

CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

Vicki McKenzie, Mayor Pro Tem
Position 3 At-Large
Bert Lyle, Position 1 At-Large
Karen Denman, Position 2 At-Large
Pat Graham, Position 4 At-Large



Tore Fossum, Ward1
Casey Cox, Ward 2
Anissa Antwine, Ward 3
Jon Strong, Ward 4

**HUNTSVILLE CITY COUNCIL AGENDA
TUESDAY, DECEMBER 19, 2023**

**WORKSHOP SESSION 5:00 P.M. - Staggs Community Room
REGULAR SESSION 6:00 P.M. - Staggs Community Room**

Huntsville Public Library, 1219 13th Street, Huntsville, Texas, 77340

Persons with disabilities who plan to attend this meeting and may need auxiliary aids or services are requested to contact the City Secretary's office (936.291.5413) two working days prior to the meeting for appropriate arrangements.

WORKSHOP (5:00 p.m.)

DISCUSSION

- a.** Overview of Public Improvement Districts (PIDs), Municipal Utility Districts (MUDs), and Development Agreements
Aron Kulhavy, City Manager
Kevin Byal, Director of Development Services

MAIN SESSION (6:00 p.m.)

CALL TO ORDER

INVOCATION AND PLEDGES - *U.S. Flag and Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.*

1. CONSENT AGENDA

The presiding officer will call for public comments before action is taken on these items. *(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)*

- a.** Consider approving the Minutes from the December 5, 2023 Regular City Council Meeting.
Kristy Doll, City Secretary
- b.** Consider adoption of Ordinance 2023-30 to amend the Budget for FY 23-24 amending the Schedule of Fees and Charges
Steve Ritter, Finance Director
Kathlie Jeng-Bulloch, City Engineer
Kevin Byal, Director of Development Services
- c.** Consider adoption of Ordinance 2023-31 to amend the budget for FY 23-24 and/or CIP Project budgets.
Steve Ritter, Finance Director

- d. Consider temporarily suspending the Rules of Procedure Section 3.01 requiring a regular City Council meeting on the first Tuesday of the month for the January 2, 2024, Regular City Council meeting.
Kristy Doll, City Secretary
- e. Consider approval for the purchase of In-Car Video Systems for Police vehicles.
Darryle Slaven, Police Chief
- f. Consider authorizing the City Manager to award the construction contract for the CIP FY22-23 Storm Sewer Line Replacement Construction Project ID # 22-10-36 crossing University Avenue between 15th Street and Bearkat Street.
Kathlie Jeng-Bulloch, City Engineer
- g. Consider renewal of Industrial User (IU) Discharge Permit 0100 for Gardner Glass Products, Incorporated/Dreamwalls for a period of five years.
Brent Sherrod, Public Works Director

2. STATUTORY AGENDA

- a. Consider authorizing the City Manager to execute the first Amendment to "the Reserves of Huntsville", PID # 1, Development Agreement, an agreement by and between PHD-Huntsville 34, L.P., a Texas limited partnership, and the City of Huntsville.
Kevin Byal, Director of Development Services
- b. Consider approving resolution No. 2023-15: A resolution consenting to the creation of a Municipal Utility District to be known as Huntsville Municipal Utility District No. 2.
Kevin Byal, Director of Development Services
- c. Consider authorizing the City Manager to enter into a Development Agreement with Forestar (USA) Real Estate Group, Inc., for the development of an approximately 226.5-acre development for a single-family master planned community in the City's Extra Territorial Jurisdiction.
Kevin Byal, Director of Development Services
- d. Consider authorizing the City Manager to enter into a development agreement with Watson-Cordone Development Group for the construction of Pine Shadows extension from Hickory to Interstate Highway 45 North Frontage Road.
Aron Kulhavy, City Manager

3. CITY COUNCIL/MAYOR/CITY MANAGER

- a. Consider Ordinance No. 2023-29 Adopting the Charter Amendments and incorporating the adopted amendments into a singular form.
Kristy Doll, City Secretary

4. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA

5. ITEMS OF COMMUNITY INTEREST

6. EXECUTIVE SESSION

- a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 to receive legal advice on Cause No. 2230703, City of Huntsville vs. Architects Design Group/ADG, Inc. in the 278th District Court, Walker County, Texas.
Leonard Schneider, City Attorney
- b. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 to receive legal advice on authorizing the release of 2,029.01 acres, parcel numbers 12735 and 12700, as requested by Joseph Adams, from the City of Huntsville Extra Territorial

Jurisdiction (ETJ) pursuant to Senate Bill 2038 enacted during the 88th Texas Legislative Session and current legal action filed by other Cities..

Leonard Schneider, City Attorney

- c. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 – Personnel Matters: regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Manager Aron Kulhavy.

Pat Graham, Councilmember Ward 4

Karen Denman, Councilmember At-Large Position 2

Tore Fossum, Councilmember Ward 1

7. RECONVENE

Take action on item discussed in executive session, if needed.

ADJOURNMENT

*If during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Section 551.071 – consultation with counsel on legal matters; 551.072 – deliberation regarding purchase, exchange, lease or value of real property; 551.073 – deliberation regarding a prospective gift; 551.074 – personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; 551.076 – implementation of security personnel or devices; 551.087 – deliberation regarding economic development negotiation; Sec. 551.089 - deliberation regarding security devices or security audits; and/or other matters as authorized under the Texas Government Code. If a Closed or Executive session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session to take action, if necessary, on the items addressed during Executive Session.

CERTIFICATE

I, Kristy Doll, City Secretary, do hereby certify that the above notice was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.HuntsvilleTX.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: December 15, 2023

TIME OF POSTING: 9:15 a.m.

TAKEN DOWN:

Kristy Doll

Kristy Doll, City Secretary



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: a.

Agenda Item: Overview of Public Improvement Districts (PIDs), Municipal Utility Districts (MUDs), and Development Agreements

Initiating Department/Presenter: City Manager

Presenter:

Aron Kulhavy, City Manager

Kevin Byal, Director of Development Services

Recommended Motion: Not applicable

Strategic Initiative: Goal #3, Economic Development – Promote and enhance a strong and diverse economy.

Discussion:

Previous Council Action:

Financial Implications:

Approvals:

Kristy Doll

Associated Information:



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 1.a.

Agenda Item: Consider approving the Minutes from the December 5, 2023 Regular City Council Meeting.

Initiating Department/Presenter: City Secretary

Presenter:

Kristy Doll, City Secretary

Recommended Motion: Motion to approve the Minutes from the December 5, 2023 Regular City Council Meeting.

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:

Kristy Doll

Associated Information:

1. December 5, 2023 City Council Minutes

MINUTES FROM THE HUNTSVILLE CITY COUNCIL REGULAR MEETING HELD ON THE 5th DAY OF DECEMBER 2023, AT THE HUNTSVILLE PUBLIC LIBRARY, LOCATED AT 1219 13th STREET, IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS, AT 6:00 P.M.

The Council met in regular session with the following:

COUNCILMEMBERS PRESENT: Mayor Humphrey, Mayor Pro Tem McKenzie, Councilmember At-Large Position 1 Lyle, Councilmember Ward 1 Fossum, Councilmember At-Large Position 2 Denman, Councilmember Ward 3 Antwine, Councilmember At-Large Position 4 Graham, Councilmember Ward 4 Strong.

COUNCILMEMBERS ABSENT: Councilmember Ward 2 Cox.

OFFICERS PRESENT: Aron Kulhavy, City Manager; Kristy Doll, City Secretary; Leonard Schneider, City Attorney

MAIN SESSION (6:00 p.m.)

CALL TO ORDER (6:00 p.m.)

Mayor Humphrey called the meeting to order at 6:00 p.m.

INVOCATION AND PLEDGES - *U.S. Flag and Texas Flag:* *Honor the Texas Flag. I pledge allegiance to thee, Texas, one state, under God, one, and indivisible.*

Mayor Humphrey gave the invocation and led the pledges.

1. CONSENT AGENDA

The presiding officer will call for public comments before action is taken on these items. (Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

- a. Consider approving the Minutes from the November 21, 2023 Regular City Council Meeting.**
Kristy Doll, City Secretary
- b. Consider authorizing the City Manager to execute an agreement for stop loss insurance coverage.**
Brian Beasley, HR Director
Steve Ritter, Finance Director

Councilmember Vicki McKenzie made a motion to approve the Consent Agenda Items a and b. The motion was seconded by Councilmember Tore Fossum. The motion passed 8-0. Yes - Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Bert Lyle, Anissa Antwine, Tore Fossum, Pat Graham; No - None

2. STATUTORY AGENDA

- a. Second Reading - Consider adopting Ordinance 2023-26, to change the Development District Classification of the approximate 86.56-acre tract of land adjacent to the 150 Block of FM 247 and also just east of American Legion Drive located on Walker County Property ID #13938, #13939, and #13941 from Management to Planned Development and to consider approval of the Concept Plan for the Planned Development.**

Armon Irones, City Planner

Armon Irones provided background on the Planned Development (PD) Zoning District that can only be established through a development district map amendment. There is a three-step process to get this achieved. We are currently in step one. There are five components of the approval criteria process in step one. If the second reading passes with the zone change and the Concept Plan, then step two will be the Development Plan. The Development Plan will be more detailed with a process to follow to complete step two. After the approval process is completed with step two then it will move to step three. Step three will be the final site plan.

Citizen comments were heard in opposition from Tomalea Bench.

Councilmember Bert Lyle made a motion to adopt Ordinance 2023-26 to change the Development District Classification of the approximate 86.56-acre tract of land adjacent to the 150 Block of FM 247 and also just east of American Legion Drive located on Walker County Property ID #13938, #13939, and #13941 from Management to Planned Development and approval of the Concept Plan for the Planned Development. The motion was seconded by Councilmember Vicki McKenzie. The motion passed 7-1.

Roll Call Vote

Yes: Vicki McKenzie, Tore Fossum, Russell Humphrey, Jon Strong, Anissa Antwine, Bert Lyle, Karen Denman;

No: Pat Graham

3. CITY COUNCIL/MAYOR/CITY MANAGER

- a. Consider directing staff to initiate the process of abandoning 17th Street between Bearkat Boulevard and Bobby K. Marks as requested by Sam Houston State University.**

Aron Kulhavy, City Manager

Councilmember Karen Denman made a motion to direct staff to initiate the process of abandoning 17th Street between Bearkat Boulevard and Bobby K. Marks as requested by Sam Houston State University. The motion was seconded by Councilmember Bert Lyle. The motion passed 8-0. Yes - Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Bert Lyle, Anissa Antwine, Tore Fossum, Pat Graham; No - None

- b. Consider the appointment to the City of Huntsville Boards and Commissions. Russell Humphrey, Mayor**

Councilmember Vicki McKenzie made a motion to appoint the Board and Commission members as presented. The motion was seconded by Councilmember Bert Lyle. The motion passed 8-0. Yes - Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Bert Lyle, Anissa Antwine, Tore Fossum, Pat Graham; No - None

4. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA

None

5. ITEMS OF COMMUNITY INTEREST

Mayor and Council announced Items of Community Interest.

6. EXECUTIVE SESSION

a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 to receive legal advice on PUC Docket No. 54529, Petition by Walker County SUD filed with the Public Utility Commission of Texas.

Leonard Schneider, City Attorney

b. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 to receive legal advice on Cause No. 2230703, City of Huntsville vs. Architects Design Group/ADG, Inc. in the 278th District Court, Walker County, Texas.

Leonard Schneider, City Attorney

City Council convened in closed session at 6:26 p.m.

7. RECONVENE

City Council reconvened from Executive Session into Open Session at 7:00 p.m.

Councilmember Vicki McKenzie made a motion to approve the settlement terms between the City and Walker County SUD. The motion was seconded by Councilmember Bert Lyle. The motion passed 8-0. Yes - Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Bert Lyle, Anissa Antwine, Tore Fossum, Pat Graham; No - None

ADJOURNMENT

Mayor Humphrey adjourned the meeting without objection at 7:00 p.m.

ATTEST:

CITY OF HUNTSVILLE

Kristy Doll, City Secretary

Russell Humphrey, Mayor



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 1.b.

Agenda Item: Consider adoption of Ordinance 2023-30 to amend the Budget for FY 23-24 amending the Schedule of Fees and Charges

Initiating Department/Presenter: Finance

Presenter:

Steve Ritter, Finance Director

Kathlie Jeng-Bullock, City Engineer

Kevin Byal, Director of Development Services

Recommended Motion: Move to adopt Ordinance 2023-30 to amend the budget for fiscal year 2023 - 2024; amending the Schedule of Fees and Charges.

Strategic Initiative: Goal #6 - Finance - Provide a sustainable, efficient and fiscally sound government through conservative fiscal practices and resource management.

Discussion: The City adopts the annual budget via Ordinance. The Schedule of Fees and Charges is included as part of the adoption of the annual budget. As such, changes or additions to the Schedule of Fees and Charges require approval via Ordinance. Additional detailed information is included in the Exhibit A "Explanation" section. This was presented to the Finance Committee at their December 5, 2023 meeting.

Previous Council Action: None for this specific agenda item. The fiscal year 2023 - 2024 budget and Schedule of Fees and Charges for the fiscal year were adopted at Council's September 19, 2023 meeting.

Financial Implications: It is anticipated that this will create some additional revenue for the General Fund. An amount cannot be estimated as it is unknown how many plans will be submitted for review in FY 23 - 24.

Approvals:

Steve Ritter

Aron Kulhavy

Kristy Doll

Associated Information:

1. Ordinance 2023-30 - BA amending Fee Schedule
2. Fee Sched - 12.19.23

ORDINANCE NO. 2023-30

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE 2023-2024 ANNUAL BUDGET, ORDINANCE NO. 2023-20 TO AMEND THE ADOPTED “SCHEDULE OF FEES AND CHARGES” OF THE BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the 2023-2024 Annual Budget and CIP Budgets, and the Schedule of Fees and Charges were adopted by Ordinance 2023-20 on September 19, 2023;

WHEREAS, various unforeseen circumstances affecting the City have presented themselves during the course of the fiscal year;

WHEREAS, the City Council considered the circumstances independently, deliberating appropriately on the associated revenues and expenditures and the overall impact on the general financial status of the City;

WHEREAS, pursuant to the laws of the State of Texas and the City Charter of the City of Huntsville, Texas, the City Council has determined that it will be beneficial and advantageous to the citizens of the City of Huntsville to amend the 2023 – 2024 Schedule of Fees and Charges as set forth herein; and

WHEREAS, this ordinance combines the independent Council actions into one budget amendment document;

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

Section 1. The findings set forth above are incorporated into the body of this ordinance.

Section 2. The budget for fiscal year 2023 – 2024 is hereby amended to include the fees as listed in Exhibit “A” attached hereto and made a part of this ordinance as if set out verbatim herein.

Section 3. All ordinances of the City in conflict with the provisions of this ordinance are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. Should any section, portion, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the force or effect of any other section or portion of this ordinance.

Section 5. The necessity for amending the fiscal year 2023 – 2024 Schedule of Fees and Charges, as required by the laws of the State of Texas, requires that this ordinance shall take effect immediately from and after its passage, as the law in such cases provides.

Section 6. This ordinance shall take effect immediately after its passage.

PASSED AND APPROVED on this the 19th day of December 2023.

THE CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristy Doll, City Secretary

Leonard Schneider, City Attorney

Budget Amendments FY 23-24
City Council - December 19, 2023

Exhibit A

Change/additions to the City of Huntsville's Schedule of Fees and Charges	Public Improvement Permits and Other Private Development Projects - Application Fee \$180 plus Per Sheet Fee \$210 (per "sheet/page" to be reviewed) is the proposed new methodology to calculate this fee for all projects submitted to the Engineering department for review (the Fee Schedule originally adopted with the FY 23-24 Budget indicated "3% of valuation of public improvements" as the methodology to calculate this fee). Also included for public improvement projects only are the following fees: Drainage Plan:\$2,280; Traffic Plan Review:\$2,280; Utility Capacity Assessment, \$3,750.
Explanation:	The City adopts the annual budget via Ordinance. The Schedule of Fees and Charges is included as part of the adoption of the annual budget. As such, changes or additions to the Schedule of Fees and Charges require approval via Ordinance. In the event Council adopts Ordinance 2023-30 these fees will be added/changed to the Schedule of Fees and Charges. During the 2023 state legislative session the legislature passed H.B. No. 3492. H.B. No.3492 prohibits municipal governments from assessing fees for public improvement permits based the value of the improvement (example \$1,000,000 estimated value of improvements X 3% = \$30,000 permit fee). The bill allows for fee calculation based on "actual cost". "Actual cost" can be a) what the city pays a third party firm to review plans if the city contracts out the service, b) what the city would pay if the city was to contract out the service to a third party, or c) actual cost of city staff to review plans base on staff salary and benefits costs. The staff did a thorough analysis of the actual cost to review and inspect improvements and the proposed fee changes reflect the findings.
Change/additions to the City of Huntsville's Schedule of Fees and Charges	Extra Teritorial Jurisdiction Dis-Annexation Application - Application Fee \$500.00 is the proposed fee to cover the cost of processing this process (the Fee Schedule originally adopted with the FY 23-24 Budget did not include a fee for this process).



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 1.c.

Agenda Item: Consider adoption of Ordinance 2023-31 to amend the budget for FY 23-24 and/or CIP Project budgets.

Initiating Department/Presenter: Finance

Presenter:

Steve Ritter, Finance Director

Recommended Motion: Move to adopt Ordinance 2023-31 to amend the budget for FY 23-24 and/or CIP Project budgets.

Strategic Initiative: Goal #6, Finance - Provide a sustainable, efficient and fiscally sound government through conservative fiscal practices and resource management.

Discussion: Detailed explanation for the Budget Amendments is provided in the attachment, Exhibit A, to the Ordinance. The Budget Amendments were discussed with the Finance Committee at their December 19, 2023 meeting.

Previous Council Action: No previous Council action for these budget amendments.

Financial Implications: See the attached Ordinance 2023-31 and related Budget Amendment (Exhibit A)

Approvals:

Steve Ritter

Aron Kulhavy

Kristy Doll

Associated Information:

1. ORDINANCE 2023-31 - BA FY 23-24 12.19.23 council meeting
2. BA for 12.19.23 Fin Comm and CC mtgs

ORDINANCE NO. 2023-31

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE 2023-2024 ANNUAL BUDGET AND CAPITAL IMPROVEMENTS PROJECTS (CIP) BUDGETS, ORDINANCE NO. 2023-20 TO AMEND ADOPTED EXPENDITURES OF THE BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the 2023-2024 Annual Budget and CIP Budgets were adopted by Ordinance 2023-20 on September 19, 2023;

WHEREAS, various unforeseen circumstances affecting the City have presented themselves during the course of the fiscal year;

WHEREAS, the City Council considered the circumstances independently, deliberating appropriately on the associated revenues and expenditures and the overall impact on the general financial status of the City;

WHEREAS, pursuant to the laws of the State of Texas and the City Charter of the City of Huntsville, Texas, the City Council has determined that it will be beneficial and advantageous to the citizens of the City of Huntsville to amend the annual budget for fiscal year 2023 – 2024 and the Capital Improvements Projects (CIP) budget as set forth herein; and

WHEREAS, this ordinance combines the independent Council actions into one budget amendment document;

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

Section 1. The findings set forth above are incorporated into the body of this ordinance.

Section 2. The annual budget for fiscal year 2023 – 2024 is hereby amended to include the expenditures and revenues in Exhibit “A” and the Capital Improvements Projects budget is hereby amended to include the expenditures described in Exhibit “A” attached hereto and made a part of this ordinance as if set out verbatim herein.

Section 3. All ordinances of the City in conflict with the provisions of this ordinance are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. Should any section, portion, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the force or effect of any other section or portion of this ordinance.

Section 5. The necessity for amending the budget for the fiscal year 2023 – 2024 and Capital Improvements Projects, as required by the laws of the State of Texas, requires that this ordinance shall take effect immediately from and after its passage, as the law in such cases provides.

Section 6. This ordinance shall take effect immediately after its passage.

PASSED AND APPROVED on this the 19th day of December 2023.

THE CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristy Doll, City Secretary

Leonard Schneider, City Attorney

Budget Amendments FY 23-24

City Council - December 19, 2023

Exhibit A

Increase: Economic Development CIP Fund - Transfer to General Fund	\$	25,000
Increase: General Fund - Economic Development - Purchased Services/Contracts	\$	25,000

Explanation:	The cost for a "Downtown Strategic Assessment" to be performed by a third party consultant has been identified at \$25,000. In summary, the scope of services includes a Downtown Strategic Assessment consisting of a custom deliverable identifying existing opportunities in policy and administration, design, tourism and promotion, and economic vitality that can be realistically implemented in five (5) years and an implementation matrix. The phases of the assessment include discovery, in-market strategic assessment workshops, and a custom market analysis. This service and cost was not included in the FY 2023 - 2024 Budget process. The cost should be accounted for as operational costs of the Economic Development Department in the General Fund. Funds are available in a Economic Development CIP Fund with a Fund Balance amount of roughly \$756,000 presently. The Economic Development CIP Fund will have a \$731,000 Fund Balance after this Budget Amendment (assuming the Budget Amendment is approved).
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CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 1.d.

Agenda Item: Consider temporarily suspending the Rules of Procedure Section 3.01 requiring a regular City Council meeting on the first Tuesday of the month for the January 2, 2024, Regular City Council meeting.

Initiating Department/Presenter: City Secretary

Presenter:

Kristy Doll, City Secretary

Recommended Motion: Move to temporarily suspend the Rules of Procedure Section 3.01 requiring a regular City Council meeting on the first Tuesday of the month for the January 2, 2024, Regular City Council meeting.

Strategic Initiative: Goal #2, Communications - Provide public information outreach efforts that inform the public of City operations, accomplishments and policies and allows for citizens input on matters of Council policy.

Discussion: Consider canceling the January 2nd City Council meeting due to the holiday schedule.

Previous Council Action:

Financial Implications: None

Approvals:

Kristy Doll

Associated Information:



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 1.e.

Agenda Item: Consider approval for the purchase of In-Car Video Systems for Police vehicles.

Initiating Department/Presenter: Police Department

Presenter:

Darryle Slaven, Police Chief

Recommended Motion: Move to authorize the purchase of in-car video systems for police vehicles in the amount of 52,311.60.

Strategic Initiative: Goal #7, Public Safety - Provide safety and security for all citizens.

Discussion: The Huntsville Police Department currently operates a fleet of 36 marked patrol vehicles, all of which are used for patrol activities, including routine traffic control and enforcement. By Texas State law and Huntsville PD policy, all police vehicles that are commonly used for traffic enforcement must be equipped with an in-car video system, and all officers assigned to the Uniformed Services Division must be equipped with a body-worn camera. The police department has been using the Coban in-car and body-worn camera system for the last several years. The storage for the footage was kept on site and maintained by the city on mirrored servers, which presented cyber-security concerns. After evaluating several companies and options, Axon Enterprises Inc. presented an equipment price that was lower than competitors, with secure storage of the footage being kept off-site at three mirrored locations. That stored footage is accessible through the Axon Enterprises web-based case and evidence management system, Evidence.com. The Evidence.com system has been in use by the city since 2022 and is a more secure way to store and process evidence videos and photographs. Use of the Axon in-car and body-worn cameras allows seamless integration of wireless video uploading in the Evidence.com system and is a more secure way to maintain police evidence video.

This purchase was approved during the budget process in the full amount \$261,558.00 to be made over five annual payments of \$52,311.60. This council authorization is to authorize those payments to be made over the next five years. The purchase will be made on budget line 101-551-69040; Buyboard Contract #648-21.

Previous Council Action: None

Financial Implications: Item is budgeted in the amount of \$52,311.60 under budget code 101-551-69040. Buyboard Contract # 648-21. Full price of the equipment is 261,558.00.

Approvals:

Aron Kulhavy

Kristy Doll

Associated Information:

1. Axon Quote
2. Supplemental Material



Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-508155-45212.862MA
Issued: 10/13/2023
Quote Expiration: 11/15/2023
Estimated Contract Start Date: 05/01/2024

Account Number: 106951
Payment Terms: N30
Delivery Method:

SHIP TO	BILL TO
Business: Delivery/Invoice- 1220 11th St 1220 11th St Huntsville, TX 77340-3917 USA	Huntsville Police Dept. - TX 1212 Avenue M Huntsville TX 77340-4608 USA Email:

SALES REPRESENTATIVE	PRIMARY CONTACT
Matt Appelbaum Phone: Email: mappelbaum@axon.com Fax:	Jeff Dugas Phone: (936) 291-5416 Email: jdugas@huntsville.tx.gov Fax:

Quote Summary

Program Length	60 Months
TOTAL COST	\$261,558.00
ESTIMATED TOTAL W/ TAX	\$261,558.00

Discount Summary

Average Savings Per Year	\$10,310.40
TOTAL SAVINGS	\$51,552.00

Payment Summary

Date	Subtotal	Tax	Total
Apr 2024	\$52,311.60	\$0.00	\$52,311.60
Apr 2025	\$52,311.60	\$0.00	\$52,311.60
Apr 2026	\$52,311.60	\$0.00	\$52,311.60
Apr 2027	\$52,311.60	\$0.00	\$52,311.60
Apr 2028	\$52,311.60	\$0.00	\$52,311.60
Total	\$261,558.00	\$0.00	\$261,558.00

SUPPLEMENTAL MATERIAL

Texas Code of Criminal Procedure Article 2.132 establishes each law enforcement agency in the state shall adopt a detailed written policy on racial profiling that, among other provisions, clearly defines acts that constitute racial profiling and strictly prohibits peace officers employed by the agency from engaging in racial profiling. The law also requires that upon adoption of a policy, the department examine the feasibility of installing video recording equipment in each car regularly used to make traffic stops, and, equipping each peace officer who makes traffic stops with a body-worn camera. Body-worn cameras are also specifically defined, and policy discussed, in Texas Occupation Code Articles 1701.651 and 1701.655.

The Huntsville Police Department currently has an adopted policy that requires each motor vehicle regularly used to make traffic stops to be equipped with video recording equipment and each officer assigned to the Uniformed Services Division to be equipped with a body-worn camera. Excerpts from all the related policies, laws and codes are provided below.

Huntsville Police Department Policy Excerpt

8.2.1 UTILIZATION OF ICVS EQUIPMENT

- A. Each motor vehicle regularly used by the department to make traffic and pedestrian stops will be equipped with ICVS equipment.

8.2.3 UTILIZATION OF BODY CAMERAS

- A. Officers assigned to the Uniformed Services Division are required to wear a body camera during their shift.

Texas Occupations Code - OCC § 1701.655. Body Worn Camera Policy

(a) A law enforcement agency that receives a grant to provide body worn cameras to its peace officers or that otherwise operates a body worn camera program shall adopt a policy for the use of body worn cameras.

(b) A policy described by Subsection (a) must ensure that a body worn camera is activated only for a law enforcement purpose and must include:

- (1) guidelines for when a peace officer should activate a camera or discontinue a recording currently in progress, considering the need for privacy in certain situations and at certain locations;
 - (2) provisions relating to data retention, including a provision requiring the retention of video for a minimum period of 90 days;
 - (3) provisions relating to storage of video and audio, creation of backup copies of the video and audio, and maintenance of data security;
 - (4) guidelines for public access, through open records requests, to recordings that are public information;
 - (5) provisions entitling an officer to access any recording of an incident involving the officer before the officer is required to make a statement about the incident;
 - (6) procedures for supervisory or internal review; and
 - (7) the handling and documenting of equipment and malfunctions of equipment.
- (c) A policy described by Subsection (a) may not require a peace officer to keep a body worn camera activated for the entire period of the officer's shift.
- (d) A policy adopted under this section must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.

TX Code of Criminal Procedure Art. 2.135. – Law Enforcement Policy on Racial Profiling.

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means the following categories:

- (A) Alaska native or American Indian;
- (B) Asian or Pacific Islander;
- (C) black;
- (D) white; and

(E) Hispanic or Latino.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint and complaint process, including providing the telephone number, mailing address, and e-mail address to make a complaint or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

- (A) the race or ethnicity of the individual detained;
- (B) whether a search was conducted and, if so, whether the individual detained consented to the search;
- (C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
- (D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section [1.07](#), Penal Code, during the stop;
- (E) the location of the stop; and
- (F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

- (A) the Texas Commission on Law Enforcement; and
- (B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section [1701.651](#), Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

(g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 1.f.

Agenda Item: Consider authorizing the City Manager to award the construction contract for the CIP FY22-23 Storm Sewer Line Replacement Construction Project ID # 22-10-36 crossing University Avenue between 15th Street and Bearkat Street.

Initiating Department/Presenter: Engineering

Presenter:

Kathlie Jeng-Bulloch, City Engineer

Recommended Motion: Move to authorize the City Manager to award the construction contract to Brazos Valley L4 LLC in the amount of \$103,163.00 for the replacement of Storm Sewer 4' x 5' box and Line crossing University Ave. Between 15th Street and Bearkat Street.

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion: This agenda item is to replace the Storm Sewer system crossing University Ave. between 15th Street and Bearkat Street. (See attached Project Map). This Project includes removal and replacement of the existing Sidewalk, Curb and Gutter, Storm Sewer, manhole, box culvert, storm inlets and asphalt pavement etc.

Five Sealed Bids were received on Thursday, November 16, 2023. The total amounts of Base Bid are as follows:

Bidder Name	Total Bid Amount
1. Brazos Valley L4 LLC	\$103,163.00
1. Solid Bridge Construction, LLC	\$124,971.00
1. Crockett Construction, Inc.	\$148,813.75
1. Brazos Paving, Inc.	\$246,772.25
1. Aranda Industries LLC	\$292,153.00

Based on received bids, Brazos Valley L4 LLC, as the lowest qualified bidder, is recommended to be awarded for the University Street Storm Sewer Replacement Project with the Base Bid price of \$103,163.00. The total number of working days is 60 days.

A 15% of construction contingency (\$15,474.45) will be added to the contract received Bid for the budget purchase due to the unknown condition in this area.

The total available budget for this project is \$300,000.00.

Previous Council Action: The City Council approved to enter into an agreement with LJA Engineering for professional engineering service on October 4, 2022 to design this Storm Sewer Project.

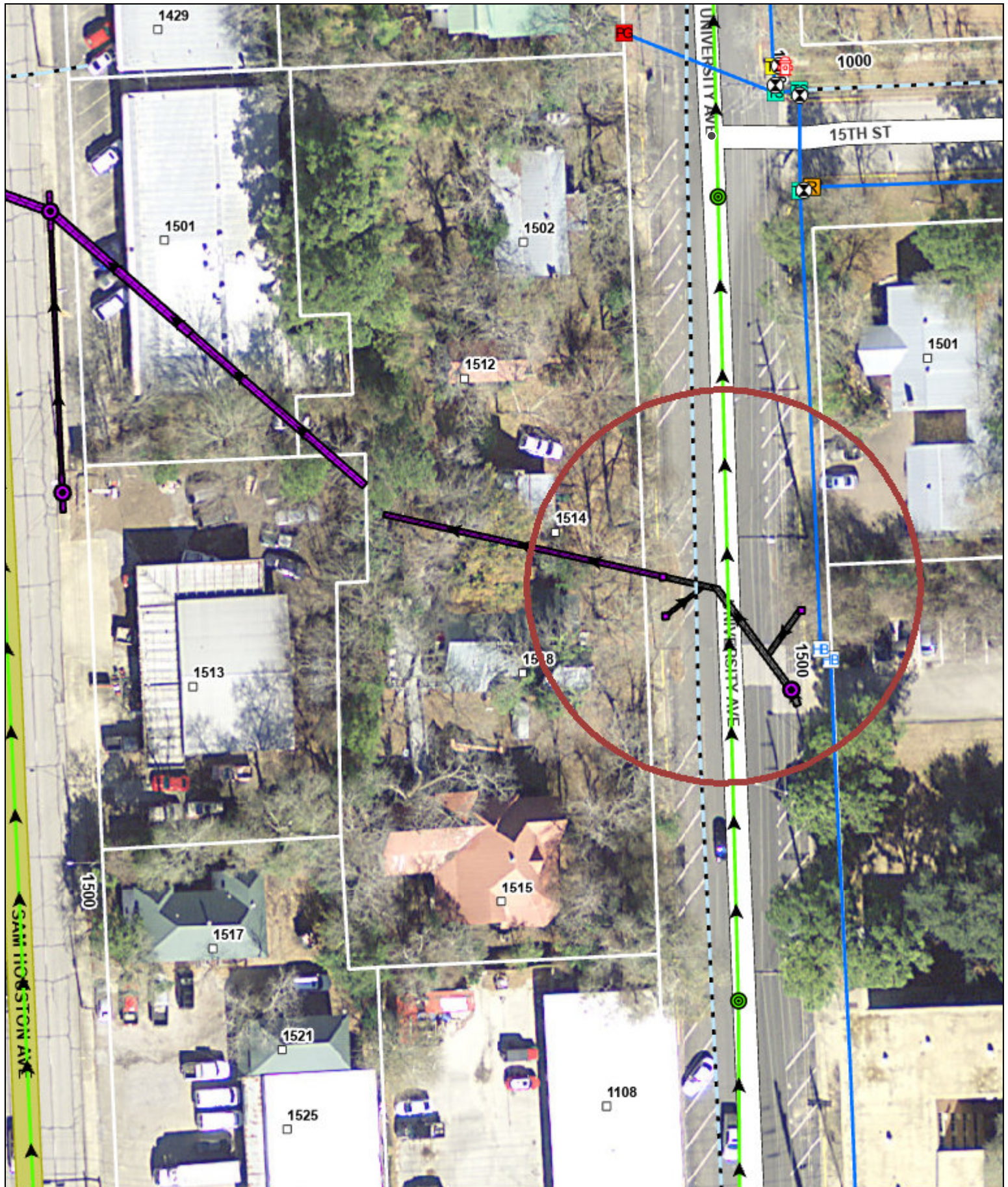
Financial Implications: ☐Item is budgeted: In the amount of \$ 300,000.00

Approvals:

Kathlie Jeng-Bulloch
Leonard Schneider
Aron Kulhavy
Kristy Doll

Associated Information:

1. Storm Sewer South of 15th and University Ave Intersection 09-26-22
2. 20231205-City_of_Huntsville-University-LJA-Recommendation



The City of Huntsville, Texas or its employees gives NO warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data. See full GIS Data Disclaimer at: www.huntsvilletx.gov/gis

1 in = 50 ft

On 8.5 x 11 inch Print

0 0.00475 0.0095 0.019 mi

On Any Print Size

CREATED DATE: 9/26/2022

CITY OF HUNTSVILLE, TX
ENGINEERING DEPARTMENT / GIS DIVISION

Storm Sewer South of 15th & University Ave

Huntsville GIS Division



December 5, 2023

Dr. Kathlie S. Jeng-Bullock, P.E., BC, D. WRRE, CFM
City Engineer
Director of Engineering Department
City of Huntsville, Huntsville, TX
448 State Hwy.75 North Huntsville, Texas 77320

RE: Bid Tabulation and Recommendation of Award for Construction of
University Avenue Storm Sewer Replacement Bid No.: 24-05
LJA Project No: 7040-2201

Dr. Jeng-Bullock,

Bids for construction of the reference project were received on Thursday, November 16, 2023 at 3:30 P.M. at City of Huntsville City of Huntsville Service Center located at 448 State Hwy.75 North, Huntsville, Texas 77320, and subsequently read in public. Five (5) contracting firms submitted bids for the project.

The bidders from low to high and the correct total amounts bid are as follows:

<u>Contractor</u>	<u>Location</u>	<u>Total Bid Amount of Base Bid:</u>
1) BRAZOS VALLEY L4 LLC	North Zulch, TX	\$103,163.00
2) SOLID BRIDGE CONSTRUCTION, LLC	New Waverly, TX	\$124,971.00
3) CROCKETT CONSTRUCTION, INC.	Crockett, TX	\$148,813.75
4) BRAZOS PAVING, INC.	Bryan, TX	\$246,772.25
5) ARANDA INDUSTRIES LLC	Houston, TX	\$292,153.00

A copy of the Bid Tabulation is attached.

The bidding documents of the bidders were examined and found to be in order.

Our investigation of BRAZOS VALLEY L4 LLC included a review of their surety, references of previous projects and past work experience. Based on our investigation, we recommend awarding the contract to the low bidder, BRAZOS VALLEY L4 LLC, for the Base Bid Items in the amount of \$103,163.00 for a total contract amount of \$103,163.00.

If you have any questions or need additional information, please contact me at 713-953-5076.

Sincerely,



Roberto Gil, P.E., CFM
Project Manager

Attachment

cc: Isaac Muniz, P.E., LJA Sr. Project Manager
Construction File 16.6

Bid Tabulation For: University Avenue Storm Sewer Replacement
Project No.: 22-10-36 & Bid No.: 24-05

Bid Opening Date: November 16, 2023
Bid Opening Location: City of Huntsville Service Center
448 State Hwy.75 North, Huntsville, Texas 77320

Tabulation By: Roberto Gil
Tabulation Date: November 28, 2023
LJA Project No.: 7040-2201

Bidder's Name:	Total Bid Amount of Base Bid:
1) BRAZOS VALLEY L4 LLC	\$103,163.00
2) SOLID BRIDGE CONSTRUCTION, LLC	\$124,971.00
3) CROCKETT CONSTRUCTION, INC.	\$148,813.75
4) BRAZOS PAVING, INC.	\$246,772.25
5) ARANDA INDUSTRIES LLC	\$292,153.00

Calendar Days - 60



I, Roberto Gil, P.E., hereby certify these bid tabulations to be true and correct.

12/4/2023

CITY OF HUNTSVILLE, TEXAS
UNIVERSITY AVENUE STORM SEWER REPLACEMENT
Project No.: 22-10-36 & Bid No.: 24-05

BID OPENING: THURSDAY, NOVEMBER 16, 2023

BID TABULATION

				BRAZOS VALLEY L4 LLC		SOLID BRIDGE CONSTRUCTION, LLC		CROCKETT CONSTRUCTION, INC.		BRAZOS PAVING, INC.		ARANDA INDUSTRIES LLC	
ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	Remove Existing Reinforced Concrete Sidewalk, Maximum Extents As Shown on Plans, to Nearest Expansion Joint, Including 2-Inch Depth Saw-Cut if Necessary COMPLETE IN PLACE	47	SY	\$50.00	\$2,350.00	\$40.00	\$1,880.00	\$24.00	\$1,128.00	\$38.50	\$1,809.50	\$15.00	\$705.00
2	Remove Existing Reinforced Concrete Curb and Gutter, Maximum Extents As Shown on Plans, to Nearest Expansion Joint, Including 2-Inch Depth Saw-Cut if Necessary COMPLETE IN PLACE	79	LF	\$25.00	\$1,975.00	\$25.00	\$1,975.00	\$6.00	\$474.00	\$21.50	\$1,698.50	\$15.00	\$1,185.00
3	Remove Existing Asphalt Pavement and Base As Necessary for Construction, Maximum Extents As Shown on Plans, Including 2-Inch Depth Saw-Cut COMPLETE IN PLACE	443	SY	\$10.00	\$4,430.00	\$4.00	\$1,772.00	\$6.00	\$2,658.00	\$16.00	\$7,088.00	\$15.00	\$6,645.00
4	Remove Existing Storm Sewer, any sizes, COMPLETE IN PLACE	46	LF	\$25.00	\$1,150.00	\$40.00	\$1,840.00	\$32.25	\$1,483.50	\$45.00	\$2,070.00	\$50.00	\$2,300.00
5	Remove Existing Storm Sewer Box Culvert, COMPLETE IN PLACE	1	EA	\$10,000.00	\$10,000.00	\$1,500.00	\$1,500.00	\$2,500.00	\$2,500.00	\$6,500.00	\$6,500.00	\$5,000.00	\$5,000.00
6	Remove Existing Storm Sewer Inlet, COMPLETE IN PLACE	3	EA	\$1,500.00	\$4,500.00	\$1,000.00	\$3,000.00	\$1,275.00	\$3,825.00	\$1,850.00	\$5,550.00	\$1,500.00	\$4,500.00
7	24-Inch Reinforced Concrete Pipe Storm Sewer, ASTM C-76, Class III COMPLETE IN PLACE	40	LF	\$150.00	\$6,000.00	\$100.00	\$4,000.00	\$150.00	\$6,000.00	\$198.00	\$7,920.00	\$500.00	\$20,000.00
8	30-Inch Reinforced Concrete Pipe Storm Sewer, ASTM C-76, Class III COMPLETE IN PLACE	20	LF	\$200.00	\$4,000.00	\$160.00	\$3,200.00	\$178.00	\$3,560.00	\$324.00	\$6,480.00	\$750.00	\$15,000.00
9	36.25-Inch x 22.5-Inch Arch Reinforced Concrete Pipe Storm Sewer, ASTM C506, Class III COMPLETE IN PLACE	48	LF	\$350.00	\$16,800.00	\$385.00	\$18,480.00	\$330.00	\$15,840.00	\$582.75	\$27,972.00	\$1,000.00	\$48,000.00
10	Concrete B-B inlet, per details on plans, COMPLETE IN PLACE	2	EA	\$6,500.00	\$13,000.00	\$6,000.00	\$12,000.00	\$6,100.00	\$12,200.00	\$7,500.00	\$15,000.00	\$10,000.00	\$20,000.00
11	Concrete Transitional 6x6 with B-B inlet, per details on plans, COMPLETE IN PLACE	1	EA	\$2,500.00	\$2,500.00	\$8,500.00	\$8,500.00	\$15,000.00	\$15,000.00	\$16,500.00	\$16,500.00	\$20,000.00	\$20,000.00
12	Reinforced Concrete Manhole with Access Cover, Including Connections of Proposed Storm Sewers, per details on plans, COMPLETE IN PLACE	1	EA	\$6,500.00	\$6,500.00	\$6,500.00	\$6,500.00	\$12,450.00	\$12,450.00	\$10,100.00	\$10,100.00	\$12,000.00	\$12,000.00
13	Trench Safety System, COMPLETE IN PLACE	108	LF	\$1.00	\$108.00	\$5.00	\$540.00	\$6.00	\$648.00	\$42.00	\$4,536.00	\$1.00	\$108.00

CITY OF HUNTSVILLE, TEXAS UNIVERSITY AVENUE STORM SEWER REPLACEMENT Project No.: 22-10-36 & Bid No.: 24-05 BID OPENING: THURSDAY, NOVEMBER 16, 2023 BID TABULATION													
				BRAZOS VALLEY L4 LLC		SOLID BRIDGE CONSTRUCTION, LLC		CROCKETT CONSTRUCTION, INC.		BRAZOS PAVING, INC.		ARANDA INDUSTRIES LLC	
ITEM NO.	DESCRIPTION	EST QTY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
14	Reinforced Concrete Sidewalk, 4 1/2-Inch Thick, and Base, Per Details on Plans COMPLETE IN PLACE	51	SY	\$75.00	\$3,825.00	\$70.00	\$3,570.00	\$123.50	\$6,298.50	\$80.00	\$4,080.00	\$100.00	\$5,100.00
15	Reinforced Concrete Curb and Gutter, Per Details on Plans COMPLETE IN PLACE	79	LF	\$50.00	\$3,950.00	\$40.00	\$3,160.00	\$43.75	\$3,456.25	\$36.00	\$2,844.00	\$40.00	\$3,160.00
16	Asphalt Surface Restoration, Including 8-Inch Thick Asphalt Base, Gr. 2, PG-64, Per TXDOT Item 292, and 2 1/2-Inch Thick HMHL Surface Coarse, Type "D" per TXDOT Item 340 COMPLETE IN PLACE	443	SY	\$25.00	\$11,075.00	\$78.00	\$34,554.00	\$97.50	\$43,192.50	\$144.75	\$64,124.25	\$150.00	\$66,450.00
17	Traffic Control, as Necessary, Includes Acquiring Permits, Installation, Maintenance, & Removal of All Traffic Control Devices Required by Permit and as Shown on Project Plans COMPLETE IN PLACE	1	LS	\$5,000.00	\$5,000.00	\$8,500.00	\$8,500.00	\$1,500.00	\$1,500.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
18	SWPPP, Installed, Maintained, and Removed, In Accordance with Best Management Practices COMPLETE IN PLACE	1	LS	\$1,000.00	\$1,000.00	\$3,500.00	\$3,500.00	\$600.00	\$600.00	\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00
19	Mobilization, COMPLETE IN PLACE	1	LS	\$5,000.00	\$5,000.00	\$6,500.00	\$6,500.00	\$16,000.00	\$16,000.00	\$50,000.00	\$50,000.00	\$47,000.00	\$47,000.00
TOTAL BASE BID					\$103,163.00	\$124,971.00		\$148,813.75		\$246,772.25		\$292,153.00	
TOTAL NUMBER OF WORKING DAYS					60	220		60		60		60	



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 1.g.

Agenda Item: Consider renewal of Industrial User (IU) Discharge Permit 0100 for Gardner Glass Products, Incorporated/Dreamwalls for a period of five years.

Initiating Department/Presenter: Public Works

Presenter:

Brent Sherrod, Public Works Director

Recommended Motion: Authorize the Public Works Director to approve the renewal of Industrial User (IU) Discharge Permit 0100 for Gardner Glass Products, Incorporated/Dreamwalls for a period of five years.

