DORIS BREED DAVIDSON BY DEED DATED JUNE 23, 1952 AND RECORDED IN VOLUME 154, PAGE 290 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND BEING A PORTION OF TRACT 1, P.L. TURNER SUBDIVISION, A SUBDIVISION OF RECORD IN VOLUME 133, PAGE 444 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, SAID 1.676 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2" rebar found in the west right-of-way line of Old Fredericksburg Road, for the southeast corner of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas;

THENCE South 86°32'57" West, with the south line of the said 0.938 acre tract, a distance of 218.28 feet to a 1/2" rebar found at the southwest corner of the 0.938 acre tract for the **POINT OF BEGINNING**;

THENCE crossing Tract 1, the following eight (8) courses and distances:



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1. South 02°07'34" East, a distance of 96.05 feet to a 1/2" rebar with Chaparral cap set;
2. South 89°48'55" West, a distance of 40.73 feet to a 1/2" rebar with Chaparral cap set;
3. With a curve to the left, having a radius of 1030.00 feet, a delta angle of 02°59'42", an arc length of 53.84 feet, and a chord which bears South 88°19'04" West, a distance of 53.84 feet to a 1/2" rebar with Chaparral cap set;
4. With a curve to the right, having a radius of 25.00 feet, a delta angle of 91°03'12", an arc length of 39.73 feet, and a chord which bears North 47°39'11" West, a distance of 35.68 feet to a 1/2" rebar with Chaparral cap set;
5. North 02°07'34" West, a distance of 254.30 feet to a 1/2" rebar with Chaparral cap set;
6. North 87°52'26" East, a distance of 25.11 feet to a 1/2" rebar with Chaparral cap set;
7. North 02°07'34" West, a distance of 330.24 feet to a 1/2" rebar with Chaparral cap set;
8. North 87°52'26" East, a distance of 119.99 feet to a 1/2" rebar with Chaparral cap set in the east line of Tract 1, being also the west line of a 1.00 acre tract described in Volume 1924, Page 385 of the Deed Records of Hays County, Texas, and being the northwest corner of the Turner Tract as shown on the plat of said P.L. Turner Subdivision, from which a 3/4" rebar found for an angle point in the east line of Tract 1, being also the northwest corner of a 1.00 acre tract, bears North 02°05'28" West, a distance of 86.45 feet;

THENCE South 02°05'28" East, with the east line of Tract 1, being also the west line of the 1.00 acre tract, the Turner Tract, a 1.00 acre tract described in Volume 275, Page 499 of the Deed Records of Hays County, Texas, and the west line of Tract 4 of said P.L. Turner Subdivision, a distance of 329.42 feet to a fence corner at a 13" live oak for the southwest corner of the 1.00 acre tract, being also the southwest corner of Tract 4, and being in the north line of a 0.938 acre tract described in Volume 391, Page 223 of the Deed Records of Hays County, Texas;

THENCE South 85°58'06" West, with the north line of the 0.938 acre tract, crossing Tract 1, a distance of 24.91 feet to a 1/2" rebar found for the northwest corner of the 0.938 acre tract;

THENCE South 02°07'34" East, with the west line of the 0.938 acre tract, continuing across Tract 1, a distance of 185.05 feet to the **POINT OF BEGINNING**, containing 1.676 acres of land, more or less.



EXHIBIT B - PROPERTY

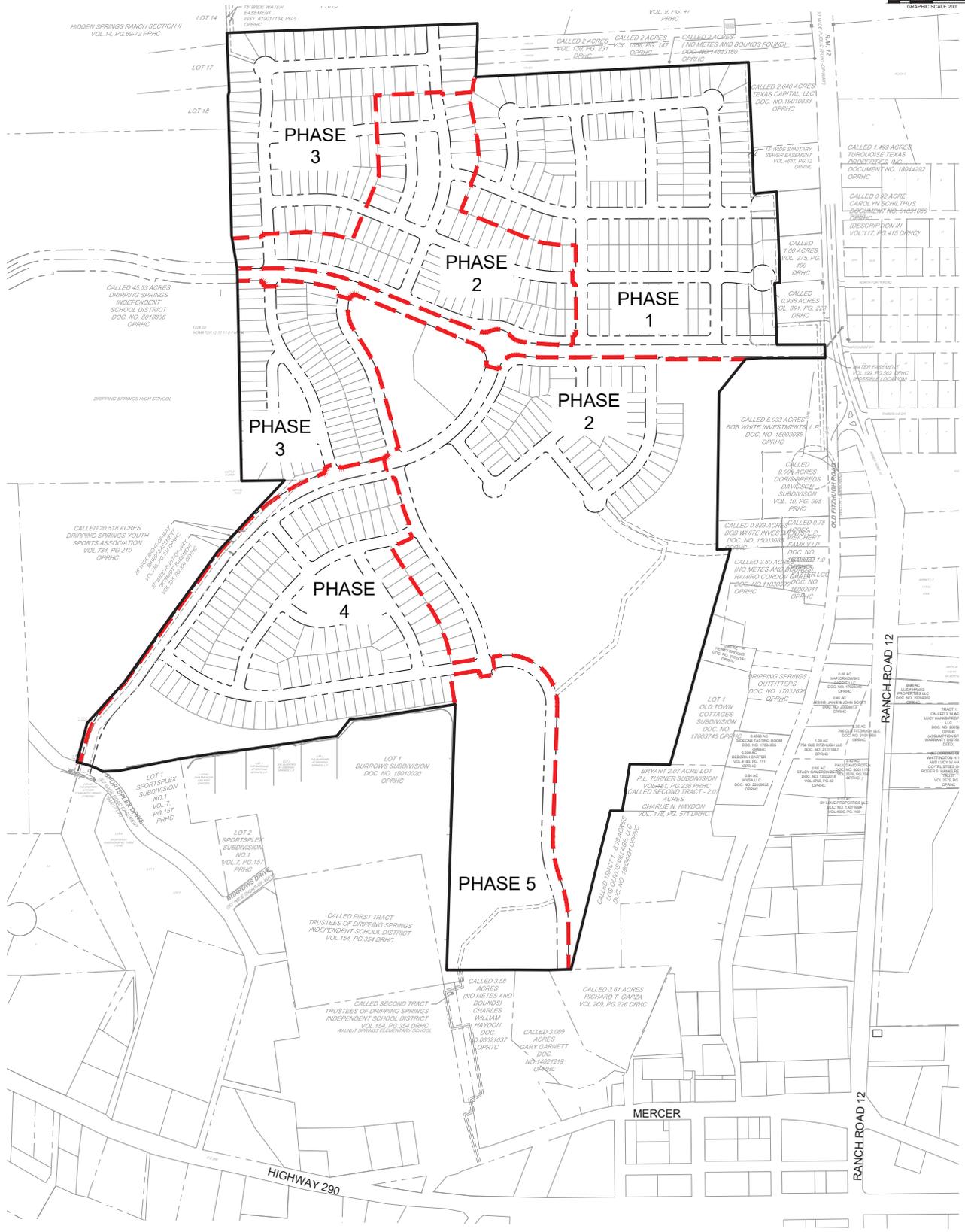
Planned Development District No. 5 Heritage Subdivision