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion: The Public Works Department of the City of Huntsville (CoH) maintains an Industrial Pretreatment Program, as required by the Texas Commission on Environmental Quality (TCEQ), in order to:

1. prevent interference with the City's collection and treatment operations,
2. prohibit the pass through of pollutants to the receiving stream,
3. protect the quality of sludge produced by the treatment facilities,
4. and prohibit discharge of pollutants that could result in hazards to worker health and safety.

Gardner Glass Products, Inc./Dreamwalls, is a mirror manufacturer which has been operating in Huntsville since 1984. Prior to connection to CoH collection system, Gardner Glass/Dreamwalls discharged process wastewater under the authority of a Texas Commission on Environmental Quality (TCEQ) discharge permit. The CoH issued an industrial user discharge permit in 2006, which was approved by Council action in 2008, 2013 and again October 16, 2018, for five-year periods.

Gardner Glass Products, Inc./Dreamwalls. is a Categorical Industrial User (CIU) as defined by the Code of Federal Regulations 40 CFR. The industrial activity, Metal Finishing, is regulated by 40 CFR Part 421 and in the EPA Pretreatment Categories and Standards. Because Gardner Glass discharges process water to a Publicly Owned Treatment Works (POTW) and the CoH has an approved Pretreatment Program, the CIU must comply with the categorical pretreatment standards specified in the federal regulations and any local limits established by the POTW that receives the wastewater discharge, NB Davidson WWTP. Both categorical limitations and local limits are considered when developing a permit but the most stringent of which are applied.

A copy of the draft permit and fact sheet have been reviewed and agreed upon by the Industrial User, Gardner Glass Products, Inc./Dreamwalls and were also made available at the City of Huntsville, Service Center for public comment and review through December 4th, 2023. A Notice of Intent to Renew the

permit was also published for public awareness on November 21, 2023. No public comments or appeals were received.

Previous Council Action: City Council approved the renewal of an Industrial User Permit for Gardner Glass Products Inc/Dreamwalls for a period of five years on October 16, 2018.

Financial Implications: None.

Approvals:

Brent Sherrod

Leonard Schneider

Aron Kulhavy

Kristy Doll

Associated Information:

1. Fact Sheet GG 2023-Draft Copy

City of Huntsville
Industrial Pretreatment Program
Effective December 19th, 2023, to December 19th, 2028
Fact Sheet
for
Gardner Glass Products, Inc./Dreamwalls

1. Facility Information	
Facility:	Contacts:
Gardner Glass Products, Inc./Dreamwalls	General Manager: Larry Reinke
7553 Highway 75 South	
Huntsville, Texas 77340	
(936) 291-7271	
Operation:	
Product Manufactured:	Glass mirrors
Category:	40 CFR Part 433.17 Metal Finishing
Environmental Permits:	TPDES Wastewater, TCEQ Air Quality FOP 03448 & CND 18495
Began Operations:	1984
Number of Employees:	41
Shifts:	1 (6 am to 3 pm)
Work Week:	Monday through Friday
Plant Shutdown:	One week at Christmas
Water Supply:	
City of Huntsville:	≈1,166 GPD
Private Well:	≈14,660 GPD
Process Discharge:	
Type of Discharge:	Continuous
Estimated Total Flow:	15,344 GPD Avg 18,579 GPD Max
Pollutants of Concern:	Cerium, Cyanide, Palladium, Silane, Silver, Xylene

2. Description of Manufacturing Process: Please see Appendix A

3. Description of Wastestreams Treatment: Please see Appendix B

4. Type and Volume of Regulated Wastestreams:	
Silver plating process	4.35 GPM
Palladium coating process	2.6 GPM
Tin coating process	12.61 GPM
Acid cleaning process	6.82 GPM
Cerium Oxide cleaning	8.025 GPM

5. Justification for Permit Limits:

Gardner Glass Products Incorporated/Dreamwalls is designated a categorical discharger in the metal finishing category based on their mirror production core processes of (a) applying silver to a base product, glass, by electroless plating, (b) tin coating, and (c) acid etching. In addition, because at least one of the six electroplating operations is present, Metal Finishing pretreatment regulations apply to wastewater from any of the 46 listed metal finishing operations. That would include grinding (beveling). They began operations in 1984, therefore they are subject to Pretreatment Standards for New Sources (40 CFR 433.17).

In addition, all industrial dischargers to the City of Huntsville collection system are subject to the Technically Based Local Limits as established in the City of Huntsville Code of Ordinances Section 46-179.

Due to the combination of regulated and dilution wastestreams prior to an appropriate sampling point, the Combined Wastestream Formula (CWF) is warranted and the alternate limits will be applied at the end of pipe at Outfall 001 along with the Local Limits. Final Effluent Limitations shall be the most stringent of the alternative limits and the Local Limits. **Please see Appendix C for calculation of the CWF.**

6. Effluent Limitations

Alternate Limits per CWF: Outfall 001

Pollutant:	Daily Maximum:	Monthly Average:
Cadmium	0.066 mg/L	0.04 mg/L
Chromium	1.65 mg/L	1.02 mg/L
Copper	2.02 mg/L	1.24 mg/L
Lead	0.41 mg/L	0.26 mg/L
Nickel	2.38 mg/L	1.42 mg/L
Silver	0.26 mg/L	0.14 mg/L
Zinc	1.56 mg/L	0.88 mg/L
Cyanide	0.72 mg/L	0.39 mg/L
TTO	1.27 mg/L	NA

Local Limits: Outfall 001

Pollutant:	Daily Maximum:
Arsenic	0.46 mg/L
Cadmium	0.06 mg/L
Chromium	4.73 mg/L
Copper	0.10 mg/L
Lead	0.10 mg/L
Mercury	0.0236 mg/L
Molybdenum	0.03 mg/L
Nickel	1.74 mg/L
Selenium	0.03 mg/L
Silver	0.09 mg/L
Zinc	1.10 mg/L
Cyanide	0.15 mg/L

Final Effluent Limitations: Outfall 001			
Pollutant:	Daily Maximum:	Monthly Average:	Source:
Arsenic	0.46 mg/L	NA	Local Limit
Cadmium	0.06 mg/L	0.042 mg/L	Local Limit
Chromium	1.65 mg/L	1.02 mg/L	CWF
Copper	0.10 mg/L	1.24 mg/L	Local Limit
Lead	0.10 mg/L	0.26 mg/L	Local Limit
Mercury	0.0236 mg/L	NA	Local Limit
Molybdenum	0.03 mg/L	NA	Local Limit
Nickel	1.74 mg/L	1.42 mg/L	Local Limit
Selenium	0.03 mg/L	NA	Local Limit
Silver	0.09 mg/L	0.14 mg/L	Local Limit
Zinc	1.10 mg/L	0.88 mg/L	Local Limit
Cyanide	0.15 mg/L	0.39 mg/L	Local Limit
TTO	1.27 mg/L	NA	CWF
Oil and Grease	100 mg/L	NA	Pretreatment Standard

7. Justification for Monitoring Requirements

Because of the variation in water usage at this facility and the use of the CWF, the permittee will be required to monitor wastewater flows continuously. The minimum frequency of sampling for the categorical pollutants and the pollutants for which there are local limits is once per six months, with the exception of silver. Past practices have caused exceedances of effluent limits for silver. Therefore, monthly sampling of silver and weekly sampling of the conventional pollutants BOD₅, TSS, and pH are required at Outfall 001. Parameters that have a Sample Frequency of 1/6 Months will be collected in January and July of each year. A sampling plan is required to be submitted 30 days prior to semi-annual sampling and must include; Goals, Parameters, Sampling Location, Sampling Time and Frequency as well as Methods. Parameters that require 12-Hour Composites will be compiled using an automatic sampler and will be collected hourly while the process is in operation.

8. Monitoring Requirements: Outfall 001

Categorical Parameters

Parameter:	Sample Frequency:	Sample Type:
Cyanide	1/6 Months	Grab
TTO	1/6 Months	Grab and Composite
Oil and Grease	1/6 Months	Grab
Local Limit Parameters		
Parameter:	Sample Frequency:	Sample Type:
Arsenic	1/6 Months	12 – Hour Composite
Cadmium	1/6 Months	12 – Hour Composite

Chromium	1/6 Months	12 – Hour Composite
Copper	1/6 Months	12 – Hour Composite
Lead	1/6 Months	12 – Hour Composite
Mercury	1/6 Months	12 – Hour Composite
Molybdenum	1/6 Months	12 – Hour Composite
Nickel	1/6 Months	12 – Hour Composite
Selenium	1/6 Months	12 – Hour Composite
Silver	1/Month*	12 – Hour Composite
Zinc	1/6 Months	12 – Hour Composite

If the permittee achieves twelve consecutive months of uninterrupted compliance with the permitted silver limit, the permittee may submit a written request for a reduction in monitoring frequency from 1/month to 1/6 months to the Control Authority. **A violation of the silver limit by a facility that has been granted a less frequent measurement schedule will require the permittee to return the standard frequency schedule set in the permit.*

Conventional Parameters

Parameter:	Sample Frequency:	Sample Type:
Flow	Continuous	Record
BOD ₅	1/Week	12 – Hour Composite
TSS	1/Week	12 – Hour Composite
pH	1/Week	Grab

9. Reporting Requirements:

A. Monitoring Reports: Monitoring information required shall be summarized and reported on a City of Huntsville (COH) Industrial User Monitoring Report Form once per month for parameters required on a weekly and monthly basis and semi-annually for all other parameters according to the procedures outlined in the *COH Industrial Waste Pretreatment Program Manual (2020)*.

B. Notice of Violation/Repeat Sampling and Reporting: If the results of the permittee's wastewater analysis indicates that a violation of this permit has occurred, the permittee must notify the COH according to the procedures outlined in the *COH Industrial Waste Pretreatment Program Manual (2020)*.

C. Accidental Discharge/Slug Load or Spills: The permittee shall notify the COH immediately according to the procedures outlined in the *COH Industrial Waste Pretreatment Program Manual (2020)* upon the occurrence of an accidental discharge of prohibited substances or any slug loads or spills that may enter the public sewer.
A Slug Control Plan is required as a condition of the permit and must be made available upon request.

10. Standard Conditions:

The Industrial User Permit for Gardner Glass Products/Dreamwalls will include all the standard conditions listed in the COH Code of Ordinances Chapter 46 Article III: Industrial Wastewater Standards.

11. Special Conditions:

A. A flow measuring device will be required at Outfall 001 and shall be maintained and calibrated according to manufacturer's recommendations (in any case, not less than

annually). Flow data shall be reported on the Monthly Monitoring Report Form and verification of maintenance and calibration available upon request.

B. Weekly recording of flow rates from dilution wastestreams (**Please see Appendix B**) must be maintained and reported on the Monthly Monitoring Report Form.

APPENDICES:

Appendix A – Description of Manufacturing Process

Appendix B – Description of Wastestream Treatment

Appendix C - Calculation of Combined Wastestream Formula

Appendix D - Facility Diagrams

Appendix A

Manufacturing Process

PRECLEANING/POLISHING: (Cerium cleaning process) The new glass arrives coated with polystyrene beads and adipic acid to prevent scratching and inhibit staining, and is placed on an enclosed conveyor. The glass surface is cleaned with water delivered via one rinse bar and then cleaned and polished with detergent and a slurry of rare earth oxides, primarily cerium oxide, discharged from a spray traverse bar. The glass then passes through a series of four CUP brushes and rinse bars. The process water is discharged in this section at 8.025 GPM.

SILVERING: The cleaned glass is pre-rinsed with de-ionized water, “sensitized” with stannous chloride, which allows the silver to bind with the glass, then gently heated to 130° F and rinsed with de-ionized water. It is coated with palladium chloride (preparation for silver coating), rinsed with de-ionized water and heated AGAIN. The glass is coated with reducers (glucose, sodium hydroxide), then sprayed with silver, and rinsed with de-ionized water. It is sprayed with stannous chloride (a passivator for adherence of silane and paint), rinsed with de-ionized water, sprayed with silane (paint adhesion promoter), and given a final de-ionized water rinse. Process water is discharged in this section at 19.56 GPM.

PAINTING: The glass is dried by air knives to prevent breakage and pre-heated in an oven to set metals and accept paint. It is curtain coated with red base coat (mixed with xylene for viscosity), semi-cured with wavelength light and allowed to cool. It is again pre-heated, then curtain coated with blue topcoat (mixed with xylene for viscosity), semi-cured with wavelength light and cooled. The mirror then passes through a final cure and cool down. There is no process water discharged in this section.

FACE-DOWN CLEANING: The mirror is cleaned with face-down stripper (sodium bisulfate, ferric sulfate, sodium sulfate) in a series of rubber coated rollers and rinse bars. It then has a reverse osmosis water rinse and passes through the two roller brush washing machine. The product name, date and time of manufacture is imprinted and the mirror is given a final inspection and packed. Process water is discharged in this section at 6.82 GPM.

Appendix B

Description & Treatment of Wastestreams:

WET SECTION OF M/L WASTEWATER: (Tin coating process) There is a total of 16.3 GPM produced in the wet section. There are 2.6 GPM pumped through the palladium system and goes into the holding ditch prior to the Waste Water System. The tin process of 9.35 gpm goes to the mirror line ditch where it is pumped to the outside holding tanks and mixed with precipitant polymer and acid to be settled out. There are 4.35 GPM going into the stainless steel settling on the east side of the M/L, behind the silver room, where a silver precipitant polymer is introduced. From this tank, pumped into a plastic settling tank and then pumped through a series bag filters. The last bag filter is currently a 500 micron absolute. From there, the water is gravity fed into Tank #7, where the pH is adjusted. The water then flows directly to the Waste Water System.

FACE DOWN CLEANER: There are 3.26 GPM from the Facedown Cleaner section that is pumped up into the holding tank prior to the Waste Water System. The 16.3 GPM from the wet section is combined with the Facedown Cleaner section (total of 23.12 GPM) and is passed through the Waste Water System serving as the final filtration of silver prior to discharge to the city sewer system. The Waste Water System is discharged to the settling tank at 4 to 6 GPM over a period of time sufficient to empty the holding tanks and allow for settling and filtration. Note: The above flow rates were arrived by counting the number of spray tips and calculating the flow rate from the Spraying Systems Company specifications.

RO REJECT WATER: The RO reject water is approximately 18.8 GPM. There are 2 or 3 times per shift where the RO units turn off due to no demand thereby stopping the RO reject water flow. These downtimes usually last between 20-30 minutes. The reject water flows from the RO into the ditch inside the building after the Waste Water System and before exiting the building to the outside settling tank.

DI REGENERATION WATER: Two large DI units are regenerated every 3-4 weeks. The regeneration creates 9,000 gallons of water. This water is stored in a 10,000 gallon tank and released as a batch after pH adjustment during a time the Mirror Line is not running. A smaller DI unit is regenerated once every 12-15 weeks and produces approximately 6,000 gallons. This water is also stored in the tank and is released as a batch after pH adjustment during a time the Mirror Line is not running. This regeneration schedule varies with the production demand.

Appendix C

Combined Wastestream Formula

The Gardner Glass Products/Dreamwalls facility process wastestream is configured such that multiple regulated wastestreams are combined with dilution wastestreams after treatment but prior to an appropriate sampling point. Therefore, the Combined Wastestream Formula (CWF) will be utilized to ensure that the appropriate pretreatment standards are applied.

Regulated Wastestreams:

Silver process	4.35	GPM
Palladium process	2.60	GPM
Tin coating process	12.61	GPM
Acid cleaning process	6.82	GPM
Cerium cleaning process	8.025	GPM
Regulated Total	34.405	GPM

Dilution Wastestreams:

RO water reject	18.8	GPM
Sanitary	2.3	GPM
Dilution Total	21.10	GPM

Gardner Glass Products/Dreamwalls maintains one nine (9) hour shift per day (6 am to 3 pm). Therefore, that value was used to convert GPM to GPD for the CWF:

34.405 GPM X 60 Minutes/ Hour X 9 Hours/Workday = **18,578.70 GPD Regulated Flow**

21.10 GPM X 60 Minutes/Hour X 9 Hours/Workday = **11,397.00 GPD Dilution Flow**

29,972.70 GPD Total Flow

The Combined Wastestream Formula is used to convert categorical pretreatment limits for regulated process discharges to alternate limits for combined discharge of regulated and nonregulated flows. The Pretreatment Standards for New Sources for the Metal Finishing category (40 CFR 433.17) will be the only categorical limits applied in the calculation since all the regulated process are either one of the six core metal finishing operations or one of the 40 process operations to which the metal finishing standards apply if one of the six operations is present.

A CWF spreadsheet was used to calculate the alternate limits, but the calculation for cadmium is shown here as an example.

CWF:

$$C_T = \frac{C_i F_i}{F_i} \times \left(\frac{F_T - F_D}{F_T} \right)$$

Where:

C_T = Alternate concentration limit for the pollutant (cadmium) in the combined wastestream

C_i = Concentration-based categorical pretreatment standard for the pollutant in regulated stream i

F_i = Average daily flow of regulated stream (s) i

F_D = Average daily flow of dilute wastestream (s)

F_T = Total average daily flow of combined wastestreams

Cadmium:

40 CFR 433.17 Metal Finishing PSNS		
Pollutant:	Daily Maximum:	Monthly Average:
Cadmium	0.11 mg/l	0.07 mg/l

Daily Maximum:

$$C_T = \frac{(0.11 \text{ mg/l})(18,578.70 \text{ GPD})}{18,578.70 \text{ GPD}} \times \frac{(29,972.70 \text{ GPD} - 12,069.00 \text{ GPD})}{29,972.70 \text{ GPD}}$$

$$C_T = 0.066 \text{ mg/l}$$

Monthly Average:

$$C_T = \frac{(0.07 \text{ mg/l})(18,578.70 \text{ GPD})}{18,578.70 \text{ GPD}} \times \frac{(29,972.70 \text{ GPD} - 12,069.00 \text{ GPD})}{29,972.70 \text{ GPD}}$$

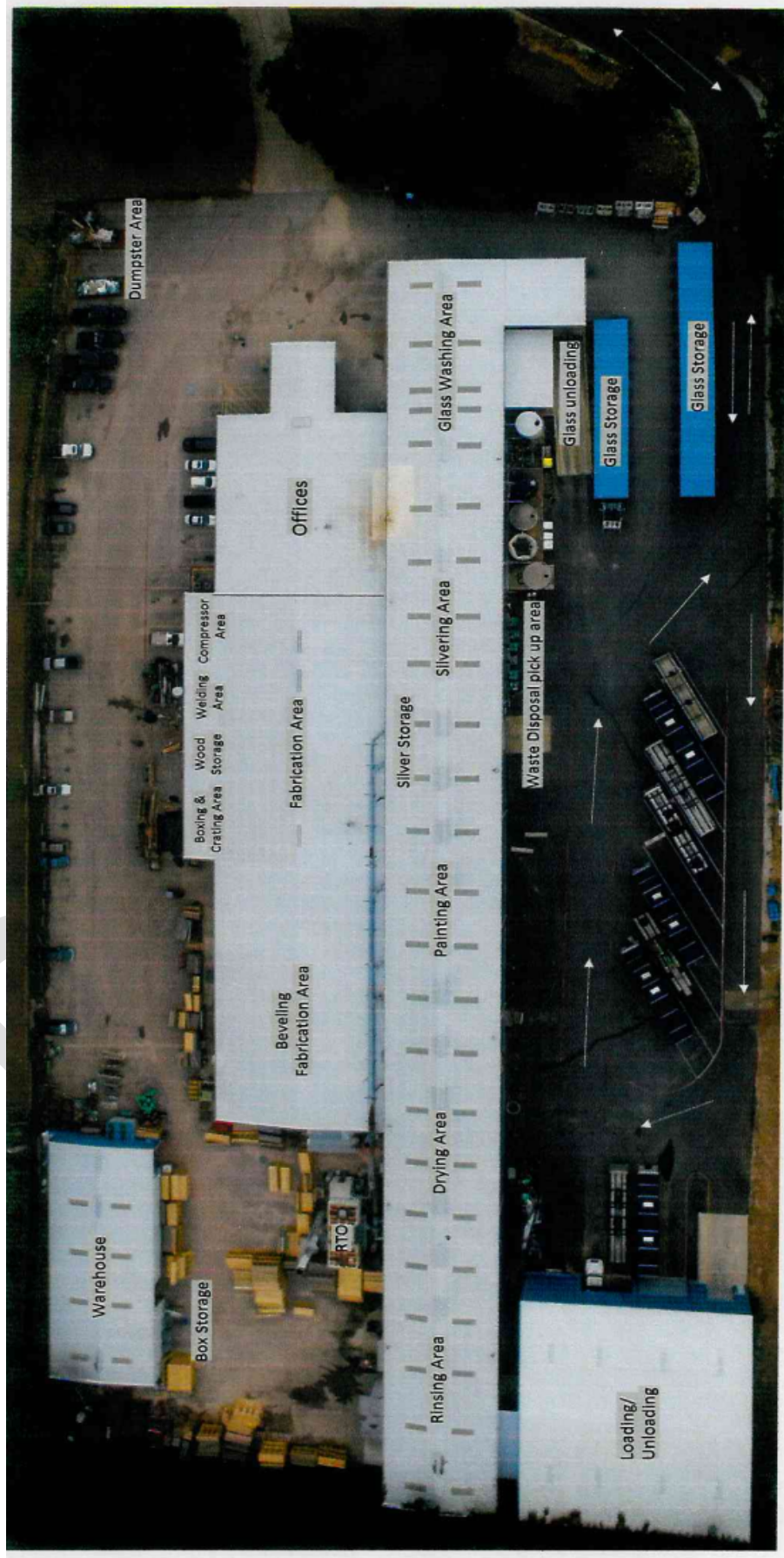
$$C_T = 0.042 \text{ mg/l}$$

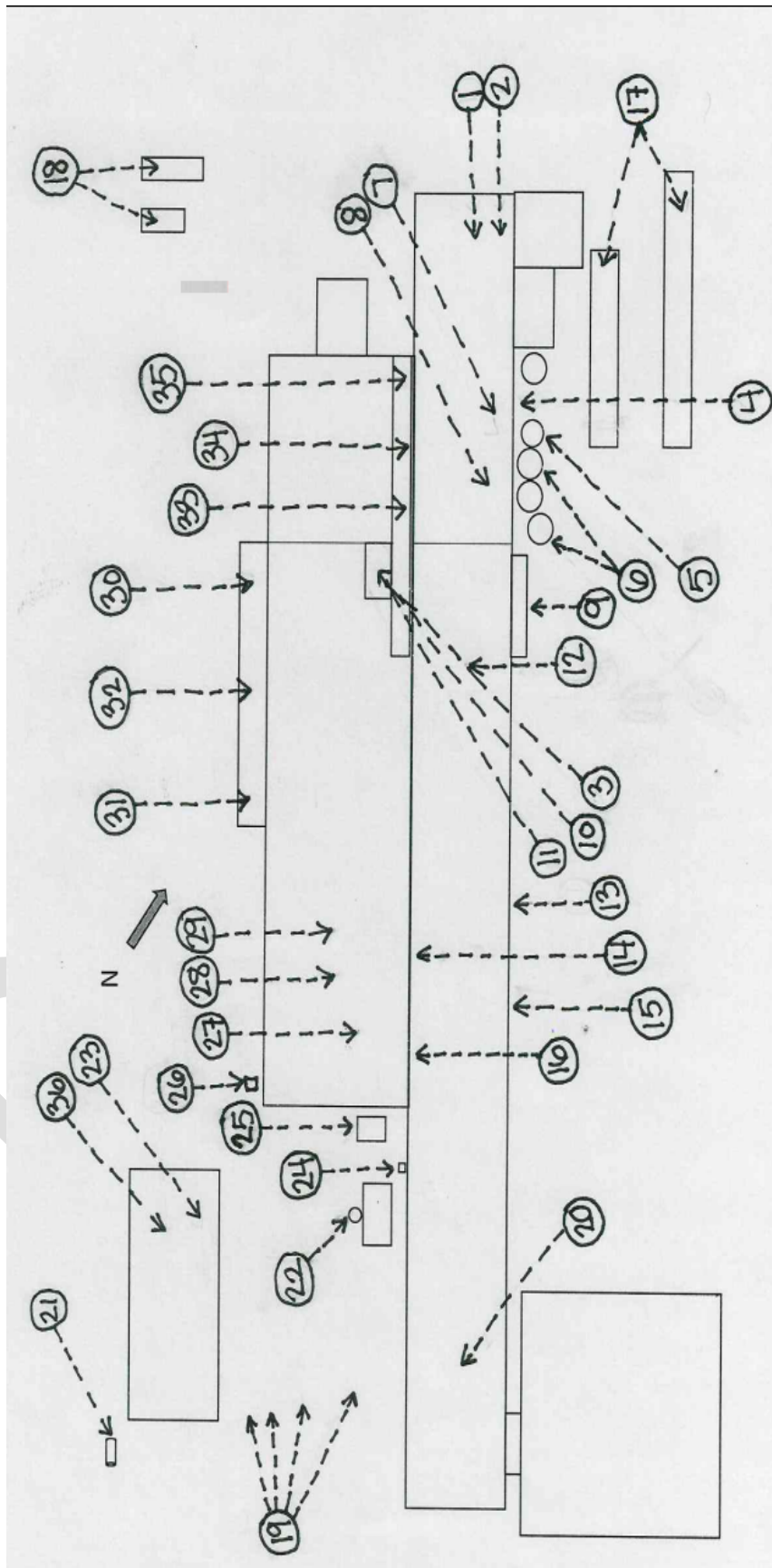
40 CFR 433.17 Metal Finishing PSNS		
Pollutant:	Daily Maximum:	Monthly Average:
Cadmium	0.11 mg/l	0.07 mg/l
Chromium	2.77 mg/l	1.71 mg/l
Copper	3.38 mg/l	2.07 mg/l
Lead	0.69 mg/l	0.43 mg/l
Nickel	3.98 mg/l	2.38 mg/l
Silver	0.43 mg/l	0.24 mg/l
Zinc	2.61 mg/l	1.48 mg/l
Cyanide	1.20 mg/l	0.65 mg/l
TTO	2.13 mg/l	NA

Alternate Limits per CWF: Outfall 001		
Pollutant:	Daily Maximum:	Monthly Average:
Cadmium	0.066 mg/L	0.04 mg/L
Chromium	1.65 mg/L	1.02 mg/L
Copper	2.02 mg/L	1.24 mg/L
Lead	0.41 mg/L	0.26 mg/L
Nickel	2.38 mg/L	1.42 mg/L
Silver	0.26 mg/L	0.14 mg/L
Zinc	1.56 mg/L	0.88 mg/L
Cyanide	0.72 mg/L	0.39 mg/L
TTO	1.27 mg/L	NA

Appendix D
Facility Diagrams



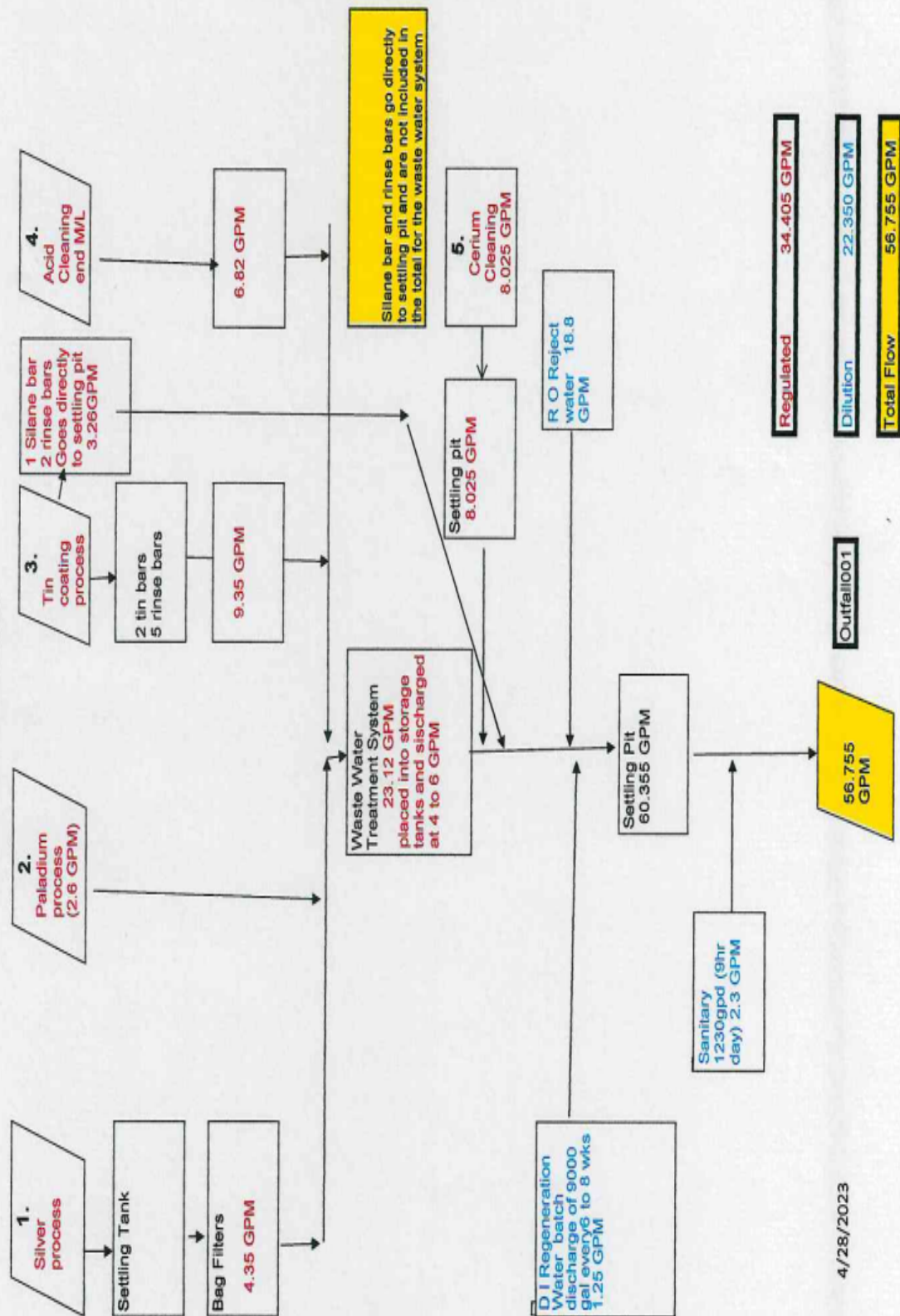




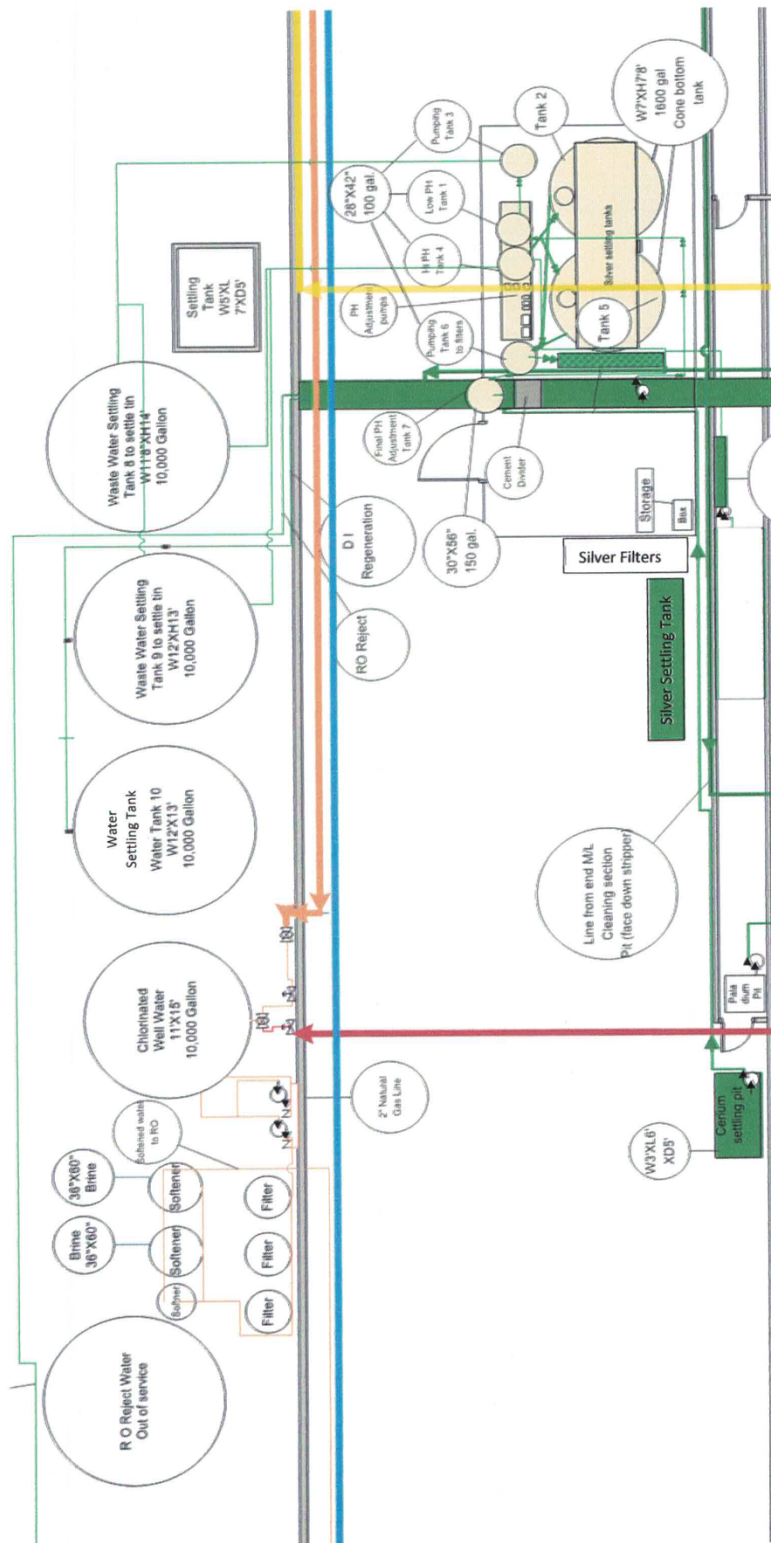
LEGEND

- | | |
|--|--|
| <ul style="list-style-type: none"> 1) De-Ionizing Water System 2) Spill Kit 3) Silver Storage 4) Waste Water System 5) Waste Water Tank Filters 6) Waste Water Tanks 7) Cerium Oxide Sump and Recovery System 8) Silver Reclamation System 9) Salt Storage 10) Palladium Chloride 11) Tin Chloride 12) Mini Bulk – HCL/Caustic Storage Containers 13) Product Storage 14) Paint Drums 15) Broken Glass Storage (for recycle) 16) Xylene (during use area) 17) Glass Rack Storage 18) Dumpster Area 19) Pallet Storage 20) Face Down Stripper 21) Water Tank & Well 22) RTO 23) Spill Kit 24) Storm Drain | <ul style="list-style-type: none"> 25) Evaporation Tank 26) Ground Level Transformer 27) Beveling Machine(s) drain sump 28) Glass Grinding Tank 29) Cerium Oxide Pits 30) Compressor Area and Coolant Storage 31) Box and Crate Building Shop 32) Wood and Lumber Storage 33) 5 – 2,000-gallon RO Water Tanks 34) Nitric Acid Drum 35) Cerium Oxide Tanks 36) Paint and Xylene Storage |
|--|--|

Water Flow Schematic



4/28/2023





CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 2.a.

Agenda Item: Consider authorizing the City Manager to execute the first Amendment to "the Reserves of Huntsville", PID # 1, Development Agreement, an agreement by and between PHD-Huntsville 34, L.P., a Texas limited partnership, and the City of Huntsville.

Initiating Department/Presenter: Development Services

Presenter:

Kevin Byal, Director of Development Services

Recommended Motion: Move to authorize the City Manager to execute the first Amendment to the Reserves of Huntsville, PID #1, Development Agreement, by and between PHD – Huntsville 34, L.P., a Texas limited partnership, and the City of Huntsville.

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion: On August 16, 2022, the City Council authorized the City Manager to enter into a development agreement with PHD-Huntsville 34, L.P., (the developer). The developer plans to develop the subject property, located on SH 30 west of the post office, as a single-family residential development having approximately 140 single-family home lots for sale with a minimum area of 5,750 square feet.

Various elements of the project include but are not limited to the subsequent issuance of PID Bonds for the payment of certain costs for the construction of public improvements and other associated costs to benefit the property, and the repayment to the Developer for any costs advanced for the construction and acquisition of certain public improvements to benefit the property are set forth in the Agreement. As part of the agreement, the developer will provide additional amenities above the minimum code requirements, including 50% brick or cementitious exterior, dog park, and park/landscaping improvements around the required detention area.

In an effort to time the development with the availability of sanitary sewer, the developer postponed the start of the project until now. Due to changing economic circumstances that have occurred over the past year, the developer is requesting 3 amendments to the development agreement as reflected in the attached exhibit. In summary, the changes are to the lien to value ratio, the debt service reserve, and the reduction from 75% to 50% minimum brick/hardie plank for the exterior of the homes. City staff has been working with the developer and our PID consultant, DTA Public Finance, on the details of the amendments to the development agreement and support the requested changes.

Previous Council Action: December 21, 2021 – City Council voted to approve the concept of creating a Public Improvement District for this specific project.

February 1, 2022 – City Council approved resolution 2022-5 setting a public hearing date to solicit public input concerning the creation of Public Improvement District (PID) number 1 for the Reserves of

Huntsville.

March 1, 2022 – City Council held a public hearing giving the public an opportunity to comment on the creation of the proposed PID.

August 16, 2022 - City Council approved Resolution 2022-23, a resolution creating "The Reserves of Huntsville" Public Improvement District (PID) in accordance with Chapter 372 of the Texas Local Government Code as amended, to create a public improvement district within the corporate limits of Huntsville. August 16, 2022 - City Council authorized the City Manager to enter into a Development Agreement with PHD-Huntsville 34, L.P., for the development of "The Reserves of Huntsville", PID No. 1, a 140-lot residential subdivision located in the 3400 block of State Highway 30 west.

Financial Implications: There is no financial impact associated with this item. The financial impact of any action the Council considers will be included in the PID assessment.

Approvals:

Kevin Byal
Aron Kulhavy
Kristy Doll

Associated Information:

1. First Amendment to Reserves of Huntsville Development Agreement 12.13.23
2. Executed-Final Agreement 2022
3. Area Map
4. Concept Plan

**FIRST AMENDMENT TO
RESERVES OF HUNTSVILLE DEVELOPMENT AGREEMENT**

This First Amendment to Reserves of Huntsville Development Agreement (this “Amendment”) is entered into effective as of _____, 2023, by and between PHD – Huntsville 34, L.P., a Texas limited partnership (the “Developer”), and City of Huntsville, Texas (the “City”), a home rule city and municipal corporation of the State of Texas, acting by and through its duly authorized representatives.

RECITALS:

WHEREAS, the Developer and the City entered into that certain Reserves of Huntsville Development Agreement, dated effective as of November 9, 2022 (“Agreement”);

WHEREAS, the Developer and the City desire to amend the Agreement as it relates to the (i) lien-to-value ratio; (ii) release of a portion of the reserve fund; and (iii) requirements for brick veneer.

NOW THEREFORE, for and in consideration of the mutual promises, covenants, benefits and obligations hereinafter set forth, the Developer and the City hereby agree that the Agreement is amended as follows:

AGREEMENT:

1. Amendments:

- i. Section 7.3 of the Agreement, is hereby amended and restated as follows:

Lien-to-Value. The City shall implement the PID Bond issue on the basis of an overall lien-to-value ratio *no less than fifty percent (50%) unless mutually agreed by the Parties*. An overall "lien-to-value ratio" is defined as that product produced by dividing the total assessment to be placed on the Property within the boundaries of an assessment area by the total fair market value of the Property contained within the boundaries of such assessment area. In the event *a series of PID Bonds cannot be sold and funds released with an overall 50% lien-to-value ratio*, the City shall *sell the PID Bonds and escrow a portion of the PID Bonds required by the purchaser of the PID Bonds* until such time as the Developer can demonstrate, through an MAI appraisal, that *an overall 33 1/3% lien-to-value ratio* has been obtained, at which point, the escrowed PID Bond proceeds will be available to fund Authorized Improvement Costs or to reimburse the Developer. In determining the fair market value of the Property, the Authorized Improvements which are to be constructed with PID Bond proceeds and/or other infrastructure for which performance bonds have been obtained, will be treated for valuation purposes as if they were completed as of the date of valuation.

- ii. Section 7.7 of the Agreement, is hereby added to the Agreement:

Debt Service Reserve. *The Debt Service Reserve for the PID Bond issue shall be established by the City in an amount typical for bonds such as the PID Bonds then*

being issued in the market place. However, after consultation with the City's underwriter, the Indenture, may provide that at such time as all of the single-family home lots have been developed and conveyed to a homebuilder or homeowner, the Debt Service Reserve Fund shall be reduced to fifty percent (50%) of its original amount, if such provision will not negatively impact the marketability or interest rate of the PID Bonds.

- iii. Section 3.2(iii) of the Agreement, is hereby amended and restated as follows:

Homes built within the Development shall consist of at least 50% brick exterior *or at least 50% fiber cement, particularly including Hardie Plank.*

2. Limited Amendment: Except as expressly amended by this Amendment, all other terms and conditions of the Agreement shall remain in full force and effect. In the event of any inconsistency between any term or provision of the Agreement and any term or provision of this Amendment, the terms and provisions of this Amendment shall govern and control for all purposes and respects and the Agreement shall be deemed amended so as to be consistent herewith.

3. Definitions: Defined terms contained herein shall have the meaning in the Agreement unless otherwise specifically provided herein.

4. Counterparts: This Amendment may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one instrument and agreement. A copy of an executed counterpart delivered by telecopy or PDF shall bind the Party executing that counterpart.

[SIGNATURE PAGE FOLLOW]

IN WITNESS WHEREOF, the Developer and the City have executed this Amendment to be effective as of the date and year first written above.

THE DEVELOPER

PHD – Huntsville 34, L.P.,
a Texas limited partnership

By: _____
Name: _____
Title: _____

THE CITY

City of Huntsville, Texas,
a home-rule city and municipal corporation

By: _____
Name: _____
Title: City Manager

APPROVED AS TO FORM:

By: _____
Name: Leonard V. Schneider
Title: City Attorney

RESERVES OF HUNTSVILLE DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is executed between PHD – Huntsville 34, L.P., a Texas limited partnership (“Developer”), which, as used herein, shall include the current owner of the Property and its successors and permitted assigns, and the CITY OF HUNTSVILLE, TEXAS, a home rule city (the “City”) (Developer and City being referred to individually as a “Party” and collectively as the “Parties”), to be effective on the Effective Date as defined in Section 2.

RECITALS

WHEREAS, certain terms used in these Recitals are defined in Section 2; and

WHEREAS, Developer and the City are sometimes collectively referenced in this Agreement as “Parties” or, each individually, as a “Party”; and

WHEREAS, the City is a home rule city located within Walker County (“County”); and

WHEREAS, Developer owns the approximately 33.22 acres of real property, which property is described by metes and bounds on Exhibit “A” and depicted on Exhibit “B” (“Property”) and located in Walker County; and

WHEREAS, the Property is located wholly within the city limits of the City; and

WHEREAS, the City will be the retail provider of water and sewer service to the Property; and

WHEREAS, Developer plans to develop the Property, as a single family residential development having approximately 140 single family home lots upon the execution of this Agreement, its acquisition of the Property, the subsequent issuance of PID Bonds for the payment of certain costs for the construction and acquisition of public improvements and other associated costs to benefit the Property, and the repayment to the Developer for any costs advanced for the construction and acquisition of certain public improvements to benefit the Property as set forth in this Agreement; and

WHEREAS, Developer desires and intends to design, construct, install, and/or make financial contributions to certain on-site and/or off-site public improvements to serve the development of the Property (collectively, “Authorized Improvements”), which Authorized Improvements are generally identified in Exhibit “C” and will be further described in the Service and Assessment Plan (the “SAP”); and

WHEREAS, Developer intends for the design, construction and installation of the Authorized Improvements to occur in a phased manner and to dedicate such Authorized Improvements to the City, as applicable, for use and maintenance, subject to the approval of the plans and inspection of the Authorized Improvements in accordance with this Agreement and the City Regulations, as hereinafter defined, and contingent upon the partial or total financing of such Authorized Improvements; and

WHEREAS, Developer and the City agree that the cost of the Authorized Improvements shall be funded from the aggregate principal amount of the PID Bonds not to exceed Six Million Five Hundred Thousand Dollars (\$6,500,000); and

WHEREAS, to accomplish the high-quality development of the Property envisioned by the Parties and to provide financing for the Authorized Improvements, the City has determined it is necessary for the City to create a public improvement district ("PID") pursuant to Chapter 372, Texas Local Government Code, as amended ("PID Act"); and

WHEREAS, in consideration of Developer's agreements and representations contained herein, the City intends to provide or approve alternative financing arrangements that will enable Developer, in accordance with the PID Act, to: (a) fund a specified portion of the costs of the Authorized Improvements using the proceeds of PID Bonds issued by the City; and/or (b) obtain reimbursement for a specified portion of the costs of the Authorized Improvements, the source of which reimbursement will be installment payments from Assessments on the Property, provided that such reimbursements shall be subordinate to the payment of PID Bonds and Administrative Expenses; and

WHEREAS, notwithstanding the City funding a portion of the cost of the Authorized Improvements through the issuance of PID Bonds, Developer will be required to fund any shortfall; and

WHEREAS, the City, subject to the consent and approval of the City Council, and in accordance with the terms of this Agreement and all legal requirements, intends to: (a) adopt a SAP; (b) adopt an Assessment Ordinance (to pay for a specified portion of the estimated cost of the Authorized Improvements and the costs associated with the administration of the PID and issuance of the PID Bonds); and (c) issue PID Bonds, in one or more series, for the purpose of financing a specified portion of the costs of the Authorized Improvements and related costs (including Administrative Expenses) and paying issuance costs and the cost of funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund); and

WHEREAS, the City, in its sole legislative discretion, may issue PID Bonds periodically up to a total maximum of Six Million Five Hundred Thousand Dollars (\$6,500,000.00) to finance a specified portion of the costs of the Authorized Improvements and related costs (including Administrative Expenses) and to pay issuance costs and the cost of funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund); and

WHEREAS, prior to the sale of the first PID Bond issue: (a) the City Council shall have approved and adopted the PID Resolution, a SAP and an Assessment Ordinance (collectively, the "PID Documents"); (b) the City shall have reviewed and approved the Home Buyer Disclosure Program; (c) owners of the Property constituting all of the acreage in the PID shall have executed a Landowner Agreement; and (d) Developer shall have delivered a fully executed copy of the Landowner Agreement(s) to the City; and

WHEREAS, the City recognizes that financing of the Authorized Improvements confers a special benefit to the Property within the PID and recognizes further that the development will promote state and local economic development; stimulate business and commercial activity in the municipality; and

WHEREAS, the Parties intend that the Property will be developed pursuant to the concept plan attached hereto as Exhibit "D" ("Concept Plan"); and

WHEREAS, this Agreement shall constitute a "permit" under Chapter 245 of the Texas Local Government Code.

WHEREAS, a memorandum of this Agreement will be recorded in the deed records of the County (so as to bind Developer and all future owners of the Property or any portion thereof), and will provide regulatory certainty during the term of this Agreement; and

WHEREAS, Developer will manage the construction of Authorized improvements to serve the Property and the City shall have and exercise jurisdiction over the development of the Property as set forth in this Agreement and the Governing Regulations regarding the design, construction, installation, and inspection of water, wastewater, drainage, roadway, and other public infrastructure to serve the Property; and

WHEREAS, nothing contained in this Agreement shall be construed as creating a contractual obligation that controls, waives, or supplants the City Council's legislative discretion or functions with respect to any matters not specifically addressed in this Agreement;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and for such other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

SECTION 1

RECITALS

The Recitals in this Agreement, cited above, are true and correct and establish the basis upon which the Parties enter into this Agreement.

SECTION 2

DEFINITIONS

Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth:

Actual PID Bond Fee means the actual costs of the PID Bond Fee as calculated by the City's financial advisor, as described in Subsection 6.5.

Additional Interest means the incremental interest rate charged on the Assessments securing PID Bonds in excess of the interest rate charged on the PID Bonds issued by the City, not to exceed 0.50% as authorized pursuant to the PID Act and further described in **Section 7.4**.

Administrative Expenses means, and shall include, without limitation, expenses incurred by the City in the establishment, administration, and operation of the PID.

Agreement means this Reserves of Huntsville Development Agreement.

Assessment means a special assessment levied by the City on property within the PID pursuant to Chapter 372, Texas Local Government Code, pursuant to an Assessment Ordinance, to pay for a specific portion of the Budgeted Cost, which shall be Authorized Improvement Costs.

Assessment Fund means the interest-bearing assessment fund account created by the City for the PID to which the assessment revenues will be deposited once collected.

Assessment Ordinance means an ordinance adopted by the City Council which authorizes Assessments to be levied on the Property in accordance with the PID Act, the purpose of which shall be to pay for a specified portion of the costs of certain Authorized Improvements and interest thereon as set forth in the SAP as well as the costs associated with the issuance of the PID Bonds that provide a special benefit to the Property.

Assessment Roll(s) means an Assessment Roll(s) attached to the SAP or any other Assessment Roll in an amendment or supplement to the SAP or in an annual update to the SAP, which shows the total amount of the Assessment against each parcel assessed under the SAP related to the Authorized Improvements.

Authorized Improvements means water, sewer, drainage, and roadway infrastructure and other public facilities needed to serve and fully develop the Property, which shall be constructed or caused to be constructed by Developer by or on behalf of the City, including but not limited to the improvements listed in Exhibit "C."

Authorized Improvement Costs means the design, engineering, permits, fees, construction costs, construction management, and inspection costs of the Authorized Improvements, performance and maintenance bonds, bidding, support, administrative and inspection costs, as further detailed in Exhibit "C".

Bond Ordinance means an ordinance adopted by the City Council that authorizes and approves the issuance and sale of the PID Bonds by the City.

Budgeted Cost(s) with respect to any given Authorized Improvement means the estimated cost of such improvement as set forth in Exhibit "C."

Build-Out means, for the District, that one hundred and forty (140) single-family homes expected to be developed within the District have received their certificates of occupancy from the City. The Developer shall notify the City if the final number of homes deviates from the initial projection.

Certification for Payment Form means a certificate which shall be submitted to the City no more frequently than monthly, and no less frequently than monthly if requested by the City, with all paid invoices, bills, and receipts for work completed on any of the Authorized Improvements, in the form of Exhibit "G" attached hereto.

City means the City of Huntsville, home rule city located in Walker County, Texas.

City Administrator means the City Manager of the City of Huntsville, Texas, or a person designated to act on behalf of that individual if the designation is in writing and signed by the current or acting City Manager.

City Code means the Code of Ordinances, City of Huntsville, Texas.

City Council means the City Council of the City of Huntsville, Texas.

City Regulations means the City Code as defined herein, the City's subdivision regulations, the City's engineering design standards, all International Code Council-sanctioned and National codes, as amended and as adopted by the City, including but not limited to the International Building, Construction, Electrical, Energy Conservation, Fire, Fuel Gas, Mechanical, Plumbing, Residential and similar standard codes, and other policies duly adopted by the City and in effect on the Effective Date of this Agreement.

Concept Plan means the Concept Plan agreed to by the Parties and that is depicted in Exhibit "D".

Cost Overruns means actual Authorized Improvement Costs that are more than the Budgeted Costs set forth in the SAP, as described in Subsection 6.2.

Cost Underruns means actual Authorized Improvement Costs that are less than the Budgeted Costs set forth in the SAP, as described in Subsection 6.3.

Developer means PHD-Huntsville 34, LP, a Texas limited partnership, and its successors and assigns, responsible for developing all or any portion of the Property in accordance with this Agreement.

Development means the development on the Property that is the subject of this Agreement.

Development Standards means those development standards applicable to the Property as agreed to by the Parties, as set forth in this Agreement.

District means the Reserves of Huntsville Public Improvement District.

Effective Date means the date on which the last of the Parties has executed this Agreement

End Buyer means any developer, developer homebuilder, homebuilder, homeowner, tenant, user, or owner of a Fully Developed and Improved Lot.

Force Majeure means, and shall include without limitation, acts of God, strikes, lockouts, or other industrial disturbances, acts of a public enemy, acts or orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, pandemics, quarantine, viral outbreaks, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, or other acts, events, causes, or circumstances not within the reasonable control of the Party claiming such inability and that could not have been avoided by such Party with the exercise of good faith, due diligence, and reasonable care.

Fully Developed and Improved Lot means any lot in the Property, regardless of proposed use, intended to be served by the Authorized Improvements and for which a final plat has been approved by the City and recorded in the Real Property Records of Walker County, Texas.

HOA means a non-profit homeowners association created to have jurisdiction over the Property.

Home Buyer Disclosure Program means the disclosure program, administered by the PID Administrator, as set forth in a document in the form of Exhibit "E", which establishes a mechanism to disclose to each End Buyer the terms and conditions under which that End Buyer's lot is burdened by the PID.

Improvement Account of the Project Fund means that account as defined or described in any Indenture.

Incremental Additional Interest refers to the incremental Additional Interest charged on the annual Assessments due on the assessed property owned by the Developer prior to the Build-Out and is based on an incremental rate difference between the 0.25% assessed, pursuant to **Section 7.4**, and the maximum authorized rate of 0.50%, as further described in **Section 7.5**.

Indenture means a trust indenture by and between the City and a trustee bank under which the PID Bonds are secured, and funds disbursed.

Landowner(s) means the Developer and any additional owners of the Property.

Landowner Agreement means the agreement, as set forth in a document in the form of Exhibit "F" of an owner of the Property consenting to the form and terms of the PID Documents.

Notice means any notice required or contemplated by this Agreement (or otherwise given in connection with this Agreement).

Parties means, collectively, Developer and the City; Party, individually, means either Developer or the City.

Payment Certificate means the Certification for Payment Form, as generally set forth in Exhibit “G,” submitted by Developer to the City for approval of the reimbursement of Authorized Improvement Costs from PID Bond proceeds.

PID means a public improvement district created by the City for the benefit of the Property pursuant to Chapter 372, Texas Local Government Code, as amended; in this instance and for purposes of this Agreement, the PID means the Reserves of Huntsville Public Improvement District.

PID Act means Chapter 372, “Improvement Districts in Municipalities and Counties,” Texas Local Government Code, as amended.

PID Administrator means a company, entity, employee, or designee of the City, who is experienced in public improvement districts and assessment administration and who shall have the responsibilities provided in the SAP, or any other agreement or document approved by the City, related to the duties and responsibilities for the administration of the PID.

PID Bond Fee means that fee payable by Developer to the City as defined in Section 6.5.

PID Bonds means those assessment revenue bonds issued by the City and secured by Assessments on property within the PID.

PID Documents means the City Council-approved and adopted (a) PID Resolution; (b) SAP; and (c) Assessment Ordinance, as described in the Recitals to this Agreement.

PID Resolution means the resolution adopted by the Council creating the PID pursuant to Section 372.010 of the PID Act and approving the advisability of the Authorized Improvements.

Property means the real property described by metes and bounds on Exhibit “A” and depicted on Exhibit “B”, consisting of approximately 33.22 acres.

Public Infrastructure means all water, sewer, drainage, and roadway and other public infrastructure necessary to serve the full development of the Property.

Real Property Records of Walker County means the official land recordings of the Walker County Clerk’s Office.

Service and Assessment Plan (or SAP) means the PID Service and Assessment Plan adopted by the City Council, and amended annually, if needed, by the City Council pursuant to the PID Act for the purpose of assessing allocated costs against property located within the boundaries of the PID and having terms, provisions and findings approved by the City, as required by this Agreement.

Walker County means Walker County, Texas.

THE DEVELOPMENT

3.1. Scope of Agreement. This Agreement establishes provisions for the apportionment, levying, and collection of Assessments on the Property within the PID, the construction of the Public Infrastructure, reimbursement, acquisition, ownership and maintenance of the Public Infrastructure, and the issuance of PID Bonds for the financing of the Public Infrastructure benefitting the property within the PID.

3.2. Project Overview – The Development.

(a) The Developer will undertake or cause the undertaking of the design, development, construction, maintenance, management, use and operation of the Development, and will undertake the design, development and construction of the Public Infrastructure. The Development will consist of the following elements:

- (i) Approximately 140 single family home lots;
- (ii) Unless otherwise agreed by the Parties, all lots shall contain a minimum of 5,750 square feet;
- (iii) Homes built within the Development shall consist of at least 75% brick exterior;
- (iv) Enhanced subdivision amenities, as shown in Exhibit H, will be constructed and maintained in perpetuity by the HOA.

SECTION 4 PUBLIC IMPROVEMENT DISTRICT

4.1 Creation and Levy of Assessments by the City. The City shall use its best efforts to initiate and approve all necessary documents and ordinances required to effectuate this Agreement, to create the PID, to levy the Assessments, and to prepare and approve a preliminary SAP providing for the levy of the Assessments on the Property within the PID. Promptly following preparation and approval of a preliminary SAP reasonably acceptable to Developer and the City, and subject to the City Council making findings that the Authorized Improvements confer a special benefit on the Property, the City Council shall consider an Assessment Ordinance and final SAP. Developer shall develop the Property consistent with the terms of this Agreement. Nothing contained in this Agreement, however, shall be construed as creating a contractual obligation that controls, waives, or supplants the City Council's legislative discretion or functions.

4.2 PID Application Review Fee: A non-refundable application review fee of \$10,000 is required at the time a PID petition is filed. If the City decides it is in its best interest to establish a PID, a Development Agreement will be entered into with the Developer. The Development Agreement will allow the City to utilize the \$10,000 deposit to pay for the City's costs for staff,

including the City Attorney, City Engineer, and City Planner, and to reimburse third-party consultants, including but not limited to Bond Counsel, a Financial Advisor, a PID Administrator, a Trustee, an Underwriter, an Appraiser, and more. If such costs exceed the initial deposit, then Developer shall forward additional monies to the City sufficient to cover such costs.

4.3 Acceptance by Developer of Assessments and Recordation of Covenants Running with the Land. Concurrently with the levy of the Assessments, Developer shall approve and accept in writing the levy of the Assessment(s) on all land owned by Developer within the PID, shall approve and accept in writing the Home Buyer Disclosure Program, and shall cause to be recorded against the Property covenants running with the land that will bind any and all current and successor developers and owners of the Property to: (a) pay the Assessments, with applicable interest and penalties thereon, as and when due and payable hereunder and that the purchasers of such land take their title subject to, and expressly assume, the terms and provisions of such assessments and the liens created thereby; and (b) comply with the Home Buyer Disclosure Program.

SECTION 5 AUTHORIZED IMPROVEMENTS

5.1 Authorized Improvements. Budgeted Costs, including those estimated expenses related to the Authorized Improvements, are subject to change and shall be updated by the City consistent with the SAP, as may be updated and amended, and the PID Act, and shall be included on each approved final plat(s) for the Property as each final plat for each phase of the Property is approved by the Planning Commission. Developer shall include an updated Exhibit "C" with each final plat application, which shall be submitted to the City Council for consideration and approval concurrently with the submission of each final plat. Upon approval by the City Council of an updated Exhibit C, this Agreement shall be deemed amended to include such approved updated Exhibit "C." The Authorized Improvement Costs and the timetable for installation of the Authorized Improvements will be reviewed by the Parties in an annual update of the SAP adopted and approved by the City.

5.2 Construction, Ownership, and Transfer of Authorized Improvements.

(a) Construction Plans. Developer, in accordance with its development schedule, shall prepare, or cause to be prepared, plans and specifications for each of the Authorized Improvements and have them submitted to the City for approval in accordance with this section. Any written City approval or denial must be based on compliance with applicable City Regulations.

(b) Contract Award. The contracts for construction of Authorized Improvements shall be left in the name of Developer. Developer's engineers shall prepare, or cause to be prepared, contract specifications and necessary related documents for the Authorized Improvements. Developer shall administer all contracts. The Budgeted Costs, which are estimated on Exhibit C, as realized, shall be paid from PID Bond proceeds or caused to be paid by Developer, or Developer's assignee, and shall be reimbursed from the proceeds of the PID Bonds in accordance with the Indenture, or reimbursed by the collected Assessments levied pursuant to the terms of any reimbursement agreement. Until such Budgeted Costs, as realized, are paid in full by the City pursuant to the terms of this Agreement,

the Indenture, or any reimbursement agreement, then unpaid monies owed by the City under any reimbursement agreement, or the Indenture shall bear interest as described therein.

(c) Construction Standards and Inspection. The Authorized Improvements and all other Public Infrastructure required for the full development of the Property shall be constructed and inspected in accordance with applicable state law, the City Regulations, the Development Standards, and other development requirements, including those imposed by the City and any other governing body or entity with jurisdiction over the Authorized Improvements. All applicable fees, including permit fees and inspection fees, shall be paid by Developer. All applicable permits and/or fees related to Authorized Improvements shall be eligible for funding by the PID.

(d) The City will allow the construction of the proposed Public Infrastructure to commence once construction documents have been approved. The construction documents may be approved once they satisfy the City rules and regulations and will not be held up for the completion of the McGary Creek Lift Station or TXDOT approvals. Developer may commence construction for all Public Infrastructure (except tying into the City sewer main), at his own risk, prior to completion of the McGary Creek Lift Station and/or TXDOT approvals. The Public Infrastructure cannot be accepted by the City until TXDOT approval is provided to the City.

(e) Competitive Bidding. This Agreement and construction of the Authorized Improvements are anticipated to be exempt from competitive bidding pursuant to Texas Local Government Code, Sections 252.022(a)(9) and 252.022(a)(11), based upon current cost estimates. In the event that the actual costs for the Authorized Improvements do not meet the parameters for exemption from the competitive bid requirement, then either competitive bidding or alternative delivery methods may be utilized by the City as allowed by law.

(f) Easements, Right-of-Way. The Developer shall dedicate or convey by final plat or separate instrument, without cost to the City, all property rights (which may be an easement) necessary for the operation and maintenance of the Authorized Improvements, at the completion of the Authorized Improvements and acceptance by the City.

(g) Ownership. All of the Authorized Improvements shall be owned by the City, upon acceptance of them by the City. Developer agrees to take any action reasonably required by the City to transfer or otherwise dedicate or ensure the dedication of easements and facilities for the Authorized Improvements to the City and the public.

53 Operation and Maintenance.

(a) Upon inspection, approval, and acceptance of the Authorized Improvements or any portion thereof, the City shall maintain and operate the Authorized Improvements listed in Exhibit "C" or any accepted portion thereof.

(b) The HOA shall maintain and operate the open spaces, trails, common areas, detention/retention ponds, right-of-way irrigation systems, right-of-way landscaping, screening walls, and any other common improvements or appurtenances in the benefited residential portions of

the Property not maintained and operated by the City, provided that all Authorized Improvements maintained by the HOA shall be public improvements.

54 Administration of Construction of Public Infrastructure. The Parties agree that the Developer will be responsible to construct or cause the construction of the on-site and off-site storm, roadway, water, and sewer infrastructure for the Property necessary to serve the Development and as listed in Exhibit "C."

55 Water and Wastewater Service.

(a) The City currently holds the CCNs for water and sewer service to the Property. The Property will be served by the City under the same terms as all other similarly situated customers located in the City.

SECTION 6

PAYMENT OF AUTHORIZED IMPROVEMENTS AND DEVELOPMENT CHARGES

61 Improvement Account of the Project Fund. On the date of issuance of any PID Bonds, the City shall establish the Improvement Account of the Project Fund in accordance with the applicable Indenture. Any Improvement Account of the Project Fund shall be maintained as provided in the Indenture and shall not be commingled with any other funds of the City. Any Improvement Account of the Project Fund shall be administered and controlled (including signatory authority) by the City, or the trustee bank for the PID Bonds, and funds in the Improvement Account of the Project Fund shall be deposited and disbursed in accordance with the terms of the Indenture. In the event of any conflict between the terms of this Agreement and the terms of the Indenture relative to deposit and/or disbursement, the terms of the Indenture shall control.

62 Cost Overrun. If the total cost of an Authorized Improvement (or segment or section thereof) exceeds the total amount of the Budgeted Cost for that Authorized Improvement (or segment or section thereof) (a "Cost Overrun"), Developer shall be solely responsible for payment of the remainder of the costs of that Authorized Improvement (or segment or section thereof), except as provided in Section 6.3 below.

63 Cost Underrun. If, upon the completion of construction of an Authorized Improvement (or segment or section thereof) and payment or reimbursement for such Authorized Improvement, there are Cost Underruns, any remaining Budgeted Cost(s) may be available to pay Cost Overruns on any other Authorized Improvement with the approval of the City Administrator and provided that all Authorized Improvements as set forth in the SAP are undertaken at least in part. The elimination of a category of Authorized Improvements in the SAP will require an amendment to the SAP. Prior to completion of all the Authorized Improvements within an improvement category, as listed in the applicable SAP and the applicable PID phase, ten percent (10%) of funds available from an improvement category may be used as Cost Underruns and applied to another improvement category. If, upon completion of the Authorized Improvements in any improvement category, any funds remain in such category, those funds may be used to reimburse Developer for any qualifying costs of the Authorized Improvements that have not been paid.

64 Remainder of Funds in the Improvement Account of the Project Fund. If funds remain in the Improvement Account of the Project Fund after the completion of all Authorized Improvements and the payment of all Authorized Improvements Costs as provided for in the Indenture, then such funds shall thereafter be the exclusive property of the City and shall be used by the City as provided for in the SAP and the Indenture, or any other use applicable to the Property as provided by law. In the event of any conflict between the terms of this Agreement and the terms of the Indenture relative to deposit and/or disbursement, the terms of the Indenture shall control.

65 Qualified Tax-Exempt Status. If in any calendar year (including 2022) the City issues PID Bonds that would constitute a bank-qualified debt issuance but for the issuance of the PID Bonds or other bonds supporting public improvements for non-City owned development projects, including either bonds authorized by the PID Act, then Developer shall pay to the City a fee (the "PID Bond Fee") to compensate the City for the interest savings the City would have achieved had the debt issued by the City been bank-qualified; provided, however, that all other developers or owners directly benefitting from the City issuing debt are similarly burdened with an obligation to compensate the City. The City shall calculate the PID Bond Fee for all series of PID Bonds and notify Developer of the total amount due at least ten (10) business days prior to pricing the first series of PID Bonds. Developer agrees to pay the estimate of the PID Bond Fee to the City on the later of (a) five (5) business days prior to pricing of any series of PID Bonds or other City debt, or (b) five (5) business days after receiving Notice from the City of the estimated amount of the PID Bond Fee due to the City. The City shall not be required to price or sell any series of PID Bonds until Developer has paid the PID Bond Fee. Upon the City's approval of the PID Bonds, the City's financial advisor shall calculate the actual costs of the PID Bond Fee (the "Actual PID Bond Fee"). The City will, within five (5) business days, notify Developer of the Actual PID Bond Fee. In the event the Actual PID Bond Fee is less than the estimated PID Bond Fee, the City will refund to Developer the difference between the Actual PID Bond Fee and the estimated PID Bond Fee within ten (10) business days of the date of the City's notice to Developer of the Actual PID Bond Fee. If the Actual PID Bond Fee is more than the estimated PID Bond Fee, Developer will pay to the City the difference between the Actual PID Bond Fee and the estimated PID Bond Fee within ten (10) business days of the date of the City's notice to Developer of the Actual PID Bond Fee.

If a developer or owner (including Developer, as applicable) has paid all or part of a PID Bond Fee estimate for any particular calendar year to the City, and a subsequent developer or owner (including Developer) pays a PID Bond Fee to the City applicable to the same calendar year, each such later developer or owner (including Developer) shall be reimbursed by the City as necessary so as to place all developers and owners who have paid the fee for the same calendar year in the required payment proportion. Said reimbursement(s) shall be made by the City within ten (10) business days after the City's receipt of the estimated PID Bond Fee payment(s) unless otherwise agreed to by the Parties, including, as applicable, other developers or owners. The City will deposit all payments of a PID Bond Fee estimate received from a developer or owner (including Developer, as applicable) into a segregated account until such time as (1) the City transfers the funds to a capital improvement project fund in conjunction with issuing City debt; and/or (2) the City refunds a portion of the PID Bond Fee estimate consistent with the pro rata formula above within ten (10) business days of issuing Bonds or agreement is made as to a different payment date. On or before January 15th of the following calendar year, the final PID Bond Fee shall be calculated. By January 31st of such year,

any funds in excess of the final PID Bond Fee that remain in such segregated account on December 31st of the preceding calendar year shall be refunded to the developers or owners (including Developer, as applicable) and any deficiencies in the estimated PID Bond Fee paid to the City by any developer or owner (including Developer, as applicable) shall be remitted to the City by the respective developer or owner (including Developer, as applicable). Said payments shall be made within ten (10) business days after January 31st of that year unless otherwise agreed to by the Parties, including, as applicable, other developers or owners.

66 Payment Process for Authorized Improvements.

(a) The City shall authorize the payment and/or reimbursement of the Authorized Improvement Costs from PID Bond proceeds. Developer shall submit for approval to the City a Certification for Payment Form (no more frequently than monthly, and no less frequently than monthly if requested by the City for Authorized Improvement Costs, including a completed segment, section, or portion of an Authorized Improvement. The Certification for Payment Form is set forth in Exhibit “G,” and may be modified by the Indenture or, if applicable, a reimbursement agreement. The City shall review the sufficiency of each Certification for Payment Form submission (each, a “Payment Certificate”) to ensure compliance with this Agreement, compliance with City Regulations, and compliance with the SAP. The City shall review each Payment Certificate within ten (10) business days of receipt thereof and upon approval, certify the Payment Certificate pursuant to the provisions of the Indenture or, if applicable, a reimbursement agreement, and payment shall be made to such contractor or Developer as applicable, pursuant to the terms of the Indenture or, if applicable, a reimbursement agreement provided that funds are available under the Indenture or such reimbursement agreement. If a Payment Certificate is approved only in part, the City shall specify the extent to which the Payment Certificate is approved and payment for such partially approved Payment Certificate shall be made to the contractor or Developer as applicable, pursuant to the terms of the Indenture or, if applicable, a reimbursement agreement, provided that funds are available under the Indenture or reimbursement agreement.

(b) If the City requires additional documentation, or timely disapproves or questions the correctness or authenticity of the Payment Certificate, the City shall deliver a detailed notice to Developer within five (5) business days of receipt thereof; payment with respect to the disputed portion(s) of the Payment Certificate shall not be made until Developer and the City have jointly settled such dispute or additional information has been provided to the City’s reasonable satisfaction.

67 Development, Review, and Inspection Fees. Development of any portion of the Property shall be subject to payment to the City of the applicable fees according to the City’s Regulations, including without limitation fees relating to platting, zoning requests, permitting, and any other charges and fees not expressly exempted or altered by the terms of this Agreement.

SECTION 7
PID FINANCING

7.1 General. The City intends to issue the PID Bonds solely for the purpose of financing the costs of the Authorized Improvements and related costs (including Administrative Expenses) and

paying issuance costs and the cost of funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund). The City and Developer have determined and hereby agree that the estimated maximum aggregate principal amount of PID Bonds will not exceed Six Million Five Hundred Thousand Dollars (\$6,500,000.00). The City staff will, from time to time, submit to the City Council agenda items to approve the issuance of the PID Bonds by the City in an amount up to, but not to exceed, the estimated maximum aggregate principal Bond amount of Six Million Five Hundred Thousand Dollars (\$6,500,000). The City will not be liable for any amount of unbonded or unlevied public improvement costs. Any unbonded or unlevied public improvement costs shall be payable only from bonds or by the Developer.

7.2 Term of PID Bonds. The City agrees that the PID Bonds will have a term of thirty (30) years.

7.3 Lien-to-Value. The City shall implement the PID Bond issue on the basis of an overall lien-to-value ratio of thirty-three and one-third percent (33 1/3%). An overall "lien-to-value ratio" is defined as that product produced by dividing by the total assessment to be placed on the Property within the boundaries of an assessment area by the total fair market value of the Property contained within the boundaries of such assessment area. In the event that an overall 33 1/3% lien-to-value ratio cannot be achieved, the City shall escrow a portion of the PID Bonds not supported by the overall lien-to-value requirement until such time as the Developer can demonstrate, through an MAI appraisal, that the overall 33 1/3% lien-to-value requirement has been obtained, at which point, the escrowed PID Bond proceeds will be available to fund Authorized Improvement Costs or to reimburse the Developer as appropriate. In determining the fair market value of the Property, the Authorized Improvements which are to be constructed with PID Bond proceeds and/or other infrastructure for which performance bonds have been obtained, will be treated for valuation purposes as if they were completed as of the date of valuation.

7.4 Additional Interest. Prior to the Build-out, the City shall charge the Additional Interest on the Assessments annually at the rate of 0.25%. After the Build-Out, the City shall have the authority to charge the Additional Interest on the Assessments annually at a rate subject to its discretion pursuant to the PID Act, as amended.

7.5 Incremental Additional Interest. On or around September 1 of each year, the PID Administrator shall determine the Incremental Additional Interest on the Assessments due on the assessed property owned by the Developer at the rate of 0.25%, representing the incremental rate difference between the 0.25% assessed pursuant to Section 7.4 and the maximum rate of 0.50% authorized pursuant to the PID Act. The PID Administrator shall promptly notify the City and Developer of the amount of Incremental Additional Interest due for the upcoming year once it becomes available, and the Developer shall have 5 business days to contest the amount. Within the 5 business days after the end of contest period, the Developer shall deliver to the City an irrevocable letter of credit instrument, or a credit instrument acceptable to the City, in the amount equal to the Incremental Additional Interest. The obligation of Incremental Additional Interest shall terminate and the letters of credit or other credit instruments cancelled and/or returned to the Developer once the District reaches Build-Out.

7.6 Governing Authority of Indenture. Notwithstanding the foregoing, the Indenture shall govern the terms of Sections 7.4 and 7.5, as applicable.

SECTION 8 ZONING

8.1 Zoning of Property. The Parties agree that the Concept Plan, the Development Standards, and the applicable provisions of this Agreement memorialize the preliminary plan for development of the Property and the Property is already zoned for the proposed use.

8.2 Full Compliance with City Standards.

(a) When not in conflict with the terms and conditions of this Agreement, including the Development Standards, the development of the Property shall be subject to all applicable City Regulations, including but not limited to the City's subdivision regulations and engineering design standards in effect on the Effective Date. Developer shall be subject to those fees and charges due and payable to the City in connection with the development and construction of the Property, including but not limited to platting and zoning request fees, building permit fees, inspection fees, and capital recovery fees, as detailed in Section 6 of this Agreement and in effect on the Effective Date.

(b) Development and use of the Property, including, without limitation, the construction, installation, maintenance, repair, and replacement of all buildings, improvements, and facilities of any kind whatsoever on and within the Property, shall comply with the Concept Plan, Development Standards, and applicable City Regulations. The City acknowledges and agrees that the Concept Plan may be revised and refined by Developer as Developer continues its investigation of and planning for the Property, provided that in no case shall the Concept Plan be revised or refined to contradict any of the requirements of this Agreement. When not in conflict with the Concept Plan and the Development Standards, all buildings, improvements, and facilities constructed on and within the Property shall comply with the City Regulations, and applications for building permits and construction plans shall be submitted to the City for review and approval prior to the commencement of construction of such structures. The City, or its authorized designated representative, shall be solely responsible for issuing building permits and certificates of occupancy for all structures.

8.3 Phasing. The Parties acknowledge and agree that the Property may be developed in phases. If deemed necessary, Developer may submit a replat for all or any portions of the Property. Any replat shall generally conform to the Concept Plan, the City's development code and be subject to City approval.

8.4 Conflicts. In the event of any direct conflict between this Agreement and any City Regulations or other ordinance, rule, regulation, standard, policy, order, guideline, or other City- adopted or City-enforced requirement, applicable to construction of the Public Infrastructure, whether existing on the Effective Date or hereinafter adopted, this Agreement, including its exhibits, as applicable, shall control.

85 Vested Rights. This Agreement shall constitute a “permit” (as defined in Chapter 245 of the Texas Local Government Code) that is deemed filed with the City on the Effective Date. DEVELOPER WAIVES ALL CLAIMS THAT ANY OBLIGATION INCURRED BY OWNER SET OUT IN THIS AGREEMENT CONSTITUTES A “TAKING”, AN ILLEGAL EXACTION, OR INVERSE CONDEMNATION OF ALL OR ANY PORTION OF THE PROPERTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, DEVELOPER DOES NOT, BY ENTERING INTO THIS AGREEMENT, WAIVE (AND DEVELOPER EXPRESSLY RESERVES) ANY RIGHTS AND CLAIMS THAT DEVELOPER MAY HAVE ARISING FROM ANY ACTION BY THE CITY AFTER THE EFFECTIVE DATE. THE CITY SHALL NOT BE REQUIRED TO DETERMINE ROUGH PROPORTIONALITY OR NECESSITY AS PROVIDED FOR IN SECTION 212.904 OF THE TEXAS LOCAL GOVERNMENT CODE FOR ANY DEDICATIONS OR IMPROVEMENTS REQUIRED UNDER THIS AGREEMENT, AS AMENDED OR OTHERWISE PROPOSED BY OWNER.

86 Other Applicable Regulations. Notwithstanding Developer’s adherence to the City Regulations and other development standards cited in this Agreement including the Development Standards, the Property will be subject to the development regulations described in this Section 8.6, as adopted, and amended from time to time, so long as such new regulations are uniformly applied throughout the City, with the exception only of non-comparable areas within the City such as, for example, historic districts:

- (a) Regulations for sexually oriented businesses and the sale of fireworks;
- (b) Regulations to prevent imminent destruction of property or injury to persons from flooding;
- (c) Regulations to prevent the imminent destruction of property or injury to persons if the regulations do not: (a) affect lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project; or;
- (d) Building regulations, construction standards, or other requirements
- (e) Landscape and fence regulations, but only to the extent that such landscape and fence regulations do not affect lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of the project; and
- (f) Sign regulations but only to the extent such regulations do not affect lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of the project.

SECTION 9 OBLIGATIONS; EVENTS OF DEFAULT; REMEDIES

9.1 Obligations of Developer. Notwithstanding any other provisions herein, Developer’s rights and obligations hereunder shall apply only to that portion of the Property it owns or is

developing and to the portion of the Authorized Improvements benefitting such portion of the Property.

9.2 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform, the nature of which is reasonably detailed, has been given in writing; however, that Party shall be given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but, unless otherwise stated in this Agreement or agreed to in writing by the Parties, in no event more than thirty (30) days after written notice of the alleged failure has been received). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party in receipt of the notice begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. Notwithstanding the foregoing, however, a Party shall be in default of its obligation to make any payment required under this Agreement if such payment is not made within twenty (20) business days after it is due.

9.3 Remedies. If a Party is in default, any non-defaulting Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity against such breaching Party (but not any other Party), including, but not limited to, an action under the Uniform Declaratory Judgment Act, or actions for specific performance, mandamus, or injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE NON-DEFAULTING PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.

SECTION 10

ASSIGNMENT; ENCUMBRANCE

10.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties. This Agreement and the obligations, requirements, or covenants to develop the Property shall be able to be assigned, without the prior written consent of the City, to (a) any person or entity that is or will become an owner of any portion of the Property (an "Owner"); (b) any affiliate or related entity of Developer; or (c) any lienholder on the Property. This Agreement and the obligations, requirements, or covenants to develop the Property shall not be assigned by Developer to a non-affiliate or non-related entity of Developer, or to a non-Owner without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the assignee demonstrates financial ability to perform. Any receivables due under this Agreement or any reimbursement agreement may be assigned by Developer without the consent of, but upon written notice to, the City pursuant to Section 10.5 of this Agreement. An assignee shall be considered an Owner for the purposes of this Agreement. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. A copy of each assignment shall be provided to all Parties. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party (which includes the City) or

assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party's sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property. Notice to the City of any assignment by Developer shall conform to Section 10.5, below.

102 Encumbrance by Developer and Assignees. Developer and its assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement (a) for the benefit of their respective lenders without the consent of, but with prompt written notice to, the City, and (b) to any other person or entity with the City Administrator's prior written consent (which consent shall not be unreasonably withheld, conditioned, or delayed). If the City Administrator fails to provide Developer or assignee with a reasonable written objection to a collateral assignment request within thirty (30) days of the City Administrator receiving such request, the collateral assignment shall be automatically deemed approved by the City. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the lender's interest, including Notice information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement and shall be given a reasonable time to do so in addition to the cure periods otherwise provided to the defaulting Party by this Agreement; and the City agrees to accept a cure, not to be unreasonably withheld, offered by the lender as if offered by the defaulting Party. A lender is not a party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. Any purchaser from or successor owner through a lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured.

103 Assignees as Parties. An assignee authorized in accordance with this Agreement, and for which notice of assignment has been provided in accordance with Section 10.5 of this Agreement shall be considered a "Party" for the purposes of this Agreement. With the exception of an End Buyer, any person or entity, upon becoming an owner of land within the PID or upon obtaining an ownership interest in any part of the Property, shall be deemed to be a "Developer" and have all of the obligations of Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

104 Third-Party Beneficiaries. Subject to Section 10.1 of this Agreement, this Agreement inures only to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

10.5 Notice of Assignment. Subject to Section 10.1 of this Agreement, the following requirements shall apply in the event that Developer sells, assigns, transfers, or otherwise conveys the Property or any part thereof and/or any of its rights or benefits under this Agreement:

- (a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, Developer must provide written notice of same to the City;
- (b) said notice must describe the extent to which any rights or benefits under this Agreement will be sold, assigned, transferred, or otherwise conveyed;
- (c) said notice must state the name, mailing address, telephone contact information, and, if known, email address, of the person(s) that will acquire any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance; and
- (d) the notice must be signed by a duly authorized person representing the Developer.

SECTION 11 RECORDATION AND ESTOPPEL CERTIFICATES

11.1 Binding Obligations. After the Property is acquired by Developer, this Agreement, and all amendments thereto and assignments hereof shall be recorded in the property records of Walker County, Texas. This Agreement binds and constitutes a covenant running with the Property and, upon the Effective Date, is binding upon Developer and the City, and forms a part of any other requirements for development within the Property. This Agreement, when recorded, shall binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property provided, however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any End-Buyer except for the land use and development regulations that apply to specific lots. An End-Buyer shall not be considered an Owner or Developer. For purposes of this Agreement, the Parties agree: (a) the term "End-Buyer" means any tenant, user, occupant, or owner that is intended to be a final user, of a fully developed and improved lot and does not include a builder; (b) the term "fully developed and improved lot" means any lot, regardless of proposed use, for which a final plat has been approved by the City and recorded in the County's real property records; and (c) the term "land use and development regulations that apply to specific lots" means all of the Governing Regulations.

11.2 Estoppel Certificates. From time to time upon written request of Developer or any future owner, and upon payment to the City of a \$100.00 fee plus all reasonable costs incurred by the City in providing the certificate described in this section, the City Administrator, or his/her designee will, in his official capacity and to his reasonable knowledge and belief, execute a written estoppel certificate identifying any obligations of an owner under this Agreement that is in default or with the giving of notice or passage of time, would be in default; and stating, to the extent true, that to the best knowledge and belief of the City, Owner is in compliance with its duties and obligations under this Agreement, except as expressly identified. The City is entitled to recover all of the City's out-of-pocket expenses for gathering the information required to sign the estoppel certificate, including

professional and consulting fees and related expenses, and such expenses shall be paid prior to the City releasing the estoppel certificate.

SECTION 12 GENERAL PROVISIONS

12.1 Initial Term, Extension. The initial term of this Agreement shall be for a period of twenty (20) years beginning on the Effective Date. The initial term shall automatically be extended by one ten (10) year term unless formal action is taken by either Party, in writing, not to extend the initial term, such action, and notification of such action, to be taken no later than thirty (30) days before the expiration of the initial term.

12.2 Public Infrastructure, Generally. Except as otherwise expressly provided for in this Agreement, Developer shall provide all Public Infrastructure as specified in this Agreement, including streets, utilities, drainage, and all other required improvements, at no cost to the City except as provided herein, and in accordance with the City Regulations and the Development Standards, and as approved by the City's engineer or his or her agent. Developer shall cause the installation of all Public Infrastructure within all applicable time frames in accordance with the City Regulations unless otherwise approved herein. The Developer shall provide engineering studies, plan/profile sheets, and other construction documents at the time of platting as required by the City Regulations. The City's engineer or his or her agent must approve such plans before a final plat may be considered for approval. Construction of any portion of the Public Infrastructure shall not be initiated until a pre-construction conference that includes a City representative has been held regarding the proposed construction and the City has issued a written notice to proceed, which notice to proceed shall not be unreasonably withheld or delayed. No certificate of occupancy shall be issued until construction of all Public Infrastructure shown thereon shall have been constructed, and thereafter inspected, approved, and accepted by the City.

12.3 Maintenance Bond. For each construction contract for any part of the Public Infrastructure, Developer or Developer's contractor must execute a maintenance bond in accordance with the applicable City Regulations that guarantees payment of the costs of any repairs which may become necessary to any part of the construction work performed in connection with the Public Infrastructure, arising from defective workmanship or materials used therein, for a full period of one (1) year from the date of final acceptance of the Public Infrastructure constructed under such contract.

12.4 Inspections, Acceptance of Public Infrastructure; Developer's Remedy.

(a) Inspections, Generally. The City shall have the right to inspect, at any time, the construction of all Public Infrastructure necessary to support the proposed Development, including water, sanitary sewer, drainage, streets, electrical, streetlights, and signs.

(b) City Approval. The City's inspections and related approvals shall not release Developer from its responsibility to adequately construct, or ensure the adequate construction of, the Authorized Improvements and Public Infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property. Notwithstanding

any provision of this Agreement, it shall not be a breach or violation of this Agreement if the City withholds building permits, certificates of occupancy, or City utility services as to a phase of the Development unless and until Developer has fully met its obligations to provide for the required Public Infrastructure necessary to such phase according to the approved engineering plans and City Regulations, and until such Public Infrastructure has been dedicated to and accepted by the City; provided, however, that the City may issue residential building permits for model homes prior to completion of such Public Infrastructure. Acceptance by the City shall not be unreasonably withheld.

(c) Dedication and City Ownership of the Public Infrastructure. From and after the City's inspection and acceptance of the Public Infrastructure and any other dedications required under this Agreement, such Public Infrastructure, improvements, and dedications shall be owned by the City. The Developer's sole remedy for nonperformance of this Agreement by the City shall be to seek specific performance pursuant to the terms of this Agreement.

(d) Approval of Plats/Plans. Approval by the City, the City's Engineer, or other City employee or representative of any plans, designs, or specifications submitted by Developer to the City pursuant to this Agreement, including the Development Standards, or pursuant to the City Regulations shall not constitute or be deemed to be a release of the responsibility and liability of Developer or its engineers, employees, officers, and/or agents for the adequacy, accuracy, and competency of their design and specifications. Further, any such approvals shall not be deemed to be an assumption of such responsibility and liability by the City for any defect in the design and specifications prepared by Developer or Developer's engineers, or any engineer's officers, agents, servants, or employees, it being the intent of the Parties that approval by the City's engineer signifies the City's approval on only the general design concept of the improvements to be constructed.

12.5 Insurance. Developer or its contractor(s) shall acquire and maintain, during the period of time when any of the Public Infrastructure is under construction (and until the Public Infrastructure has been fully and finally completed and accepted by the City): (a) workers compensation insurance in the amount required by law; and (b) commercial general liability insurance, including personal injury liability, premises operations liability, and contractual liability, covering, but not limited to, the liability assumed under any indemnification provisions of this Agreement, with limits of liability for bodily injury, death and property damage of not less than One Million Dollars (\$1,000,000.00). Such insurance shall also cover any and all claims that might arise out of the Public Infrastructure construction contracts, whether by the Developer, a contractor, subcontractor, material man, or otherwise. Coverage must be on a "per occurrence" basis. All such insurance shall: (i) be issued by a carrier that is rated "A-1" or better by AM. Best's Key Rating Guide and is licensed to do business in the State of Texas; and (ii) name the City as an additional insured and contain a waiver of subrogation endorsement in favor of the City. Upon the execution of Public Infrastructure construction contracts, Developer shall promptly provide to the City certificates of insurance evidencing such insurance coverage together with the declaration of such policies, along with the endorsement naming the City as an additional insured. Each such policy shall provide that, at least 30 days prior to the cancellation, non-renewal, or modification of the policy, the City shall receive written notice of such cancellation, non-renewal, or modification.

12.6 Indemnification and Hold Harmless. DEVELOPER (INCLUDING ANY SUCCESSOR OR ASSIGNEE THEREOF, INCLUDING, WITHOUT LIMITATION, A PURCHASER OF ANY PORTION OF THE PROPERTY) AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY THE CITY FROM AND AGAINST ALL THIRD-PARTY CLAIMS, SUITS, JUDGMENTS, DAMAGES, AND DEMANDS (TOGETHER, "CLAIMS") AGAINST THE CITY, INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS, ARISING OUT OF THE NEGLIGENCE OF DEVELOPER IN CONNECTION WITH THE DESIGN OR CONSTRUCTION OF ANY PUBLIC INFRASTRUCTURE, STRUCTURE, OR OTHER FACILITIES OR IMPROVEMENTS THAT ARE REQUIRED OR PERMITTED BY THE CITY REGULATIONS OR ANY OTHER GOVERNING REGULATIONS AND THAT ARE DEDICATED OR OTHERWISE CONVEYED TO THE CITY.

12.7 Private Improvements/Inspections. Houses, buildings, and other private improvements within the Property shall be constructed in accordance with the City Code. Houses and buildings within the Property will be inspected by authorized inspectors (in-house or third party), specializing in testing, inspections and certifications hired by City, who will perform all inspections on such houses and buildings (including residential, commercial and government buildings).