📍 Dripping Springs, TX



18 April 2016

EXHIBIT B-1
Phasing Map



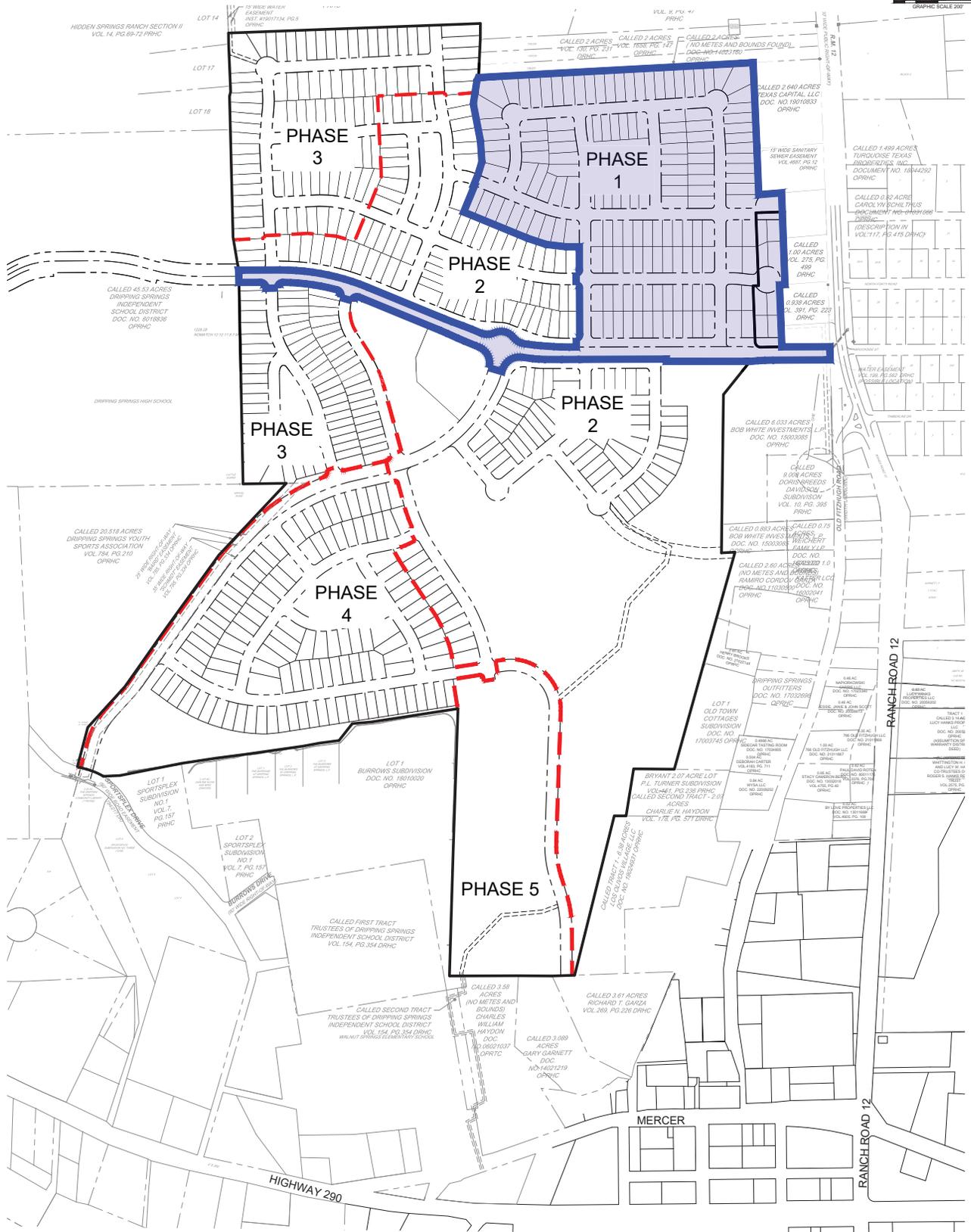
Prepared By: Grandscape, Alex Date: December 05, 2022 01:22:50pm File Path: \\NAS_C:\A\08778317-1\Heritage-MI\Homes\PRELIMINARY\City\Exhibits\Phasing\00221205 - PID EXHIBITS-C-B-2.dwg
 This document, together with the complete set of drawings presented herein, is an instrument of service, is intended only for the specific purpose and client for which it was prepared. Hours of and other charges and conditions of preparation and amendment, shall be subject to the terms and conditions of the contract for preparation and amendment.

EXHIBIT B-1 Heritage Phasing Map

PROPERTY BOUNDARY
 PHASE LINE

NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND HAS BEEN PRODUCED WITHOUT THE BENEFIT OF A SURVEY. TO DETERMINE EXISTING UTILITIES CONTACT WITH THE CITY OFFICE.

EXHIBIT B-2
Improvement Area #1



Printed By: Grandview, Alex Date: December 05, 2022 12:57:08pm File Path: \\NAS_C:\M\08778317-1\Heritage-1\Hornes\PRELIMINARY\City\Subarea\Phases\Area#1\20221205 - PID EXHIBIT B-2-1.dwg
 This document, together with the complete set of drawings presented herein, is an instrument of service, is intended to be used in conjunction with the Amended and Restated Agreement, and shall be subject to interpretation and modification by the Amended and Restated Agreement.

EXHIBIT B-2 Heritage PID Improvement Area #1 Map

City of Dripping Springs

Document No. BOB12202022
December 2022

| | | | |
|---|---------------------|---|-------------------|
|  | IMPROVEMENT AREA #1 |  | PROPERTY BOUNDARY |
|  | |  | PHASE LINE |

NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND HAS BEEN PRODUCED WITHOUT THE BENEFIT OF A SURVEY. TO DETERMINE EXISTING UTILITIES CONTACT WITH THE CITY OFFICE.

EXHIBIT B-3
Future Improvements

EXHIBIT C
Private Improvements

PRIVATE IMPROVEMENTS

The Private Improvements for Heritage will consist of the following major components:

1. Project Entryways – including signage, lighting, landscaping and hardscaping consistent with the design criteria set forth in the PDD5 Ordinance for Heritage. Project entryways are anticipated to be located at the Brookside Drive entry at Ranch Road 12 and at the Baird Lane entry at Sportsplex Drive.
2. Open Space Areas – including the stream buffer areas, ponds and other open space areas as shown on Exhibit “C” of the PDD5 Ordinance.
3. Park Areas – including the neighborhood pocket park areas as shown on Exhibit “C” of the PDD5 Ordinance.
4. Amenity Center – as generally depicted on Exhibit “C” of the PDD5 Ordinance.

Notes:

- A. The Private Improvements are intended to be owned and maintained by the Heritage Homeowner Association.
- B. Project Entryways, Open Space Areas and Park Areas will be available for access by the general public.

EXHIBIT D
Intentionally Omitted

EXHIBIT E
Intentionally Omitted

EXHIBIT F

Improvement Area #1 Authorized Improvements

DRAFT

M/I Homes
Heritage PID
Authorized Improvements
October 27, 2022

Internal Improvements [a]

- Roadway
- Drainage
- Wastewater
- Grading
- Erosion Control
- Miscellaneous [b]
- Mobilization
- Landscaping
- Contingency (10%)
- Soft Costs (12%)

Major Improvements [a]

- Roadway
- Drainage
- Wastewater
- Grading
- Erosion Control
- Trails
- Miscellaneous [b]
- Mobilization
- Landscaping
- Contingency (10%)
- Soft Costs (12%)

Footnotes:

[a] Costs per Kimley Horn's Preliminary OPC dated April 14, 2022.

[b] Includes street lights, crosswalks, traffic signs, and retaining walls.

EXHIBIT G

**Authorized Improvements for which Acceptance by City
Prior to Bond Issuance Request Not Required**

Authorized Improvements for which Acceptance by City Prior to Improvement Area #1 Bond
Issuance Request Not Required

- Improvements to Roger Hanks Parkway requiring the City to acquire a necessary right of way
- Signalization at Brookside Drive and Ranch Road 12
- Effluent line needed to provide wastewater to Phase 2

SCHEDULE I
Form of Certification for Payment

FORM OF CERTIFICATION FOR PAYMENT

_____ (“**Construction Manager**”) hereby requests payment from the [_____ of the Project Fund][PID Reimbursement Fund] from the City of Dripping Springs, Texas (the “City”) in the amount of \$_____ for the Costs of the work described in Attachment A attached hereto (the “**Draw Actual Costs**”). Capitalized undefined terms shall have the meanings ascribed thereto in the Amended and Restated Heritage Public Improvement District Financing and Reimbursement Agreement (as may be amended from time to time, the “**Finance Agreement**”). In connection with this Certification for Payment, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of Construction Manager, qualified to execute this Certification for Payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.

2. The true and correct Draw Actual Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted Certification for Payment or, if previously requested, no disbursement was made with respect thereto.

3. The amounts listed for Costs of the Improvement Area #[_] Authorized Improvements, as set forth in Attachment A, is a true and accurate representation of the Costs associated with the acquisition, design or construction of said Improvement Area #[_] Authorized Improvements, and such costs (i) are in compliance with the Finance Agreement and (ii) are consistent with the Assessment Plan.

4. Following is an itemized list of all disbursements from (i) the [_____ Account] of the Project Fund and (ii) the PID Reimbursement Fund.

| <u>Account</u> | <u>Deposits</u> | <u>Disbursements</u> |
|---|-----------------|--|
| [_____ Account] of the Project Fund | \$ _____ | \$ _____ Certification for Payment Form No. |
| | \$ _____ | \$ _____ Certification for Payment Form No. |
| Total | \$ _____ | \$ _____ |
| PID Reimbursement Fund | \$ _____ | \$ _____ Certification for Payment Form No. |
| | \$ _____ | \$ _____ Certification for Payment Form No. |
| Total | \$ _____ | \$ _____ |

5. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed work on a Segment described in Attachment A has been paid in full for all work completed through the previous Certification for Payment.

6. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Draw Actual Costs of each Segment for which payment is requested.

7. The Construction Manager is in compliance with the terms and provisions of the Finance Agreement, the Assessment Plan and any continuing disclosure agreement entered into by the Owner with respect to Improvement Area #[], as applicable.

8. The Construction Manager has timely paid all ad valorem taxes and annual installments of Improvement Area #[] Special Assessments it owes or an entity under common control with the Construction Manager owes, located in the District and has no outstanding delinquencies for such taxes and assessments.

9. All conditions set forth in the Indenture for the payment hereby requested have been satisfied, as applicable.

10. The work with respect to the Improvement Area #[] Authorized Improvements referenced below (or its Segment) has been completed, and the City has inspected and accepted such Improvement Area #[] Authorized Improvements (or its completed Segment).

11. The Construction Manager 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.

13. Also attached hereto as Attachment D are any lender consents or approvals that the Construction Manager may be required to obtain under any loan documents relating to the District.

14. Pursuant to the Finance Agreement, after receiving this Certification for Payment, the City has inspected and accepted the completed Improvement Area #[] Authorized Improvements and confirmed that said work has been completed in accordance with approved plans and all applicable governmental laws, rules, and regulations.

[Signature Page Follows]

SIGNATURE PAGE TO
CERTIFICATION FOR PAYMENT

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

Date : _____

[Construction Manager Signature Block to
Be inserted]

CERTIFICATION OF THE PAYMENT
Signature Page

JOINDER OF PROJECT ENGINEER

The undersigned Project Engineer joins this Certification for Payment solely for the purposes of certifying that the representations made by Construction Manager in Paragraph 2 above are true and correct in all material respects.

Project Engineer

JOINDER OF PROJECT ENGINEER

APPROVAL BY THE CITY

The Draw Actual Costs of each Segment described in Attachment A has been reviewed, verified and approved by the City Construction Representative of the City. Payment of the Draw Actual Costs of each such Segment is hereby approved.

Date: _____

CITY OF DRIPPING SPRINGS, TEXAS

By: _____

APPROVAL BY THE CITY

ATTACHMENT A TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

| <u>Segment</u> | <u>Description of Work Completed under this Certification for Payment</u> | <u>Draw Actual Costs</u> |
|----------------|---|----------------------------------|
|----------------|---|----------------------------------|

ATTACHMENT A TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

ATTACHMENT B TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

[bills paid affidavit – attached]

ATTACHMENT B TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

ATTACHMENT D TO CERTIFICATION FOR PAYMENT

[lender consents or approvals - attached]

SCHEDULE II
Reimbursement Balances

1. Reimbursement Balance – Improvement Area #1

- Original Principal Amount: \$[_____]
- Interest Rate: Interest Rate on any unpaid portion of the Reimbursement Balance – Improvement Area #1 Authorized Improvements shall be the lesser of: (1) the interest rates on the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[___] (Heritage Public Improvement District Improvement Area #1 Project), or (2) [_____] % based on the Bond Index Rate of [_____] % as the highest average index rate reported for the *Bond Buyer's Index of 25 Revenue Bonds*, a weekly bond index approved by the City Council of the City, in the month before the date of approval of the Assessment Ordinance levying the Special Assessments on Improvement Area #1.
- Date of Assessment Ordinance Approval: Ordinance No. [_____] approved on [_____] , 20[___] and recorded in the real property records of Hays County, Texas on _____, 20[___], as Document No. _____
- Payment Source: Solely from Special Assessments levied on Improvement Area #1 and/or net bond proceeds of the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[___] (Heritage Public Improvement District Improvement Area #1 Project).

2. Reimbursement Balance – Improvement Area #[]

- a. Original Principal Amount: \$[_____]
- b. Interest Rate: Interest Rate on any unpaid portion of the Reimbursement Balance – Improvement Area #[_] Authorized Improvements shall be the lesser of: (1) the interest rates on the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[___] (Heritage Public Improvement District Improvement Area #[_] Project), or (2) [_____] % based on the Bond Index Rate of [_____] % as the highest average index rate reported for the *Bond Buyer's Index of 25 Revenue Bonds*, a weekly bond index approved by the City Council of the City, in the month before the date of approval of the Assessment Ordinance levying the Special Assessments on Improvement Area #[_].
- c. Date of Assessment Ordinance Approval: Ordinance No. [_____] approved on [_____] , 20[___] and recorded in the real property records of Hays County, Texas on _____, 20[___], as Document No. _____

- d. Payment Source: Solely from Special Assessments levied on Improvement Area #[] and/or net bond proceeds of the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[] (Heritage Public Improvement District Improvement Area #[] Project).

3. Reimbursement Balance – Improvement Area #[]

- a. Original Principal Amount: \$[]
- b. Interest Rate: Interest Rate on any unpaid portion of the Reimbursement Balance – Improvement Area #[] Authorized Improvements shall be the lesser of: (1) the interest rates on the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[] (Heritage Public Improvement District Improvement Area #[] Project), or (2) []% based on the Bond Index Rate of []% as the highest average index rate reported for the *Bond Buyer's Index of 25 Revenue Bonds*, a weekly bond index approved by the City Council of the City, in the month before the date of approval of the Assessment Ordinance levying the Special Assessments on Improvement Area #[].
- c. Date of Assessment Ordinance Approval: Ordinance No. [] approved on [], 20[] and recorded in the real property records of Hays County, Texas on _____, 20[], as Document No. _____
- d. Payment Source: Solely from Special Assessments levied on Improvement Area #[] and/or net bond proceeds of the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[] (Heritage Public Improvement District Improvement Area #[] Project).

4. Reimbursement Balance – Improvement Area #[]

- a. Original Principal Amount: \$[]
- b. Interest Rate: Interest Rate on any unpaid portion of the Reimbursement Balance – Improvement Area #[] Authorized Improvements shall be the lesser of: (1) the interest rates on the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[] (Heritage Public Improvement District Improvement Area #[] Project), or (2) []% based on the Bond Index Rate of []% as the highest average index rate reported for the *Bond Buyer's Index of 25 Revenue Bonds*, a weekly bond index approved by the City Council of the City, in the month before the date of approval of the Assessment Ordinance levying the Special Assessments on Improvement Area #[].
- c. Date of Assessment Ordinance Approval: Ordinance No. [] approved on [], 20[] and recorded in the real property records of

Hays County, Texas on _____, 20[], as Document No. _____

- d. Payment Source: Solely from Special Assessments levied on Improvement Area #[] and/or net bond proceeds of the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[] (Heritage Public Improvement District Improvement Area #[] Project).

SCHEDULE III
Form of Closing Disbursement Request

FORM OF CLOSING DISBURSEMENT REQUEST

The undersigned is an agent for [OWNER], a [state] [entity] [(the “Owner”) and requests payment to the Owner (or to the person designated by the Owner) from the [applicable account][Costs of Issuance Account] of the Project Fund from _____ (the “Trustee”) in the amount of _____ (\$ _____) to be transferred from the [applicable account][Costs of Issuance Account] of the Project Fund upon the delivery of the PID Bonds for costs incurred in the establishment, administration, and operation of the Heritage Public Improvement District (the “District”), and/or costs associated with the issuance of PID Bonds as follows. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Heritage Public Improvement District Financing and Reimbursement Agreement between the Owner and the City (the “Financing and Reimbursement Agreement”).

In connection with the above referenced payment, the Owner represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Owner, is qualified to execute this Closing Disbursement Request on behalf of the Owner, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced establishment, administration, and operation of the District and/or costs of issuance of the PID Bonds at the time of the delivery of the PID Bonds have not been the subject of any prior payment request submitted to the City.
3. The amount listed for the below costs is a true and accurate representation of the Costs associated with the establishment, administration and operation of the District at the time of the delivery of the PID Bonds, and such costs are in compliance with the Assessment Plan.
4. The Owner is in compliance with the terms and provisions of the Financing and Reimbursement Agreement, the Assessment Plan, and the [Developer Continuing Disclosure Agreement] and Indenture.
5. All conditions set forth in the Indenture and the Financing and Reimbursement Agreement for the payment hereby requested have been satisfied.
6. The Owner 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:

[Information regarding Payee, amount, and deposit instructions attached]

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

[OWNER],
a Texas _____

By: _____

Name: _____

Title: _____

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 and shall include said payments in the City Certificate (defined in the Indenture) submitted to the Trustee directing payments to be made from the [applicable account][Costs of Issuance Account] of the Project Fund under the Indenture upon delivery of the PID Bonds.