SECTION 13 ADDITIONAL PROVISIONS

13.1 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; and (c) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

13.2 Notices. Any notice, submittal, payment, or instrument required or permitted by this Agreement to be given or delivered to any Party shall be deemed to have been received when personally delivered or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City: City of Huntsville, Texas
Attn: City Manager
 1212 Avenue M
 Huntsville, Texas 77340

With a copy to: Leonard V. Schneider
 Liles Parker PLLC
 2261 Northpark Drive, Suite 445
 Kingwood, TX 77339

To Developer: PHD-Huntsville 34, LP
Attn: Mr. Paul Garza
26207 Park Ivy Lane
Katy, Texas 77365

With a copy to: Timothy G. Green
Coats Rose, P.C.
9 Greenway Plaza, Suite 1000
Houston, Texas 77046

Any Party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other Party.

133 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

134 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is necessary and required.

135 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by official action of the City Council in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been and is duly authorized to do so. Developer represents and warrants that this Agreement has been approved by appropriate action of Developer, and that each individual executing this Agreement on behalf of Developer has been and is duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

136 Severability. This Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the Parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

137 Applicable Law; Venue. This Agreement is entered into pursuant to and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the

Parties are performable in Walker County. Exclusive venue for any action related to, arising out of, or brought in connection with this Agreement shall be in the Walker County State District Court.

13.8 Non-Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except in writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

13.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

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

Exhibit A	Metes-and-Bounds Description of the Property
Exhibit B	Depiction of the Property
Exhibit C	Authorized Improvements and Estimated Costs
Exhibit D	Concept Plan
Exhibit E	Home Buyer Disclosure Program
Exhibit F	Landowner Agreement (including attached Exhibits I, II, and III)
Exhibit G	Certification for Payment Form
Exhibit H	Enhanced Subdivision Amenities.

13.11 Force Majeure. Each Party shall use good faith, due diligence, and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to Force Majeure, to perform its obligations under this Agreement, then the obligations affected by the Force Majeure shall be temporarily suspended. Within thirty (30) days after the occurrence of a Force Majeure, the Party claiming the right to temporarily suspend its performance shall give Notice to all Parties, including a detailed explanation of the Force Majeure and a description of the action that will be taken to remedy the Force Majeure and resume full performance at the earliest possible time.

13.12 Complete Agreement. This Agreement embodies the entire Agreement between the Parties and cannot be varied or terminated except as set forth in this Agreement, or by written agreement of the City and Developer expressly amending the terms of this Agreement.

13.13 Consideration. This Agreement is executed by the Parties without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

13.14 Further Documents. Each Party shall, upon request of the other Party, execute and deliver such further documents and perform such further acts as may reasonably be requested to effectuate the terms of this Agreement and achieve the intent of the Parties.

13.15 Employment of Undocumented Workers. During the term of this Agreement, Developer agrees not to knowingly employ any undocumented workers and if convicted of a violation under 8 U.S.C. Section 1324a (f), Developer shall repay the amount of any Reimbursement Payment or other funds received by Developer from City from the date of this Agreement to the date of such violation within 120 days after the date Developer is notified by City of such violation, plus interest at the rate of 4% compounded annually from the date of violation until paid. Developer is not liable for a violation of this section by a subsidiary, affiliate, or franchisee of Developer or by a person with whom Developer contracts.

13.16 Boycott Israel. Developer verifies that the Developer (including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the Developer) does not Boycott Israel and agrees that during the term of this Agreement (Contract as applicable) will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

13.17 Verification Pursuant to Chapters 2252 and 2270 of the Texas Government Code. As of the Effective Date, the Developer represents that, to the extent this Agreement constitutes a "governmental contract" within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required or permitted by or under applicable federal law, neither Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Owner is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 (as enacted by Acts 2017, 85th Leg., Ch. 96, Senate Bill 253) or 2252.153 of the Texas Government Code.

13.18 Form 1295 Certificate of Interested Parties. Prior to its execution of this Agreement, Developer agrees to file with the City pursuant to Texas Government Code '2252.908 a signed and completed Texas Ethics Commission ("TEC") Form 1295 and a certification of filing with TEC.

[SIGNATURE PAGES FOLLOW, AND THE REMAINDER OF THIS
PAGE IS INTENTIONALLY LEFT BLANK]

EXECUTED BY THE PARTIES TO BE EFFECTIVE ON THE EFFECTIVE DATE:

CITY OF HUNTSVILLE, TEXAS

By: [Signature]
Name: _____
Title: ~~Mayor~~ City Manager
Date: 11/9/22

ATTEST:

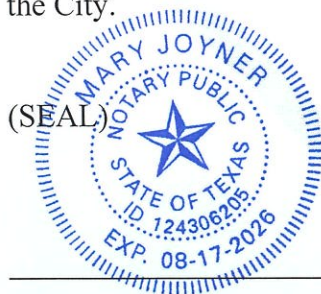
By: _____
Name: _____
Title: City Secretary
Date: _____

APPROVED AS TO FORM:

Name:

STATE OF TEXAS §
 §
COUNTY OF WALKER §

This instrument was acknowledged before me on the 9th day of November, 2022 by Aron Kulhavy, the ~~Mayor~~ City Manager of the City of Huntsville, Texas, on behalf of the City.



[Signature]
Notary Public, State of Texas

DEVELOPER:

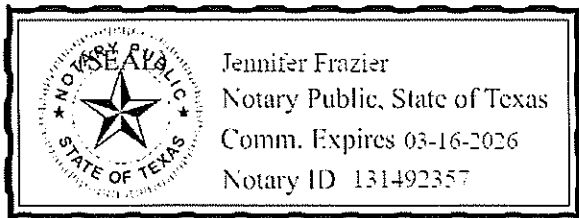
PHD-HUNTSVILLE 34, LP
A Texas Limited Partnership

By: CBA Strategic Fund II G.P.
Its General Partner

By: Paul Garza
Name: Paul Garza
Its: General Partner
Date: August 23, 2022

STATE OF TEXAS §
 §
COUNTY OF Dallas §

This instrument was acknowledged before me on the 22nd day of August, 2022
by PAUL GARZA, of CBA Strategic Fund II G.P., general
partner of PHD-Huntsville 34, LP, a Texas limited partnership and on behalf of such limited
partnership.



JF
Notary Public, State of Texas

Notarized Online with NotaryLive.com

Exhibit A
Metes-and-Bounds Description of The Property

H.E. McADAMS & SON SURVEYING, INC.

Registered Professional Land Surveyors
P.O. Box 5047, Huntsville,
Texas 77342TBPELS
Firm No. 10194425

THE STATE OF TEXAS §

COUNTY OF WALKER §

I, Harold E. McAdams, Registered Professional Land Surveyor No. 2005, do hereby state that the following field notes represent a survey made on the ground of the following described tractor parcel of land located in Walker County, Texas. Coordinates, bearings, distances, and areas surveyed herein are Grid N.A.D. 1983 (1993), Texas Central Zone referenced to the City of Huntsville Mapping Control Network and is based on the position of Control Point 7187 having published coordinates of N= 10,256,115.190 feet, E= 3,786,890.283 feet, and G.P.S. observations. Distances herein may be converted to Geodetic Horizontal (surface) by dividing by a CombinedScale Factor of 0.99988.

Being 33.22 acres of land, situated in the City of Huntsville, LEWIS COX LEAGUE, Abstract No. 13, Walker County, Texas, and being part of a called 33.49-acre tract described as 28.31 acre and 10.05-acre tracts save and except 3.74 acre and 1.13-acre tracts in a Deed from James B. Hall Trust to James L. Hall Trust, et al dated October 25, 2016, and recorded in Volume 1259, page 633, Official Public Records of Walker County, Texas, said 33.22 acres being more definitely described as follows:

BEGINNING at the northwest comer of said Hall Trust 33.49 acres and the northeast comer of a called 251.78-acre tract (51% interest) described as Tract II in a Deed from Thomas Carroll Cole, Jr., et al to Thomas Carroll Cole, Jr. and Jan Carroll Cole dated April 16, 1987, and recorded in Volume 42, page 5, Official Public Records, same 251.78-acre tract being described as 49% interest in a Deed: from Margaret Thomason Cole to Thomas Carroll Cole, Jr. and Jan Carroll Cole dated April 23, 1987, and recorded in Volume 42, page 9, Official Public Records in a south line of a called 515-acre tract described in a Deed from Ed. H. Cunningham, et al to John Ireland, Governor of the State of Texas and his successors (now being T.D.C.J. Institutional Division "Wynne Farm") dated June 23, 1883, and recorded in Volume Y, page 181, Deed Records of Walker County, set a 5/8" iron

rod with yellow plastic cap stamped "H.E. McAdams RPLS 2005" having coordinates of N= 10,257,920.90 feet and E= 3,787,525.41 feet for corner from which a 3" diameter concrete monument found bears N 01°24'48"W- 1.44 feet and a 4"x4" concrete monument stamped "TPL" found for a southwest corner of said the State of Texas 515 acres bears S 87°26'52" W- 1215.30 feet;

THENCE N 87°26'52"E, with the common boundary of said Hall Trust 33.49 acre and State of Texas 515 acre tracts, at 782.26 feet pass the common corner of said 28.31 and 10.05 acre tracts, from the said point found a 3" diameter concrete monument S 01°39'E- 1.20 feet, continuing a total distance of 1107.25 feet to the northeast corner of said Hall Trust 33.49 acres and the northwest corner of a called 34.499-acre tract described in a Deed from Thomason Family Trust to Amstad Development, LLC dated June 14, 2018, and recorded in Volume 1331, page 683, Official Public Records, a point for corner from which found a 5/8" iron rod with plastic cap stamped "Johnson Incorporate" S 01°54'40" E- 0.79 feet and a concrete monument with broken top bears N 87°26'52" E- 1761.56 feet;

THENCE S 01°54'40"E, with the common boundary of said Hall Trust 33.49 acre and Amstad Development 34.499 acre tracts, a distance of 1163.19 feet to their common corner and then northeast corner of a called 3.74-acre tract (out said 33.49 acres) awarded to the State of Texas described in an Agreed Judgment styled The State of Texas v James L. Hall Trustee, et al dated April 28, 2008, and recorded in Volume 873, page 74, Official Public Records in a northwest right-of-way line of State Highway No. 30, found a 3.5" diameter Texas Department of Transportation (hereinafter referred to as TXDOT) concrete monument with brass disc stamped "850+02.40" for corner;

THENCE S 76°19'15"W, with the southeast line of said Hall Trust and the northwest right-of-way line of State Highway 30, a distance of 326.22 feet to an angle point in said line, found a 3.5" diameter TXDOT concrete monument with brass disc stamped "846+86.00";

THENCE S 71°15'07"W, continuing with the southeast line of said Hall Trust and the northwest right-of-way line of State Highway 30, at 512.12 feet pass a 3.5" diameter TXDOT concrete monument with brass disc stamped "841+90.93" found for reference, continuing a total distance of 836.35 feet to the southwest corner of said Hall Trust 33.49 acres and the southeast corner of said Cole 251.78 acre tract, found a 3.5" diameter TXDOT concrete monument with brass disc stamped "838+68.58" for corner;

THENCE N 01°24'48"W, with the common boundary of said Hall Trust and Cole tracts, a distance of 1459.64 feet to the POINT OF BEGINNING.

Exhibit B Depiction of the Property

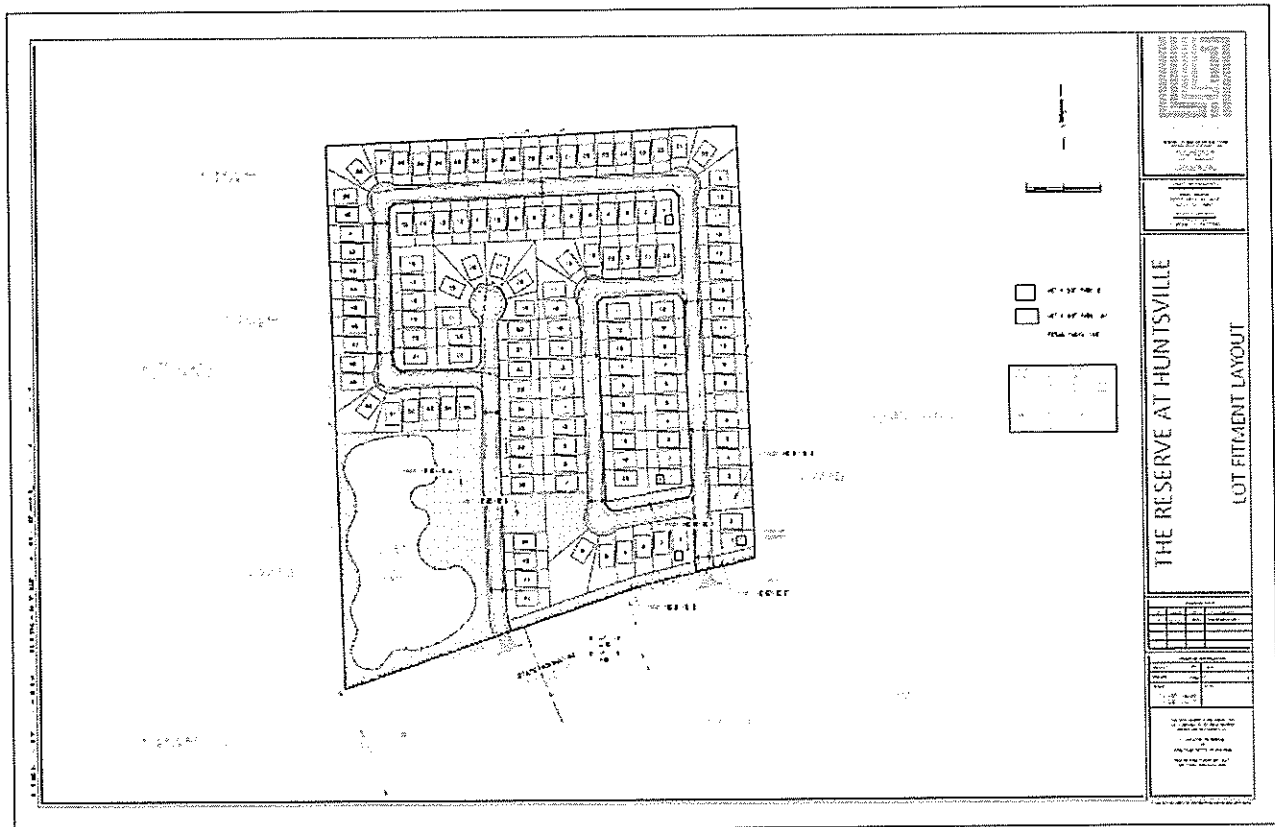


Exhibit C
Estimated Costs and Authorized Improvement Costs

Description	Total Estimated Costs	Eligible Improvements For PID Financing (1)
<u>Hard Costs</u>		
Paving and Grading	\$ 1,175,727	\$ 1,175,727
Earthwork (est. 80% eligible)	571,440	457,152
Storm Drainage	487,425	487,425
Water Utility	570,900	570,900
Water Utility - Extension	199,100	199,100
Sanitary Utility	645,450	645,450
SWPPP	56,600	56,600
Miscellaneous	16,600	16,600
Dry Utilities	500,500	-
Park & Play Pavilion - Amenity & Landscaping	1,230,710	1,230,710
Contingency (20% of hard costs)	1,090,890	967,933
Subtotal	\$ 6,545,343	\$ 5,807,597
<u>Soft Costs</u>		
Performance Bond	\$ 55,849	\$ -
Maintenance Bond	18,616	-
Engineering Services	312,680	312,680
Other Engineering and Professional Services	75,000	75,000
Landscape & Design	65,000	65,000
Project Management	523,628	232,304
Capitalized Interest on Loan	300,000	-
Capital Placement Fee	37,500	-
Loan and Closing Costs	250,000	-
PID Formation Legal and Consulting	295,000	295,000
Subtotal	\$ 1,933,272	\$ 979,984
<u>Land</u>		
Land Value of Park Area & Pond Area	\$ 1,245,750	\$ 450,000
Subtotal	\$ 1,245,750	\$ 450,000
Total	\$ 9,724,365	\$ 7,237,581

Source: April 4, 2022 developer cost estimates (2022).

Footnotes:

(1) To the extent permitted by Texas Local Government Code. Preliminary estimates are in 2022 dollars and are likely to increase over time due to inflation. Assumes 100% of paving, grading, water, wastewater, storm drainage, amenity and landscaping, and 80% of earthwork is for publicly maintained improvements and eligible for PID financing. \$2.8 million in City Lift Station costs to be financed by City.

Exhibit D

Concept Plan

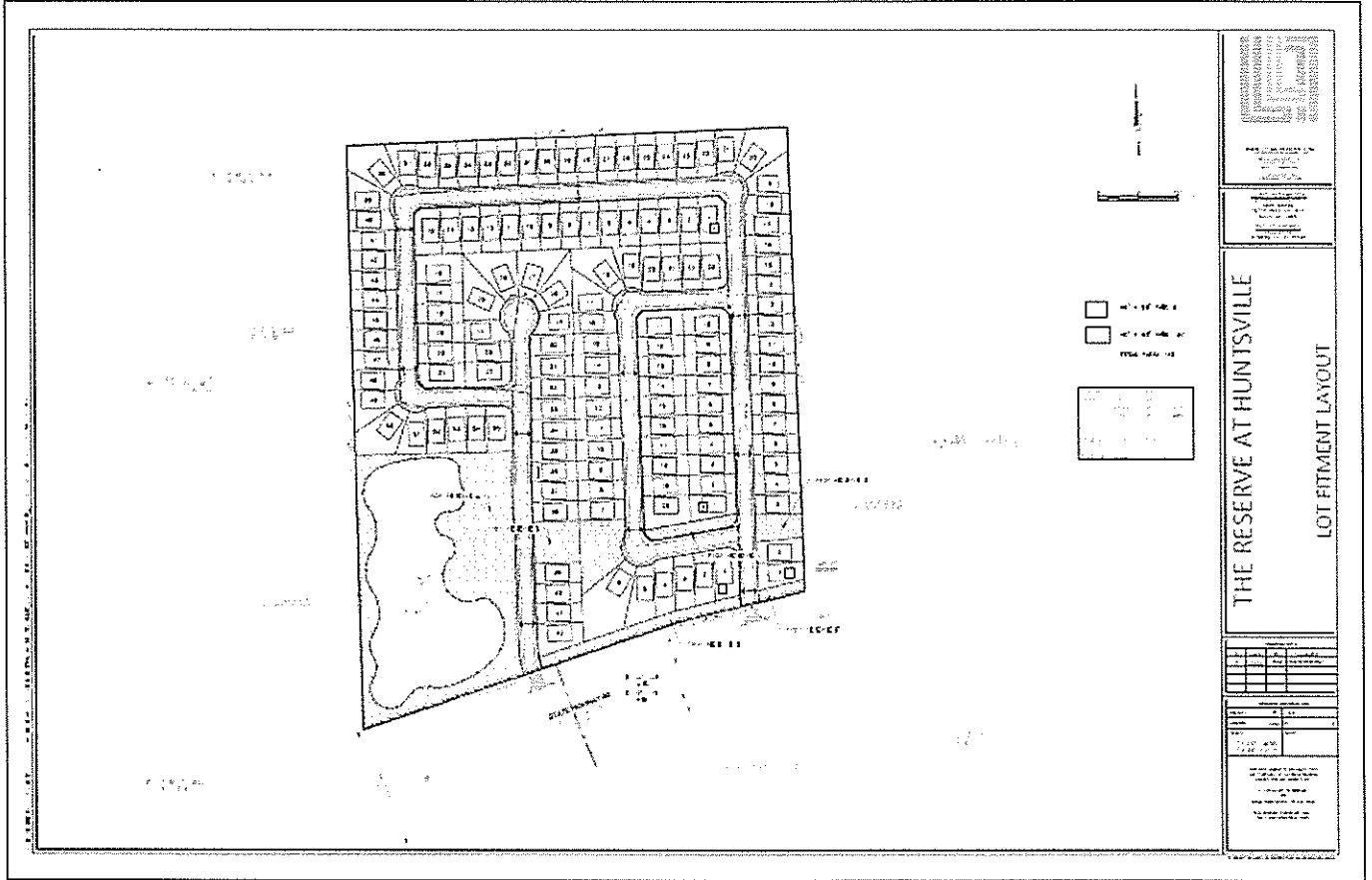


Exhibit E
Home Buyer Disclosure Program

The Developer (as defined in the Service and Assessment Plan) for the Reserves of Huntsville Public Improvement District (the “PID”) shall facilitate notice to prospective homebuyers in accordance with the following minimum requirements:

1. Record notice of the PID in the appropriate land records for the Property.
2. Require homebuilders to attach the Recorded Notice of the Authorization and Establishment of the PID and the final Assessment Roll for such Assessed Parcel (or if the Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30-year payment for such Assessed Parcel) in an addendum to each residential homebuyer’s contract on brightly colored paper.
3. Collect a copy of the addendum signed by each buyer from homebuilders and provide to the City, upon City’s request.
4. Require signage indicating that the Property for sale is located in a special assessment district and require that such signage be located in conspicuous places in all model homes.
5. Prepare and provide to homebuilders an overview of the existence and effect of the PID for those homebuilders to include in each sales packet of information that it provides to prospective homebuyers.
6. Notify homebuilders who estimate monthly ownership costs of the requirement that they must include special assessments in estimated Property taxes.
7. Notify Settlement Companies through the homebuilders or cause the homebuilders to notify settlement companies that they are required to include special taxes on HUD 1 forms and include in total estimated taxes for the purpose of setting up tax escrows.
8. Include notice of the PID in the homeowner association documents in conspicuous bold font.

The Developer shall regularly monitor the implementation of this disclosure program and shall take appropriate action to require these notices to be provided when one of them discovers that any requirement is not being complied with.

Exhibit F
Landowner Agreement (including attached Exhibits I, II, and III)

LANDOWNER AGREEMENT

This LANDOWNER AGREEMENT (the “Agreement”) is entered into by the City of Huntsville (the “City”), a home rule city, and PHD - Huntsville 34, LP (the “Landowner”).

RECITALS:

WHEREAS, Landowner owns the Assessed Parcels described by a metes-and-bounds description attached as Exhibit I to this Agreement, which is incorporated herein for all purposes, and which Assessed Parcels comprise all of the non-exempt, privately-owned land described in Exhibit I (the “Landowner Parcel”), which is within the Reserves of Huntsville Public Improvement District (the “District”) in the City; and

WHEREAS, the City Council has adopted an assessment ordinance for the Authorized Improvements (including all exhibits and attachments thereto, the “Assessment Ordinance”) and the SAP, which is included as Exhibit “A” to the Assessment Ordinance (the “SAP”) and which is incorporated herein for all purposes, and, further, the City Council has levied an assessment on each Assessed Parcel in the District (as identified in the SAP) that will be pledged to pay for certain infrastructure improvements and to pay the costs of constructing the Authorized Improvements that will benefit the Assessed Property (as defined in the SAP); and

WHEREAS, the Covenants, Conditions and Restrictions attached to this Agreement as Exhibit II, which is incorporated herein for all purposes, include the statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided to the purchaser by the seller of residential property located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended (the “PID Act”).

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the City and Landowner hereby contract, covenant, and agree as follows:

DEFINITIONS; AFFIRMATION OF RECITALS

Definitions. Capitalized terms used but not defined herein (including each exhibit hereto) shall have the meanings ascribed to them in the SAP.

Affirmation of Recitals. The findings set forth in the Recitals of this Agreement are hereby incorporated as the official findings of the City Council.

I.
AGREEMENTS OF LANDOWNER

Affirmation and Acceptance of Agreements and Findings of Benefit. Landowner hereby ratifies, confirms, accepts, agrees to, and approves:

(i) the creation and boundaries of the District, and the boundaries of the Landowner's Parcel which are located within the District, all as shown on Exhibit I, and the location and development of the Authorized Improvements on the Landowner Parcel and on the property within the District;

(ii) the determinations and findings as to the benefits by the City Council in the SAP and the Assessment Ordinance; and

(iii) the Assessment Ordinance and the SAP.

B. Acceptance and Approval of Assessments and Lien on Property. Landowner consents to, agrees to, acknowledges, and accepts the following:

(i) each Assessment levied by the PID on the Landowner's Parcel within the District, as shown on the assessment roll attached as Appendix __ to the SAP (the "Assessment Roll");

(ii) the Authorized Improvements specially benefit the District, and the Landowner's Parcel, in an amount in excess of the Assessment levied on the Landowner's Parcel within the District, as such Assessment is shown on the Assessment Roll;

(iii) each Assessment is final, conclusive, and binding upon Landowner and any subsequent owner of the Landowner's Parcel, regardless of whether such landowner may be required to prepay a portion of, or the entirety of, such Assessment upon the occurrence of a mandatory prepayment event as provided in the SAP;

(iv) the obligation to pay the Assessment levied on the Landowner's Parcel owned by a landowner when due and in the amount required by and stated in the SAP and the Assessment Ordinance;

(v) each Assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Landowner's Parcel, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Landowner's Parcel regardless of whether such owner is named;

(vi) the Assessment lien on the Landowner's Parcel is a lien and covenant that runs with the land and is effective from the date of the Assessment Ordinance and continues

until the Assessment is paid and may be enforced by the governing body of the City in the same manner that an ad valorem tax lien against real **property may be enforced** by the City;

(vii) delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) the owner of a Landowner's Parcel may pay at any time the entire Assessment, with interest that has accrued on the Assessment, on any parcel in the Landowner's Parcel;

(ix) the Annual Installments of the Assessments (as defined in the SAP and Assessment Roll) may be adjusted, decreased and extended; and, the assessed parties shall be obligated to pay their respective revised amounts of the annual installments, when due, and without the necessity of further action, assessments or reassessments by the City, the same as though they were expressly set forth herein; and

(x) Landowner has received, or hereby waives, all notices required to be provided to it under Texas law, including the PID Act, prior to the Effective Date (defined herein).

C. Mandatory Prepayment of Assessments. Landowner agrees and acknowledges that Landowner or subsequent landowners may have an obligation to prepay an Assessment upon the occurrence of a mandatory prepayment event, at the sole discretion of the City and as provided in the Service and Assessment Plan, as amended or updated.

D. Notice of Assessments. Landowner further agrees as follows:

(i) the Covenants, Conditions and Restrictions attached hereto as Exhibit II shall be terms, conditions and provisions running with the Landowner's Parcel and shall be recorded (the contents of which shall be consistent with the Assessment Ordinance and the SAP as reasonably determined by the City) in the records of the County Clerk of Walker County, as a lien and encumbrance against such Landowner's Parcel, and Landowner hereby authorizes the City to so record such documents against the Landowner's Parcel owned by Landowner;

(ii) reference to the Covenants, Conditions and Restrictions attached hereto as Exhibit II shall be included on all recordable subdivision plats and such plats shall be recorded in the real property records of Walker County, Texas;

(iii) in the event of any subdivision, sale, transfer or other conveyance by Landowner of the right, title or interest of Landowner in the Landowner's Parcel or any part thereof, the Landowner's Parcel, or any such part thereof, shall continue to be bound by all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions and any purchaser, transferee or other subsequent owner shall take such

Landowner's Parcel subject to all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions; and

(iv) Landowner shall comply with and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the City) any party who purchases any Landowner's Parcel owned by Landowner, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead" designations under State law, to comply with, the Homebuyer Education Program described on Exhibit III to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the SAP) if, and when, (i) a final certificate of occupancy for a residential unit on such Lot is issued by the City, and (ii) there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling residences to individual home buyers (a "Builder") but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder.

Notwithstanding the provisions of this Section, upon Landowner's request and the City's consent, in the City's sole and absolute discretion, the Covenants, Conditions and Restrictions may be included with other written restrictions running with the land on property within the District, provided they contain all the material provisions and provide the same material notice to prospective property owners as does the document attached as Exhibit II

II.

OWNERSHIP AND CONSTRUCTION OF AUTHORIZED IMPROVEMENTS

A. Ownership and Transfer of Authorized Improvements. Landowner acknowledges that all of the Authorized Improvements and the land (or easements, as applicable) needed therefor shall be owned by the City as constructed and/or conveyed to the City and Landowner will execute such conveyances and/or dedications of public rights of way and easements as may be reasonably required to evidence such ownership, as generally described on the current plats of the property within the District.

B. Grant of Easement and License, Construction of Authorized Improvements.

(i) Any subsequent owner of the Landowner's Parcel shall, upon the request of the City or Developer, grant and convey to the City or Developer and its contractors, materialmen and workmen a temporary license and/or easement, as appropriate, to construct the Authorized Improvements on the property within the District, to stage on the property within the District construction trailers, building materials and equipment to be used in connection with such construction of the Authorized Improvements, and to provide for passage and use over and across parts of the property within the District as shall be reasonably necessary during the construction of the Authorized Improvements. Any subsequent owner of the Landowner's Parcel may require that each contractor constructing the Authorized Improvements cause such owner of the Landowner's Parcel to be indemnified and/or named as an additional insured under liability insurance reasonably acceptable to such owner of the Landowner's Parcel. The right to use and enjoy any easement and license provided above shall continue until the construction of the Authorized

Improvements is complete; provided, however, any such license or easement shall automatically terminate upon the recording of the final plat for the Landowner's Parcel in the real property records of Walker County, Texas.

(ii) Landowner hereby agrees that any right or condition imposed by the Improvement Agreement, or other agreement, with respect to the Assessment has been satisfied, and that Landowner shall not have any rights or remedies against the City under the Improvement Agreement, or under any law or principles of equity concerning the Assessments, with respect to the formation of the District, approval of the SAP, and/or the City's levy and collection of the Assessments.

III. COVENANTS AND WARRANTIES; MISCELLANEOUS

A. Special Covenants and Warranties of Landowner.

Landowner represents and warrants to the City as follows:

(i) Landowner is duly organized, validly existing and as applicable, in good standing under the laws of the state of its organization and has the full right, power and authority to enter into this Agreement, and to perform all the obligations required to be performed by Landowner hereunder.

(ii) This Agreement has been duly and validly executed and delivered by, and on behalf of, Landowner and, assuming the due authorization, execution, and delivery thereof by and on behalf of the City and Landowner, constitutes a valid, binding and enforceable obligation of such party enforceable in accordance with its terms. This representation and warranty is qualified to the extent the enforceability of this Agreement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws of general application affecting the rights of creditors in general.

(iii) Neither the execution and delivery hereof, nor the taking of any actions contemplated hereby, will conflict with or result in a breach of any of the provisions of, or constitute a default, event of default or event creating a right of acceleration, termination or cancellation of any obligation under, any instrument, note, mortgage, contract, judgment, order, award, decree or other agreement or restriction to which Landowner is a party, or by which Landowner or the Landowner's Parcel is otherwise bound.

(iv) Landowner is, subject to all matters of record in the Walker County, Texas Real Property Records, the sole owner of the Landowner's Parcel.

(v) The Landowner's Parcel owned by Landowner is not subject to, or encumbered by, any covenant, lien, encumbrance or agreement which would prohibit (i) the creation of the District, (ii) the levy of the Assessments, or (iii) the construction of the Authorized Improvements on those portions of the property within the District which are

to be owned by the City, as generally described on the current plats of the property within the District (or, if subject to any such prohibition, the approval or consent of all necessary parties thereto has been obtained).

(vi) Landowner covenants and agrees to execute any and all documents necessary, appropriate or incidental to the purposes of this Agreement, as long as such documents are consistent with this Agreement and do not create additional liability of any type to, or reduce the rights of, such Landowner by virtue of execution thereof.

B. Waiver of Claims Concerning Authorized Improvements. Landowner, with full knowledge of the provisions, and the rights thereof pursuant to such provisions, of applicable law, waives any claims against the City and its successors, assigns and agents, pertaining to the installation of the Authorized Improvements.

C. Notices.

Any notice or other communication to be given to the City or Landowner under this Agreement shall be given by delivering the same in writing to:

To the City: City of Huntsville
Attn: City Manager
1212 Ave M
Huntsville, Texas 77340

With a copy to: City of Huntsville
Attn: Director of Development Services
448 TX 75 North
Huntsville, TX 77320

To the Developer: PHD-Huntsville 34, L.P.
Attn: Paul Garza
26207 Park Ivy Lane
Katy, Texas 77494

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the recipient at the address set forth herein.

Each recipient may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this provision shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed

to be given when receipt of such transmission is acknowledged or otherwise validly confirmed, and any communication so delivered in person shall be deemed to be given when receipted for, or actually received by, the addressee.

D. Parties in Interest.

This Agreement is made solely for the benefit of the City and Landowner and is not assignable, except, in the case of Landowner, in connection with the sale or disposition of all or substantially all of the parcels which constitute the Landowner's Parcel. However, the Parties expressly agree and acknowledge that the City, Landowner, each current owner of any parcel which constitutes the Landowner's Parcel, and the holders of or trustee for any bonds secured by PID Assessment revenues of the City or any part thereof to finance the costs of the Authorized Improvements, are express beneficiaries of this Agreement and shall be entitled to pursue any and all remedies at law or in equity to enforce the obligations of the Parties hereto. This Agreement shall be recorded in the real property records of Walker County, Texas.

E. Amendments.

This Agreement may be amended only by written instrument executed by the City and Landowner. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the property within the District and recorded in the Real Property Records of Walker County, Texas.

F. Effective Date.

This Agreement shall become and be effective upon the date of final execution by the latter of the City and Landowner (the "Effective Date") and shall be valid and enforceable on said date and thereafter.

G. Estoppels.

Within 10 days after written request from a Party, the other Party shall provide a written certification, indicating whether this Agreement remains in effect as to the Landowner's Parcel, and whether any party is then in default hereunder.

H. Termination.

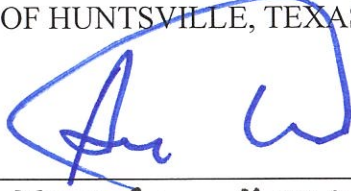
This Agreement shall terminate and be of no further force and effect as to the Landowner's Parcel upon payment in full of the Assessment(s) against such Landowner's Parcel.

[Signature pages to follow]

EXECUTED by the City and Landowner on the respective dates stated below.

Date: _____

CITY OF HUNTSVILLE, TEXAS

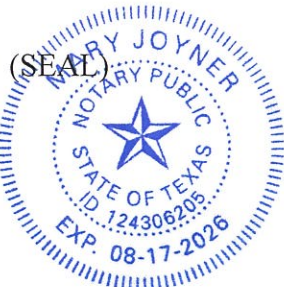
By: 
~~Mayor~~ City Manager
Aron Kulhavy

STATE OF TEXAS

§
§
§

COUNTY OF WALKER

This instrument was acknowledged before me on the 9th day of November, 2022
by Aron Kulhavy, ~~Mayor~~ City Manager of the City of Huntsville, Texas on behalf of said City.




Notary Public, State of Texas

Name printed or typed: Mary Joyner

Commission Expires: 8-17-2026

[Signature Page Landowner Agreement]

LANDOWNER

Date: _____

DEVELOPER:

By: _____

Name: _____

Its: _____

Date: _____

STATE OF TEXAS §
 §
COUNTY OF WALKER §

 This instrument was acknowledged before me on the ____ day of _____, 2022
by _____, _____, of _____, on
behalf of such _____.

(SEAL)

Notary Public, State of Texas

[Signature Page Landowner Agreement]

LANDOWNER AGREEMENT - EXHIBIT I
METES AND BOUNDS DESCRIPTION OF LANDOWNER'S PROPERTY

H.E. McADAMS & SON SURVEYING, INC.

Registered Professional Land Surveyors
P.O. Box 5047,
Huntsville,
Texas 77342
TBPELS Firm
No. 10194425

THE STATE OF

TEXAS §

COUNTY OF

WALKER §

I, Harold E. McAdams, Registered Professional Land Surveyor No. 2005, do hereby state that the following field notes represent a survey made on the ground of the following described tractor parcel of land located in Walker County, Texas. Coordinates, bearings, distances, and areas surveyed herein are Grid N.A.D. 1983 (1993), Texas Central Zone referenced to the City of Huntsville Mapping Control Network and is based on the position of Control Point 7187 having published coordinates of N= 10,256,115.190 feet, E= 3,786,890.283 feet, and G.P.S. observations. Distances herein may be converted to Geodetic Horizontal (surface) by dividing by a CombinedScale Factor of 0.99988.

Being 33.22 acres of land, situated in the City of Huntsville, LEWIS COX LEAGUE, Abstract No. 13, Walker County, Texas, and being part of a called 33.49-acre tract described as 28.31 acre and 10.05-acre tracts save and except 3.74 acre and 1.13-acre tracts in a Deed from James B. Hall Trust to James L. Hall Trust, et al dated October 25, 2016, and recorded in Volume 1259, page 633, Official Public Records of Walker County, Texas, said 33.22 acres being more definitely described as follows:

BEGINNING at the northwest corner of said Hall Trust 33.49 acres and the northeast corner of a called 251.78-acre tract (51% interest) described as Tract II in a Deed from Thomas Carroll Cole, Jr., et al to

Thomas Carroll Cole, Jr. and Jan Carroll Cole dated April 16, 1987, and recorded in Volume 42, page 5, Official Public Records, same 251.78-acre tract being described as 49% interest in a Deed: from Margaret Thomason Cole to Thomas Carroll Cole, Jr. and Jan Carroll Cole dated April 23, 1987, and recorded in Volume 42, page 9, Official Public Records in a south line of a called 515-acre tract described in a Deed from Ed. H. Cunningham, et al to John Ireland, Governor of the State of Texas and his successors (now being T.D.C.J. Institutional Division "Wynne Farm") dated June 23, 1883, and recorded in Volume Y, page 181, Deed Records of Walker County, set a 5/8" iron rod with yellow plastic cap stamped "H.E. McAdams RPLS 2005" having coordinates of N= 10,257,920.90 feet and E= 3,787,525.41 feet for corner from which a 3" diameter concrete monument found bears N 01°24'48"W- 1.44 feet and a 4"x4" concrete monument stamped "TPL" found for a southwest corner of said the State of Texas 515 acres bears S 87°26'52" W- 1215.30 feet;

THENCE N 87°26'52"E, with the common boundary of said Hall Trust 33.49 acre and State of Texas 515 acre tracts, at 782.26 feet pass the common corner of said 28.31 and 10.05 acre tracts, from the said point found a 3" diameter concrete monument S 01°39'E- 1.20 feet, continuing a total distance of 1107.25 feet to the northeast corner of said Hall Trust 33.49 acres and the northwest corner of a called 34.499-acre tract described in a Deed from Thomason Family Trust to Amstad Development, LLC dated June 14, 2018, and recorded in Volume 1331, page 683, Official Public Records, a point for corner from which found a 5/8" iron rod with plastic cap stamped "Johnson Incorporate" S 01°54'40" E- 0.79 feet and a concrete monument with broken top bears N 87°26'52" E- 1761.56 feet;

THENCE S 01°54'40"E, with the common boundary of said Hall Trust 33.49 acre and Amstad Development 34.499 acre tracts, a distance of 1163.19 feet to their common corner and then northeast corner of a called 3.74-acre tract (out said 33.49 acres) awarded to the State of Texas described in an Agreed Judgment styled The State of Texas v James L. Hall Trustee, et al dated April 28, 2008, and recorded in Volume 873, page 74, Official Public Records in a northwest right-of-way line of State Highway No. 30, found a 3.5" diameter Texas Department of Transportation (hereinafter referred to as TXDOT) concrete monument with brass disc stamped "850+02.40" for corner;

THENCE S 76°19'15"W, with the southeast line of said Hall Trust and the northwest right-of-way line of State Highway 30, a distance of 326.22 feet to an angle point in said line, found a 3.5" diameter TXDOT concrete monument with brass disc stamped "846+86.00";

THENCE S $71^{\circ}15'07''$ W, continuing with the southeast line of said Hall Trust and the northwest right-of-way line of State Highway 30, at 512.12 feet pass a 3.5" diameter TXDOT concrete monument with brass disc stamped "841+90.93" found for reference, continuing a total distance of 836.35 feet to the southwest corner of said Hall Trust 33.49 acres and the southeast corner of said Cole 251.78 acre tract, found a 3.5" diameter TXDOT concrete monument with brass disc stamped "838+68.58" for corner;

THENCE N $01^{\circ}24'48''$ W, with the common boundary of said Hall Trust and Cole tracts, a distance of 1459.64 feet to the POINT OF BEGINNING.

LANDOWNER AGREEMENT - EXHIBIT II
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (as it may be amended from time to time, this "Declaration") is made as of _____ by _____, a Texas _____ (the "Landowner").

RECITALS:

- A. Landowner holds record title to that portion of the real property located in Walker County, Texas, which is described in the attached Exhibit I (the "Landowner's Parcel").
- B. The City Council of the City of Huntsville (the "City Council"), upon a petition requesting the establishment of a public improvement district covering the property within the District to be known as the Reserves of Huntsville Public Improvement District (the "District"), submitted by the then current owners of 100% of the appraised value of the taxable real property and 100% of the area of all taxable real property within the area requested to be included in the District created such District, in accordance with the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act").
- C. The City Council has adopted an assessment ordinance to levy assessments for certain public improvements (including all exhibits and attachments thereto, the "Assessment Ordinance") and the SAP included as an exhibit to the Assessment Ordinance (as amended from time to time, the "SAP"), and has levied the assessments (as amended from time to time, the "Assessments") on property in the District.
- D. The statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided to the purchaser by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended is incorporated into these Covenants, Conditions and Restrictions.

DECLARATIONS:

NOW, THEREFORE, Landowner hereby declares that the Landowner's Parcel is and shall be subject to, and hereby imposes on the Landowner's Parcel, the following covenants, conditions and restrictions:

1. Acceptance and Approval of Assessments and Lien on Property:

- (a) Landowner accepts each Assessment levied on the Landowner's Parcel owned by such Landowner.
- (b) The Assessment (including any reassessment, the expense of collection, and reasonable attorney's fees, if incurred) is (a) a first and prior lien (the "Assessment Lien") against the property assessed, superior to all other liens or claims except for

liens or claims for state, county, school district or municipality ad valorem property taxes whether now or hereafter payable, and (b) a personal liability of and charge against the owners of the property to the extent of their ownership regardless of whether the owners are named. The Assessment Lien is effective from the date of the Assessment Ordinance until the Assessments are paid and may be enforced by the City in the same manner as an ad valorem property tax levied against real property that may be enforced by the City. The owner of any assessed property may pay, at any time, the entire Assessment levied against any such property. Foreclosure of an ad valorem property tax lien on property within the District will not extinguish the Assessment or any unpaid but not yet due annual installments of the Assessment and will not accelerate the due date for any unpaid and not yet due annual installments of the Assessment.

It is the clear intention of all parties to these Declarations of Covenants, Conditions and Restrictions, that the Assessments, including any annual installments of the Assessments (as such annual installments may be adjusted, decreased, or extended), are covenants that run with the Landowner's Parcel and specifically bind Landowner, and its successors and assigns.

In the event of delinquency in the payment of any annual installment of the Assessment, the City is empowered to order institution of an action in district court to foreclose the related Assessment Lien, to enforce personal liability against the owner of the real property for the Assessment, or both. In such action the real property subject to the delinquent Assessment may be sold at judicial foreclosure sale for the amount of such delinquent property taxes and Assessment, plus penalties, interest and costs of collection.

2. Landowner or any subsequent owner of the Landowner's Parcel waives:

- (a) any and all defects, irregularities, illegalities or deficiencies in the proceedings establishing the District and levying and collecting the Assessments or the annual installments of the Assessments;
- (b) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the levy of Assessments by the City Council concerning the Assessments;
- (c) any and all defects, irregularities, illegalities or deficiencies in, or in the adoption of, the Assessment Ordinance by the City Council;
- (d) any and all actions and defenses against the adoption or amendment of the SAP, the City's finding of a 'special benefit' pursuant to the PID Act and the SAP, and the levy of the Assessments; and

(e) any right to object to the legality of any of the Assessments or the SAP or to any of the previous proceedings connected therewith which occurred prior to, or upon, the City Council's levy of the Assessments.

3. **Amendments:** This Declaration may be terminated or amended only by a document duly executed and acknowledged by the then-current owner(s) of the Landowner's Parcel and the City. No such termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the parties by whom approval is required as set forth above and recorded in the real Property Records of Walker County, Texas.
4. **Third Party Beneficiary:** The City is a third-party beneficiary to this Declaration and may enforce the terms hereof.
5. **Notice to Subsequent Purchasers:** Upon the sale of a dwelling unit within the District, the purchaser of such property shall be provided a written notice that reads substantially similar to the following:

TEXAS PROPERTY CODE SECTION 5.014

NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE CITY OF HUNTSVILLE, WALKER COUNTY, TEXAS CONCERNING THE PROPERTY AT [Street Address].

As the purchaser of this parcel of real property, you are obligated to pay an assessment to the City of Huntsville, Texas, for improvement projects undertaken by a public improvement district under Chapter 372 of the Texas Local Government Code, as amended. The assessment may be due in periodic installments.

The amount of the assessment against your property may be paid in full at any time together with interest to the date of payment. If you do not pay the assessment in full, it will be due and payable in annual installments (including interest and collection costs). More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the City of Huntsville, Huntsville, Texas.

Your failure to pay the assessment or the annual installments could result in a lien and in the foreclosure of your property.