CITY OF DRIPPING SPRINGS, TEXAS

By: _____

Name: _____

Title: _____

Date: _____

CITY OF DRIPPING SPRINGS

RESOLUTION NO. 2022 -R

LEGISLATIVE PRIORITIES FOR 2023

A RESOLUTION OF THE CITY OF DRIPPING SPRINGS, TEXAS, ESTABLISHING PRIORITIES FOR THE 85TH LEGISLATIVE SESSION IN TEXAS, AND AUTHORIZING REPRESENTATION OF THE MUNICIPALITY IN ADVOCATING CERTAIN POSITIONS.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) finds it to be in the public interest, and necessary for the public health, safety and welfare, that the city take positions on certain issues that may or have come before the 88th Texas Legislature in the Spring of 2023; and

WHEREAS, the City Council finds legislative involvement to be a legitimate exercise of its elected duties as the governing body serving those who live, work, visit, and own property in the city limits and the extraterritorial jurisdiction; and

WHEREAS, the City Council understands that members of the Texas Senate and the Texas House of Representatives benefit from learning of the analysis performed and positions taken by locally-elected public officials; and

WHEREAS, the City Council has identified the following items as being worthy of voicing a position on behalf of the people of Dripping Springs; and

NOW, THEREFORE, BE IT RESOLVED by the City of Dripping Springs City Council:

A. Support-

- 1. Local Control:** The City Council hereby supports legislation that upholds the principle of local government and reinforces the lawful statutory authority of the elected leaders of Dripping Springs to respect the priorities of their citizenry and respond to local challenges and opportunities.
- 2. Funding:** The City Council supports legislation that assists the City with additional tools for funding for transportation, parks, and other essential services.
- 3. Infrastructure:** The City Council supports legislation that assists the City with the acquisition of property, permitting, and construction of infrastructure to serve development within the city limits and extraterritorial jurisdiction of the City.
- 4. Land Use:** The City Council supports legislation that would make beneficial amendments to allow greater authority for regulation of exterior design and building materials, and to allow greater flexibility and predictability in processing plat and site plan applications, and to assist the City adequately prepare for its future planning needs.

5. **Lighting:** The City Council hereby supports legislation that would expand the City's authority to regulate lighting and Dark Sky requirements.
6. **Property Tax:** The City Council supports legislation that would increase transparency in the ad valorem (property) tax and budget adoption by coordinating state, county, and city timelines for review, notice, and approval of ad valorem tax. City Council supports legislation that would increase the accuracy of appraisals of all types of property.
7. **Sales Tax:** The City Council hereby supports legislation that would make beneficial amendments to district or other taxing district sales tax and areas to authorize cities to replace some or all sales taxes in an area with city sales taxes, provided a district or other taxing jurisdiction's existing sales tax debt is proportionately and reasonably provided for in some manner.
8. **Signs:** The City Council hereby supports legislation that would affirm State and City authority over off-premise and other commercial signs. The City Council supports legislation that supports Scenic Highways in the Hill Country.
9. **Transportation:** The City Council supports legislation that would provide direction and funding for future projects within the City Limits and Extraterritorial Jurisdiction of the City of Dripping Springs. The City Council also supports any effort that increases communications with the Texas Department of Transportation and other regional partners related to projects within the City Limits and Extraterritorial Jurisdiction of the City of Dripping Springs.

B. Opposition –

1. **Local Control:** The City Council hereby opposes legislation that erodes local control or weakens the ability of locally-elected leaders to respond to challenges or opportunities unique to the Dripping Springs community or Texas Hill Country region.
2. **Appraisal & Revenue Caps:** The City Council hereby opposes legislation that expands appraisal caps or imposes revenue caps on *ad valorem* (property) taxes.
3. **Elections:** The City Council opposes legislation that would require partisan elections for elected officers or otherwise limit municipal elections.
4. **ETJ:** The City Council hereby opposes legislation that lessens municipal authority to regulate in the extraterritorial jurisdiction (ETJ) or removes or abolishes the area of the City's ETJ.
5. **Impervious Cover:** The City Council hereby opposes legislation that limits the authority of municipalities to provide for water quality protection and pollution prevention by regulating impervious cover, lot sizes, drainage infrastructure, and other aspects of development that impact stormwater controls and watersheds.
6. **Infrastructure:** The City Council opposes legislation that would erode municipal authority related to the provision of utility, parks, street, or other infrastructure.
7. **Land Use:** The City Council hereby opposes legislation that lessens municipal authority to reasonably regulate land use, including short-term rentals. The City Council opposes legislation that limits the authority or the amount of time the City has to adequately review site plans and plats. The City Council opposes legislation that lessens the City's authority to engage in voluntary annexation.
8. **Lighting:** The City Council hereby opposes legislation that lessens municipal authority to regulate lighting, including Dark Sky requirements, or preempts municipal lighting regulations.

9. **Municipal Courts:** The City Council hereby opposes legislation that curtails the authority of a municipal court to enforce its judgments.
10. **Signs:** The City Council hereby opposes legislation that lessens municipal authority to regulate signs or preempts municipal sign regulations.
11. **Trees:** The City Council hereby opposes legislation that restricts the ability of municipalities to preserve their scenic landscapes and protect trees.
12. **Vesting:** The City Council hereby opposes legislation that amends Texas Local Government Code Chapter 245 to restrict the application of current municipal regulations, thus expanding entitlements under which stagnant or dormant land development projects can build or operate under old or outdated regulations.

C. Administration-

1. **Legislators:** The City Council directs City staff to provide a copy of this Resolution to the State Senator for District 25, and the State Representatives for District 45 and District 73.
2. **Texas Municipal League:** The City Council directs City staff to provide a copy of this Resolution to the Texas Municipal League.
3. **Hays County:** The City Council directs City staff to provide a copy of this Resolution to the Hays County Commissioners Court.
4. **Advocacy:** City officials are hereby authorized to advocate and otherwise convey positions expressed herein in accordance with the city's Legislative Policy.
5. **Open Meetings:** The meeting at which this Resolution was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED this, the 3rd day of January 2023, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: _____
Bill Foulds, Jr., Mayor

ATTEST:

Andrea Cunningham, City Secretary



STAFF REPORT
City of Dripping Springs
PO Box 384
511 Mercer Street
Dripping Springs, TX 78602

Submitted By: Laura Mueller, City Attorney

Council Meeting Date: January 3, 2023

Agenda Item Wording: **Discuss and consider approval of a Resolution Establishing Priorities for the 88th Legislative Session in Texas, and Authorizing Representation of the Municipality in Advocating Certain Positions.** *Sponsor: Councilmember Tahuahua*

Agenda Item Requestor:

Summary/Background: Every two years the Texas Legislature meets to make decisions that affect the City of Dripping Springs. In anticipation for this, the City adopts a legislative program every other year. This year we asked our boards and commissions, as well as staff, to weigh in. Once we approve our legislative program, we will send it to the Texas Municipal League which is the non-profit organization that represents all cities in Texas and has a legislative staff dedicated to assisting cities. Here are the suggestions related to us by our boards, commissions, and staff so far.

City Staff

1. Beneficial exterior design and plat submission changes
2. Infrastructure-improvements to permitting and funding for projects
3. Oppose detrimental changes to lighting regulation authority

Planning and Zoning Commission

1. Maintain local control over land use in city and ETJ;
2. Improvements to wastewater permitting; and
3. Review the site development and subdivision “shot clock” provisions.

Transportation Committee

1. More transportation funding for TxDOT city projects;
2. Allow for greater flexibility for funding of transportation projects.

TIRZ

1. Maintain current authority related to TIRZ.

Parks

1. More options for funding of Parks.

Economic Development Committee

1. Local authority over economic development.

Commission Recommendations: See above.

Recommended Council Actions: Adoption of the program.

Attachments: Resolution and program.

Next Steps/Schedule: Send to the Texas Municipal League, the City's state representatives, and Hays County.