Signature of Purchaser(s) _____ Date: _____

The seller shall deliver this notice to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

[Signature Page to Follow]

EXECUTED by the undersigned on the date set forth below to be effective as of the date first above written.

LANDOWNER

By: _____

Name _____

Its: _____

STATE OF TEXAS §

§

COUNTY OF _____§

This instrument was acknowledged before me on the ____ day of _____, 20__,
by _____ in his capacity as _____ of _____, known to
be the person whose name is subscribed to the foregoing instrument, and that he executed the same
on behalf of _____ and as the _____ of _____.

(SEAL)

Notary Public, State of Texas

LANDOWNER AGREEMENT - EXHIBIT III HOMEBUYER EDUCATION PROGRAM

As used in this Exhibit III, the recorded Notice of the Authorization and Establishment of the Reserves of Huntsville Public Improvement District and the Declaration of Covenants, Conditions and Restrictions in Exhibit II of this Agreement are referred to as the "Recorded Notices."

1. Any Landowner, who is a Builder, shall attach the Recorded Notices and the final Assessment Roll for such Assessed Parcel (or if the Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30 year payment for such Assessed Parcel) as an addendum to any residential homebuyer's contract.

2. Any Landowner, who is a Builder, shall provide evidence of compliance with No. 1 above, signed by such residential homebuyer, to the City.

3. Any Landowner, who is a Builder, shall prominently display signage in its model homes, if any, substantially in the form of the Recorded Notices.

4. , Any Landowner, who is a Builder, shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.

5. Any Landowner, who is a Builder, shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers.

Exhibit G
Certification for Payment Form

The undersigned is an agent for _____, a Texas _____ (the "Developer"), and requests payment from the _____ of the Project Fund (as defined in the Indenture) from the City of Huntsville, Texas (the "City"), or Trustee (as defined in the Indenture) in the amount of \$_____ for costs incurred in the establishment, administration, and operation of the Reserves of Huntsville Public Improvement District (the "District") and for labor, materials, fees, and/or other general costs related to the creation, acquisition, or construction of certain Authorized Improvements related to the District. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Indenture.

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

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this payment request form on behalf of the Developer and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced Authorized Improvement(s) has not been the subject of any prior payment request submitted for the same work to the City or, if previously requested, no disbursement was made with respect thereto.
3. The amount listed for the Authorized Improvement(s) below is a true and accurate representation of the Actual Costs associated with the creation, acquisition, or construction of said Authorized Improvement(s); and such costs: (i) are in compliance with the Bond Indenture; and (ii) are consistent with the SAP.
4. The Developer is in compliance with the terms and provisions of the Development Agreement, the Indenture, and the SAP.
5. All conditions set forth in the Bond Indenture for the payment hereby requested have been satisfied.
6. The work with respect to the Authorized Improvement(s) referenced below (or their completed segment, section or portion thereof) has been completed and the City may begin inspection of the Authorized Improvement(s).
7. The Developer agrees to cooperate with the City in conducting its review of the requested payment and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

Payments requested are as follows:

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

b. Etc.

As required by the Indenture, the Actual Costs for the Authorized Improvement(s) shall be paid as follows:

Authorized Improvement:	Amount to be paid from the Project Fund	Total Cost of Authorized Improvement

Attached hereto, are receipts, purchase orders, Change Orders, and similar instruments which support and validate the above requested payments.

Pursuant to the Reserves of Huntsville Development Agreement, after receiving this payment request, the City is authorized to inspect the Authorized Improvement (or completed, section or portion thereof segment) and confirm that said work has been completed in accordance with all applicable governmental laws, rules, and Plans.

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

By: _____
Name: _____
Its: _____
Date: _____

**APPROVAL OF
REQUEST BY CITY**

The undersigned is in receipt of the attached Certification for Payment. After reviewing the Certification for Payment, the Certification for Payment is approved in the _____ amount _____ of _____ \$

_____, and the Trustee is directed to disburse the requested payment in said amount from the _____

_____ Account of the Projected Fund, in accordance with the Certification for Payment. The City's approval of the Certification for Payment shall not have the effect of estopping or preventing the undersigned from asserting claims under the Indenture, the SAP, any other agreement between the parties or that there is a defect in the Authorized Improvement.

CITY OF HUNTSVILLE, TEXAS

By: _____

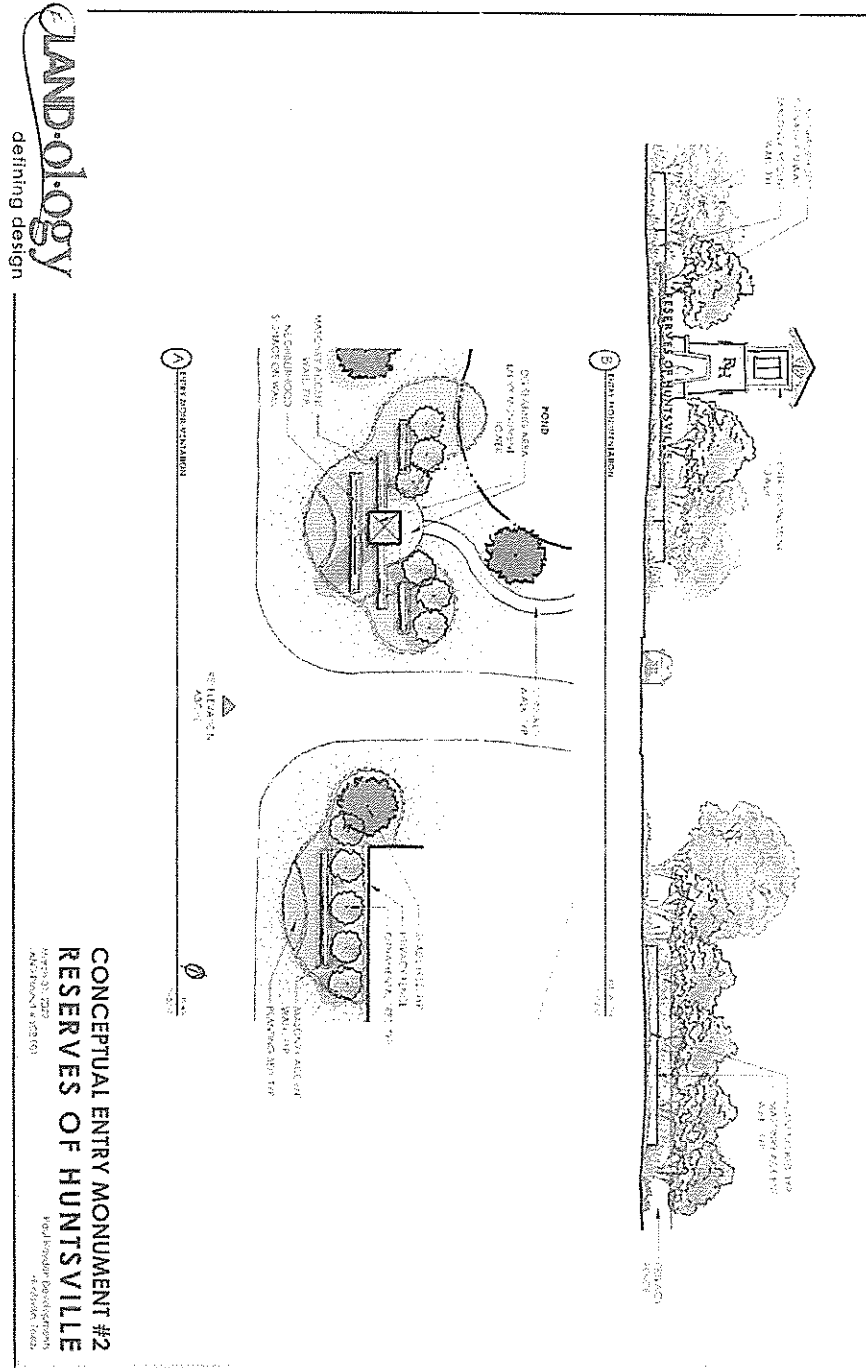
Name: _____

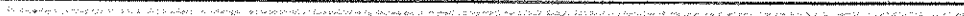
Title: _____

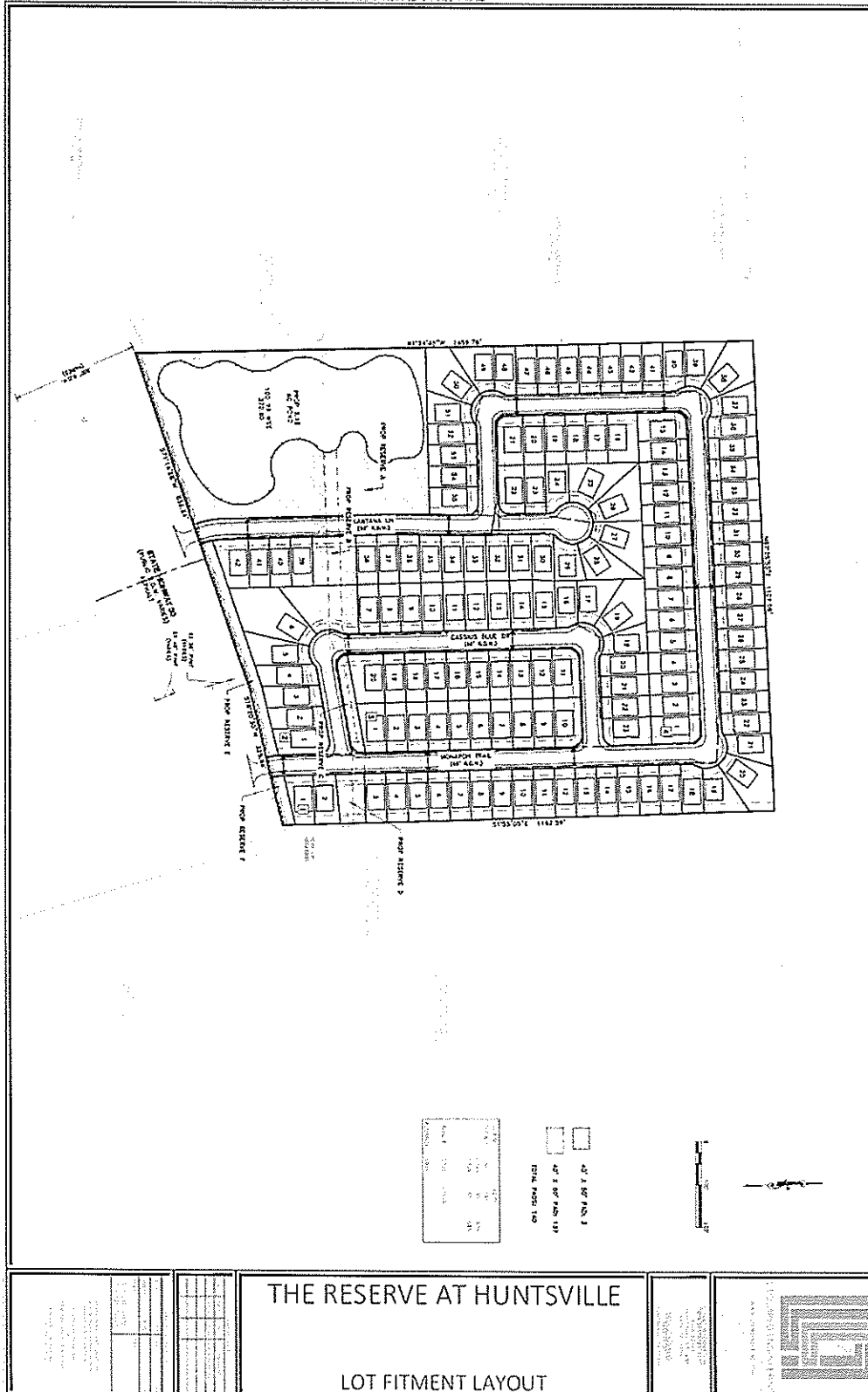
Date: _____

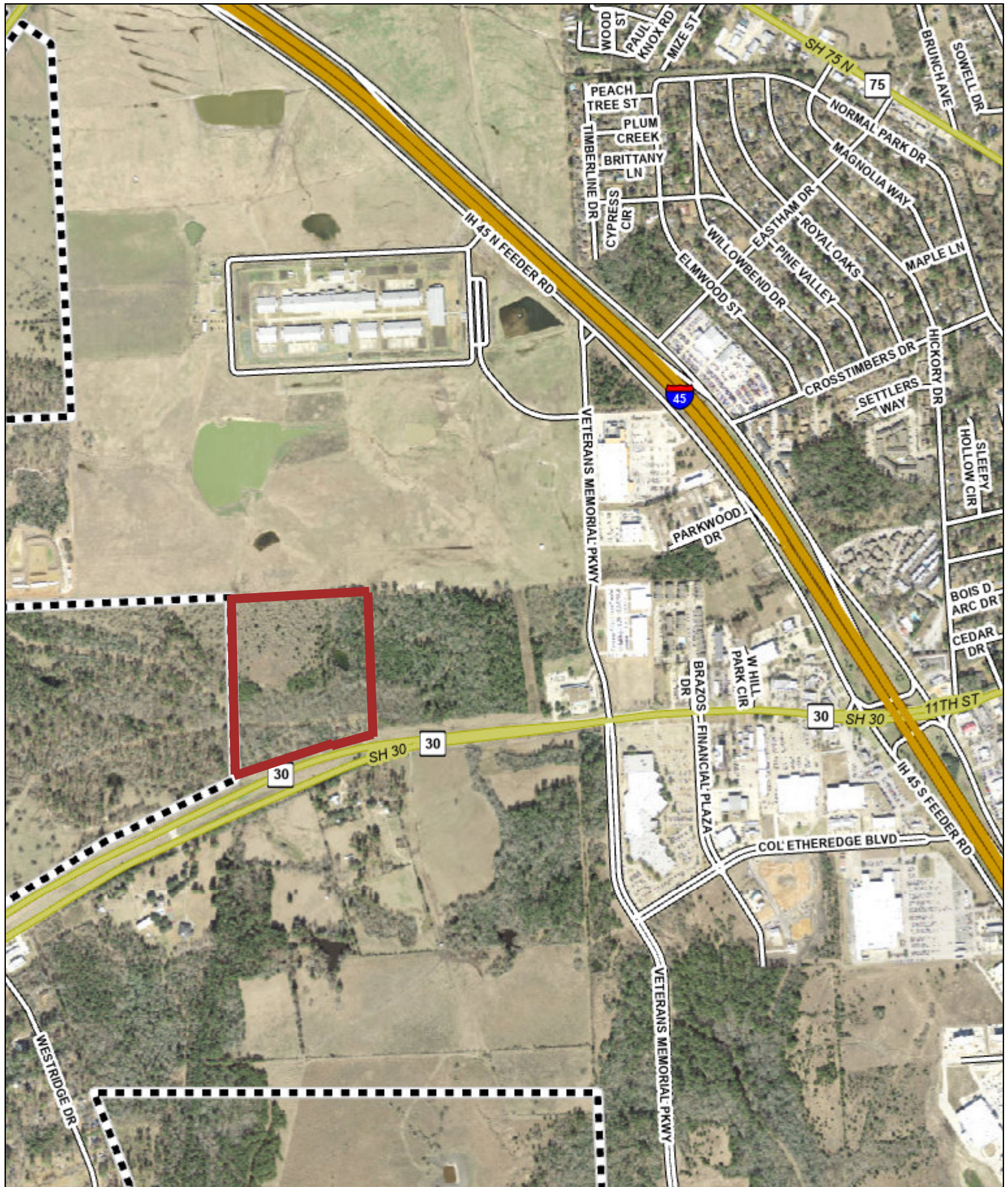
Exhibit H

Enhanced Subdivision Amenities

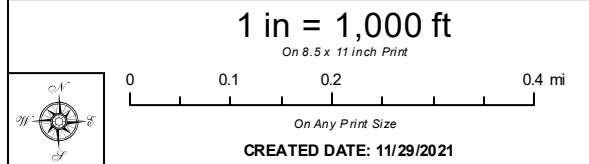








The City of Huntsville, Texas or its employees gives NO warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data. See full GIS Data Disclaimer at: www.huntsvilletx.gov/gis



CITY OF HUNTSVILLE, TX
ENGINEERING DEPARTMENT / GIS DIVISION
3400 SH 30 West
Huntsville GIS Division





THE RESERVE AT HUNTSVILLE

LOT FITMENT LAYOUT

L. SQUARED ENGINEERING
 2800 N. W. 17TH AVE.
 SUITE 100
 HUNTSVILLE, AL 35894
 (256) 833-1111
 WWW.LSQUAREDENGINEERING.COM



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 2.b.

Agenda Item: Consider approving resolution No. 2023-15: A resolution consenting to the creation of a Municipal Utility District to be known as Huntsville Municipal Utility District No. 2.

Initiating Department/Presenter: Development Services

Presenter:

Kevin Byal, Director of Development Services

Recommended Motion: Move to approve resolution No. 2023-15: A resolution consenting to the creation of a Municipal Utility District to be known as Huntsville Municipal Utility District No. 2.

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion: Forestar (USA) Real Estate Group, Inc., the Developer, desires to develop a single-family master-planned community on an approximately 226.5-acre tract located in the city's Extra Territorial Jurisdiction (ETJ), approximately 1.5 miles south of the city limits, near the intersection of FM 1374 and Robinson Creek Road. However, the Developer represents that the feasibility of the development of the tract requires that the City consent to the creation of a municipal utility district that will enable the financing of the various water, sewer, and drainage facilities, roads, and park and recreational facilities that will serve the Tract, an estimated \$31,625,970 investment. This resolution is the next step in the creation of the MUD and gives the developer consent to move forward with its creation.

Previous Council Action: None

Financial Implications: None

Approvals:

Kevin Byal
Leonard Schneider
Aron Kulhavy
Kristy Doll

Associated Information:

1. Consent Resolution_2023-15
2. MUD No. 2 Vacinity Map

RESOLUTION NO. 2023-15

**A RESOLUTION OF THE CITY OF HUNTSVILLE, TEXAS
CONSENTING TO THE CREATION OF A MUNICIPAL UTILITY
DISTRICT TO BE KNOWN AS HUNTSVILLE MUNICIPAL UTILITY
DISTRICT NO. 2**

WHEREAS, Forestar (USA) Real Estate Group, Inc. (“Developer”) is or will be the owner of approximately 226.5 acres of land (the “Tract”), the entirety of which is located in the City’s extraterritorial jurisdiction; and

WHEREAS, Developer or the landowner has submitted to the City a Petition for Consent to the Creation of a Municipal Utility District, requesting the City’s consent to the creation of a municipal utility district over the boundaries of the Tract, as described therein.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE:

Section 1. The facts and recitations set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The Petition for Consent to the Creation of a Municipal Utility District is attached hereto as Exhibit “A” and made a part hereof for all purposes.

Section 3. The City Council of the City hereby specifically gives its written consent to the creation of a municipal utility district over the Tract subject to the condition that Petitioner fully comply with the conditions set forth in Exhibit “B” attached hereto and incorporated herein, as well as subject to such other provisions of the Code of Ordinances of the City, as may be applicable.

Section 4. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by Chapter 551, Texas Government Code; and that this meeting had been open to the public as required by law at all times during which this Resolution and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. In addition to the conditions and requirements otherwise set out herein and unless otherwise agreed to in writing or a variance is expressly granted by City Council, the Consent as herein provided shall be conditioned on the owners of the real property within the Tract fully complying with all rules, regulations, and requirements that may be in existence or later provided as the same relates to any construction, configuration, or use of the Tract, whether directly expressed or provided by the City in such other agreements and documents that may be executed the development or use of Tract.

Section 6: Should any paragraph, sentence, clause, phrase or section of this Resolution be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Resolution as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 7: This Resolution shall become effective from and after the date of its final passage, and it is accordingly so ordained.

PASSED AND APPROVED THIS ____ DAY OF _____ 2023.

CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

ATTEST:

Kristy Doll, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

Exhibit "A"

PETITION FOR CONSENT TO THE CREATION
OF A MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
HUNTSVILLE, TEXAS:

DAVID M. SMITH (herein the "Petitioner"), acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code, respectfully petition the City Council of the City of Huntsville, Texas (the "City"), for its written consent to the creation of a municipal utility district and would show the following:

I.

The name of the proposed District shall be HUNTSVILLE MUNICIPAL UTILITY DISTRICT NO. 2 (the "District").

II.

The District shall be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, together with all amendments and additions thereto.

III.

The District shall contain an area of 226.5 acres of land, more or less, situated in Walker County, Texas. All of the land proposed to be included within the District is within the extraterritorial jurisdiction of the City. All of the land proposed to be included may properly be included in the District. The land proposed to be included within the District is described in Exhibit A, which is attached hereto and incorporated herein for all purposes (the "Land").

IV.

Petitioner holds fee simple title to the Land. Petitioner hereby represents that he owns a majority in value of the Land, which is proposed to be included in the District, as indicated by the certificate of ownership provided by the Walker County Appraisal District.

V.

Petitioner represents that there are no lienholders on the Land and that there are no residents on the Land.

VI.

FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, has entered into an earnest money contract to purchase all of the Land and desires to be considered as a Petitioner for the consent to creation of the District.

VII.

The general nature of the work proposed to be done by the District at the present time is the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system for residential and commercial purposes, and the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, and such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, parks and recreation facilities, systems, and enterprises as shall be consistent with all of the purposes for which the District is created (the "Project").

VIII.

There is, for the following reasons, a necessity for the above-described work. The area proposed to be within the District is urban in nature, is within the growing environs of the City, and is in close proximity to populous and developed sections of Walker County, Texas. There is not now available within the area, which will be developed for single family residential, multifamily, and commercial uses, an adequate waterworks system, sanitary sewer system, or drainage and storm sewer system, or roads, or parks and recreational facilities. The health and welfare of the present and future inhabitants of the area and of the territories adjacent thereto require the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of an adequate waterworks system, sanitary sewer system, and drainage and storm sewer system, roads, or parks and recreational facilities. A public necessity, therefore, exists for the creation of the District, to provide for the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such waterworks system, sanitary sewer system, and drainage and storm sewer system, roads, and parks and recreational facilities to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

IX.

The Petitioner, by submission of this Petition, requests the City's consent to the creation of the District containing the Land under the same conditions as set forth in Exhibit B, which is attached hereto and incorporated herein for all purposes

X.

A preliminary investigation has been made to determine the cost of the proposed District's waterworks system, sanitary sewer system, and drainage and storm sewer system projects, and it is now estimated by the Petitioner, from such information as he has at this time, that such cost will be approximately \$18,905,670.

XII.

A preliminary investigation has been made to determine the cost of the proposed District's road projects, and it is now estimated by the Petitioner, from such information as he has at this time, that such cost will be approximately \$8,720,300.

XII.

A preliminary investigation has been made to determine the cost of the proposed District's park and recreational facilities, and it is now estimated by the Petitioner, from such information as he has at this time, that such cost will be approximately \$4,000,000.

XIII.

The total cost of the proposed District's projects is estimated by the Petitioner to be approximately \$31,625,970.

WHEREFORE, the Petitioner prays that this petition be heard and that the City Council duly pass and approve an ordinance granting the consent to the creation of the District and authorizing the inclusion of the Land within the District.

[EXECUTION PAGES FOLLOW]

RESPECTFULLY SUBMITTED this ____ day of _____, 2023.

DAVID M. SMITH

THE STATE OF TEXAS §
 §
COUNTY OF _____§

This instrument was acknowledged before me on the ____ day of _____, 2023, by DAVID M. SMITH.

Notary Public, State of Texas

(NOTARY SEAL)

**FORESTAR (USA) REAL ESTATE
GROUP INC.**

a Delaware corporation
(Earnest Money Contract Holder)

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____,
2023, by _____ of **FORESTAR (USA) REAL
ESTATE GROUP INC.**, a Delaware corporation, on behalf of said corporation.

Notary Public, State of Texas

(NOTARY SEAL)

Exhibit "A"

METES AND BOUNDS DESCRIPTION 226.5 ACRES IN THE WILLIAM MCDONALD SURVEY, ABSTRACT NO. 30 WALKER COUNTY, TEXAS

A 226.5 ACRE TRACT OF LAND IN THE WILLIAM MCDONALD SURVEY, ABSTRACT NO. 30, WALKER COUNTY, TEXAS, BEING OUT OF A TRACT OF LAND, CONVEYED TO DAVID M. SMITH, AS RECORDED UNDER INSTRUMENT NUMBERS 69259, 69260, AND 80800 OF THE OFFICIAL PROPERTY RECORDS OF WALKER COUNTY, TEXAS (O.P.S.W.C.T.) THE SAID 226.5 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set in the northwesterly Right-of-Way (R.O.W.) line of F.M. 1374 (100-feet-wide) as recorded under Volume (Vol.) 153, Page (Pg.) 232 of the Walker County Deed Records (W.C.D.R.) for the southeast corner of a called 10.438 acre tract of land, conveyed to Kin Tien Lim and Dan Liu, as recorded under instrument number (no.) 83308, O.P.R.W.C.T., the northeast corner of the herein described tract, and the beginning of a non-tangent curve to the left, from which a found capped 1/2-inch iron rod stamped "TPS 100834-00" bears for reference North 87°21'08" West, a distance of 0.89 feet;

THENCE, along the northwesterly R.O.W. line of said F.M. 1374, the following three (3) courses and distances:

- 1) In a southwesterly direction, along the arc of said non-tangent curve to the left having a radius of 5779.34 feet, a central angle of 08°11'00", an arc length of 825.44 feet, and a chord bearing of South 23°10'28" West, for a distance of 824.74 feet; to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the point of tangency;
- 2) South 19°04'58" West, a distance of 574.60 feet to a concrete monument found marking the beginning of a curve to the right;
- 3) In a southwesterly direction, along the arc of said curve to the right having a radius of 2814.79 feet, a central angle of 17°31'53", an arc length of 861.27 feet, and a chord bearing of South 27°50'55" West, for a distance of 857.91 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the east corner of a called 5.71 acre tract of land (originally called 6.3 acres) as recorded under Vol. 97, Pg. 420 W.C.D.R., described in boundary agreement recorded under Vol. 432, Pg. 625 W.C.D.R., from which a found 1/2-inch iron rod bears for reference North 58°58' West, a distance of 10.0 feet, and a found concrete monument bears for reference South 38°12'56" West, a distance of 158.30 feet;

THENCE, North 51°10'53" West, along the northeast line of said 5.71 acre tract, a distance of 394.12 feet to a 1/2-inch iron rod found marking the north corner of said 5.71 acre tract and an interior corner of the herein described tract;

THENCE, South 39°14'27" West, along the northwest line of said 5.71 acre tract, a distance of 629.33 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the west corner of said 5.71 acre tract and a northerly corner of a called 58.17 acre tract of land, conveyed to Jose and Dayana Aldaba, as recorded under instrument no. 69213, O.P.R.W.C.T.;

THENCE, along the northerly lines of said 58.17 acre tract, the following six (6) courses and distances;

- 1) South 66°34'01" West, a distance of 27.42 feet to a 1/2-inch iron rod found marking an angle point, from which a found concrete monument bears for reference South 48°52'30" East, a distance of 404.88 feet;

- 2) South 84°44'07" West, a distance of 971.00 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 3) South 77°41'38" West, a distance of 247.70 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 4) North 82°23'31" West, a distance of 804.25 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an exterior corner;
- 5) North 02°27'30" East, a distance of 281.12 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the most northerly corner of said 58.17 acre tract, and an interior corner of the herein described tract;
- 6) South 72°06'03" West, a distance of 1,214.07 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set in the east line of a 5.765 acre tract of land, conveyed to Isaac L. Martin, III, as recorded under instrument no. 62597, O.P.R.W.C.T. (correction affidavit filed under instrument no. 63278, O.P.R.W.C.T.), marking the northwest corner of said 58.17 acre tract, and the southwest corner of the herein described tract;

THENCE, along the easterly lines of said 5.765 acre tract, the following four (4) courses and distances:

- 1) North 10°45'07" East, a distance of 379.58 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 2) North 03°46'28" East, a distance of 528.69 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 3) North 64°36'23" West, a distance of 459.40 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 4) North 33°58'11" West, a distance of 211.00 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the north corner of said 5.765 acre tract, and an angle point in the east line of a called 165.35 acre tract of land, conveyed to Isaac L. Martin, III, as recorded under instrument no. 60048, O.P.R.W.C.T.;

THENCE, along the easterly lines of said 165.35 acre tract, the following four (4) courses and distances:

- 1) North 18°18'17" West, passing at a distance of 211.54 feet, a found capped 1/2-inch iron rod stamped "Adams 3666 5611" and continuing for a total distance of 251.01 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 2) North 50°04'19" West, a distance of 24.90 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 3) North 30°46'11" West, a distance of 119.50 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 4) North 12°58'56" West, a distance of 238.30 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 5) North 02°43'27" West, a distance of 68.10 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;

- 6) North 18°32'26" West, a distance of 244.10 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 7) North 36°37'38" West, a distance of 27.30 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the southwest corner of a called 33.42 acre tract of land, conveyed to Lex and Stacey Forgason, as recorded under instrument no. 63823, O.P.R.W.C.T., and the northwest corner of the herein described tract;

THENCE, North 87°21'08" East, along the south line of said 33.42 acre tract, the south line of a called 10.698 acre tract of land, conveyed to Mustard Seed Holdings, LLC, as recorded under instrument no. 83951, O.P.R.W.C.T., the south line of a called 11.555 acre tract of land and a 13.552 acre tract of land, both conveyed to Stephanie and Aaron Hansz, as recorded under instrument no. 82610, O.P.R.W.C.T., the south line of a called 13.918 acre tract of land conveyed to Cameron and Kaley Miller, as recorded under instrument no. 85683, O.P.R.W.C.T., the south line of a called 12.645 acre tract of land, conveyed to Aaron and Ashleigh Fritsch, as recorded under instrument no. 81817, O.P.R.W.C.T., the south line of said 10.438 acre tract of land, and over and across said David M. Smith tract, passing at a distance of 54.75 feet, a found capped 1/2-inch iron rod stamped "Adams 3666 5611", passing at a distance of 3,873.96 feet, a 1/2-inch iron rod found marking the southwest corner of said 13.918 acre tract, passing at a distance of 4,536.18, a capped 1/2-inch iron rod stamped "TPS 100834-00" found marking the southeast corner of said 13.918 acre tract, common with the southwest corner of said 12.645 acre tract, passing at a distance of 5,137.94 feet, a capped 1/2-inch iron rod stamped "TPS 100834-00" found marking the southeast corner of said 12.645 acre tract, common with the southwest corner of said 10.438 acre tract, and continuing for a total distance of 5,535.79 feet to the **POINT OF BEGINNING** and containing 226.5 acres of land. This description is accompanied by a land title survey of even date.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



Kevin M. Reidy, R.P.L.S.
Texas Registration No. 6450
10011 Meadowglen Lane
Houston, Texas 77042
713-784-4500



Date: April, 2023
Job No: 231-008-00
File No: R:\2023\231-008-00\Docs\Description\Boundary\226.5AC-MB.doc

EXHIBIT "B"

CONSENT CONDITIONS

The City Council hereby finds, determines, and declares that it is to the best interests of the City of Huntsville ("City") and of the territory within its City corporate limits and extraterritorial jurisdiction ("ETJ"), that the proponents of any municipal utility district ("District") or any other political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses, the furnishing of sanitary sewer service, or the furnishing of drainage and/or flood control services when such District is sought to be created within the area of the City Limits or ETJ of the City, shall as a prerequisite to the written consent of the City, agree and covenant in writing, to adhere to the following rules, regulations and standards:

(1) Bonds may be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing, or under contract with the City, or otherwise acquiring waterworks systems, sanitary sewer collection systems, lift stations, and treatment facilities, storm sewer systems and drainage facilities, levee facilities, recreational facilities, roads, fire protection facilities or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary lands, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefore, and maintain same and to sell water, sanitary sewer, and other services within or outside the boundaries of the District. Such bonds of the District shall only be sold after taking public bids therefore. All District bonds shall provide that the District shall reserve the right to redeem said bonds on any interest payment date on a date no later than the fifteenth anniversary of the date of issuance without premium. No bonds, other than refunding bonds, shall be sold at less than ninety-five (95) percent of par, provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bond, will not exceed two (2) percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty five (45) days after the notice of sale of the bonds is given.

The maximum term of any debt issuance shall be no greater than forty (40) years from the date of issuance. The minimum par amount of any bonds issued, except a final issue, shall be one million dollars (\$1,000,000.00). Each issue of bonds shall be structured to achieve either level principal payments or level debt service payments, excluding the first two (2) years of debt service. Prior to issuance of the bonds, the District shall submit to the City a copy of the Preliminary Official Statement evidencing a District tax rate (both maintenance and operations rate and interest and sinking rate combined) not to exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation. Each bond issue shall not include more than two (2) years of capitalized interest. The resolution

authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the City annexes the District, takes over the assets of the District, and assumes all of the obligations of the District. No land will be added or annexed to the District until the City has given its written consent by resolution or ordinance of the City Council to such addition or annexation. Refunding bonds shall comply with the City's ordinance on refunding bonds, as it may be amended from time to time.

(2) Before the commencement of any construction within the District, the District or developer developing property located therein will enter into a Development Agreement or Agreement to Construct Public Improvements, as applicable, with the City detailing, among other things, platting requirements, City review and approval of plans and specifications, utility service to the District and billing related thereto, and compliance with regulatory requirements.

(3) The District shall levy a debt service tax no later than the annual tax levy following the first installment of bonds and continue a tax levy until such bonds are paid in full unless revenues of the system are adequate to discharge such bonds.

(4) No bonds or notes of the District shall be issued or sold unless the District is in compliance with Paragraph (1) above and prior to advertisement of the sale of the bonds, the District provides the City with: (i) a copy of the draft notice of sale; (ii) a copy of the draft Resolution to be adopted by the District's Board of Directors authorizing the sale of the bonds; (iii) a copy of the Preliminary Official Statement; and (iv) if applicable, a copy of the TCEQ Order approving the project and bonds. Item (iv) in the preceding sentence shall not be required for the issuance of road bonds. In the event that the District is in compliance with the entirety of these Consent Conditions and timely submits the documentation set forth in this Paragraph 4, no further City approval shall be necessary prior to selling and issuing the bonds. However, should the District seek any variance or modification from these Consent Conditions, the issuance of that series of bonds by the District must be approved by the City Council of the City.

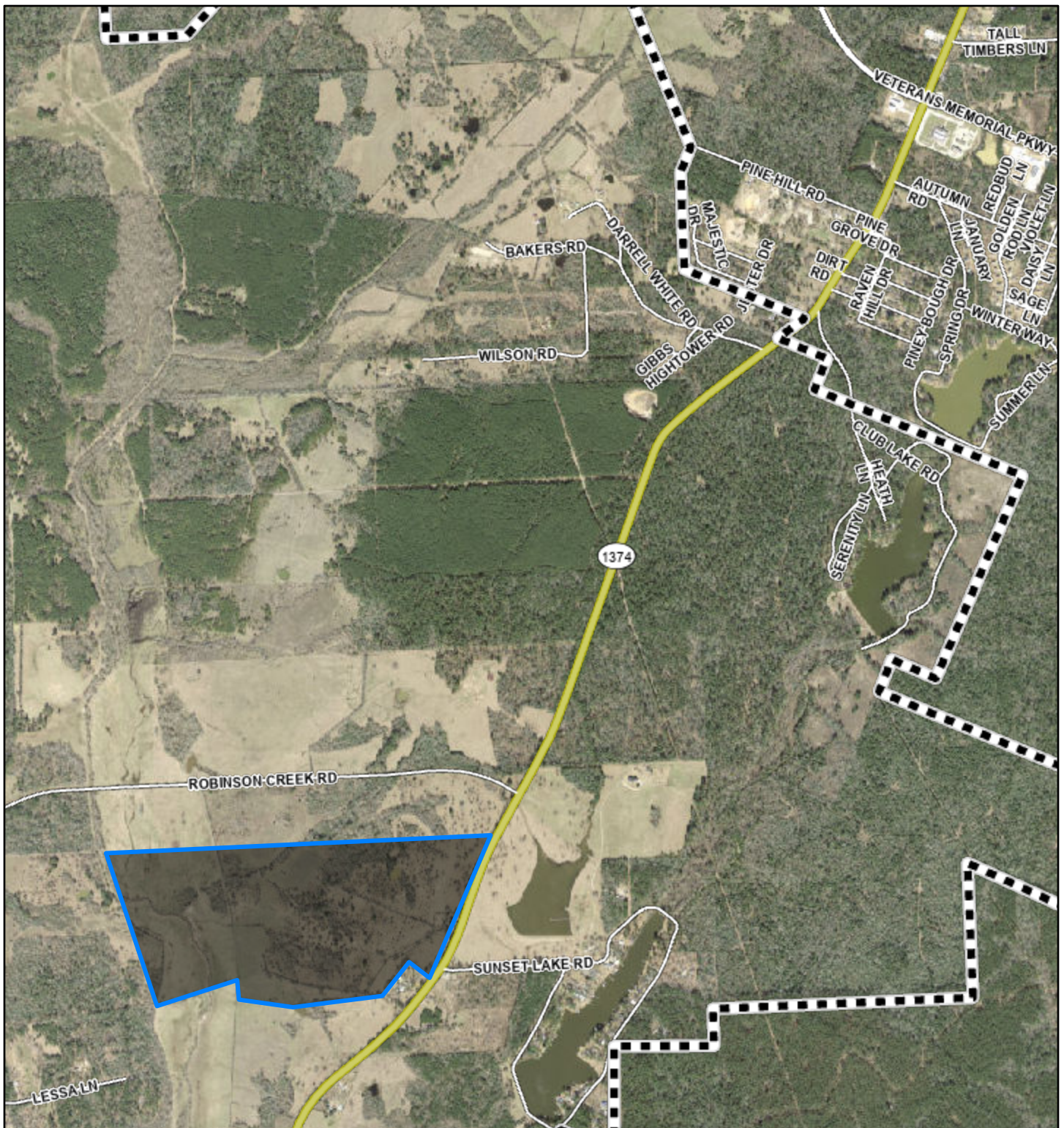
(5) The petitioner shall pay all costs related to the consent and creation of the District.

(6) The District shall post notice of the meetings of its Board of Directors in accordance with Section 49.063 of the Texas Water Code. The District's Board of Directors shall hold its meetings at a location accessible to its residents. At all times after the District has one hundred (100) residential water connections, it shall hold the meetings of its Board of Directors at a location within the corporate limits of the City or within the boundaries of the District; provided however, that this geographical limitation shall not apply if the District provides telephone or virtual access to its meetings to all members of the public.

(7) The official office for recordkeeping of the District must be accessible to the District residents.

(8) The District shall comply with all applicable requirements of the TCEQ regarding the display of signage at entrances into the District.

MUD No. 2



12/14/2023, 10:07:02 AM



ETJ



City Limits

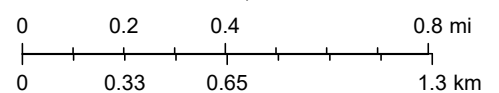
MSAG Blocks

1:500

FM; Park Road; State Highway; US Highway

Local Roads

1:24,000





CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 2.c.

Agenda Item: Consider authorizing the City Manager to enter into a Development Agreement with Forestar (USA) Real Estate Group, Inc., for the development of an approximately 226.5-acre development for a single-family master planned community in the City's Extra Territorial Jurisdiction.

Initiating Department/Presenter: Development Services

Presenter:

Kevin Byal, Director of Development Services

Recommended Motion: Move to authorize the City Manager to enter into a Development Agreement with Forestar (USA) Real Estate Group, Inc., for the development of an approximately 226.5-acre development for a single-family master planned community in the City's Extra Territorial Jurisdiction.

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion: Earlier this year, the City was approached by Forestar (USA) Real Estate Group, Inc., the developer of an approximately 226.5-acre tract in the City's Extra Territorial Jurisdiction (ETJ), about their plans for a new 600+/- lot single-family master planned community. Discussion with the developer included their intent to connect to the City of Huntsville sanitary sewer system and construct a water line extension necessary to serve the development with city water.

For the past several months, staff has been negotiating a development agreement with the developer and have reached a mutual agreement concerning the content of the agreement. The purpose of this agenda item is to authorize the City Manager to enter into a Development Agreement with Forestar (USA) Real Estate Group, Inc., for the development of the 226.5 +/- acre development for a single-family master planned community.

In summary, the developer agrees to maintain the ETJ status of the property, develop the necessary infrastructure in accordance with the adopted Development Code and design standards, and construct the off-site waterline to the development from the existing infrastructure location with sufficient capacity. The City ensures that it will reserve utility capacity for the development and support the creation of the MUD.

Previous Council Action: None

Financial Implications: There is no direct financial impact with the approval of the development agreement. The agreement will allow for the development of the property in question from which the City will generate water and wastewater revenue.

Approvals:

Kevin Byal
Leonard Schneider
Aron Kulhavy
Kristy Doll

Associated Information:

1. Huntsville Forestar (USA) Real Estate Group, Inc. Development Agreement
2. MUD No. 2 Vacinity Map

**DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF HUNTSVILLE, TEXAS, AND FORESTAR (USA) REAL ESTATE
GROUP, INC.**

This Development Agreement (the “Agreement”) is made and entered into on _____, 2023 (the “Effective Date”), by and among THE CITY OF HUNTSVILLE, TEXAS, a home rule municipality located in Walker County, Texas (the “City”) and FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation (the “Developer”) The City and the Developer shall be individually referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

The City is a home rule city and municipal corporation that provides a full-range of governmental services to its citizens.

The Developer is under contract to purchase approximately 226.5 acres of land (the “Tract”), more particularly described in **Exhibit A**, the entirety of which is located in the City’s extraterritorial jurisdiction (“ETJ”) in Walker County, Texas (the “County”).

The Developer desires to develop a single-family master planned community on the Tract; however, the Developer represents that the feasibility of the development of the Tract requires that the City consent to the creation of a municipal utility district that will enable the financing of the various water, sewer, and drainage facilities, roads, and park and recreational facilities that will serve the Tract.

The City and the Developer agree that the development of the Tract and the design, construction, and installation of the public infrastructure necessary to serve the Tract can best proceed pursuant to a development agreement.

It is the intent of this Agreement to establish certain restrictions and commitments imposed and made in connection with the development of the Tract. The City and the Developer are proceeding in reliance on the enforceability of this Agreement.

AGREEMENT

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

ARTICLE I DEFINITIONS

Section 1.01 Terms. Unless the context requires otherwise, and in addition to the terms defined above, the following terms and phrases used in this Agreement shall have the meanings set out below:

City means the City of Huntsville, Texas.

City Council means the City Council of the City or any successor governing body.

Commission means the Texas Commission on Environmental Quality and its successors.

Construction Costs means costs associated with any particular construction project under the terms of this Agreement, including, but not limited to, costs of construction, acquisition, and installation; engineering fees and expenses; costs of advertising; costs of acquiring necessary licenses, permits, waste control orders, discharge permits or amendments thereto; fiscal, legal, and administrative costs; material-testing costs; site, easement, and permit costs; and all other costs and expenses directly relating to the foregoing, together with an amount for contingencies or estimated Construction Costs of fifteen percent (15%) of the foregoing, provided that no contingency amount shall be included in “Construction Costs” regarding a particular construction project once that project is complete.

Developer means Forestar (USA) Real Estate Group, Inc, a Delaware corporation, or its successors or assigns.

Development Plan means the plan for the proposed development of the Tract, a copy of which is attached to this Agreement as **Exhibit B**, as it may be revised from time to time in accordance with the terms of this Agreement and with City approval of any Material Change.

Development Code means the City’s ordinances regulating the development of subdivisions in effect as of the date of this Agreement, including any design criteria, solely to the extent that such apply to property located in the City’s ETJ. In the event of a conflict between the Development Code and the Development Plan, the Development Plan shall control.

District means the proposed Huntsville Municipal Utility District No. 2, to be created by the Texas Commission on Environmental Quality and encompassing the entirety of the property contained in the Tract.

District Petition means the Petition for Consent to Creation of Huntsville Municipal Utility District No. 2, signed by the Developer or landowner, as appropriate, requesting the City’s consent to the creation of the District.

Facilities means and includes the water distribution, wastewater collection, drainage and detention systems, parks and recreational facilities, and road facilities constructed or acquired or to be constructed or acquired by the District to serve lands within its boundaries, and all improvements, appurtenances, additions, extensions, enlargements, or betterments thereto, including any pro rata interest or share owned by the District in such facilities, together with all contract rights, permits,

licenses, properties, rights-of-way, easements, sites, and other interests related thereto.

HOA means the homeowners association(s) to be created to serve the Tract.

Material Change shall mean any change to the Development Plan that impacts the intended land use of the Tract (i.e. modifying the land use from single family residential to commercial or industrial).

Oversized Facilities shall mean any water, sewer, and/or drainage facilities sized and constructed to serve areas outside of the Tract, as set forth in Section 4.01(b).

Person means any individual, partnership, association, firm, trust, estate, public or private corporation, or any other legal entity whatsoever.

TCEQ means the Texas Commission on Environmental Quality.

Tract means all of the land described in the attached **Exhibit A**, as well as property that may hereafter be annexed by the District with the City's written consent.

Ultimate Consumer means the purchaser of a lot within the Tract who does not intend to resell, subdivide, or develop the lot in the ordinary course of business.