DRIPPING SPRINGS
Texas

Legislative Priorities
2023
88th Legislative Session



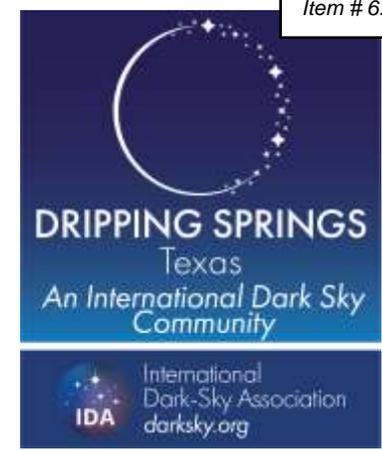
2023 Texas Legislative Session

January 10, 2023-May 29, 2023



- About 30% of the bills filed at the Capitol could have an effect on Texas Cities
- Dripping Springs adopts a legislative program each session
- Primarily focuses on maintaining local control
- The Program is used to direct city staff on how to approach bills as they are filed and move through the process
- The Program is provided and discussed with the City's legislative delegation

2023 Legislative Program – City Staff



City Staff

Michelle Fischer, City Administrator

Ginger Faught, Deputy City Administrator

Tory Carpenter, Planning Director

Shawn Cox, Finance Director



DRIPPING SPRINGS
Texas

1. Beneficial exterior design and plat submission changes
2. Infrastructure-improvements to permitting and funding for projects
3. Oppose detrimental changes to lighting regulation authority



2023 Legislative Program – Boards and Commissions

Planning and Zoning Commission

1. Maintain local control over land use in city and ETJ;
2. Improvements to wastewater permitting; and
3. Review the site development and subdivision “shot clock” provisions.

Transportation Committee

1. More transportation funding for TxDOT city projects;
2. Allow for greater flexibility for funding of transportation projects.

TIRZ

1. Maintain current authority related to TIRZ.

Parks

1. More options for funding of Parks.

Economic Development Committee

1. Local authority over economic development.



DRIPPING SPRINGS
Texas



2023 Proposed Legislative Program – New

Item # 6.

- Land Use: The City Council supports legislation that would make beneficial amendments to allow greater authority for regulation of exterior design and building materials, and to allow greater flexibility and predictability in processing plat and site plan applications, and to assist the City adequately prepare for its future planning needs.
- Infrastructure: The City Council supports legislation that assists the City with the acquisition of property, permitting, and construction of infrastructure to serve development within the city limits and extraterritorial jurisdiction of the City.
- Infrastructure: The City Council opposes legislation that would erode municipal authority related to the provision of utility, parks, street, or other infrastructure.
- Lighting: The City Council hereby opposes legislation that lessens municipal authority to regulate lighting, including Dark Sky requirements, or preempts municipal lighting regulations.
- Funding: The City Council supports legislation that assists the City with additional tools for funding for transportation, parks, and other essential services.

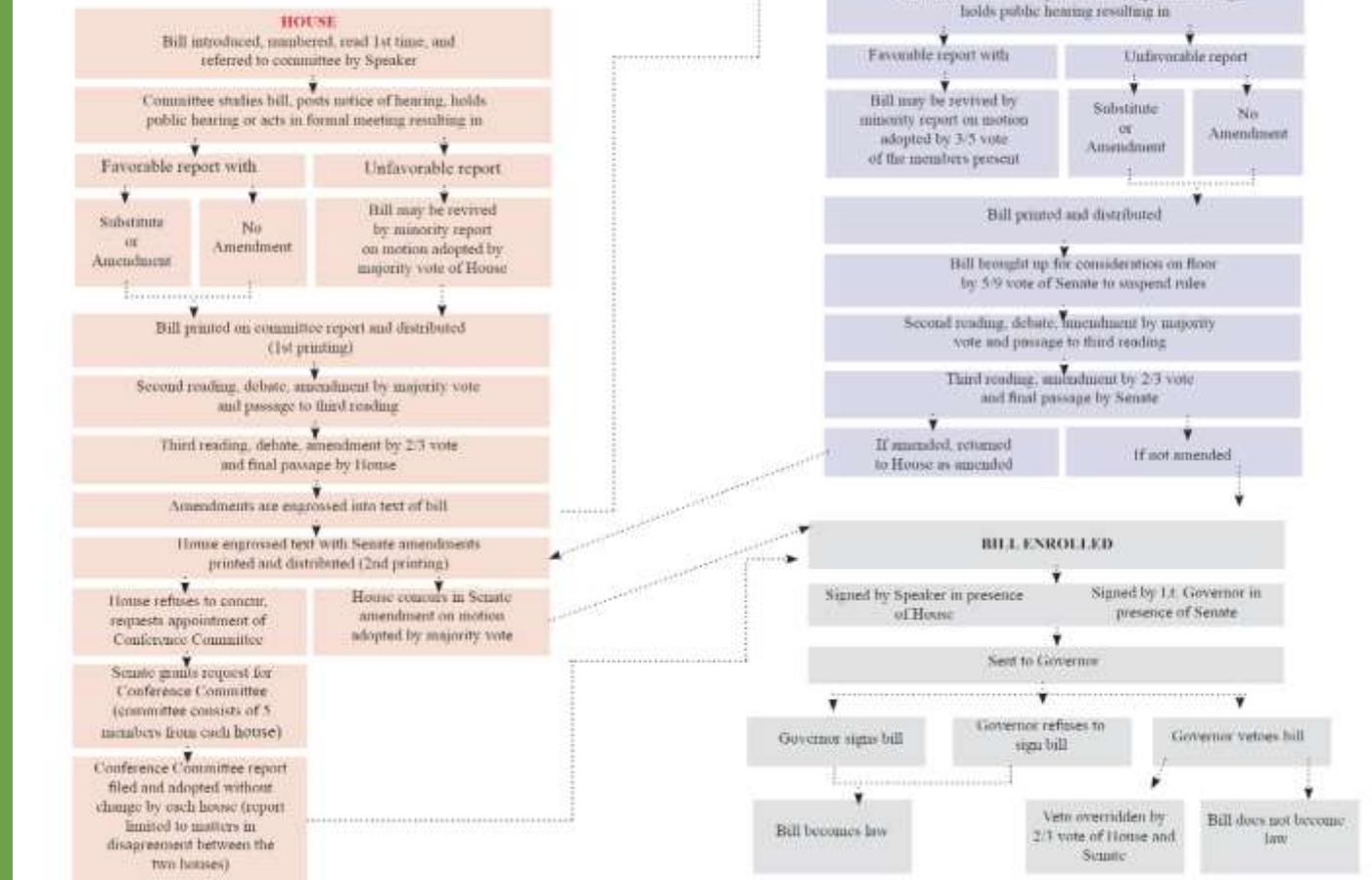


How to Help

- Provide feedback on legislative program
- Sign up to help with the Grassroots Involvement Program at the Texas Municipal League
- Sign up for legislative alerts
- Assist with written materials when pertinent bills are being heard
- Assist with testimony and contacting legislators
- Contact Laura Mueller at lm Mueller@cityofdrippingsprings.com with questions or concerns

THE TEXAS LEGISLATIVE PROCESS FOR HOUSE BILLS AND RESOLUTIONS

This diagram displays the sequential flow of a bill from the time it is introduced in the house of representatives to final passage and transmittal to the governor.



Recommendation and Next Steps

Staff recommends approval of program.

- Provide program to legislators for our area.
- Coordinate legislative program with Hays County.
- Follow Texas Legislation with Texas Municipal League and other resources.
- Work with staff and officials to provide input and feedback to the Texas Legislature.



DRIPPING SPRINGS
Texas





DRIPPING SPRINGS
Texas

Questions



THE TEXAS MUNICIPAL LEAGUE LEGISLATIVE PROGRAM **(2023 – 2024)**

Introduction

City officials across the state are well aware of the fact that many significant decisions affecting Texas cities are made by the Texas Legislature, not by municipal officials.

During the 2021 session, nearly 7,000 bills or significant resolutions were introduced; more than 2,000 of them would have affected Texas cities in some substantial way. In the end, over 1,000 bills or resolutions passed and were signed into law; more than 240 of them impacted cities in some way.

The number of city related bills as a percentage of total bills filed rises every year. Twenty years ago, around 17 percent of bills filed affected cities in some way. By 2021, that percentage had increased to 31 percent. In other words, a quarter of the legislature's work is directed at cities, and much of that work aims to limit municipal authority.

There is no reason to believe that the workload of the 2023 session will be any lighter; it will probably be greater. And for better or worse, city officials will have to live with all the laws that may be approved by the legislature. Thus, the League must make every effort to assure that detrimental bills are defeated and beneficial bills are passed.

The TML approach to the 2023 session is guided by principles that spring from a deeply rooted TML legislative philosophy:

- The League will vigorously oppose any legislation that would erode the authority of Texas cities to govern their own local affairs.
- Cities represent the level of government closest to the people. They bear primary responsibility for provision of capital infrastructure and for ensuring our citizens' health and safety. Thus, cities must be assured of a predictable and sufficient level of revenue and must resist efforts to diminish their revenue.
- The League will oppose the imposition of any state mandates that do not provide for a commensurate level of compensation.

In setting the TML program, the Board recognizes that there is a practical limit to what the League can accomplish during the legislative session. Because the League (like all associations) has finite resources and because vast amounts of those resources are necessarily expended in defeating bad legislation, the Board recognizes that the League must very carefully select the bills for which it will attempt to find sponsors and seek passage.

Each initiative is subjected to several tests:

- Does the initiative have wide applicability to a broad range of cities of various sizes (both large and small) and in various parts of the state?
- Does the initiative address a central municipal value, or is it only indirectly related to municipal government?
- Is this initiative, when compared to others, important enough to be part of TML’s list of priorities?
- Will the initiative be vigorously opposed by strong interest groups and, if so, will member cities commit to contributing the time and effort necessary to overcome that opposition?
- Is this initiative one that city officials, more than any other group, should and do care about?

The Board places each legislative issue into one of four categories of effort. Those four categories are:

- **Seek Introduction and Passage** – the League will attempt to find a sponsor, will provide testimony, and will otherwise actively pursue passage. Bills in this category are known as “TML Priority bills.”
- **Support** – the League will attempt to obtain passage of the initiative if it is introduced by some other entity.
- **Oppose** – the League will actively and vigorously attempt to defeat the initiative because it is detrimental to member cities.
- **No Position** – the League will take no action.

Our Highest Priority: Oppose Bad Bills

The Board determined that TML’s highest priority goal is the defeat of legislation deemed detrimental to cities. As a practical matter, adoption of this position means that the beneficial bills will be sacrificed, as necessary, in order to kill detrimental bills.

The TML Priority Package

The TML Priority Package includes the following items in no particular order:

1. Defeat any legislation that would erode municipal authority in any way, impose an unfunded mandate, or otherwise be detrimental to cities, especially legislation that would:
 - a. provide for state preemption of municipal authority in general.
 - b. impose further revenue and/or tax caps of any type.

- c. erode the ability of a city to issue debt.
 - d. erode municipal authority related to development matters, including with respect to the following issues: (1) annexation, (2) eminent domain, (3) zoning, (4) regulatory takings, (5) building codes, (6) tree preservation, (7) short-term rentals, and (8) the extraterritorial jurisdiction (ETJ).
 - e. erode the authority of a city to be adequately compensated for the use of its rights-of-way and/or erode municipal authority over the management and control of rights-of-way, including by state or federal rules or federal legislation.
 - f. limit or prohibit the authority of city officials to use municipal funds to communicate with legislators; or limit or prohibit the authority of the Texas Municipal League to use any revenue, however derived, to communicate with legislators.
 - g. abolish the concept of the ETJ.
2. Seek introduction and passage of any legislation that would:
- a. (1) eliminate reauthorization provisions for the collection and use of street maintenance sales and use tax; (2) authorize cities to reimburse themselves from sales and use tax collections for actual election costs required for tax implementation; and (3) clarify that cities may use street maintenance sales tax revenue for all streets and sidewalks in the city.
 - b. allow cities alternate methods for publications of legal notices.
 - c. promote pay as you go financing for capital projects by authorizing a dedicated property tax rate that is classified similarly to the debt service tax rate in property tax rate calculations.
 - d. (1) allow cities to remove themselves from an emergency services district (ESD) if the city is capable of providing services to the area; (2) expressly authorize ESDs to expand into a city's corporate limits or ETJ only with city council approval; and (3) require an ESD to enter into a sales and use tax sharing agreement with a city when a city annexes territory located in an ESD and, should negotiations fail, enter into binding arbitration and/or mediation.
 - e. increase the competitive bidding threshold to account for increased costs to cities.

Support

The Board supports legislation that would:

- 1. make beneficial amendments to the equity appraisal statute; close the “dark store” theory of appraisal loophole; and require mandatory disclosure of real estate sales prices.

2. authorize a council-option city homestead exemption expressed as a percentage or flat-dollar amount.
3. convert the sales tax reallocation process from a ministerial process into a more formalized and transparent administrative process.
4. authorize a city council to opt-in to requiring residential fire sprinklers in newly constructed single-family dwellings.
5. make beneficial amendments to H.B. 3167 (2019), the subdivision platting shot clock bill.
6. allow for greater flexibility by cities to fund local transportation projects; amend or otherwise modify state law to help cities fund transportation projects; or provide cities with additional funding options and resources to address transportation needs that the state and federal governments fail to address.
7. provide additional funding to the Texas Department of Transportation for equitable transportation projects that would benefit cities and provide local, state, and federal transportation funding of transportation infrastructure, including rail.
8. allow a city to lower the prima facie speed limit from 30 to 25 miles per hour without the need for a traffic study.
9. in relation to federal transit funding: (1) clarify federal congressional intent of federal transit law to protect cities across the United States from being penalized due to a population drop suffered as a direct result of a natural disaster; (2) explicitly state that only presidentially declared major disasters are covered, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 100-707); and (3) protect federal transit funding streams for urbanized areas until the execution of the next decennial census.
10. in relation to federal legislation, provide states greater authority over management of train delays in conjunction with affected cities.
11. provide greater authority to the Texas Department of Transportation to improve city railroad crossings and install signal lights where there are safety concerns.
12. establish that expenditures of Community Development Block Grant funds by cities are a governmental function.
13. require city consent before the Texas Commission on Environmental Quality (TCEQ) is authorized to issue a standard permit for a rock crushing operation, cement crushing operation, or any similar activity that may be authorized under a standard air permit from TCEQ within the corporate limits or ETJ of a city. Alternatively, or in addition, such legislation may: (a) authorize a city to restrict, prevent, or regulate the locating of such activities in the city's corporate limits or ETJ in other manners, such as imposing minimum

distance from such operations and schools, hospitals, churches, and residences; (b) require TCEQ to provide notice of applications for standard permits to cities for activities proposed in the city's corporate limits or ETJ and require TCEQ to address any and all comments received from the City as required by Sec. 382.112 of the Texas Health & Safety Code; or (c) prohibit TCEQ from issuing a standard permit for activities proposed in the city's corporate limits or ETJ unless the city verifies that the proposed activity is authorized under the city's zoning ordinance or comprehensive plan to locate at the proposed location.

14. provide consistency and uniformity in the compliance deadlines and fees for compliance dismissals of Class "C" misdemeanors.
15. rectify the wording of Texas Government Code Section 29.013 to eliminate the requirement that a city secretary notify the Office of Court Administration of elected or appointed mayors or municipal court clerks.
16. protect from disclosure the list of applicants for a mail in ballot up until the time ballots are sent for those applications, regardless of whether a request is made for the applications.
17. allow for the expenditure of municipal hotel occupancy for construction of improvements in municipal parks and trails/sidewalks that connect parks, lodging establishments, and other tourist attractions, and related public facilities.
18. require equitable treatment of local governments by preventing a state official or state agency from placing additional restrictions on a city's use of federal funds from future stimulus legislation related to a health pandemic, in contravention of congressional intent.
19. require counties to share timely information on health emergencies with cities.
20. treat broadband service similar to other critical utility infrastructure to ensure statewide availability, equity, and affordability for citizens and businesses.
21. modernize the Texas Universal Fund through revenue sources that ensure long-term sustainability for the provision of broadband services.
22. require the State of Texas to create a state regulatory process for oil and gas and CO2 pipeline routing that:
 - i. enables affected communities and landowners to provide input prior to establishment and publication of routes.
 - ii. provides for negotiation on routes when municipalities believe that substantial threats to economic development, natural resources, or standard of living are potential outcomes.
 - iii. intrastate pipelines will comply with environmental and economic impact study standards, including the participation of local governmental entities and public participation.