Section 1.02 Exhibits. The following exhibits are attached to this Agreement as though fully incorporated herein:

Exhibit A	The Tract
Exhibit B	Development Plan
Exhibit C	City Consent and Consent Conditions
Exhibit D	Map of Water and Wastewater Line Construction

ARTICLE II

CREATION OF MUNICIPAL UTILITY DISTRICT

Section 2.01 Introduction. The feasibility of the development of the Tract by Developer is dependent on certain actions being taken by Developer and the City. For the purposes hereafter set forth, a municipal utility district must be created over the Tract.

Section 2.02 Consent to District Creation. Developer or landowner, as appropriate, shall submit the District Petition to the City. Concurrently with the City's approval of this Agreement, the City shall take all requisite action to provide its consent to the creation of the District with accompanying consent conditions, in the form attached hereto as **Exhibit C**.

Section 2.03 Deposit. In conjunction with the negotiation of this Agreement, the Developer has paid \$5,000 to the City's engineering consultant to perform certain capacity and service analysis. In addition thereto, within sixty (60) days of the Effective Date, Developer shall deposit with the City \$5,000 to cover the City's reasonably necessary expenses incurred by legal

counsel, engineers, accountants, financial advisors, or other consultants and advisors for the preparation and review of the documents related to the development and for the preparation and the review of any other documents contemplated by this Agreement related to the development of the Tract.

ARTICLE III DESIGN AND CONSTRUCTION STANDARDS AND FACILITIES

Section 3.01 Regulatory Standards and Development Quality. The land uses within the Tract shall be typical of a master planned community with residential and recreational facilities and, subject to Section 3.04(c) below, will require approximately 625 equivalent single-family connections (“ESFCs”) for water supply and wastewater treatment service. The City and the Developer agree that one of the primary purposes of this Agreement is to provide for the quality of, and certainty as to the applicable regulatory requirements for, development of the Tract throughout the development process. Feasibility of the development of the Tract is dependent upon a predictable regulatory environment and stability in the projected land uses. In exchange for Developer’s performance of the obligations under this Agreement, the City agrees that Developer will develop the Tract in accordance with the Development Code or the Development Plan, as applicable, and will not be required to comply with any amendments or changes to such Development Code subsequently adopted by the City; provided, however, any development of the Tract not completed twenty (20) years from and after the Effective Date shall adhere to the then current Development Code, including any future amendments and changes thereto. The City and the Developer agree that, except for the Development Code, any City ordinance, whether heretofore or hereafter adopted, that addresses matters which are covered by this Agreement shall not be enforced by the City within the Tract, to the extent expressed in this Agreement, and that in the event of a conflict, express or implied, between this Agreement and any other City code or ordinance, including the Development Code, whether heretofore or hereafter adopted, then the provisions of this Agreement shall govern development of the Tract unless otherwise required by law. Further, the City represents that it currently assesses no impact fees. In exchange for the Developer’s completion of the obligations set forth herein, the City agrees that should the City institute impact fees at any point in the future, such impact fees will not be assessed against the Developer or District for the 625 ESFCs being committed by the City pursuant to this Agreement to serve the development occurring in the District. The Parties hereby agree that any ESFCs required by the Developer for the development of the Tract or future annexations thereto in excess of the aforementioned 625 ESFCs shall be subject to any then-assessed impact fees imposed by the City.

Section 3.02 Design Standards for Public Improvements.

(a) The Developer shall provide Facilities to serve the development contemplated by the Development Plan at Developer’s sole cost; provided, however, the Developer may receive reimbursement of certain eligible costs as otherwise set forth in this Agreement.

(b) All Facilities to serve the Tract shall be designed and constructed by or on behalf of the District in accordance with all rules and regulations of the City applicable to the construction of such facilities, including the Development Code, the Development Plan, and in accordance with this Agreement. The City shall not require that the Facilities be designed to requirements more stringent than the City’s requirements applicable to the design of similar facilities located in the City’s ETJ outside of the District but within the City’s jurisdiction. The District shall design the

Facilities in such phases or stages as the District and/or Developer from time to time, in their sole discretion, may determine to be necessary and economically feasible.

(c) When the District determines, in its sole discretion, that it is necessary and economically feasible to construct the Facilities, the District shall proceed to award a construction contract for the Facilities based upon the approved plans. The Facilities shall be installed, construction contracts shall be awarded, and payment and performance bonds obtained all in accordance with the general law for municipal utility districts. In addition to any other construction contract provisions, any construction contract for the Facilities shall include the contractor's one (1) year warranty of work performed under the contract. The District shall file all required documents related to the construction of the Facilities with the TCEQ.

(d) The City may inspect all Facilities at its sole cost and expense, including those Facilities under construction, at all reasonable times. The District will enforce the City's rules and regulations regarding the construction of the drainage and road Facilities.

(e) The Developer shall provide written certification to the City from a professional engineer licensed in the state of Texas that the City's criteria set forth in the Development Code for such streets, drainage, water, wastewater, road, and park and recreational improvements have been met. Subject to such certification from a licensed professional engineer and approval of the plans by the City as provided for in the Development Code, no approval by City Council shall be required. The City's review and approval of any submissions by the Developer will not be unreasonably withheld, conditioned, or delayed and shall be done in accordance with the local government code.

(f) In the event the City requires additional access to the Tract in accordance with the City's transportation plan and comprehensive plan, the City will be responsible for acquisition of any necessary right of ways between the Tract and roads owned or maintained by the City. In the event that the development of the Tract necessitates additional access, the Developer shall be responsible for acquiring any other right of way which is not required by the City and necessary for any facilities that will be constructed on lands not owned by the City or Developer. The City agrees to use its best efforts to assist Developer in its acquisition of any such right of way, including eminent domain, provided that Developer shall be responsible for the cost of acquiring such right-of-way for such additional access, including costs of the eminent domain proceedings.

(g) Upon completion of the Facilities, the District shall require the District Engineer to certify that the Facilities have been completed in substantial compliance with the approved plans, and the District shall certify that all bills and sums of money due in connection with the construction and installation of the Facilities have been fully paid and that the Facilities are free of any and all liens and claims, all according to the certification of the construction contractor. The District shall accept the construction of the Facilities in writing from the construction contractor. The District shall then convey the Facilities (except for parks and recreational facilities, storm water detention facilities, and roads) to the City in accordance with the City's procedure for acceptance.

(h) The Developer understands and agrees that all City ordinances and codes, including applicable permits, fees, and inspections, shall be of full force and effect within its boundaries to the same extent as other areas within the City's ETJ; provided, however, that no permits, permit

fees, or inspection fees shall be required for the Facilities to be conveyed to the City. The Parties agree that in the event of conflict, express or implied, between this Agreement and any other City code or ordinance, including the Development Code, whether heretofore or hereafter adopted, then this Agreement controls.

Section 3.03 Water Supply and Wastewater Collection Facilities. The City hereby represents that its wastewater collection and treatment facility located in the general proximity of the Tract at 4420 FM 1374, Huntsville, Texas 77340 (the “Robinson Creek Wastewater Treatment Plant Facility”) currently has capacity to serve the Tract at full build-out. The Parties hereby agree that the Developer shall be allowed to connect to the City’s existing thirty-six inch wastewater line located along the western boundary of the Tract for the provision of wastewater collection and treatment services, as shown more specifically on the attached **Exhibit D**. Similarly, the City represents that its water supply and distribution facility located in the general proximity of the Tract at 3391 Autumn Road, Huntsville, Texas 77340 (the “Spring Lake Water Plant Facility”) currently has capacity to serve the Tract. However, such water supply and distribution services will require the removal and replacement of existing six- and eight-inch water trunklines followed by the design and construction of twelve-inch water trunklines to extend from the Spring Lake Water Plant Facility to the boundary of the Tract (the “Trunkline Extension Project”), as shown more specifically on the attached **Exhibit D**. The Developer hereby agrees to cause the design and construction of the Trunkline Extension Project and shall be initially responsible for the acquisition of any and all right of way required to complete the Trunkline Extension Project at its sole cost and expense, with such acquisition expected to occur no later than January 31, 2024. The City agrees to reasonably cooperate and support developer’s effort to acquire the right of way required to complete the Trunkline Extension Project; provided, however, that if the acquisition of the aforementioned right of way is not fully acquired by February 29, 2024, then the City agrees to timely exercise its eminent domain authority to acquire the remaining portion of the right of way required to complete the Trunkline Extension Project. The Developer hereby agrees to pay the City’s reasonable and necessary costs to exercise its eminent domain authority to complete the Trunkline Extension Project, including the cost of any acquired easements. The Parties hereby agree that any oversizing of the Trunkline Extension Project performed at the request of the City will be constructed and funded pursuant to Sub-section 4.01(b) of this Agreement. The Developer shall submit plans for the Trunkline Extension Project to the City for review and approval and the City hereby agrees to review and comment on such plans within forty-five (45) days of receipt of same. Developer may freely assign its surplus capacity in the Trunkline Extension Project to adjacent property; provided, however, that the Developer must provide written notice of such to the City. In exchange for the Developer’s completion of the Trunkline Extension Project, the City hereby agrees to reserve 625 ESFCs in the Trunkline Extension Project to be solely utilized by the Developer to serve the Tract. Should the Trunkline Extension Project be constructed as an “Oversized Facility” pursuant to Sub-section 4.01(b) of this Agreement, the Parties hereby agree that the Construction Costs for same shall be calculated pursuant to Sub-section 4.01(b) of this Agreement and agree further that the City will own all capacity in all ESFCs derived from the Trunkline Extension Project in excess of 625 ESFCs. Capacity in such Facilities shall be provided as set forth in Section 3.04 below.

Section 3.04 Capacity in and Conveyance and Maintenance of Facilities.

(a) The City recognizes that Developer is constructing certain facilities so that treated water service and wastewater treatment service are available to serve Developer’s development in

the District. The Parties acknowledge and agree the construction of such facilities and the provision of such services, among other things, will be governed the Development Code and this Agreement.

(b) The City hereby agrees to provide water supply and wastewater distribution capacities for the projected total requirements of the Tract, with such requirements currently estimated at 625 ESFCs for water and 625 ESFCs for wastewater services. The City agrees to initially reserve 625 ESFCs for water and 240 ESFCs for wastewater services to serve the Tract out of the existing capacity of the Spring Lake Water Plant Facility and the Robinson Creek Wastewater Treatment Plant Facility, respectively. The City shall not make additional water and wastewater commitments to other parties that would negatively impact Developer's reservations set forth in the preceding two sentences. Until substantial build out of the Tract has occurred, within 30 days of the Effective Date and no later than January 15 of each year thereafter, the Developer shall cause the District to provide the City with a written estimate of the projected number of ESFCs to be added within the Tract during the next twelve months, as well as the number of new ESFCs actually added in the last year and the total number of ESFCs then being utilized by the District. The City shall confirm such required and estimated wastewater capacity as soon as reasonably practicable, but no later than thirty (30) days, following the receipt of the written projections for additional ESFCs over and above the initial 240 ESFCs committed to the Tract as set forth above.

(c) The City shall, upon reasonable request, issue a letter of assurance that the Developer or District, as appropriate, is entitled to the use and benefit of such water and wastewater capacity. The letter of assurance shall provide for the use and benefit of quantities of services of the capacities as provided for herein. All capacity may be allocated or reallocated by the Developer or District, as appropriate, through the issuance of commitment letters for water and wastewater capacities, at its discretion and without prior approval by the City, to serve various land uses within the Tract. The Developer or District, as appropriate, shall have the right to assign all or part of its reserved capacity to landowner(s) and developer(s) within or adjacent to the Tract.

(d) The Parties hereby agree that in the event the City is unable to: (i) provide water supply capacity in the Lake Water Plant; (ii) provide wastewater treatment capacity in the Robinson Creek Wastewater Treatment Plant; or (iii) fails to timely review Developer's Trunkline Extension Project as required by applicable law (collectively, the "Expansion Facilities"), the Developer may finance, design, and construct or expand such Expansion Facilities and appurtenances thereto necessary to serve the Tract. In the event that the Developer proceeds with the design and construction of any of the Expansion Facilities contemplated within this Sub-section as needed to serve the Tract, the Parties hereby agree that: (i) the City shall promptly provide, or cause to be provided, the necessary legal rights, including, but not limited to, any required right of entry or access agreements required by the Developer in its sole and reasonable discretion to construct the Expansion Facilities; (ii) the City shall not unreasonably withhold, delay or condition the review or approval of any plans for Expansion Facilities; and (iii) the City shall financially reimburse the Developer for (a) any Expansion Facility design and construction costs necessary to meet the 625 ESFCs of water and wastewater capacity committed to the Tract in this Agreement; and (b) any Oversized Facilities consistent with Section 4.01(b). For the avoidance of doubt, the water lines that comprise the Trunkline Extension Project as provided for in Section 3.03 are not part of the Expansion Facilities; the Developer, not the City, is obligated to cause the design and construction of the Trunkline Extension Project at its sole cost and expense.

(e) The streets within the Tract shall be built consistent with the requirements set forth in the Development Plan.

(f) The City agrees that the Developer may make provisions for public park and recreational facilities to serve the Tract to be financed, developed, and maintained by the District, to the extent authorized by state law. The Developer agrees that any such amenities may be dedicated to the District or the HOA for ownership and operation and shall not be the responsibility of the City.

(g) Storm water detention systems shall be owned, operated, and maintained by the District; provided, however, if the City annexes the District for full purposes and dissolves the District, the HOA will accept conveyance of the sites for and assume operation and maintenance of such storm water detention systems. Developer shall cause the District to enter into an agreement with the HOA upon creation of the HOA obligating the HOA to accept conveyance of storm water detention ponds upon dissolution of the District.

(h) Notwithstanding anything in this Agreement to the contrary, the City shall not be required to accept, own, or operate any road, park and recreational, or detention pond Facilities. Facilities to be accepted by the City as contemplated by this Article III shall solely include the water and wastewater Facilities.

Section 3.05 City Acceptance. As the Facilities are constructed and completed, representatives of the City shall inspect the same and, if the City finds that the Facilities have been completed in substantial compliance with the approved plans and specifications, the City will accept the conveyance of the Facilities, and the Facilities so conveyed shall be operated, maintained, and repaired by the City at its sole expense as provided in this Agreement. In conjunction therewith, the necessary property rights shall also be conveyed to the City free of charge. The City shall accept ownership of the Facilities in accordance with the City's procedure for acceptance of such facilities in areas outside the District and within the City. If the Facilities have not been completed in substantial compliance with the approved plans and specifications, the City will immediately advise in what manner the Facilities do not comply so that the problems may immediately be corrected; whereupon the City shall again inspect the Facilities and accept the same if the non-complying items have been corrected. In conjunction with the City's acceptance of the Facilities, the City shall be provided with one (1) set of the construction drawings for such Facilities.

Section 3.06 Operation of the Facilities by the City.

(a) Upon the acceptance of the Facilities by the City, the City will operate the Facilities and provide services from the Facilities to users within the District without discrimination. The City will maintain the Facilities, or cause the same to be maintained, in good condition and working order and will operate the same, or cause the same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles, and the City will comply with all the terms and conditions of this Agreement and with all applicable federal, state, and local laws and regulations.

(b) The City will provide competent, trained personnel, licensed or certified as necessary by the appropriate regulatory authority, to operate, inspect, maintain, and repair the Facilities and will bear sole cost responsibility for same. The cost of all materials and supplies used to operate,

maintain, and repair the Facilities will be borne solely by the City. Notwithstanding the foregoing, the City shall not bear cost or responsibility for the initial repair of any equipment or Facilities identified by the City as in need of correction prior to the City's acceptance of the Facilities under Section 3.05 above. The City will implement a scheduled maintenance program for the Facilities that is used for similar facilities owned and operated by the City to serve areas outside the District.

(c) The City shall maintain all customer information and records necessary to provide monthly billings to customers served by the Facilities. The City shall coordinate with the District's consultants, such as attorneys, engineers, auditors, tax assessors, and financial advisors as necessary to maintain efficient operation of the Facilities. The City shall respond to inquiries or correspondence from governmental or regulatory authorities and the District's directors, customers, or consultants.

(d) The City shall provide a monthly written report to the District indicating the total number of service connections within the District. If requested by the District, the City may provide a City representative to attend a District meeting to discuss any operating and maintenance information regarding the Facilities.

Section 3.07 Rates and Conditions of Service. The connection of improvements to the Facilities shall be made by the City, in the same manner, by the same procedures, and for the same charges as the City makes other water and wastewater connections. The water and wastewater services provided by the City under this Agreement shall be equivalent in quality to the water and wastewater services and provided at the same rates and charges for services as the City provides to other City customers that are located within the boundaries of its extra-territorial jurisdiction. The City shall bill and collect charges from the customers of the Facilities in the same manner and under the same procedures as it bills and collects from other customers of the City that are not served by the Facilities.

Section 3.08 Reserved.

Section 3.09 Termination. The City shall have the right to terminate this Agreement, upon which action it shall be of no further force and effect, if the Developer has not initiated construction of any infrastructure to serve the Tract seven (7) years from the date of this Agreement. In addition to the foregoing, in the event that Developer has not purchased the Tract (or a majority thereof) within two (2) years of the Effective Date, this Agreement shall terminate automatically according to its terms without further action by either Party and be of no force or effect. Notwithstanding the foregoing, a Party cannot elect to terminate this Agreement if the act(s) or omission(s) of such Party resulted in any such failure.

Section 3.10 Qualified Voter Housing. Notwithstanding any other provision of this Agreement to the contrary, one (1) HUD-certified manufactured home may be temporarily located within the Tract for the creation or administration of the District and for providing qualified voters within the District or qualifying persons to serve on the board of directors of the District ("Qualified Voter Housing"). A private well and septic system may be installed, operated, and maintained for the use of such Qualified Voter Housing. Qualified Voter Housing may be located on the Tract for one (1) year after the first purchase of a lot by an Ultimate Consumer. Developer will notify the City of the location of, make and model of, HUD number for, and 911 address of the Qualified Voter Housing within thirty (30) days after such home is occupied. Qualified Voter

Housing permitted by this Agreement: (i) is not required to be located on a platted lot; (ii) does not require a building permit; (iii) does not require a certificate of substantial completion; (iv) does not otherwise have to comply with the Development Code; (v) except for utility connections, if any, does not require any permit or other approval by the City except for a placement permit; and (vi) will be promptly removed when no longer needed for the creation, administration, or development of the District.

Section 3.11 Director Qualifying Lots. Notwithstanding any other provision of this Agreement to the contrary, the conveyance, from time to time, of any portion of the Tract, whether described by metes and bounds or otherwise, to any person for the purpose of qualifying such person to be a member of the board of directors of the District shall not be considered a subdivision of land requiring a plat or otherwise requiring the approval of the City; provided, however, no structure, other than Qualified Voter Housing authorized by Section 3.10, shall be constructed on any property conveyed for such purpose unless and until a plat of such portion of the Tract has been approved by the City in accordance with this Agreement and the City's subdivision regulations, as currently adopted or amended prior to submittal of a preliminary plat to the City.

ARTICLE IV REIMBURSEMENT AND FINANCING

Section 4.01 Reimbursement.

(a) The Developer shall enter into a reimbursement agreement with the District to seek reimbursement through the issuance of bonds or other funds of the District for the costs of water, wastewater, drainage, roads, and park and recreational facilities constructed to serve the tract, to the extent allowed by law. The bonds issued by the District will be an obligation solely of the District and will not be obligations of the City or any other entity. The City will not issue bonds to reimburse Developer for its costs incurred to construct such facilities. The City will not pay for any costs of reimbursement to the Developer, unless (i) the City annexes the District for full purposes, resulting in dissolution of the District; or (ii) the City has requested oversizing of certain facilities pursuant to Section 4.01(b) below.

(b) In conjunction with the design and construction of the Expansion Facilities, as described in Article III, the City may determine from time to time that certain Expansion Facilities should be sized to serve areas outside the District, as well as areas within the District, or the City and the District may determine that the District should construct certain water, sewer, and/or drainage facilities outside the District to serve areas outside the District (in either case, facilities sized or constructed to serve areas outside the District shall be referred to in this Agreement as the "Oversized Facilities"). Upon submission of plans for the design and construction of such facilities to the City for review and approval, the City will provide notice in its first round of comments as to whether or not such facilities should be constructed as Oversized Facilities (the "Oversized Facilities Trigger Date"). In conjunction with the design and construction of the Expansion Facilities as set out in this Agreement, the District shall cooperate with the City to include the Oversized Facilities as required by the City. The City, in turn, hereby agrees that as between the District and the City, the City shall fund its share of the Construction Costs of the Oversized Facilities. In order to carry out the design and construction of Oversized Facilities, the City and the District agree to enter a separate written agreement for the oversizing of such facilities. Unless the Developer is otherwise provided notice by the City on or before the

Oversized Facilities Trigger Date that certain facilities should be constructed as Oversized Facilities, the Developer shall have no obligation to construct any such Oversized Facilities at the request of the City, should doing so impact the Facility construction or development timeline or budget to the detriment of the development of the District. If the Oversized Facilities are designed and constructed by the District as part of the design and construction of Facilities being otherwise constructed by the District (collectively, the Oversized Facilities and the Facilities, the "Project"), the Construction Costs of the Oversized Facilities shall be determined in accordance with TCEQ rules and regulations so that Project Construction Costs will be shared by the City and the District on the basis of benefits received, which are generally the design capacities in the Project for the City and the District respectively. If required, the Developer or District, as appropriate, shall submit plans for the Oversized Facilities to the City for review and approval and the City hereby agrees to review and comment on such plans within forty-five (45) days of receipt of same.

(c) The Parties recognize that additional properties may be annexed into the District. In such event, any proposed annexation by the District must be approved first by the City and performed in accordance with City ordinances and State law. The Parties agree any property annexed into the District subsequent to the Effective Date will be considered part of the District for purposes of this Agreement.

ARTICLE V PROVISIONS FOR DESIGNATED MORTGAGEE

Section 5.01 Notice to Designated Mortgagee. Pursuant to Section 5.03, any Designated Mortgagee shall be entitled to simultaneous notice any time that a provision of this Agreement requires notice to Developer.

Section 5.02 Right of Designated Mortgagee to Cure Default. Any Designated Mortgagee shall have the right, but not the obligation, to cure any default in accordance with the provisions of Section 5.03 and Article VII.

Section 5.03 Designated Mortgagee. At any time after execution and recordation in the Real Property Records of the County of any mortgage, deed of trust, or security agreement encumbering the Tract or any portion thereof, the Developer (i) shall notify the City in writing that the mortgage, deed of trust, or security agreement has been given and executed by the Developer, and (ii) may change the Developer's address for notice pursuant to Section 9.01 to include the address of the Designated Mortgagee to which it desires copies of notice to be provided.

At such time as a full and final release of any such lien is filed in the County's Real Property Records, and the Developer gives notice of such release to the City as provided herein, all rights and obligations of the City with respect to the Designated Mortgagee under this Agreement shall terminate.

The City agrees that it may not exercise any remedies of default hereunder unless and until the Designated Mortgagee has been given thirty (30) days written notice and opportunity to cure (or commences to cure and thereafter continues in good faith and with due diligence to complete the cure) the default complained of. Whenever consent is required to amend a particular provision of this Agreement or to terminate this Agreement, the City and the Developer agree that this Agreement may not be so amended or terminated without the consent of such Designated Mortgagee; provided, however, consent of a Designated Mortgagee shall only be required to the

extent the lands mortgaged to such Designated Mortgagee would be affected by such amendment or termination other than termination provided by Section 3.09.

Upon foreclosure (or deed in lieu of foreclosure) by a Designated Mortgagee of its security instrument executed by the Developer encumbering the Tract, such Designated Mortgagee (and its affiliates) and their successors and assigns shall not be liable under this Agreement for any defaults that are in existence at the time of such foreclosure (or deed in lieu of foreclosure). Furthermore, so long as such Designated Mortgagee (or its affiliates) is only maintaining the Tract and marketing it for sale and is not actively involved in the development of the Tract, such Designated Mortgagee (and its affiliates) shall not be liable under this Agreement. Upon foreclosure (or deed in lieu of foreclosure) by a Designated Mortgagee, any development of the property shall be in accordance with this Agreement.

If the Designated Mortgagee, and/or any of its affiliates or their respective successors and assigns, undertakes development activity, they shall be bound by the terms of this Agreement. However, under no circumstances shall such Designated Mortgagee ever have liability for matters arising either prior to, or subsequent to, its actual period of ownership of the Tract, or a portion thereof, acquired through foreclosure (or deed in lieu of foreclosure).

ARTICLE VI PROVISIONS FOR DEVELOPER

Section 6.01 Waiver of Actions Under Private Real Property Rights Preservation Act. The Developer hereby waives its right, if any, to assert any causes of action against the City accruing under the Private Real Property Rights Preservation Act, Chapter 2007, Texas Government Code (the “Act”), that the City’s execution or performance of this Agreement or any authorized amendment or supplements thereto may constitute, either now or in the future, a “Taking” of Developer’s, Developer’s grantee’s, or a grantee’s successor’s “Private Real Property,” as such terms are defined in the Act, provided, however, that this waiver does not apply to, and the Developer and Developer’s grantees and successors do not waive their rights under the Act to assert a claim under the Act for any action taken by the City beyond the scope of this Agreement which otherwise may give rise to a cause of action under the Act.

Section 6.02 Developer’s Right to Continue Development. The City and the Developer hereby agree that, subject to Section 8.05 of this Agreement, the Developer may sell all or a portion of the Tract to one or more Persons who shall be bound by this Agreement and perform the obligations of Developer hereunder relative to the portion of the Tract acquired by such Persons, provided that the Developer shall retain ultimate responsibility for complying with the terms of this Agreement unless the City agrees in writing that the purchaser shall be responsible for and perform the Developer’s obligations, which such consent shall not be unreasonably delayed, conditioned, or withheld. The City shall be provided with a written copy of any assignment made under this section.

Section 6.03 Assignment of Obligations. Developer agrees that regarding any of Developer’s obligations in this Agreement that are contemplated to ultimately become obligations of the District, Developer shall assign to the District such obligations upon creation and confirmation of the District.

ARTICLE VII MATERIAL BREACH, NOTICE, AND REMEDIES

Section 7.01 Material Breach of Agreement. It is the intention of the Parties to this Agreement that the Tract be developed in accordance with the terms of this Agreement and the City's Development Code to the extent such is applicable in the ETJ, and that Developer follow the development plans substantially as set out in the Development Plan.

(a) The Parties acknowledge and agree that any Material Change from the Development Plan and the concepts of development contained therein and any material deviation by Developer from the material terms of this Agreement would frustrate the intent of this Agreement, and therefore, would be a material breach of this Agreement. A material breach of this Agreement by Developer shall be deemed to have occurred in any of the following instances:

1. Developer's failure to develop the Tract in compliance with the approved Development Plan, as from time to time amended, provided that the Parties agree that nothing in this Agreement can compel the Developer to proceed or continue to develop the Tract within any time period;

2. Developer's failure to secure the City's approval of any Material Change to the Development Plan; or

3. Failure of the Developer to substantially comply with a provision of this Agreement or the City Code applicable to the land in the District.

(b) The Parties acknowledge and agree that any substantial deviation by the City from the material terms of this Agreement would frustrate the intent of this Agreement and, therefore, would be a material breach of this Agreement. A material breach of this Agreement by the City shall be deemed to have occurred in any of the following instances:

1. The imposition or attempted imposition of any moratorium on building or growth on the Tract prohibited by State law or this Agreement unless necessitated by public emergency and authorized by law;

2. The imposition of a requirement to provide regionalization or oversizing of public utilities through some method substantially or materially different than the plan set forth in this Agreement, unless agreed to in writing by the Parties;

3. An attempt by the City to require modification or amendment of the Development Plan where it complies with the requirements of this Agreement; or

4. An attempt by the City to unreasonably withhold approval of a plat of land within the Tract that complies with the requirements of this Agreement and any applicable Development Code.

If a Party to this Agreement believes that another Party has, by act or omission, committed a material breach of this Agreement, the provisions of this Article VII shall provide the remedies for such default.

Section 7.02 Notice of Developer's Default.

(a) The City shall notify the Developer and each Designated Mortgagee, if any, in writing of an alleged failure by the Developer to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The alleged defaulting Developer shall, within thirty (30) days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or, in a written response to the City, either (i) present facts and arguments in refutation or excuse of such alleged failure or (ii) state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(b) The City shall determine (i) whether a failure to comply with a provision has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been cured or will be cured by the alleged defaulting Developer or a Designated Mortgagee. The alleged defaulting Developer shall make available to the City, if requested, any records, documents, or other information necessary to make such determination.

(c) In the event that the City determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the City, or that such failure is excusable, such determination shall conclude the investigation.

(d) If the City determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the alleged defaulting Developer or a Designated Mortgagee in a manner and in accordance with a schedule reasonably satisfactory to the City, then the City Council may proceed to mediation under Section 7.04 and subsequently may exercise the applicable remedy under Section 7.05.

Section 7.03 Notice of City's Default.

(a) The Developer shall notify the City in writing of an alleged failure by the City to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The City shall, within thirty (30) days after receipt of such notice or such longer period of time as the Developer may specify in such notice, either cure such alleged failure or, in a written response to the Developer, either (i) present facts and arguments in refutation or excuse of such alleged failure or (ii) state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(b) The Developer shall determine (i) whether a failure to comply with a provision has occurred; (ii) whether such failure is excusable; and (iii) whether such failure has been cured or will be cured by the City. The City shall make available to the Developer, if requested, any records, documents or other information necessary to make the determination.

(c) In the event that the Developer determines that such failure has not occurred or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the Developer, or that such failure is excusable, such determination shall conclude the investigation.

(d) If the Developer determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the City in a manner

and in accordance with a schedule reasonably satisfactory to the Developer, then the Developer may proceed to mediation under Section 7.04 and subsequently exercise the applicable remedy under Section 7.05.

Section 7.04 Mediation. In the event the Parties to this Agreement cannot, within a reasonable time, resolve their dispute pursuant to the procedures described in Sections 7.02 or 7.03, the Parties agree to submit the disputed issue to non-binding mediation. The Parties shall participate in good faith, but in no event shall they be obligated to pursue mediation that does not resolve the issue within fourteen (14) days after the mediation is initiated or thirty (30) days after mediation is requested. The Parties participating in the mediation shall share the costs of the mediation equally.

Section 7.05 Remedies.

(a) In the event of a determination by the City that the Developer has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 7.04, the City may file suit in a court of competent jurisdiction and seek any relief available at law or in equity.

(b) In the event of a determination by a Developer that the City has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 7.04, the Developer may file suit in a court of competent jurisdiction and seek any relief available at law or in equity, including, but not limited to, specific enforcement of this Agreement.

ARTICLE VIII BINDING AGREEMENT, TERM, AMENDMENT, AND ASSIGNMENT

Section 8.01 Beneficiaries. This Agreement shall bind and inure to the benefit of the City and the Developer and their respective successors and assigns. In addition to the City and the Developer, Designated Mortgagees and their successors or assigns shall also be deemed beneficiaries to this Agreement. The terms of this Agreement shall constitute covenants running with the land comprising the Tract and shall be binding on all future developers and owners of any portion of the Tract, other than Ultimate Consumers. Notwithstanding the foregoing statement, an Ultimate Consumer shall be bound by the Developer's submittal of the District Petition, to the extent allowed by law, and shall be bound by the Developer's waiver of rights described in Section 6.01.

Section 8.02 Liability of Ultimate Consumer. Ultimate Consumers shall have no liability for the failure of the Developer to comply with the terms of this Agreement and shall only be liable for their own failure to comply with the recorded declaration of restrictive covenants and land use restrictions applicable to the use of their tract or lot.

Section 8.03 Term. This Agreement shall bind the Parties and continue for forty (40) years from the Effective Date of this Agreement, unless terminated on an earlier date pursuant to other provisions of this Agreement or by express written agreement executed by the City and Developer.

Section 8.04 Termination Filing. In the event this Agreement is terminated as provided in this Agreement or is terminated by mutual agreement of the Parties, upon request by a party, the Parties shall promptly execute and file of record, in the County Clerk's Official Records, a

document confirming the termination of this Agreement, and such other documents as may be appropriate to reflect the basis upon which such termination occurred.

Section 8.05 Assignment or Sale. All covenants and agreements contained by or on behalf of a party in this Agreement shall bind its successors and assigns (other than an Ultimate Consumer) and shall inure to the benefit of the other Parties and their successors and assigns. The Parties may assign their rights and obligations under this Agreement or any interest herein. If the Developer proposes to sell all or substantially all of the Tract owned at such time by the Developer, the Developer shall provide prior written notice of such sale to the City. Any person who acquires the Tract or any portion of the Tract, except for an Ultimate Consumer whose liability is defined in Section 8.01 and 8.02 above, shall take the Tract subject to the terms of this Agreement and shall provide written acknowledgment to an assignment of said terms, receipt of which by the City shall constitute its consent for purposes of Section 6.02 of this Agreement.

ARTICLE IX MISCELLANEOUS PROVISIONS

Section 9.01 Reserved.

Section 9.02 Notice. The Parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications (“Notice”) required to be given by one party to another by this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party (a) by delivering the same in person; (b) by depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to the Party to be notified; or (c) by depositing the same with Federal Express or another nationally recognized courier service guaranteeing “next day delivery,” addressed to the party to be notified. Any notice required to be given by a party to a Designated Mortgagee shall be given as provided above at the address designated upon the identification of the Designated Mortgagee. Notice deposited in the United States mail in the manner herein above described shall be deemed effective from and after three (3) days after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the Parties, until changed as provided below, shall be as follows:

City:	City of Huntsville Attn: City Manager 1212 Avenue M Huntsville, TX 77340
With copy to:	City Attorney – Leonard Schneider 2261 Northpark Drive, Suite 445 Kingwood, TX 77339
Developer:	Forestar (USA) Real Estate Group, Inc. Attn: Justine Collier Klinke 3355 West Alabama, Suite 210 Houston, Texas 77098

With copy to: Allen Boone Humphries Robinson LLP
Attn: David Oliver
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027

The Parties shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by giving at least five (5) days written notice to the other Parties. A Designated Mortgagee may change its address in the same manner by written notice to all of the Parties. If any date or any period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following such Saturday, Sunday or legal holiday.

Section 9.03 Time. Time is of the essence in all things pertaining to the performance of this Agreement.

Section 9.04 Severability. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected.

Section 9.05 Waiver. Any failure by a party hereto to insist upon strict performance by the other party of any material provision of this Agreement shall not be deemed a waiver thereof or of any other provision hereof, and such party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

Section 9.06 Applicable Law and Venue. The construction and validity of this Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law principles. Venue shall be in Walker County, Texas.

Section 9.07 Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws.

Section 9.08 Further Documents. The Parties agree that at any time after execution of this Agreement, they will, upon request of another party, execute and deliver such further documents and do such further acts and things as the other party may reasonably request in order to effectuate the terms of this Agreement.

Section 9.09 Incorporation of Exhibits and Other Documents by Reference. All Exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

Section 9.10 Conflicts. In the event of any conflict between this Agreement and any other ordinance, rule, regulation, standard, policy, order, guideline, or other City-adopted or City-enforced requirement, whether existing on the Effective Date or hereinafter adopted, this Agreement shall control, except as otherwise expressly provided in this Agreement. In the event of any conflict between any provision of the Agreement and the Development Code, the provisions of the Agreement shall control.

Section 9.11 Effect of State and Federal Laws. Notwithstanding any other provision of this Agreement, Developer and its successors or assigns, shall comply with all applicable statutes

or regulations of the United States and the State of Texas, as well as any City ordinances not in conflict with this Agreement, and any rules implementing such statutes or regulations.

Section 9.12 Authority for Execution. The City hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the City Charter, City ordinances, and the laws of the State of Texas. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the certificate of formation and company agreements of such entity.

Section 9.13 Multiple Counterparts. This Agreement may be executed in multiple original counterparts, and such counterparts, when taken together, shall have the full force and effect of an original, fully executed instrument.

Section 9.14 Texas Government Code Chapter 2271. The City is prohibited from contracting with any “company” for goods and services unless the following verification is included in this contract. If Developer qualifies as a “company”, then Developer verifies that it: (a) does not “boycott Israel”; and (b) will not “boycott Israel” during the term of this Agreement. For the purposes of this section only, the terms “company” and “boycott Israel” have the meaning assigned by Section 2271.001, Texas Government Code. Developer’s obligations under this section, if any exist, will automatically cease or be reduced to the extent that the requirements of Chapter 2271, Texas Government Code are subsequently repealed, reduced, or declared unenforceable or invalid, in whole or in part, by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Agreement.

Section 9.15 Foreign Terrorist Organizations. Pursuant to Chapter 2252, Texas Government Code, at the time of execution of this Agreement, if Developer qualifies as a “company” as defined by Section 2270.0001 of the Texas Government Code, then Developer verifies it is not a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code.

Section 9.16 Companies that Boycott Certain Energy Companies or Discriminate Against the Firearms or Ammunitions Industries. The Developer agrees and represents that the total value of this Agreement shall not exceed the dollar limitation set forth in Section 2274.002(a)(2) of the Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) and Section 2274.002(a)(2) of the Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session).

Section 9.17 Extraterritorial Jurisdiction Inclusion. The Parties recognize that the entirety of the Tract is currently located within the City’s ETJ. The Developer represents that for so long as (i) the Developer is owner of the Tract or any portion thereof; and (ii) this Agreement is in effect, the Developer shall not submit a petition or request to the City to opt out of the City’s ETJ.

Section 9.18 Homeowner’s Association Requirements. The Developer will create detailed deed restrictions and a HOA that will enforce the restrictions set forth herein. The Developer agrees to record the deed restrictions and will provide the City with such recorded copies.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned parties have executed this Development Agreement to be effective as of the Effective Date first written above.

CITY OF HUNTSVILLE, TEXAS

CITY MANAGER

ATTEST:

APPROVED AS TO FORM:

CITY SECRETARY

CITY ATTORNEY

THE STATE OF TEXAS

§
§
§

COUNTY OF WALKER

This instrument was acknowledged before me on _____, 2023,
by Aron Kulhavy, City Manger of the City of Huntsville, Texas, in the capacity therein stated.

(SEAL)

Notary Public in and for
the State of Texas

EXHIBIT A

THE TRACT

[attached]

METES AND BOUNDS DESCRIPTION
226.5 ACRES
IN THE WILLIAM MCDONALD SURVEY, ABSTRACT NO. 30
WALKER COUNTY, TEXAS

A 226.5 ACRE TRACT OF LAND IN THE WILLIAM MCDONALD SURVEY, ABSTRACT NO. 30, WALKER COUNTY, TEXAS, BEING OUT OF A TRACT OF LAND, CONVEYED TO DAVID M. SMITH, AS RECORDED UNDER INSTRUMENT NUMBERS 69259, 69260, AND 80800 OF THE OFFICIAL PROPERTY RECORDS OF WALKER COUNTY, TEXAS (O.P.R.W.C.T.) THE SAID 226.5 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set in the northwesterly Right-of-Way (R.O.W.) line of F.M. 1374 (100-feet-wide) as recorded under Volume (Vol.) 153, Page (Pg.) 232 of the Walker County Deed Records (W.C.D.R.) for the southeast corner of a called 10.438 acre tract of land, conveyed to Kin Tien Lim and Dan Liu, as recorded under instrument number (no.) 83308, O.P.R.W.C.T., the northeast corner of the herein described tract, and the beginning of a non-tangent curve to the left, from which a found capped 1/2-inch iron rod stamped "TPS 100834-00" bears for reference North 87°21'08" West, a distance of 0.89 feet;

THENCE, along the northwesterly R.O.W. line of said F.M. 1374, the following three (3) courses and distances:

- 1) In a southwesterly direction, along the arc of said non-tangent curve to the left having a radius of 5779.34 feet, a central angle of 08°11'00", an arc length of 825.44 feet, and a chord bearing of South 23°10'28" West, for a distance of 824.74 feet; to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the point of tangency;
- 2) South 19°04'58" West, a distance of 574.60 feet to a concrete monument found marking the beginning of a curve to the right;
- 3) In a southwesterly direction, along the arc of said curve to the right having a radius of 2814.79 feet, a central angle of 17°31'53", an arc length of 861.27 feet, and a chord bearing of South 27°50'55" West, for a distance of 857.91 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the east corner of a called 5.71 acre tract of land (originally called 6.3 acres) as recorded under Vol. 97, Pg. 420 W.C.D.R., described in boundary agreement recorded under Vol. 432, Pg. 625 W.C.D.R., from which a found 1/2-inch iron rod bears for reference North 58°58' West, a distance of 10.0 feet, and a found concrete monument bears for reference South 38°12'56" West, a distance of 158.30 feet;

THENCE, North 51°10'53" West, along the northeast line of said 5.71 acre tract, a distance of 394.12 feet to a 1/2-inch iron rod found marking the north corner of said 5.71 acre tract and an interior corner of the herein described tract;

THENCE, South 39°14'27" West, along the northwest line of said 5.71 acre tract, a distance of 629.33 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the west corner of said 5.71 acre tract and a northerly corner of a called 58.17 acre tract of land, conveyed to Jose and Dayana Aldaba, as recorded under instrument no. 69213, O.P.R.W.C.T.;

THENCE, along the northerly lines of said 58.17 acre tract, the following six (6) courses and distances;

- 1) South 66°34'01" West, a distance of 27.42 feet to a 1/2-inch iron rod found marking an angle point, from which a found concrete monument bears for reference South 48°52'30" East, a distance of 404.88 feet;

- 2) South 84°44'07" West, a distance of 971.00 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 3) South 77°41'38" West, a distance of 247.70 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 4) North 82°23'31" West, a distance of 804.25 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an exterior corner;
- 5) North 02°27'30" East, a distance of 281.12 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the most northerly corner of said 58.17 acre tract, and an interior corner of the herein described tract;
- 6) South 72°06'03" West, a distance of 1,214.07 feet to a cut "X" in concrete, at the base of a gate post, set in the east line of a 5.765 acre tract of land, conveyed to Isaac L. Martin, III, as recorded under instrument no. 62597, O.P.R.W.C.T. (correction affidavit filed under instrument no. 63278, O.P.R.W.C.T.), marking the northwest corner of said 58.17 acre tract, and the southwest corner of the herein described tract;

THENCE, along the easterly lines of said 5.765 acre tract, the following four (4) courses and distances:

- 1) North 10°45'07" East, a distance of 379.58 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 2) North 03°46'28" East, a distance of 528.69 feet to a 12-inch oak tree found marking an angle point;
- 3) North 64°36'23" West, a distance of 459.40 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 4) North 33°58'11" West, a distance of 211.00 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the north corner of said 5.765 acre tract, and an angle point in the east line of a called 165.35 acre tract of land, conveyed to Isaac L. Martin, III, as recorded under instrument no. 60048, O.P.R.W.C.T.;

THENCE, along the easterly lines of said 165.35 acre tract, the following seven (7) courses and distances:

- 1) North 18°18'17" West, passing at a distance of 211.54 feet, a found capped 1/2-inch iron rod stamped "Adams 3666 5611" and continuing for a total distance of 251.01 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 2) North 50°04'19" West, a distance of 24.90 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 3) North 30°46'11" West, a distance of 119.50 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 4) North 12°58'56" West, a distance of 238.30 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 5) North 02°43'27" West, a distance of 68.10 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;

- 6) North 18°32'26" West, a distance of 244.10 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 7) North 36°37'38" West, a distance of 27.30 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the southwest corner of a called 33.42 acre tract of land, conveyed to Lex and Stacey Forgason, as recorded under instrument no. 63823, O.P.R.W.C.T., and the northwest corner of the herein described tract;

THENCE, North 87°21'08" East, along the south line of said 33.42 acre tract, the south line of a called 10.698 acre tract of land, conveyed to Mustard Seed Holdings, LLC, as recorded under instrument no. 83951, O.P.R.W.C.T., the south line of a called 11.555 acre tract of land and a 13.552 acre tract of land, both conveyed to Stephanie and Aaron Hansz, as recorded under instrument no. 82610, O.P.R.W.C.T., the south line of a called 13.918 acre tract of land conveyed to Cameron and Kaley Miller, as recorded under instrument no. 85683, O.P.R.W.C.T., the south line of a called 12.645 acre tract of land, conveyed to Aaron and Ashleigh Fritsch, as recorded under instrument no. 81817, O.P.R.W.C.T., the south line of said 10.438 acre tract of land, and over and across said David M. Smith tract, passing at a distance of 54.75 feet, a found capped 1/2-inch iron rod stamped "Adams 3666 5611", passing at a distance of 3,873.96 feet, a 1/2-inch iron rod found marking the southwest corner of said 13.918 acre tract, passing at a distance of 4,536.18, a capped 1/2-inch iron rod stamped "TPS 100834-00" found marking the southeast corner of said 13.918 acre tract, common with the southwest corner of said 12.645 acre tract, passing at a distance of 5,137.94 feet, a capped 1/2-inch iron rod stamped "TPS 100834-00" found marking the southeast corner of said 12.645 acre tract, common with the southwest corner of said 10.438 acre tract, and continuing for a total distance of 5,535.79 feet to the **POINT OF BEGINNING** and containing 226.5 acres of land. This description is accompanied by a land title survey of even date.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



Kevin M. Reidy, R.P.L.S.
Texas Registration No. 6450
10011 Meadowglen Lane
Houston, Texas 77042
713-784-4500



Date: April, 2023 – Revised 7.5.23, and 8.11.23

Job No: 231-008-00

File No: R:\2023\231-008-00\Docs\Description\Boundary\226.5AC-R1-MB.doc

EXHIBIT B
DEVELOPMENT PLAN

[attached]

DEVELOPMENT PLAN HUNTSVILLE MUNICIPAL UTILITY DISTRICT NO. 2

A. Introduction

Enclosed is a Development Plan (DP) for Huntsville Municipal Utility District No. 2 ("Project"). This project provides an important opportunity for the City of Huntsville ("City") to participate in the creation of a master planned community within its Extraterritorial Jurisdiction (ETJ). The proposed plan incorporates elements of the City's regulations for developments within its corporate limits, as well as elements of Walker County's subdivision requirements. The proposed plan is intended to align these regulations with the goals and objectives of a contemporary master planned community.