- iv. pipeline operators shall have in place performance bonds like those the state has in its own contracts.
23. increase existing or create new grant program funding that provides financial assistance to local governmental public safety agencies for public safety resources, including legislation that supports the use and the purchase of body cameras and associated data storage costs.
24. harden the state's electric grid against blackouts, especially those caused by extreme weather events.
25. provide additional tools for municipally owned electric utilities to harden their systems against blackouts, especially those caused by extreme weather events.
26. mitigate the cost and liabilities of the outage event caused by Winter Storm Uri from being passed on to cities and city residents.
27. provide stabilization and funding for the electric grid in response to increased demand.
28. ensure that each city gets at least one vote on appraisal district board members.
29. strengthen current law as it relates to catalytic convertor theft and prevention, including increasing penalties for auto repair facilities and individual sellers who resell or are in possession of stolen catalytic converters.
30. promote increased flexibility under the Texas Open Meetings Act, including flexibility for public participation, so long as the legislation doesn't mandate any new costs on local governments.
31. give cities more input in the municipal utility district development process within the city limits and ETJ, including legislation that promotes additional transparency in the process for cities and city residents.
32. raise the threshold for the $\frac{3}{4}$ super majority requirements triggered by the opposition of landowners close to proposed zoning changes from 20% of property ownership interest within the notification area, to 50%.
33. add safeguards to the formation of new municipal utility districts (MUDs) through the Texas Commission on Environmental Quality process, limit MUDs administrative costs, require MUDs to meet in the cities they tax from, coordinate with local cities or counties on MUD board elections, and provide additional financial information to citizens in an open and transparent manner.
34. allow for competitive procurement of the professional services enumerated in the Professional Services Procurement Act by home rule and general law municipalities.
35. allow for the expansion and preservation of diverse, affordable housing in cities, including additional appropriations.

36. allow a city official to submit a request for an attorney general letter ruling under the Public Information Act by email at no charge.
37. increase the maximum hiring age for firefighters in a civil service city from age 35 to 45, or to eliminate the maximum hiring age altogether.
38. make beneficial amendments to H.B. 2439 (2019), the building materials bill.
39. amend Sec. 52.095, Election Code, related to the requirement that cities are only able to assign a letter of the alphabet to the measure that corresponds to its order on the ballot.

Oppose

The Board opposes legislation that would:

1. negatively expand appraisal caps but take no position on legislation that would authorize a council-option reduction in the current ten-percent cap on annual appraisal growth.
2. impose new property tax or sales tax exemptions that substantially erode the tax base.
3. limit or eliminate the current flexibility of the Major Events Reimbursement Program as a tool for cities to attract or host major events and conventions.
4. limit the type of incentives available to the city or that would limit any use of incentives by a city.
5. further erode local control as it pertains to retirement issues.
6. substantively change or expand the scope of the current disease presumption law, unless doing so is supported by reputable, independent scientific research.
7. require candidates for city office to declare party affiliation in order to run for office.
8. eliminate any of the current uniform election dates.
9. impose additional state fees or costs on municipal court convictions or require municipal courts to collect fine revenue for the state.
10. restrict city authority to draft ballot propositions in such a way that reflects the full fiscal impact of the proposition.
11. require preclearance of city ballot propositions by a state agency.
12. erode city solid waste franchise fee authority.

No Position

The Board takes no position on legislation that would relate to immigration matters, so long as it does not impose new and substantial unfunded mandates or unavoidable liabilities on cities.

The Board takes no position on legislation that would impact local sourcing of sales and use taxes.

The Board takes no position on legislation that would authorize a city to annex out a roadway to bring a voluntarily-requested area into the city limits.

Other

The Board takes the following additional actions:

1. with regard to economic development: (1) take no position on legislation that would broaden the authority of Type A or Type B economic development corporations; and (2) oppose legislation that would limit the authority of Type A or Type B economic development corporations statewide, but take no position on legislation that is regional in scope and that is supported by some cities in that region.

| <i>Ongoing Projects</i> | |
|-------------------------|--|
| Comprehensive Plan | Meetings with DTJ |
| Cannon East | From Hilltop Vista to Gateway Village. Received comments on December 19, 2022. |
| Cannon Mixed-Use | DAWG Meeting Thursday, December 8 |

| ADMINISTRATIVE APPROVAL PROJECTS | | | | |
|--|-------------------|---|---|------------------------|
| Site Development Project Name | City Limits / ETJ | Location | Description | Status |
| SD2021-0005 Dripping Springs WWTP Expansion | CL | 23127 FM 150 W | Expansion of the Wastewater treatment plant | Under Review |
| SD2021-0021 RR 12 Commercial Kitchen | CL | 28707 RR 12 | Commercial kitchen that will support a catering business, no on-site dining is proposed | Approved w/ Conditions |
| SD2021-0013 Dreamland | ETJ | | | Waiting on resubmittal |
| SD2021-0030 Belterra Townhomes | ETJ | Belterra | Seven townhome units with associated parking, sidewalk, utilities, and drainage | Waiting on resubmittal |
| SD2021-0033 Bell Springs Business Park, Sec 1&2 Rev | ETJ | 4955 Bell Springs | A revision for minor adjustments on site layouts, rainwater, and overall drainage & water quality | Waiting on resubmittal |
| SD2022-0001 Julep Commercial Park | ETJ | Northeast corner of W US 290 and Trautwein Rd | 11.27 acre site of mixed-use commercial buildings with supporting driveways, water quality and detention pond, rainwater harvesting, and other utilities | Waiting on resubmittal |
| SD2022-0010 Wenty's Wine Bar | ETJ | 5307 Bell Springs Rd | Wine bar and associated improvements | Waiting on resubmittal |
| SD2022-0007 Heritage Effluent Line Stage II Extension | CL | 511 Mercer Street | Extension of the existing 12" effluent line north along RR12, along with an 8" effluent line that spans from Rob Shelton, across Hwy 290, and north to Heritage Stage 2 | Waiting on resubmittal |
| SD2022-0008 Patriot's Hall Phase 1B | ETJ | 231 Patriots Hall Blvd | New Patriot's Hall event building with parking, infrastructure and water quality | Waiting on resubmittal |
| SD2022-0013 DS Flex Business Park | CL | 28513 RR 12 | Construction of two shell buildings with accompanying site improvements | Waiting on resubmittal |
| SD2022-0011 Skybridge Academy | CL | 519 Old Fitzhugh Road | Remodel/repurpose of existing historic structures, add new construction to tie together the house and garage with additional parking and revised driveway | Approved w/ Conditions |
| SD2022-0014 Bell Springs Site Plan (Travis Flake) | ETJ | 5307 Bell Springs Rd | Office and Warehouse with drives, parking, waterline connection, and pond | Approved w/ Conditions |
| SD2022-0016 JWLP Lot 6 Revision 1 | CL | 249 Sportsplex Drive | Revision to the original site plan | Waiting on resubmittal |
| SD2022-0018 Office 49 | ETJ | 241 Frog Pond Lane | The construction of eleven office buildings of varying sizes along with the related paving, grading, drainage, and utility improvements. | Waiting on resubmittal |
| SD2022-0019 Double L Ranch, Phase 1 | ETJ | RR 12 | Construction of water, wastewater, drainage and paving improvements for 244 single family lots. | Waiting on resubmittal |
| SD2022-0020 Merigian Studios | ETJ | 105 Daisy Lane | Art studio with driveway, parking, and external structures | Waiting on resubmittal |
| SD2022-0022 Belterra Medical Office | ETJ | 164 Belterra Village Way | Medical office building with associated parking, sidewalk, utility and drainage improvements | Waiting on resubmittal |
| SD2022-0023 Christian Automotive | ETJ | 100 N. Canyonwood Drive | Construction of an approximately 6,000 square feet of light automotive facility | Approved w/ Conditions |
| SD2022-0024 4400 US 290 SP | ETJ | 4400 US 290 | 7 Commercial Buildings in the ETJ | Under Review |
| SD2022-0025 Hardy Drive | ETJ | 2901 US 290 | Construction of a road for the Hardy and Bunker Ranch development to meet fire code | Waiting on resubmittal |
| SD2022-0026 Driveway 100 US 290 | CL | 100 US 290 | The addition of new asphalt driveway including culvert extension to create access from Wallace St. | Approved |
| SD2022-0027 Sawyer Ranch Lot 3A | CL | 13341 W US 290 | Lot 3A of the Sawyer Ranch at US 290 development. This consists of commercial buildings with parking, sidewalks, and utilities. | Under Review |
| SD2022-0028 Panda Express Revision | ETJ | 12680 W US 290 | Revision to the original site plan of Panda Express | Waiting on resubmittal |
| SD2022-0029 Headwaters Commercial East Phase 1 SP | CL | Headwaters Blvd. | Development of a preschool with associated utility infrastructure, storm infrastructure, parking lot improvements, and a water quality/detention pond that accounts for future developments | Waiting on resubmittal |
| SD2022-0030 Fire Station 62 | ETJ | 15850 FM 1826 | Renovation of existing fire station and addition of paving around west side of building. | Under Review |
| SD2022-0031 WHIM Corporate Site Plan | CL | 27950 RR12 | The construction of the corporate HQ for WHIM along with the site improvements needed and as shown in the site plan. | Waiting on resubmittal |
| SD2022-0032 Driftwood Ranch Clubhouse | ETJ | 17901 FM 1826 | Clubhouse buildings and parking | Waiting on resubmittal |
| SD2022-0033 Hays County ESD EMS Station 72 - Heritage Oaks | ETJ | 1 Heritage Oaks Drive | New ESD EMS Station | Under Review |
| SD2022-0035 100 Daisy Lane Site Plan | ETJ | 100 Daisy Lane | A metal building for manufacturing, office, storage, tasting room for a distillery and associated paving | Waiting on resubmittal |
| SD2022-0036 Hays County ESD EMS Station 73 - RR 12 | ETJ | 31331 RR 12 | New ESD EMS Station | Under Review |
| SD2022-0037 Burlebo | ETJ | 149 American Way | Warehouse/office for business and distribution operation of Burlebo | Waiting on resubmittal |
| SD2022-0038 CAK Capital Office Building | CL | 28496 Ranch Road 12 | Site improvements for future detached office building | Waiting on resubmittal |
| SD2022-0039 Big Sky Ranch WWTP | CL | Sue Peaks Loop | Temporary Wastewater Treatment Plan and subsurface area drip disposal system to serve Big Sky Development | Waiting on resubmittal |
| SD2022-0040 WTCPUA Elevated Storage Tank | ETJ | 304 Old Stone Road | 12" waterline extension, access drive, natural vegetative filter areas, and a million gallon elevated | Under Review |
| SD2022-0041 Dripping Springs Urgent Care | CL | 164 Belterra Village Way | Ground up development of an urgent care facility within the Belterra Commercial District | Under Review |
| SD2022-0042 Suds Brothers Car Wash | CL | 610 W Hwy 290 | Development for a car wash | Under Review |
| SD2022-0043 Tiger Lane Office Complex | CL | Tiger Lane | 76,000 SF of office space with parking, water quality, and utility improvements | Under Review |