The Project is a master planned community consisting of 226.5 acres located west of F.M. 1374 and approximately 900 feet south of Robinson Creek Road. Furthermore, it is located fully in Walker County ("County") and fully within the City's ETJ. It is approximately four miles southwest of central Huntsville. The developer desires to construct a community that features recreational amenities and open space, resulting in a desirable and cohesive development that enhances the area.

All aspects of the City's development code apply to this project except for any zoning or land use regulations. Furthermore, the County has deferred planning decisions for this Project to the City. As a result, the rules and regulations at the time of the approval of this document of the City will guide the development of this community, save and except for the variances included herein.

This Development Plan, its description, rules, and regulations shall apply to the entirety of property as is depicted on Figure 1 – Subject Tract.

This Development Plan includes the following sections:

- A. Introduction
- B. General Provisions
- C. Land Uses
- D. Development Regulations
- E. Parks, Recreation and Trails
- F. Utilities
- G. Applicable Codes
- H. Variance Requests



B. General Provisions

1. The Project will be constructed, developed, and maintained in compliance with this DP.
2. If there are discrepancies between the text of this document and the figures attached, the text shall prevail.
3. The Project shall be developed in accordance with the following figures that are attached to and made part of this DP:

Figure 1 – Subject Tract
Figure 2 – Conceptual Lotting Plan
Figure 3 – North Entry Intersection Diagram
Figure 4 – Street Type Designation Map
Figure 5 – Street Cross-Section, Local Street
Figure 6 – Street Cross-Section, Internal Collector Street
Figure 7 – Conceptual Landscape and Open Space Plan

Table 1 – Code Comparisons

4. A municipal utility district (“MUD”) to be known as “Huntsville Municipal Utility District No. 2” shall be created upon the property associated with the Project described in Figure 1 – Subject Tract.
5. Figure 2 – Conceptual Lotting Plan illustrates the proposed street layout and lotting and is subject to change.
6. A homeowners’ association shall be established and made legally responsible to maintain all common areas, private streets, recreation reserves, and community amenities not otherwise dedicated to the public or the MUD. All land and facilities dedicated to the MUD shall be maintained by said District.
7. Driveway permits from TxDOT shall be required prior to the issuance of any home construction permits. Figure 3 – North Entry Intersection Diagram illustrates a proposed right turn lane along F.M. 1374.
8. Access to the detention pond will be provided by a permanent access easement.

C. Land Uses

The proposed land uses include single family residential, water plant, stormwater detention, and green space (neighborhood parks, open spaces, and recreation areas). No commercial or industrial land uses are proposed.



D. Development Regulations

1. Lot Area and Width.

The minimum lot area shall be 6,000 square feet and the minimum lot width shall be 50 feet. Lot width shall be measured between the side lot lines at the midpoint between the front and rear lot lines.

2. Lot Depth.

No minimum lot depth shall be required provided that all lots are a minimum of 50 feet in width and 6,000 square feet in area.

3. Side Building Setback.

All lots shall have a minimum side building setback of five feet between lots. Street corner lots shall have a side yard setback of 15 feet from the side right-of-way line.

4. Front Building Setback.

All lots shall have a minimum front building setback of 25 feet. Each street corner lot shall have the required front yard on at least one side fronting a street.

5. Rear Building Setback.

All lots shall have a minimum rear building setback of ten feet.

6. Right-of-Way; Street Pavement.

Streets within the Project shall be dedicated and installed in substantially the same layout as shown in Figure 4 – Street Type Designation Map. The minimum right-of-way width for local streets shall be 50 feet with a minimum pavement width of 28 feet. The minimum right-of-way width for internal collector streets shall be 60 feet with a minimum pavement width of 32 feet. All pavement shall be 6" thick concrete. Cul-de-sac bulbs shall have a 50-foot right-of-way radius and a minimum 40-foot paving radius. Streets shall be constructed as shown on Figure 5 – Street Cross Section, Local Street, and Figure 6 – Street Cross Section, Internal Collector Street.

7. Centerlines.

The minimum centerline radius shall be 300 feet for local streets and 800 feet for internal collector streets. Reverse curves shall be separated by a tangent distance of at least 100 feet for local streets and at least 500 feet for internal collector streets. This shall not apply to "L type" intersections. These types of intersections shall have a minimum centerline radius of 50 feet.

8. Cul-de-Sacs.

Cul-de-sac streets shall not exceed 700 feet in length or serve more than 25 dwelling units. The length of a cul-de-sac street is measured from the center point of its turnaround, along the centerline of its right-of-way to the nearest edge of the right-of-way of the nearest intersecting street.



9. Parking.

Each dwelling unit shall have a minimum of two off-street parking spaces.

10. Points of Access.

Subdivision sections containing less than 75 lots shall provide at least one point of access to a public street adjacent to the subdivision. Subdivision sections containing 75 lots or more shall have at least two points of access.

E. Parks, Recreation, and Trails – As shown on Figure 6 – Conceptual Landscape and Open Space Plan, green space shall be provided in accordance with the following regulations.

1. Green Space.

The development of the Property shall include green space at a rate of 1 acre per 100 lots and provided in accordance with the following regulations.

- A minimum of 50% of the required green space shall be “amenitized green space” and consist of:
 - a) Small “pocket parks”, recreation reserves of a minimum 1/2 acre, located so that nearly every home is located within 1/4 mile from the nearest park.
 - b) A recreation reserve, at a minimum of one acre, that includes recreation, playground, picnic areas, and/or other active recreational uses.
 - c) Open space reserves of a minimum 1/4 acre that include amenities such as sidewalks, benches, and landscaping.
- A maximum of 50% of the required green space shall be “unimproved green space” and consist of:
 - a) Unencumbered open space.
 - b) Half of the land which is encumbered by detention areas, lake and drainage channel borders, or other similar characteristics, if it complies with criteria listed below.
 - Areas along lake and drainage channel borders with an average width of at least 30’ and a minimum width of 20’.
 - Side slopes with a ratio of less than four to one.

2. Pedestrian Access Reserves.

Each permanent lake shall have a minimum of two 20-foot-wide pedestrian access reserves from the adjacent streets.

3. Sidewalks.

Minimum five-foot-wide sidewalks shall be provided along both sides of both local and internal collector streets within the property. At the discretion of the developer, a six-foot-wide joint use trail may be constructed on one side of an internal collector street in lieu of a five-foot-wide sidewalk on each side of the right-of-way. In either case, the sidewalks or joint use trail may meander out of the right-of-way and into an adjacent landscape reserve if so provided. The City shall not be responsible for the maintenance of the joint-use trail, its ancillary signage, and landscaping. All sidewalks shall meet the



State of Texas ADA standards. Construction of sidewalks in shared open spaces or adjacent to the internal collector street may be delayed until the end of the Project to prevent the possibility of construction damage.

F. Utilities

1. The City will provide sanitary sewer service via an existing City sanitary sewer line on the far west boundary of the project. Water service will be provided by the City from existing capacity in its water plant, and the developer will construct water trunk lines to connect the Project to the City's water plant.
2. Polypropylene pipes will be allowed for storm drainage.

G. Applicable Codes

The Project will abide by the codes in place for the City of Huntsville at the time of the approval of this document. The codes currently in place are as follows:

- Building
 - International Building Code 2015
 - International Residential Code 2015
 - City of Huntsville Code of Ordinances, Chapter 12
- Grading and Excavation
 - International Building Code, Appendix J – Grading 2015
 - City of Huntsville Code of Ordinances, Chapter 12
- Swimming Pools
 - International Swimming Pool & Spa Code 2015
 - International Plumbing Code 2015
 - City of Huntsville Code of Ordinances, Chapter 12
- Air Conditioning/Heating
 - International Mechanical Code 2015
 - City of Huntsville Code of Ordinances, Chapter 12
- Plumbing
 - International Plumbing Code 2015
 - International Fuel Gas Code 2015
 - City of Huntsville Code of Ordinances, Chapter 12
- Electrical
 - National Electrical Code 2017
 - International Energy Code 2015
 - City of Huntsville Code of Ordinances, Chapter 12; Article V
- Fire
 - International Fire Prevention Code 2015
 - National Electrical Code 2017
 - City of Huntsville Code of Ordinances, Chapter 20
- Signs
 - City of Huntsville Development Code, Article 8



Table 1 – Code Comparisons			
	City of Huntsville	Walker County	Development Plan
Min. Lot Area	6,000 sq. ft.	None	6,000 sq. ft.
Min. Lot Width	50' at midpoint between front and rear lot lines, or 50' at setback for lots on cul-de-sacs	50' at R.O.W.	50' at midpoint between front and rear lot lines, or 50' at setback for lots on cul-de-sacs
Min. Lot Depth	None	None	No requirement provided that all lots are over 6,000 sq. ft. in area
Side Setback	5' between lots, 25' on street corners	25' on street corners	5' between lots, 15' on street corners
Front Setback	25'	25'	25'
Rear Setback	10'	None	10'
Local Street R.O.W. Width	50'	50'	50'
Local Street Pavement Width	28'	32'	28'
Max. Cul-de-sac Length	600', 15 dwelling units	1,250'	700', 25 dwelling units
*Internal Collector R.O.W. Width	None	None	60'
*Internal Collector Pavement Width	None	None	32'
*Internal Collector Min. Centerline	None	None	800' curve radius, 500' tangent
Sidewalks	5' wide	None	5' wide
Points of Access	Two points of access for subdivisions with 30 lots or more**	None	Two points of access for subdivisions with 75 lots or more
* Indicates new requirement **Per International Fire Code 2015			

H. Variance Requests

1. Street Corner Setback
 - *Request:* 15'
 - *City Regulation:* 25'
2. Maximum Cul-de-Sac Length
 - *Request:* 700', 25 dwelling units
 - *City Regulation:* 600', 15 dwelling units
3. Construction Plans
 - *Request:* Construction plans shall not be required to show water meter locations
4. Points of Access
 - *Request:* Two points of access for subdivisions with 75 lots or more
 - *City Regulation:* Two points of access for subdivisions with 30 lots or more



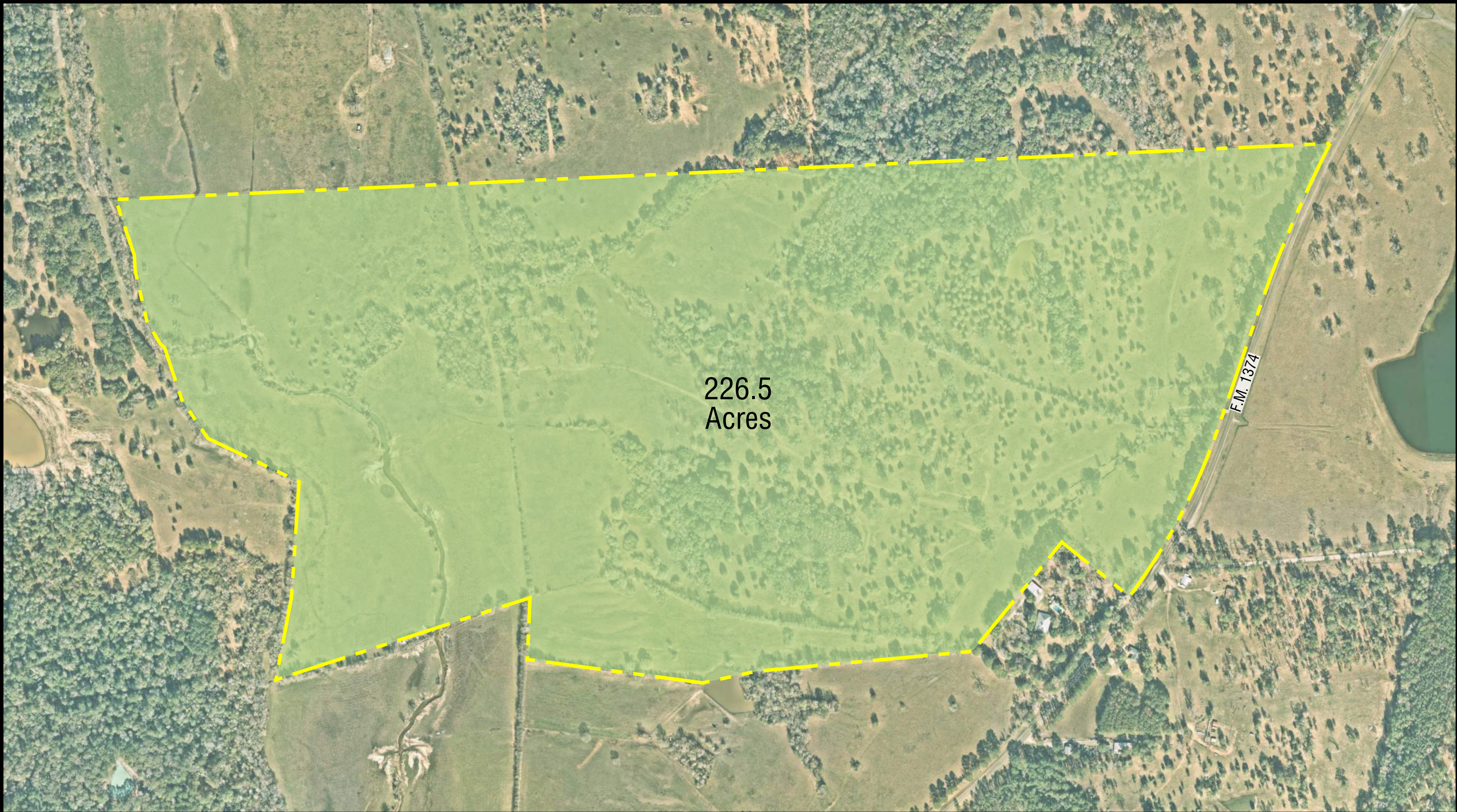


Figure 1: Subject Tract

City of Huntsville ETJ, Walker County, Texas

P:\221-120-00\LandPlan\Development Agreement\For Exhibit Prep\Subject Tract.dwg Jul 12, 2023-5:51pm Edited by: awaggoner

0 100' 200' 400'
SCALE: 1"=400'
TRUE SCALE AT 11" x 17"



EHRA JOB NO.
221-120-00
No warranty or representation of intended use,
design or proposed improvements are made
herein. All Plans for land or facilities are subject
to change without notice.



10011 MEADOWGLEN LANE
HOUSTON, TEXAS 77042
713.784.4500
EHRATEAM
TBPE No. F-726
TBPLS No. 10092300

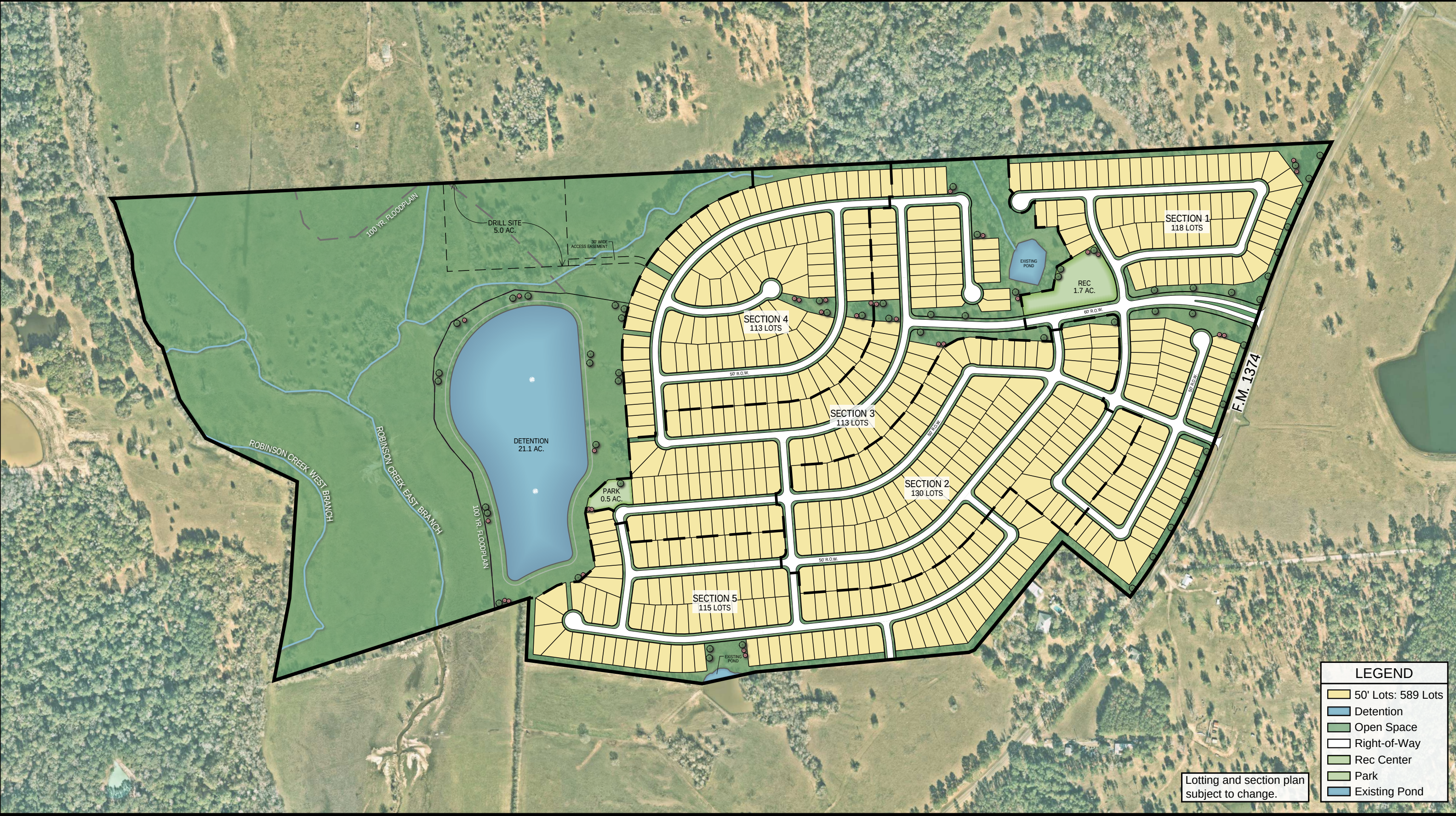


Figure 2: Conceptual Lotting Plan

City of Huntsville ETJ, Walker County, Texas

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0 100' 200' 400'
SCALE: 1"=400'
TRUE SCALE AT 11" x 17"



EHRA JOB NO.
221-120-00

No warranty or representation of intended use,
design or proposed improvements are made
herein. All Plans for land or facilities are subject
to change without notice.



10011 MEADOWGLEN LANE
HOUSTON, TEXAS 77042
713.784.4500
EHRATEAM
TBPE No. F-726
TBPLS No. 10092300



Figure 3: North Entry Intersection Diagram

City of Huntsville ETJ, Walker County, Texas

EHRA JOB NO. 221-120-00
P:\221-120-00\LandPlan\Development Agreement\For Exhibit Prep\North Entry Intersection Diagram.dwg Jul 12, 2023-11:44am Edited by: plipetska

0 20' 40' 80'
SCALE: 1" = 80'
TRUE SCALE AT 11" x 17"
NORTH

No warranty or representation of intended use, design or proposed improvements are made herein. All Plans for land or facilities are subject to change without notice.

EHRA
ENGINEERING THE FUTURE
SINCE 1936
10011 MEADOWGLEN LANE
HOUSTON, TEXAS 77042
713.784.4500
EHRA TEAM
TBPE No. F-726
TBPLS No. 10092300

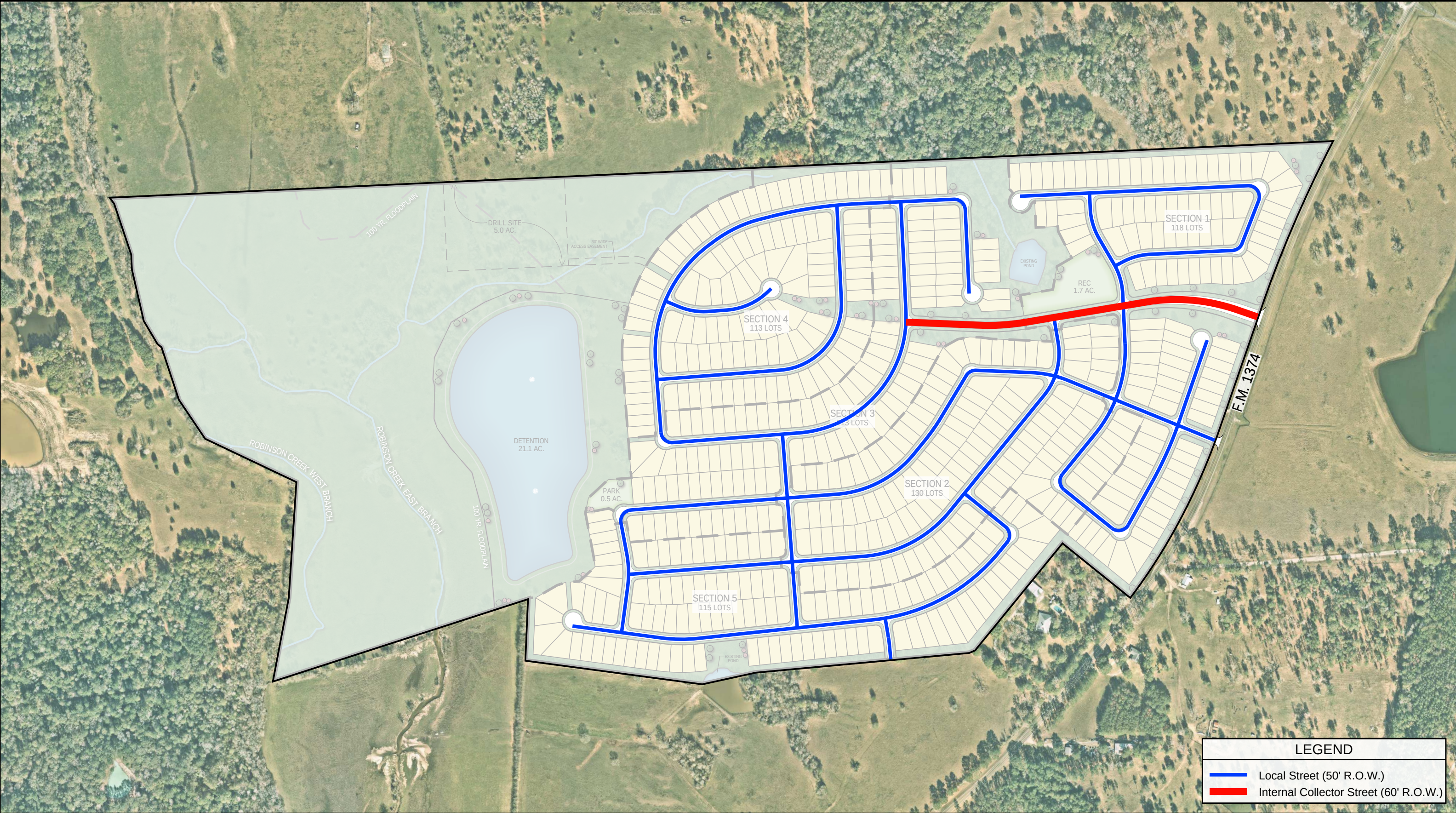


Figure 4: Street Type Designation Map

City of Huntsville ETJ, Walker County, Texas

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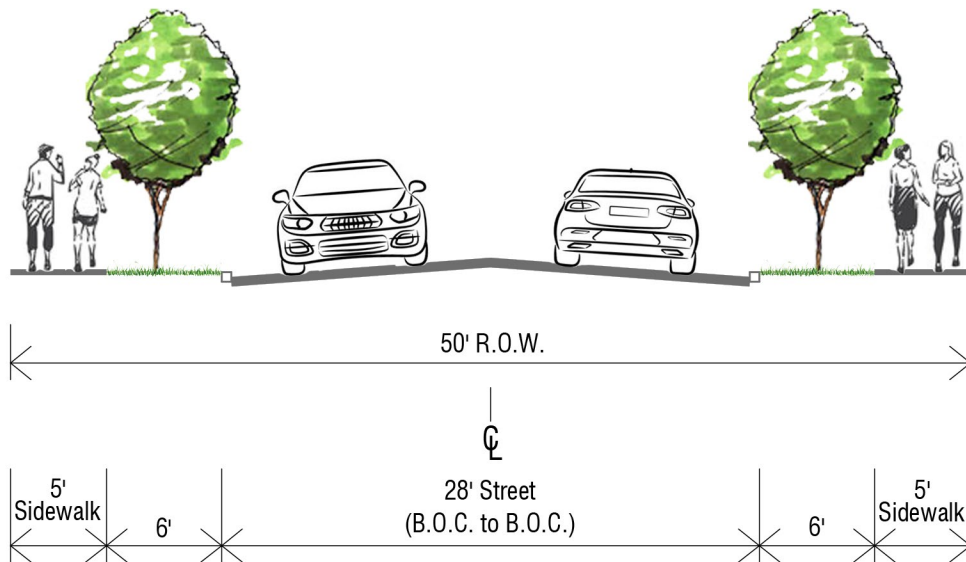
0 100' 200' 400'
SCALE: 1"=400'
TRUE SCALE AT 11" x 17"



EHRA JOB NO.
221-120-00
No warranty or representation of intended use,
design or proposed improvements are made
herein. All Plans for land or facilities are subject
to change without notice.



10011 MEADOWGLEN LANE
HOUSTON, TEXAS 77042
713.784.4500
EHRATEAM
TBPE No. F-726
TBPLS No. 10092300



Street trees shown are optional.

Figure 5: Street Cross-Section, Local Street

City of Huntsville ETJ, Walker County, Texas

NOT TO SCALE

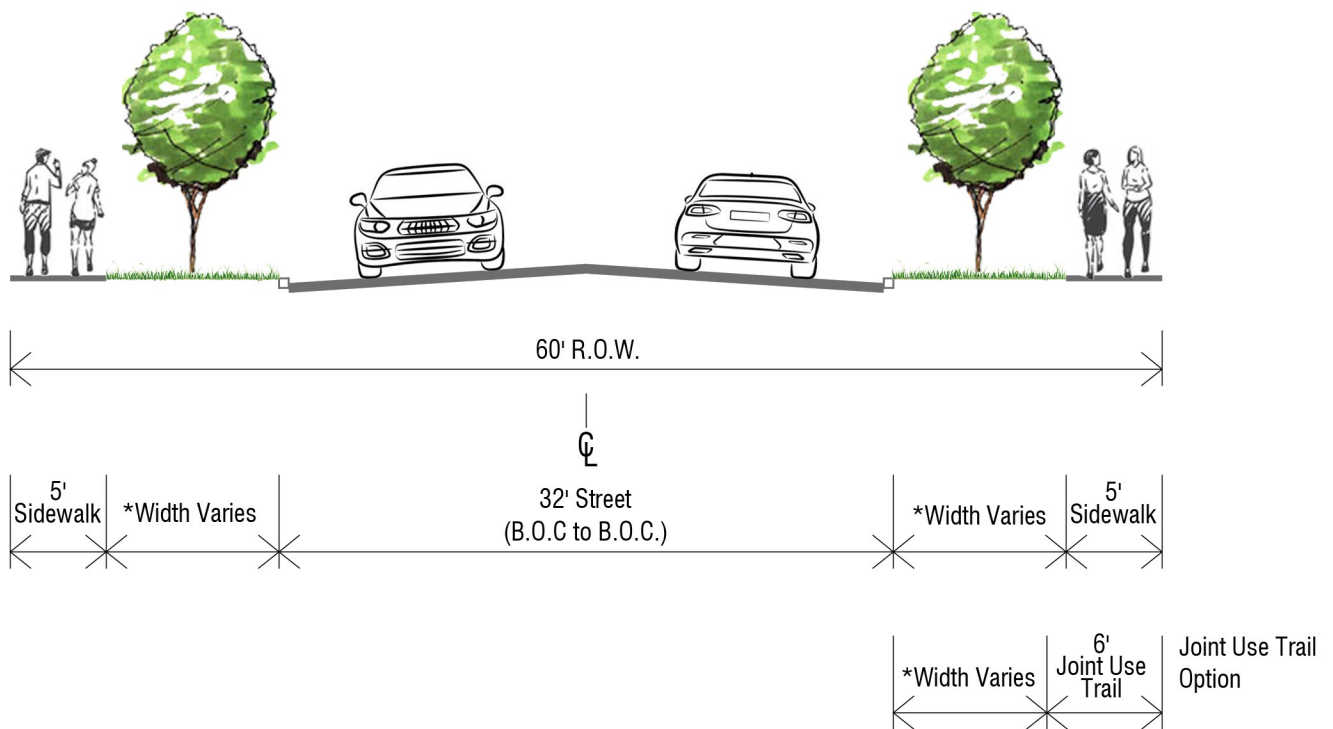


ENGINEERING THE FUTURE
SINCE 1936

EHRA JOB NO.
221-120-00

10011 MEADOWGLEN LANE
HOUSTON, TEXAS 77042
713.784.4500
EHRATEAM
TBPE No. F-726
TBPLS No. 10092300

No warranty or representation of
intended use, design or proposed
improvements are made herein. All
Plans for land or facilities are
subject to change without notice.



* Sidewalks or joint use trails may meander out of the right-of-way into an adjacent landscape reserve if so provided.

Street trees shown are optional.

Figure 6: Street Cross-Section, Internal Collector Street

City of Huntsville ETJ, Walker County, Texas

NOT TO SCALE

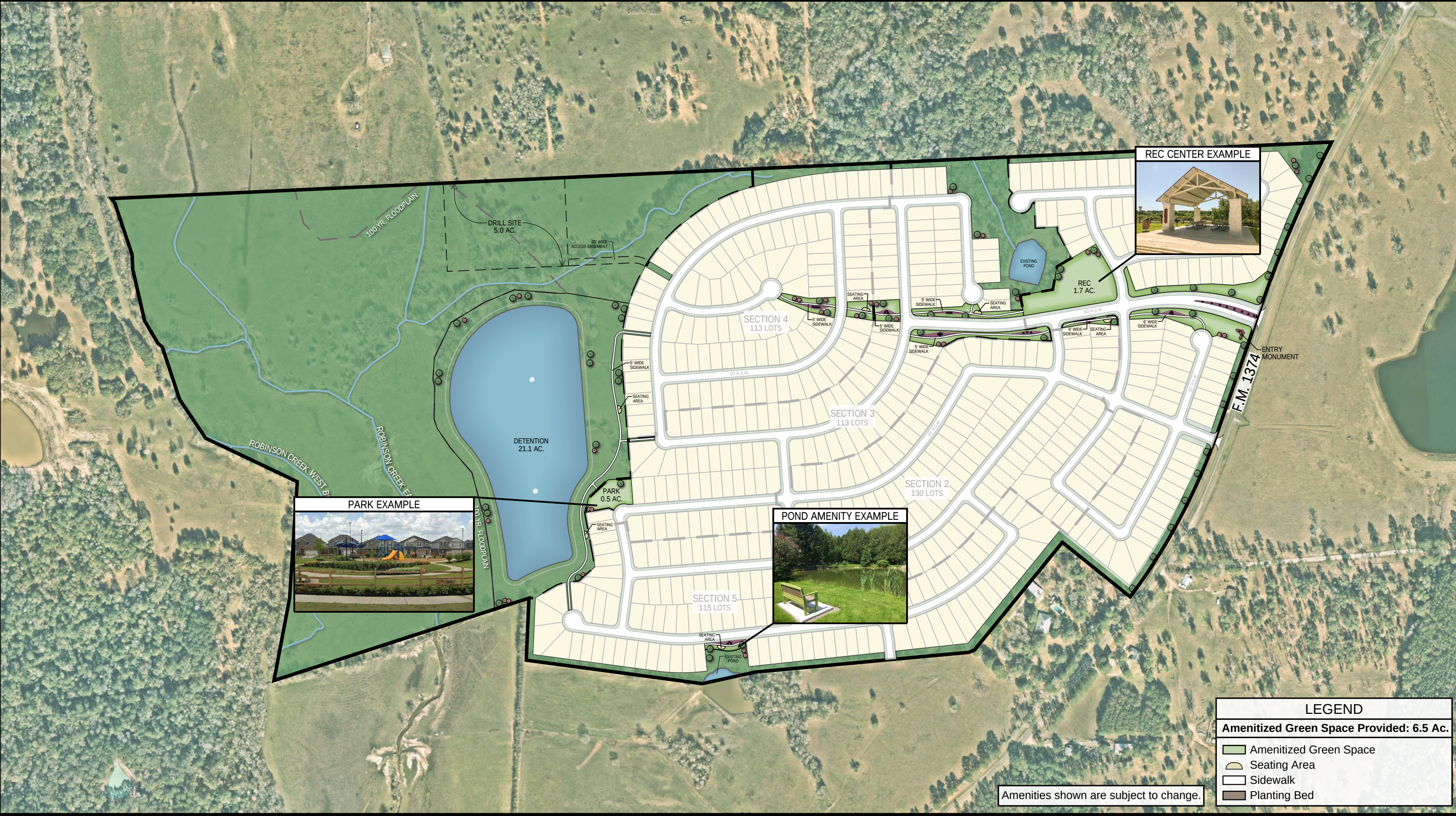


Figure 7: Conceptual Landscape and Open Space Plan

City of Huntsville ETJ, Walker County, Texas

0 75' 150' 300'
SCALE: 1"=300'
TRUE SCALE AT 11" x 17"



EHRA JOB NO.
221-120-00
No warranty or representation of intended use,
design or proposed improvements are made
herein. All Plans for land or facilities are subject
to change without notice.



10011 MEADOWGLEN LANE
HOUSTON, TEXAS 77042
713.784.4500
EHRATEAM
TBPE No. F-726
TBPLS No. 10092300

EXHIBIT C

CONSENT ORDINANCE AND CONSENT CONDITIONS

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF HUNTSVILLE, TEXAS
CONSENTING TO THE CREATION OF A MUNICIPAL UTILITY
DISTRICT TO BE KNOWN AS HUNTSVILLE MUNICIPAL UTILITY
DISTRICT NO. 2**

WHEREAS, Forestar (USA) Real Estate Group, Inc. (“Developer”) is or will be the owner of approximately 226.5 acres of land (the “Tract”), the entirety of which is located in the City’s extraterritorial jurisdiction; and

WHEREAS, Developer or the landowner has submitted to the City a Petition for Consent to the Creation of a Municipal Utility District, requesting the City’s consent to the creation of a municipal utility district over the boundaries of the Tract, as described therein.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE:

Section 1. The facts and recitations set forth in the preamble of this Resolution are hereby found to be true and correct.

Section 2. The Petition for Consent to the Creation of a Municipal Utility District is attached hereto as Exhibit “A” and made a part hereof for all purposes.

Section 3. The City Council of the City hereby specifically gives its written consent to the creation of a municipal utility district over the Tract subject to the condition that Petitioner fully comply with the conditions set forth in Exhibit “B” attached hereto and incorporated herein, as well as subject to such other provisions of the Code of Ordinances of the City, as may be applicable.

Section 4. The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by Chapter 551, Texas Government Code; and that this meeting had been open to the public as required by law at all times during which this Resolution and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 5. In addition to the conditions and requirements otherwise set out herein and unless otherwise agreed to in writing or a variance is expressly granted by City Council, the Consent as herein provided shall be conditioned on the owners of the real property within the Tract fully complying with all rules, regulations, and requirements that may be in existence or later provided as the same relates to any construction, configuration, or use of the Tract, whether directly expressed or provided by the City in such other agreements and documents that may be executed the development or use of Tract.

Section 6: Should any paragraph, sentence, clause, phrase or section of this Resolution be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Resolution as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 7: This Resolution shall become effective from and after the date of its final passage, and it is accordingly so ordained.

PASSED AND APPROVED THIS ____ DAY OF _____ 2023.

CITY OF HUNTSVILLE, TEXAS

Andy Brauning, Mayor

ATTEST:

Kristy Doll, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

PETITION FOR CONSENT TO THE CREATION
OF A MUNICIPAL UTILITY DISTRICT

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
HUNTSVILLE, TEXAS:

DAVID M. SMITH (herein the "Petitioner"), acting pursuant to the provisions of Chapters 49 and 54, Texas Water Code, respectfully petition the City Council of the City of Huntsville, Texas (the "City"), for its written consent to the creation of a municipal utility district and would show the following:

I.

The name of the proposed District shall be HUNTSVILLE MUNICIPAL UTILITY DISTRICT NO. 2 (the "District").

II.

The District shall be created and organized under the terms and provisions of Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code, together with all amendments and additions thereto.

III.

The District shall contain an area of 226.5 acres of land, more or less, situated in Walker County, Texas. All of the land proposed to be included within the District is within the extraterritorial jurisdiction of the City. All of the land proposed to be included may properly be included in the District. The land proposed to be included within the District is described in Exhibit A, which is attached hereto and incorporated herein for all purposes (the "Land").

IV.

Petitioner holds fee simple title to the Land. Petitioner hereby represents that he owns a majority in value of the Land, which is proposed to be included in the District, as indicated by the certificate of ownership provided by the Walker County Appraisal District.

V.

Petitioner represents that there are no lienholders on the Land and that there are no residents on the Land.

VI.

FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, has entered into an earnest money contract to purchase all of the Land and desires to be considered as a Petitioner for the consent to creation of the District.

VII.

The general nature of the work proposed to be done by the District at the present time is the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of a waterworks and sanitary sewer system for residential and commercial purposes, and the construction, acquisition, improvement, extension, maintenance and operation of works, improvements, facilities, plants, equipment and appliances helpful or necessary to provide more adequate drainage for the District, and to control, abate and amend local storm waters or other harmful excesses of waters, and such other purchase, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such additional facilities, including roads, parks and recreation facilities, systems, and enterprises as shall be consistent with all of the purposes for which the District is created (the "Project").

VIII.

There is, for the following reasons, a necessity for the above-described work. The area proposed to be within the District is urban in nature, is within the growing environs of the City, and is in close proximity to populous and developed sections of Walker County, Texas. There is not now available within the area, which will be developed for single family residential, multifamily, and commercial uses, an adequate waterworks system, sanitary sewer system, or drainage and storm sewer system, or roads, or parks and recreational facilities. The health and welfare of the present and future inhabitants of the area and of the territories adjacent thereto require the purchase, design, construction, acquisition, ownership, operation, repair, improvement and extension of an adequate waterworks system, sanitary sewer system, and drainage and storm sewer system, roads, or parks and recreational facilities. A public necessity, therefore, exists for the creation of the District, to provide for the purchase, design, construction, acquisition, maintenance, ownership, operation, repair, improvement and extension of such waterworks system, sanitary sewer system, and drainage and storm sewer system, roads, and parks and recreational facilities to promote the purity and sanitary condition of the State's waters and the public health and welfare of the community.

IX.

The Petitioner, by submission of this Petition, requests the City's consent to the creation of the District containing the Land under the same conditions as set forth in Exhibit B, which is attached hereto and incorporated herein for all purposes

X.

A preliminary investigation has been made to determine the cost of the proposed District's waterworks system, sanitary sewer system, and drainage and storm sewer system projects, and it is now estimated by the Petitioner, from such information as he has at this time, that such cost will be approximately \$18,905,670.

XII.

A preliminary investigation has been made to determine the cost of the proposed District's road projects, and it is now estimated by the Petitioner, from such information as he has at this time, that such cost will be approximately \$8,720,300.

XII.

A preliminary investigation has been made to determine the cost of the proposed District's park and recreational facilities, and it is now estimated by the Petitioner, from such information as he has at this time, that such cost will be approximately \$4,000,000.

XIII.

The total cost of the proposed District's projects is estimated by the Petitioner to be approximately \$31,625,970.

WHEREFORE, the Petitioner prays that this petition be heard and that the City Council duly pass and approve an ordinance granting the consent to the creation of the District and authorizing the inclusion of the Land within the District.

[EXECUTION PAGES FOLLOW]

RESPECTFULLY SUBMITTED this ____ day of _____, 2023.

DAVID M. SMITH

THE STATE OF TEXAS §
 §
COUNTY OF _____§

This instrument was acknowledged before me on the ____ day of _____,
2023, by DAVID M. SMITH.

Notary Public, State of Texas

(NOTARY SEAL)

**FORESTAR (USA) REAL ESTATE
GROUP INC.**

a Delaware corporation
(Earnest Money Contract Holder)

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____,
2023, by _____ of **FORESTAR (USA) REAL
ESTATE GROUP INC.**, a Delaware corporation, on behalf of said corporation.