| Subdivision Project Name | City Limits / ETJ | Location | Description | Status |
|---|-------------------|---|---|--------------------------|
| SUB2021-0065 Heritage Phase 2 Final Plat | CL | Sportsplex Drive (Heritage Development) | 162 Lots on 69.999 acres, 160 of which are residential with an average lot size of 0.143 acres | Waiting on Resubmittal |
| SUB2021-0069 Cannon Ranch Ph 1 Construction Plans | CL | Cannon Ranch Road | Development of 122 residential lots with public roadways, utilities, and drainage features. | Approved with conditions |
| SUB2021-0071 Cannon Ranch OffSite Waterline | CL | Cannon Ranch Road | The construction of an offsite waterline that is approximately 4 acres | Approved with conditions |
| SUB2021-0073 Hardy Preliminary Plat | CL | 2901 W US 290 | 41 Residential lots on 39.341 | Waiting for Resubmittal |
| SUB2022-0002 Hays Street Subdivision | CL | 102 Bluff Street | Subdivision of 6 residential lots in the Historic District | Waiting for Resubmittal |
| SUB2022-0009 Driftwood Subdivision Phase 3 Preliminary Plat | ETJ | 17901 FM 1826 | Preliminary Plat for 14 lots: 12 Residential, 1 Commercial, 1 Industrial | Approved with conditions |
| SUB2022-0012 Driftwood Sub Ph 3 Sec 1 FP | ETJ | 17901 FM 1826 | Final Plat for 1 Commercial Lot | Approved with conditions |
| SUB2022-0013 Driftwood Sub Ph 3 Sec 2 FP | ETJ | 17901 FM 1826 | FP for 11 single-family residential lots, 1 open space lot, and 1 private street lot on 34.67 acres | Approved with conditions |
| SUB2021-0011 Double L Phase 1 Prelim Plat | ETJ | 1.5 miles N of US 290 & RR 12 | PP for 243 residential units and 1 amenity center | Approval with Conditions |
| SUB2022-0017 Rob Shelton - Cannon | CL | Rob Shelton Boulevard | Construction Plans | Approval with Conditions |
| SUB2022-0021 Headwaters at BC Phase 3 CP | ETJ | Intersection of Hazy Hills Loop and Roy Branch Road | Construction Plans | Approved with conditions |
| SUB2022-0023 Overlook at Bunker Ranch CP | CL | 2004 Creek Road | Construction Plans for 12 single family lots with 1 drainage lot | Approved with conditions |
| SUB2022-0028 Parten Ranch Phase 8 | ETJ | End of Bird Hollow near Trickling Brook Road Intersection | 90 Lot Subdivision | Approved with conditions |
| SUB2022-0029 Vitolich Plaza, Lot 1 Replat | ETJ | Bell Springs Rd | From one lot to two lots | Approved with conditions |
| SUB2022-0030 Burke Subdivision, Lot 1A Replat | ETJ | 20650 FM 150 | From one lot to two lots | Approved with conditions |
| SUB2022-0031 Patriots Hall AP | ETJ | 231 Patriots Hall Blvd | Combining the existing 4 lots into 1 lot | Waiting for Resubmittal |
| SUB2022-0033 The Ranch at Caliterra | ETJ | Premier Park Loop | Preliminary plat of the Carter tract with 243 lots | Waiting for Resubmittal |
| SUB2022-0036 Driftwood Creek FM 150 12 Treated Effluent and 10 Raw Wastewater Force mains Ph I and II | ETJ | FM 150 | 12 inch treated effluent line and 10 inch wastewater force mains to connect with Dripping Springs WWTP | Waiting for Resubmittal |
| SUB2022-0037 Re-subdivision of Lot 2, Driftwood 967 Phase One FP | ETJ | Near the intersection of FM 1826 and FM 967 | Replating the already platted lot for mixed-use development. This is to be part of the Driftwood Development | Approved with conditions |
| SUB2022-0039 Village Grove Preliminary Plat | CL | Sports Park Rd | Village Grove PDD. This is 112.40 acres including 207 lots, 511 residential units, and 6.82 acres will be commercial | Waiting for Resubmittal |
| SUB2022-0040 102 S Bluff St CP | CL | Hays st | Construction Plans for 7 lots. Six of wch are residential and 1 will be landscaping | Waiting for Resubmittal |
| SUB2022-0041 Hays St Preliminary Plat | CL | Hays st | Preliminary Plat for 7 lots. Six of wch are residential and 1 will be landscaping | Waiting for Resubmittal |
| SUB2022-0042 Silver Creek Subdivision | ETJ | Silver Creek Rd | 70-acre tract to be developed into a 28 single family lots with access, paving, on-site sewage, water supply well, and an undisturbed open space | Approved with conditions |
| SUB2022-0043 Howard Ranch Sec 4 Lots 62 & 63 AP | ETJ | 590 Cypress Creek Dr | An amending plat to remove a site parking area from the single family lot. This request is by the property owner. | Waiting for Resubmittal |
| SUB2022-0045 Ellington Estates MP | ETJ | 206 Darden Hill Rd | Legalizing the lot | Waiting for Resubmittal |
| SUB2022-0046 Kali Kate | ETJ | 4550 FM 967 | City of Dripping Springs and City of Buda Interlocal Agreement | Waiting for Resubmittal |
| SUB2022-0047 Ariza West 290 | ETJ | 13900 W US Highway 290 | The Final Plat for an apartment complex | Waiting for Resubmittal |
| SUB2022-0048 Wild Ridge Phase 1 CP | CL | E US 290 | Construction plans for phase 1 of Wild Ridge | Waiting for Resubmittal |
| SUB2022-0049 Serenity Hills | ETJ | 1111 HAYS COUNTRY ACRES ROAD | 50 Lot subdivision in Dripping Springs ETJ | Waiting for Resubmittal |
| SUB2022-0050 North 40, Section 2, Block B, Lots 1, 2, 29, and 30 | CL | 28501 RR 12 | Amending Plat to combine 4 lots into 1 | Waiting for Resubmittal |
| SUB2022-0051 AP Caliterra Phase 3, Sec 9, Lot 39 BIK D | ETJ | Soaring Hill Rd | The amendment extends a portion of the right-of-way width along the western property line within Block D Lot 39 Open Space, Drainage and Water Quality Easements lot. | Under Review |
| SUB2022-0052 Village Grove Phase 1 CP | CL | Sports Park Rd | The construction plans for phase 1 of the Village Grove development | Under Review |