Notary Public, State of Texas

(NOTARY SEAL)

Exhibit "A"

METES AND BOUNDS DESCRIPTION 226.5 ACRES IN THE WILLIAM MCDONALD SURVEY, ABSTRACT NO. 30 WALKER COUNTY, TEXAS

A 226.5 ACRE TRACT OF LAND IN THE WILLIAM MCDONALD SURVEY, ABSTRACT NO. 30, WALKER COUNTY, TEXAS, BEING OUT OF A TRACT OF LAND, CONVEYED TO DAVID M. SMITH, AS RECORDED UNDER INSTRUMENT NUMBERS 69259, 69260, AND 80800 OF THE OFFICIAL PROPERTY RECORDS OF WALKER COUNTY, TEXAS (O.P.S.W.C.T.) THE SAID 226.5 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS):

BEGINNING at a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set in the northwesterly Right-of-Way (R.O.W.) line of F.M. 1374 (100-feet-wide) as recorded under Volume (Vol.) 153, Page (Pg.) 232 of the Walker County Deed Records (W.C.D.R.) for the southeast corner of a called 10.438 acre tract of land, conveyed to Kin Tien Lim and Dan Liu, as recorded under instrument number (no.) 83308, O.P.R.W.C.T., the northeast corner of the herein described tract, and the beginning of a non-tangent curve to the left, from which a found capped 1/2-inch iron rod stamped "TPS 100834-00" bears for reference North 87°21'08" West, a distance of 0.89 feet;

THENCE, along the northwesterly R.O.W. line of said F.M. 1374, the following three (3) courses and distances:

- 1) In a southwesterly direction, along the arc of said non-tangent curve to the left having a radius of 5779.34 feet, a central angle of 08°11'00", an arc length of 825.44 feet, and a chord bearing of South 23°10'28" West, for a distance of 824.74 feet; to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the point of tangency;
- 2) South 19°04'58" West, a distance of 574.60 feet to a concrete monument found marking the beginning of a curve to the right;
- 3) In a southwesterly direction, along the arc of said curve to the right having a radius of 2814.79 feet, a central angle of 17°31'53", an arc length of 861.27 feet, and a chord bearing of South 27°50'55" West, for a distance of 857.91 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the east corner of a called 5.71 acre tract of land (originally called 6.3 acres) as recorded under Vol. 97, Pg. 420 W.C.D.R., described in boundary agreement recorded under Vol. 432, Pg. 625 W.C.D.R., from which a found 1/2-inch iron rod bears for reference North 58°58' West, a distance of 10.0 feet, and a found concrete monument bears for reference South 38°12'56" West, a distance of 158.30 feet;

THENCE, North 51°10'53" West, along the northeast line of said 5.71 acre tract, a distance of 394.12 feet to a 1/2-inch iron rod found marking the north corner of said 5.71 acre tract and an interior corner of the herein described tract;

THENCE, South 39°14'27" West, along the northwest line of said 5.71 acre tract, a distance of 629.33 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the west corner of said 5.71 acre tract and a northerly corner of a called 58.17 acre tract of land, conveyed to Jose and Dayana Aldaba, as recorded under instrument no. 69213, O.P.R.W.C.T.;

THENCE, along the northerly lines of said 58.17 acre tract, the following six (6) courses and distances;

- 1) South 66°34'01" West, a distance of 27.42 feet to a 1/2-inch iron rod found marking an angle point, from which a found concrete monument bears for reference South 48°52'30" East, a distance of 404.88 feet;

- 2) South 84°44'07" West, a distance of 971.00 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 3) South 77°41'38" West, a distance of 247.70 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 4) North 82°23'31" West, a distance of 804.25 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an exterior corner;
- 5) North 02°27'30" East, a distance of 281.12 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the most northerly corner of said 58.17 acre tract, and an interior corner of the herein described tract;
- 6) South 72°06'03" West, a distance of 1,214.07 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set in the east line of a 5.765 acre tract of land, conveyed to Isaac L. Martin, III, as recorded under instrument no. 62597, O.P.R.W.C.T. (correction affidavit filed under instrument no. 63278, O.P.R.W.C.T.), marking the northwest corner of said 58.17 acre tract, and the southwest corner of the herein described tract;

THENCE, along the easterly lines of said 5.765 acre tract, the following four (4) courses and distances:

- 1) North 10°45'07" East, a distance of 379.58 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 2) North 03°46'28" East, a distance of 528.69 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 3) North 64°36'23" West, a distance of 459.40 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking an angle point;
- 4) North 33°58'11" West, a distance of 211.00 feet to a capped 1/2-inch iron rod stamped "Adams 3666 5611" found marking the north corner of said 5.765 acre tract, and an angle point in the east line of a called 165.35 acre tract of land, conveyed to Isaac L. Martin, III, as recorded under instrument no. 60048, O.P.R.W.C.T.;

THENCE, along the easterly lines of said 165.35 acre tract, the following four (4) courses and distances:

- 1) North 18°18'17" West, passing at a distance of 211.54 feet, a found capped 1/2-inch iron rod stamped "Adams 3666 5611" and continuing for a total distance of 251.01 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 2) North 50°04'19" West, a distance of 24.90 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 3) North 30°46'11" West, a distance of 119.50 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 4) North 12°58'56" West, a distance of 238.30 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 5) North 02°43'27" West, a distance of 68.10 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;

- 6) North 18°32'26" West, a distance of 244.10 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking an angle point;
- 7) North 36°37'38" West, a distance of 27.30 feet to a capped 5/8-inch iron rod stamped "E.H.R.A. 713-784-4500" set marking the southwest corner of a called 33.42 acre tract of land, conveyed to Lex and Stacey Forgason, as recorded under instrument no. 63823, O.P.R.W.C.T., and the northwest corner of the herein described tract;

THENCE, North 87°21'08" East, along the south line of said 33.42 acre tract, the south line of a called 10.698 acre tract of land, conveyed to Mustard Seed Holdings, LLC, as recorded under instrument no. 83951, O.P.R.W.C.T., the south line of a called 11.555 acre tract of land and a 13.552 acre tract of land, both conveyed to Stephanie and Aaron Hansz, as recorded under instrument no. 82610, O.P.R.W.C.T., the south line of a called 13.918 acre tract of land conveyed to Cameron and Kaley Miller, as recorded under instrument no. 85683, O.P.R.W.C.T., the south line of a called 12.645 acre tract of land, conveyed to Aaron and Ashleigh Fritsch, as recorded under instrument no. 81817, O.P.R.W.C.T., the south line of said 10.438 acre tract of land, and over and across said David M. Smith tract, passing at a distance of 54.75 feet, a found capped 1/2-inch iron rod stamped "Adams 3666 5611", passing at a distance of 3,873.96 feet, a 1/2-inch iron rod found marking the southwest corner of said 13.918 acre tract, passing at a distance of 4,536.18, a capped 1/2-inch iron rod stamped "TPS 100834-00" found marking the southeast corner of said 13.918 acre tract, common with the southwest corner of said 12.645 acre tract, passing at a distance of 5,137.94 feet, a capped 1/2-inch iron rod stamped "TPS 100834-00" found marking the southeast corner of said 12.645 acre tract, common with the southwest corner of said 10.438 acre tract, and continuing for a total distance of 5,535.79 feet to the **POINT OF BEGINNING** and containing 226.5 acres of land. This description is accompanied by a land title survey of even date.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC. dba EHRA, Inc. TBPLS No. 10092300



Kevin M. Reidy, R.P.L.S.
Texas Registration No. 6450
10011 Meadowglen Lane
Houston, Texas 77042
713-784-4500



Date: April, 2023
Job No: 231-008-00
File No: R:\2023\231-008-00\Docs\Description\Boundary\226.5AC-MB.doc

EXHIBIT "B"

CONSENT CONDITIONS

The City Council hereby finds, determines, and declares that it is to the best interests of the City of Huntsville ("City") and of the territory within its City corporate limits and extraterritorial jurisdiction ("ETJ"), that the proponents of any municipal utility district ("District") or any other political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses, the furnishing of sanitary sewer service, or the furnishing of drainage and/or flood control services when such District is sought to be created within the area of the City Limits or ETJ of the City, shall as a prerequisite to the written consent of the City, agree and covenant in writing, to adhere to the following rules, regulations and standards:

(1) Bonds may be issued by the District only for the purpose of purchasing and constructing, or purchasing or constructing, or under contract with the City, or otherwise acquiring waterworks systems, sanitary sewer collection systems, lift stations, and treatment facilities, storm sewer systems and drainage facilities, levee facilities, recreational facilities, roads, fire protection facilities or parts of such systems or facilities, and to make any and all necessary purchases, construction, improvements, extensions, additions and repairs thereto, and to purchase or acquire all necessary lands, rights-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefore, and maintain same and to sell water, sanitary sewer, and other services within or outside the boundaries of the District. Such bonds of the District shall only be sold after taking public bids therefore. All District bonds shall provide that the District shall reserve the right to redeem said bonds on any interest payment date on a date no later than the fifteenth anniversary of the date of issuance without premium. No bonds, other than refunding bonds, shall be sold at less than ninety-five (95) percent of par, provided that the net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bond, will not exceed two (2) percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given, and that bids for the bonds will be received not more than forty five (45) days after the notice of sale of the bonds is given.

The maximum term of any debt issuance shall be no greater than forty (40) years from the date of issuance. The minimum par amount of any bonds issued, except a final issue, shall be one million dollars (\$1,000,000.00). Each issue of bonds shall be structured to achieve either level principal payments or level debt service payments, excluding the first two (2) years of debt service. Prior to issuance of the bonds, the District shall submit to the City a copy of the Preliminary Official Statement evidencing a District tax rate (both maintenance and operations rate and interest and sinking rate combined) not to exceed one dollar and fifty cents (\$1.50) per one hundred dollars (\$100.00) assessed valuation. Each bond issue shall not include more than two (2) years of capitalized interest. The resolution

authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the City annexes the District, takes over the assets of the District, and assumes all of the obligations of the District. No land will be added or annexed to the District until the City has given its written consent by resolution or ordinance of the City Council to such addition or annexation. Refunding bonds shall comply with the City's ordinance on refunding bonds, as it may be amended from time to time.

(2) Before the commencement of any construction within the District, the District or developer developing property located therein will enter into a Development Agreement or Agreement to Construct Public Improvements, as applicable, with the City detailing, among other things, platting requirements, City review and approval of plans and specifications, utility service to the District and billing related thereto, and compliance with regulatory requirements.

(3) The District shall levy a debt service tax no later than the annual tax levy following the first installment of bonds and continue a tax levy until such bonds are paid in full unless revenues of the system are adequate to discharge such bonds.

(4) No bonds or notes of the District shall be issued or sold unless the District is in compliance with Paragraph (1) above and prior to advertisement of the sale of the bonds, the District provides the City with: (i) a copy of the draft notice of sale; (ii) a copy of the draft Resolution to be adopted by the District's Board of Directors authorizing the sale of the bonds; (iii) a copy of the Preliminary Official Statement; and (iv) if applicable, a copy of the TCEQ Order approving the project and bonds. Item (iv) in the preceding sentence shall not be required for the issuance of road bonds. In the event that the District is in compliance with the entirety of these Consent Conditions and timely submits the documentation set forth in this Paragraph 4, no further City approval shall be necessary prior to selling and issuing the bonds. However, should the District seek any variance or modification from these Consent Conditions, the issuance of that series of bonds by the District must be approved by the City Council of the City.

(5) The petitioner shall pay all costs related to the consent and creation of the District.

(6) The District shall post notice of the meetings of its Board of Directors in accordance with Section 49.063 of the Texas Water Code. The District's Board of Directors shall hold its meetings at a location accessible to its residents. At all times after the District has one hundred (100) residential water connections, it shall hold the meetings of its Board of Directors at a location within the corporate limits of the City or within the boundaries of the District; provided however, that this geographical limitation shall not apply if the District provides telephone or virtual access to its meetings to all members of the public.

(7) The official office for recordkeeping of the District must be accessible to the District residents.

(8) The District shall comply with all applicable requirements of the TCEQ regarding the display of signage at entrances into the District.

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authorizing the issuance of the District's bonds will contain a provision that any pledge of the revenues from the operation of the District's water and sewer and/or drainage system to the payment of the District's bonds will terminate when and if the City annexes the District, takes over the assets of the District, and assumes all of the obligations of the District. No land will be added or annexed to the District until the City has given its written consent by resolution or ordinance of the City Council to such addition or annexation. Refunding bonds shall comply with the City's ordinance on refunding bonds, as it may be amended from time to time.

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EXHIBIT D

MAP OF WATER AND WASTEWATER LINE CONSTRUCTION

[attached]

227ac Huntsville Tract

Water and Wastewater Improvements to serve tract.

Legend

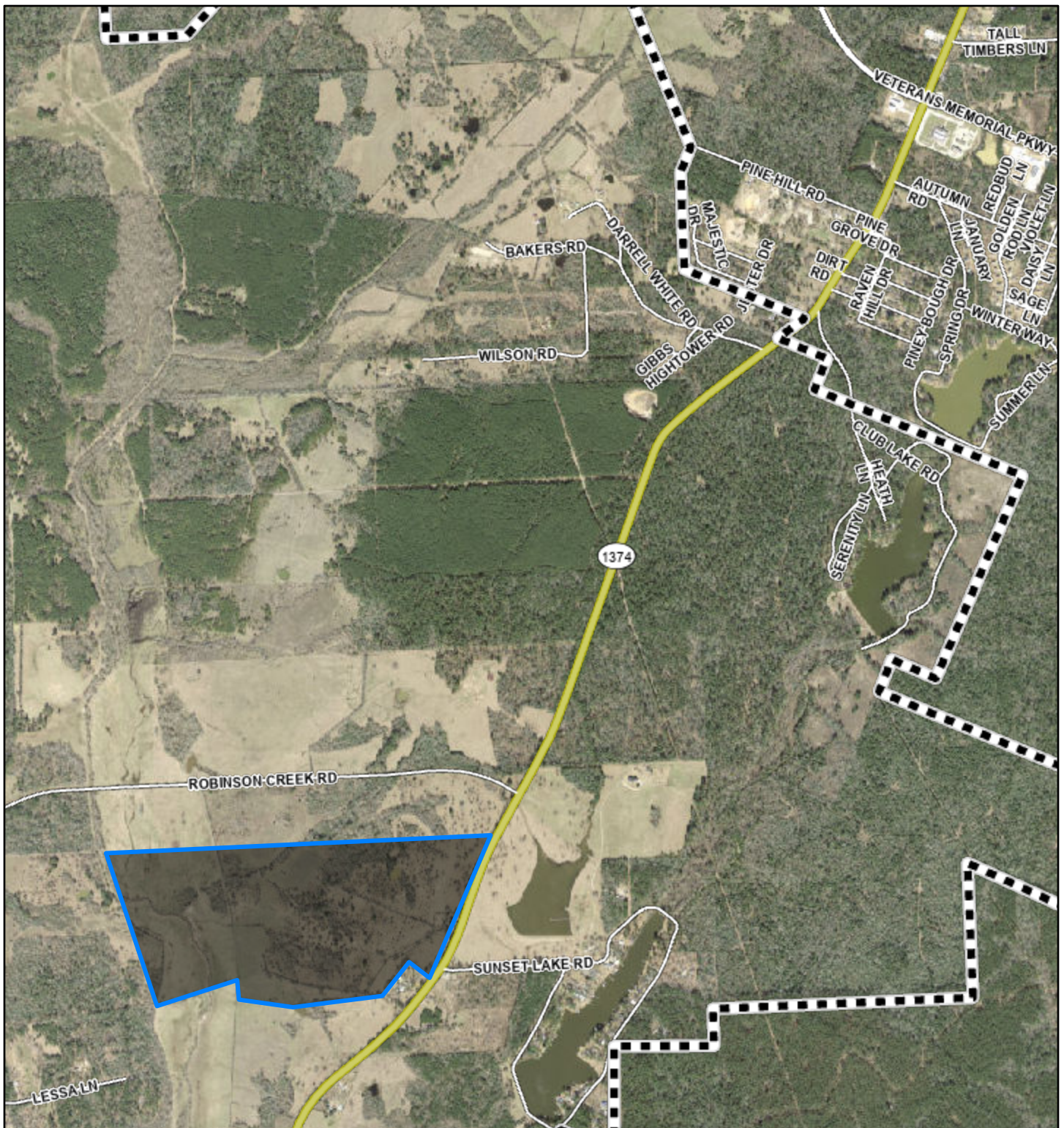
 Forestar Tract

 Prop San Swr

 Waterline along FM 1374



MUD No. 2



12/14/2023, 10:07:02 AM



ETJ



City Limits

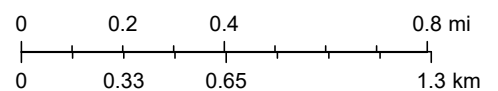
MSAG Blocks

1:500

FM; Park Road; State Highway; US Highway

Local Roads

1:24,000





CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 2.d.

Agenda Item: Consider authorizing the City Manager to enter into a development agreement with Watson-Cordone Development Group for the construction of Pine Shadows extension from Hickory to Interstate Highway 45 North Frontage Road.

Initiating Department/Presenter: City Manager

Presenter:

Aron Kulhavy, City Manager

Recommended Motion: Alternative one to approve the agreement as drafted: Move to authorize the City Manager to enter into a development agreement with Watson-Cordone Development Group for the construction of Pine Shadows extension from Hickory to Interstate Highway 45 North Frontage Road.

Alternative two, to approve the agreement with an amendment to cap the reimbursement for the drainage portion of the project: Move to authorize the City Manager to enter into a development agreement with Watson-Cordone Development Group for the construction of Pine Shadows extension from Hickory to Interstate Highway 45 North Frontage Road capping the reimbursement of the drainage structure at \$420,000.

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion: The Pine Shadows Road Right-of-Way (ROW) aligns with 10th Street, starting at State Highway 75N and extending westward to the I-45 North Feeder Road. This project includes the partial undeveloped section of Pine Shadows Road between Hickory Drive and the I-45 Feeder Road. This section of road improvements is included in the City's Transportation Master Plan as adopted in 2019.

The developer is proposing to build a 200 unit Multi-Family apartment complex which is on the northern side of the undeveloped Pine Shadows ROW (see attached map).

According to the City of Huntsville Development Codes, the developer is responsible for designing and constructing all water, sewer, street and drainage infrastructure within the proposed development and for constructing the extension of the City's water, sewer, and drainage infrastructure to the development site. A strict reading of the Codes also require the developer to design the necessary roads for the full width of the ROW and construct half of the width of the ROW that is adjacent to their property. The developer asserts that they are only responsible for a portion of the construction of the proposed street based upon their development's impact on traffic at the location. This assertion can be supported under the "rough proportionality" statutes under state law; however, the developer has indicated that he is willing to consider a development agreement to participate in the construction of the roadway.

Full width/full length of the street construction and the City cost of participation were discussed with the full Council at a workshop on September 19, 2023. Based upon the feedback staff received from the workshop, the attached agreement was drafted whereby the City will participate in 50% of the construction of the road extension and 100% of the drainage structure needed for the proposed street crossing located at the southeast corner of the subject property.

In order to design and construct the full width and full length (from I-45 Feeder to Hickory Drive) of the Pine Shadow Road, the developer has inquired about the City's participation in constructing the ROW. The developer has provided an estimate for the design and construction of this road extension with a value of \$1,322,339 (see attached copy). The City's 50% portion of the road cost would be capped at \$661,170 per the agreement.

The cost figures provided also include an estimate on the culvert crossing of \$420,000, of which the City would be 100% responsible under the agreement. The agreement as proposed by the developer does not put a maximum on this cost figure. Staff has included some alternate language attached in the packet that would cap the dollar amount of the City's responsibility for the cost of the drainage improvements at \$420,000.

Should the City's participation in the project be approved, staff will prepare the necessary budget amendments for consideration and identify potential funding sources. The City's share will be budgeted in the amount of \$1,081,170 in total for the drainage and road improvements.

Previous Council Action: The Council previously discussed this item at a workshop on September 19, 2023.

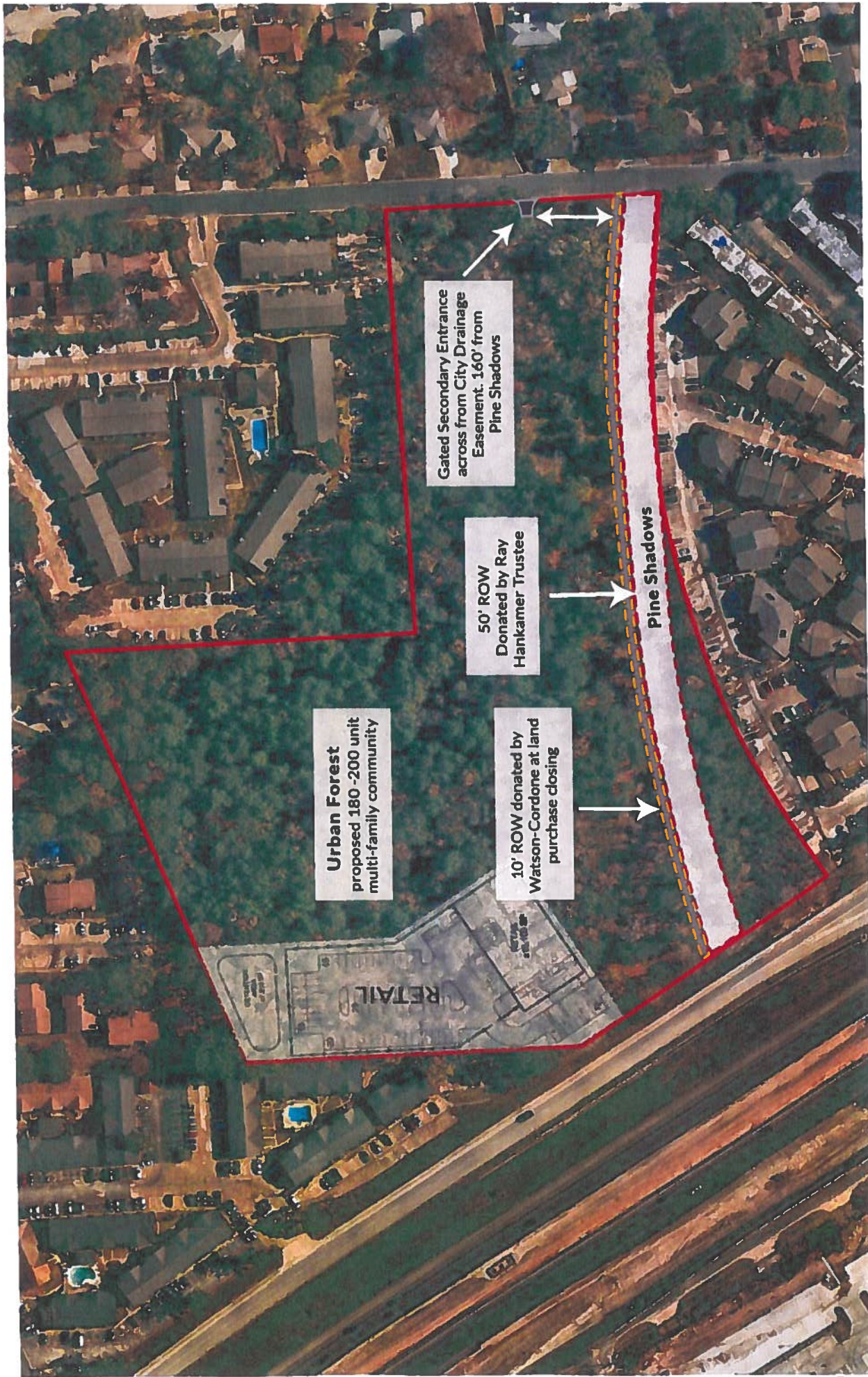
Financial Implications: Should the Council enter into the agreement as drafted, the cost to the city would be \$661,170 for the road construction and an unknown amount, estimated at \$420,000, for the drainage improvements. Should the Council elect to include the alternative language provided to create a cap on the drainage improvements, the amount would be set at \$420,000. Funds are not currently budgeted for the project and a budget amendment from the general fund for the road improvements and the utility fund or general fund for the drainage improvements would be needed.

Approvals:

Leonard Schneider
Aron Kulhavy
Kristy Doll

Associated Information:

1. Map
2. URBAN FOREST Development Agreement for packet
3. Exhibit A
4. Exhibit B
5. Alternative language for agreement



The City of Huntsville, Texas or its employees gives NO warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data. See full GIS Data Disclaimer at www.huntsvilletx.gov



URBAN FOREST DEVELOPMENT AGREEMENT

This Development Agreement is entered into by and between Watson-Cordone Development Group (Developer – Joseph L. Watson and Michael R. Cordone) and the City of Huntsville, TX on the date set forth below.

Recitals:

WHEREAS, Watson-Cordone Development Group, (“Developer”) is an entity which is seeking to develop and construct a multi-family development, or such other development as may be appropriate or approved by the City of Huntsville, Texas (the “City”) and

WHEREAS, the Developer and the City have agreed and do hereby agree to certain terms and to cooperate to cause the future commercial Development (“Development”) of the approximately 10-acre tract of land known as the Hankamer Tract which is part of an approximately 12 acre tract located in the City of Huntsville between I-45 and Hickory Drive and north of future Pine Shadows extension and as further described in Exhibit A attached hereto:

NOW, THEREFORE, the City Huntsville and the Developer agree as follows:

TERMS:

1. DEVELOPMENT PLAN AND CONSTRUCTION START:

- a. The Development is planned to be a commercial residential community of approximately 200 multi-family apartments with an estimated value of \$35,000,000. Should some other type of development become more feasible and therefore planned other than multi-family apartments, such other development appropriate to the neighborhood and surrounding conditions, will be approved by the City which approval will not be unreasonably withheld.
- b. The development plan will be submitted within 36 months from the date of acceptance and full operation as complete the CIP project of approximately 24,500 LF of 24/30 inch “gravity mains to A J Brown Wastewater Treatment Plant,” that will serve the Development.

2. ROW EXPANSION AND 10’ UTILITY EASEMENT (PINE SHADOWS DRIVE)

- a. The Developer will dedicate to the public a 10’ x 1040’ ROW tract of land to widen the existing ROW to 60’ when the Developer closes on the purchase of the land. Notwithstanding, it is the responsibility of the City to obtain any additional ROW from the landowner on the southwest end of future Pine Shadows which the City deems necessary. At the time the 10’ ROW is dedicated as described above, the Developer will also grant to the City a 10’ wide Utility Easement on the north side of the then 60’ ROW.
- b. Future Pine Shadows will be approximately 1,040’ to include both the new 900’ and rebuilding the currently existing 140’ asphalt stub portion of Pine Shadows which is near Hickory Drive.

- c. New Pine Shadows will be 32' wide, 6" reinforced concrete paving constructed in accordance with the City's adopted Development Code and standards for public improvements. Construction will include a 5' wide sidewalk only on the north side of Pine Shadows. To the extent utility lines need to be over-sized to accommodate tracts of land other than this subject tract for this Development, the increased cost of over-sizing will be paid by either the City or others receiving the benefit of the over-sizing.
 - d. When the Developer is building the Development, the Developer will contract directly with the necessary contractors to build the entire 1,040' Pine Shadows extension as provided herein:
 - i. Payment: Subject to the exceptions below, the Developer and City will pay for the cost of the 1,040' Pine Shadows extension contract as each monthly construction draw is due to be paid and as each monthly construction draw is approved for payment. Developer will invoice the City monthly based on completed cost and the City will pay the Developer within 15 days. Notwithstanding the forgoing and subject to the exceptions below, the maximum cost to be paid by the City for the Pine Shadows extension will be \$661,170. (See Exhibit B)
 - ii. To the extent that another or different developer/investor has built any portion of Pine Shadows extension prior to the implementation of the terms of this Agreement at the time when the Developer or it's assigns develop the subject property, those costs will be paid by that other developer/investor and therefore proportionately reduce the economic costs and obligations by the Developer and the City
 - iii. The Developer is to be responsible for upgrading the approximately 160' off-site sanitary line to have capacity for the Development. Any additional sanitary sewer improvements to accommodate other tracts will be paid by either the City or the other tract owners.
3. It is mutually agreed by the parties hereto that the City Engineer shall have the right to reject any or all of the work to be performed under this agreement if such work does not conform with the plans and specifications mentioned herein or the ordinances of the City of Huntsville. Any damage to the sewer system, utilities, concrete work, or street paving that occurs after installation shall be made good to the satisfaction of the City Engineer by the Developer before release of bond or final acceptance of completed work. Upon the satisfactory completion of the improvements by the Developer, the City Engineer shall certify that the work of these improvements has been satisfactorily completed.
- i. Exclusions: Excluded from the 50%/50% costs paid by the Developer and the City are the following:
 - 1. Cost of the related drainage system improvements needed on the south-east corner including any culverts, stem-walls, earth work, geotechnical or civil engineering, drainage studies, or bridges.
 - a. The developer will contract for and cause to be constructed the necessary drainage improvements for this section as part of the project. The City will reimburse the developer 100% of the cost of the drainage improvements, in accordance with the

payment terms above, up to a maximum of \$420,000 as shown in exhibit "B"

2. Relocating any city owned utility lines as may be needed within the subject right-of-way because the City does not want them located under the street.
4. Utility Availability Letter: A utility availability commitment HAS BEEN AGREED TO and is in this Agreement hereby ratified. Terms of such agreement are as follows:
 - a. This agreement confirms that: (1) The City of Huntsville (COH) is the provider of water distribution and wastewater collection services for the subject property. (2) The City's water distribution and wastewater collection infrastructure exist in or adjacent to the subject property.
 - b. Capacity for water, sewer, is reserved for 36 months from the operational completion of the planned new CIP project of approximately 24,500 LF of 24/30" "gravity mains to A J Brown Wastewater Treatment Plant," serving the Development.
 - c. Additional segments, which need to be upsized to 10-inch based on the modeling analyses are indicated as approximately 160', per the 2016 Freese and Nichols Wastewater Conditions and Capacity Assessment.
 - i. A condition of this agreement is that the Development will be responsible for upsizing the above mentioned approximately 160' of sanitary sewer line to 10" before the completion of the Development.
 - d. During these 36 months the developer must file a development plan. Notwithstanding, if a development plan is not filed during the before mentioned 36 months for the 10-acre Hankamer Tract and then filed subsequently for the 10 acres, assuming adequate utility capacity of sanitary, water, and drainage exist at that time, the City is affirmatively required to then update the commitment letter to the date of the then filed development plan. Such update shall not be unreasonably withheld. In this circumstance, all other terms and commitments associated with the Development Agreement will continue and fully apply.
 - e. Reserved capacity will be for *200 apartment units* or the equivalent thereof. If a lesser number of apartment units are built, or a different type of development is built and either do not require the full amount of utilities reserved for the planned 200-unit multi-family apartments, the unused allocation of reserved utilities will be released back to the City for use on other developments.
 - f. The Development is not required to participate in or pay any cost of modifying any other City water and wastewater facilities beyond those mentioned herein above. It is Huntsville's absolute intent to build the above-mentioned CIP project in its entirety, not in segments and in reasonable time, without any plans to stop/stall or adjust sizing of any previously defined new lines. The city has obtained all necessary easements, right of ways and approvals for construction to begin as soon as possible.
5. This agreement shall become effective upon its approval by the City Council of the City of Huntsville and the last date of execution by the parties thereto. The term of this agreement shall begin on the last date of execution.
6. This agreement is performable in Walker County, Texas, and the venue for any litigation over any aspects of this Agreement shall be exclusively in the appropriate courts of Walker County, Texas.

7. If any legal action is brought by either of the parties hereto, it is expressly agreed that the prevailing party of such legal action shall be entitled to recover from the other party reasonable attorney's fees in addition to the relief that may be awarded. For the purpose of this clause, the prevailing party is the party who obtains a net damage recovery or the party in whose favor final judgment is entered. In the event that declaratory or injunctive relief alone is granted, the court may determine which, if either, of the parties, shall be considered to be the prevailing party. The amount of reasonable attorney's fees shall be determined by the court, in the trial of such action or in a separate action brought for that purpose. Attorney's fees awarded under the provisions of this paragraph shall be in addition to any other relief that may be awarded.
8. All rights, powers, privileges, and authority of the parties hereto not restricted or affected by the express terms and provisions hereof are reserved by the parties and, from time to time, may be exercised and enforced by the parties.
9. The provisions of this Agreement are severable, and if any part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and application of any part of this Agreement to other persons or circumstances shall not be affected thereby.
10. This Agreement is for the benefit of the City and the Developer and shall not be construed to confer any benefit on any other person except as expressly provided for herein.
11. Upon written notification to the City, the Developer may assign its interest in this agreement to a future development/investment entity which will have all of the obligations of the Developer, subject to written consent of City which shall not be unreasonably withheld.
12. All notices to either Party by the other shall be deemed to have been sufficiently given when made in writing and delivered in person, by electronic mail, facsimile, certified mail, or courier to the address of the respective party or to such other address as such party may designate.
13. Any waiver by either Party or any provision or condition of this Agreement shall not be construed or deemed to be a waiver of a subsequent breach of the same provision or condition, unless such waiver is so expressed in writing and signed by the party to be bound.
14. This Agreement, its articles, provision, terms, and individually executed task orders represent the entire understanding and agreement between the City and Engineer and supersede any and all prior agreements, whether written or oral, and may be amended or modified only by a written amendment signed by both parties.
15. Contact information for both parties:
 - a. Joseph L. Watson - 916 Herkimer Street, Houston, Texas 77008 - 281-932-4143
 - b. Michael Cordone - 3233 W Dallas Street apt 616, Houston, Texas 77019 -239-595-2063
 - c. Aron Kulhavy - City Manager -1212 Avenue M, Huntsville, TX 77340 - 936-291-5401

SIGNED and Executed this _____ day of _____ 2023.

FOR THE **Watson-Cordone Development Group.**

By:

By: _____

[illegible]

Given under my hand and seal of office this _____ day of _____, 20____.

My Commission Expires:_____.

EXECUTED on This _____ Day of _____, 2023

By: City of Huntsville
1212 Avenue M
Huntsville, TX 77340

By: _____
Aron Kulhavy
City Manager

Page 197 of 243

ATTEST:

NAME:

APPROVED AS TO FORM:

NAME:

DRAFT

EXHIBIT "A"

Description of Land

Unrestricted Reserve (12.4811 Acres), of Rollingbrook Subdivision Section 2, located in the P. Gray League, Abstract No. 24, Walker County, Texas, according to the map or plat thereof recorded in Volume 1, Page 157 of the Plat Records of Walker County, Texas.

Less and except the following:

BEING 2.4265 acres (105,697 square feet) of land out of Unrestricted Reserve "A" of Rollingbrook, Section 2, according to the plat of same, recorded under Volume 1, Page 157, of the Plat Records of Walker County, Texas (P.R.W.C.T.), and being part of the called 20.6317 acre tract conveyed to Raymond Hankamer, Jr., Trustee by Warranty deed recorded under Volume 264, Page 149, of the Official Public Records of Walker County, Texas (O.P.R. W.C.T.) and a called 10.505 acres, conveyed to Raymond E. Hankamer, by deed recorded under Volume 203, Page 666 O.P.R. W.C.T., said 2.4265 acre tract lying within the P. Gray Survey, A-24, and is more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found in the east line of the called 4.56 acre tract conveyed to Huntsville FG Apartments, LLC by Warranty Deed recorded under Volume 907, Page 151 O.P.R. W.C.T., for the southwest corner of Lot 1, of Hickory Hill Addition, according to the plat of same, recorded under Volume 1, Page 103 P.R. W.C.T., and the northwest corner of said Unrestricted Reserve, and the herein described tract;

THENCE North 66°58'48" East, with said Lot 1, a distance of 166.35 feet to a 5/8" iron rod with cap marked "CORE 6657" set for the northeast corner of the herein described tract;

THENCE South 03°01'13" East, over and across said Unrestricted Reserve "A", a distance of 261.37 feet to a 5/8" iron rod with cap marked "CORE 6657" set for an angle point;

THENCE South 34°19'59" East, over and across said Unrestricted Reserve "A", a distance of 230.29 feet to a 5/8" iron rod with cap marked "CORE 6657" set for the easterly southeast corner of the herein described tract;

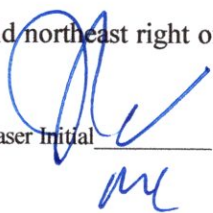
THENCE South 56°19'45" West, over and across said Unrestricted Reserve "A", a distance of 193.68 feet to a 5/8" iron rod with cap marked "CORE 6657" set for an interior corner of the herein described tract;

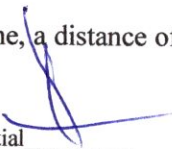
THENCE South 34°19'59" East, over and across said Unrestricted Reserve "A", a distance of 125.32 feet to a 5/8" iron rod with cap marked "CORE 6657" set in the north right-of-way (R.O.W.) line of a Future Street, as shown on Rollingbrook, Section 2 for the southerly southeast corner of the herein described tract;

THENCE in a southwesterly direction, along said Future R.O.W line, 3.43 feet along the arc of a curve to the LEFT, having a radius of 1565.57 feet, a delta angle of 00° 07' 32", and whose long chord bears South 71°17'48" West, a distance of 3.43 feet, to a 5/8" iron rod with cap marked "CORE 6657" set for a tangent;

THENCE South 71°14'02" West, continuing along said Future R.O.W. line, a distance of 63.49 feet to a 5/8" iron rod with cap marked "CORE 6657" set in the northeast right of way (R.O.W.) line of Interstate Highway 45 (R.O.W. varies) for the southwest corner of the herein described tract;

THENCE North 33°51'36" West, with said northeast right of way line, a distance of 55.87 feet to a 1 inch

Purchaser Initial 

Seller Initial 

iron pipe found for an angle point of the herein described tract;

THENCE North 34°19'59" West, continuing with said northeast right of way line, a distance of 156.74 feet to a point for the south corner of the called 0.033 acre tract conveyed to Raymond J. Hankamer, Jr., by Warranty Deed recorded under Volume 267, Page 342 O.P.R. W.C.T., and an angle point in the herein described tract, from which a found 1/2 inch iron rod bears North 04°15'56" West, a distance of 7.75 feet;

THENCE North 03°01'13" West, with the east lines of said 0.033 acre tract and said 4.56 acre tract, a distance of 443.30 feet to the POINT OF BEGINNING, containing 2.4265 acres (105,697 square feet) of land.

Purchaser and Seller acknowledge that the description of the Property in this Agreement may be legally insufficient; however, the parties confirm that, notwithstanding such insufficiency, the parties desire to proceed with the execution of this Agreement and agree that (i) they are experienced in transactions of the nature contemplated in this Agreement, (ii) they are familiar with the specific location of the Property, (iii) each party waives any and all claims of an insufficient legal description in a cause of action for enforcement hereof, and (iv) the Survey, as discussed in Section 4(b) of this Agreement, shall become the legal description of the Property. Such description shall be deemed incorporated into this Agreement as Exhibit A and shall replace this Exhibit A in its entirety.

Purchaser Initial

Seller Initial

Pine Shadows Budget, Huntsville, Texas

12/8/23

	Quantity	Price	Total
Paving			
Stub	140 feet		
Stub to I45	900 feet		
Total Road Length	1,040	574	596,960
Sidewalks	1,040	65	67,600
SWPPP			30,000

Total Paving and Sidewalks \$ 694,560

Storm Sewer

Pipe			
30'	500	190	95,000
36'	540	226	122,040
H2 inlet			
Stage 1	10	3,266	32,660
Stage 2	11	2,110	23,210
Type C1			
Stage 1	3	2,034	6,102
Stage 2	5	1,900	9,500
Type C2			
Stage 1	7	1,997	13,979
Stage 2	7	2,467	17,269
BB			
Stage 1	6	1,800	10,800
Stage 2	6	2,000	12,000
Road Side ditch	1	5,000	5,000
Safety End Treatments	1	8,000	8,000
Type C Manhole			
4 foot Internal Diameter	5	3,832	19,160
6 foot Internal Diameter	1	6,788	6,788
Tie into Existing Drainage	1	20,000	35,000
Television Inspection	1,040	3	4,500
Trench Safety	1,040	0	239
SWPP			26,532

Total Storm Sewer \$ 447,779

Total Cost Paving, Sidewalk, and Storm Drainage System \$ 1,142,339

Note: Relocating Wastewater cost are not included here.

Note: Water lines not included here.

Engineering

Engineering	130,000	130,000
Geotechnical	20,000	25,000
Drainage Study	25,000	25,000

TOTAL ENGINEERING \$ 180,000

TOTAL COST SHARED 50% EACH BY CITY OF HUNTSVILLE AND DEVELOPER \$ 1,322,339

MAXIMUM AMOUNT PAID BY CITY OF HUNTSVILLE	50%	\$ 661,170
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NOTE:

- 1 - Maximum Amount Paid by City of Huntsville is \$661,170 Exclusive Of The Drainage System on the South East.
- 2 - All Cost Over-runs Beyond The Above City's \$661,170 Will Be Guaranteed and Paid By Developer.
- 3 - All Cost of Drainage System Improvements on The Southeast Corner Paid by City of Huntsville.
- 4 - Developer Will Be Paid a 10% Overhead and Management Fee For All Construction.
- 5 - City Will Pay The Cost of Relocating Any Existing Utility Lines If Needed.
- 6 - Developer Will Rebuild Approximately 160' Of Existing Sanitary Line Per Agreement.

Culvert Crossing

1 10X10 **	120	2,000	240,000
Demucking	1	29,996	15,000
Bypass Pumping	1	20,000	20,000
Dirt work, Temporary Road and wingwalls	1	110,000	110,000
Engineering	1	35,000	35,000
Total Culvert Crossing			\$ 420,000

** Covert used for drainage vs. a bridge per City of Huntsville.

- a. The developer will contract for and cause to be constructed the necessary drainage improvements for this section as part of the project. The City will reimburse the developer 100% of the cost of the drainage improvements, in accordance with the payment terms above, up to a maximum of \$420,000 as shown in exhibit "B"



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 3.a.

Agenda Item: Consider Ordinance No. 2023-29 Adopting the Charter Amendments and incorporating the adopted amendments into a singular form.

Initiating Department/Presenter: City Secretary

Presenter:

Kristy Doll, City Secretary

Recommended Motion: Move to approve Ordinance No. 2023-29, Adopting the Charter Amendments and incorporating the adopted amendments into a singular form.

Strategic Initiative: Goal #6, Finance - Provide a sustainable, efficient and fiscally sound government through conservative fiscal practices and resource management.

Discussion: On November 7, 2023, the proposed City Charter amendments for the City of Huntsville, Texas, were submitted to the voters of Huntsville in a special election; and the voters of the City of Huntsville voted to adopt twenty-four (24) of the twenty-four (24) proposed charter amendments. City Council canvassed the returns of this election on Tuesday, November 14, 2023. Pursuant to Section 9.005(b) of the Texas Local Government Code, the next step is for the City Council to enter an order in the records of the municipality declaring that the charter amendments are adopted, which is the purpose of this Ordinance.

Section 9.005(b) of the Texas Local Government Code, (a) A proposed charter for a municipality or a proposed amendment to a municipality's charter is adopted if it is approved by a majority of the qualified voters of the municipality who vote at an election held for that purpose. (b) A charter or an amendment does not take effect until the governing body of the municipality enters an order in the records of the municipality declaring that the charter or amendment is adopted.

Previous Council Action: City Council canvassed the returns of the November 7, 2023, election on Tuesday, November 14, 2023

Financial Implications: None

Approvals:

Aron Kulhavy

Kristy Doll

Associated Information:

1. Ordinance No. 2023-29
2. Charter with 2023 Amendments in Singular Form - Final

ORDINANCE NO. 2023-29

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, ADOPTING THE CHARTER AMENDMENTS AND INCORPORATING THE ADOPTED CHARTER AMENDMENTS INTO A SINGULAR FORM.

WHEREAS, Chapter 9 of the Texas Local Government Code governs the adoption or amendment of a Home-Rule Charter as authorized by Article XI, Section 5 of the Texas constitution;

WHEREAS, pursuant to Sections 9.003 and 9.004 of the Texas Local Government Code, on November 7, 2023, the proposed city charter amendments for the City of Huntsville, Texas, were submitted to the voters of Huntsville in a special election; and

WHEREAS, on November 7, 2023, the voters of the City of Huntsville voted to adopt twenty-four (24) of the twenty-four (24) proposed charter amendments; and

WHEREAS, the City Council has reviewed and investigated all matters pertaining to this election, including the ordering, notices, election officers, holding, and returns thereof; and

WHEREAS, the City Council canvassed the returns of this election on Tuesday, November 14, 2023; and

WHEREAS, the City Council of the City of Huntsville desires to have a single, incorporated form of the Charter for its citizens and the public.

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

Section 1. The City Council of the City of Huntsville officially declared that the election was duly and properly ordered, that the proper legal notice of such election was duly given in the English language and the Spanish language, that the proper election officers were duly appointed prior to the election, that the election was duly and legally held, that all required preclearance submissions were made and that no objections were interposed; that all qualified voters of the City were permitted to vote at the election, that due returns of the results of the election have been made and delivered, and that the City Council has duly canvassed such returns, all in accordance with the laws of the State of Texas and of the United States of America and the order calling the election.

Section 2. A majority of the qualified voters of the City of Huntsville, Texas, voting in the election voted FOR the adoption of the listed Charter Amendments attached hereto.

Section 3. The City Council of the City of Huntsville, pursuant to Section 9.005(b) of the Texas Local Government Code, hereby enters an Order declaring that the charter amendments are adopted.

Section 4. The City Council of the City of Huntsville hereby further adopts Exhibit A, incorporated herein to this ordinance, as the fully incorporated charter amendments into the City's home-rule charter.

Section 5. This ordinance shall take effect from and after its passage.

PASSED AND APPROVED this ____ day of December 2023.

THE CITY OF HUNTSVILLE, TEXAS

Russell Humphrey, Mayor

ATTEST:

APPROVED AS TO FORM:

Kristy Doll, City Secretary

Leonard Schneider, City Attorney

PART I - CHARTER

PREAMBLE

In thankful recognition of the leadership of Almighty God, we, the people of Huntsville, Texas, humbly invoking His blessings, do ordain and establish this Charter.

ARTICLE I. - CORPORATE NAME

Sec. 1.01. - Corporate name.

All the inhabitants of the City of Huntsville, in Walker County, Texas, as the boundaries and limits of said City are now established or as hereafter established in the manner provided by this charter, shall be a body politic, incorporated under and to be known by the name and style of the "City of Huntsville," with such powers, rights and duties as are herein provided.

ARTICLE II. - MUNICIPAL BOUNDARIES

Sec. 2.01. - Extension of boundaries.

The City Council shall have the power by ordinance to fix the boundaries of the City of Huntsville. Without limiting the previous sentence, this power includes the ability to annex and to disannex territory, when permitted, to the extent, in the manner, and subject to any restrictions or limitations provided by the constitution and laws of the State of Texas.

ARTICLE III. - INCORPORATION, FORM OF GOVERNMENT, AND POWERS

Sec. 3.01. - General powers.

The City shall have all the power granted to cities by the Constitution and Laws of the State of Texas together with all of the implied powers necessary to carry into execution such granted powers. The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or any political subdivision thereof or with the federal government or any agency thereof to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the City and its inhabitants; may acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease, or condemnation and subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good government, order, and peace of the City and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. The powers hereby conferred upon the City shall include but are not restricted to the powers conferred expressly and permissively by the laws of the State of Texas. In addition to the powers enumerated herein and subject only to the limitations imposed by the Constitution and Laws of the State of Texas and by this Charter, the City shall have, without the necessity of express enumeration in this Charter, each and every power which by virtue of Article XI, Section V, of the Constitution of the State of Texas, the people of the City are empowered by election to grant or to confer upon the City by expressly and

specifically granting and enumerating the same herein. All such powers whether expressed or implied shall be exercised and enforced in the manner prescribed in this Charter, or, when not prescribed herein, in such manner as shall be provided by ordinance of the Council.

Sec. 3.02. - Form of government.

The municipal government provided by this Charter shall be and shall be known as "Council-Manager Government." Pursuant to the provisions of and subject only to the limitations imposed by the State Constitution, the State laws, and this Charter, all powers of the City shall be vested in and exercised by an elective Council, hereinafter referred to as "The City Council" which shall enact legislation, adopt budgets, determine policies, and appoint the City Manager who shall execute the laws and administer the government of the City.

Sec. 3.03. - Streets and public property.

The City shall have exclusive dominion, control, and jurisdiction in, upon, over, and under the public streets, sidewalks, alleys, public squares, and public ways within the corporate limits of the City, and in, upon, over, and under all public property of the City. With respect to each and every public street, sidewalk, alley, highway, public square, public park, or other public way within the corporate limits of the City, the City shall have the power to establish, maintain, improve, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

Sec. 3.04. - Street development and improvement.

The City shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways and other public ways within the corporate limits of the City by laying out, clearing of vegetation, including shrubs, narrowing, widening, straightening, extending, lighting, and establishing building lines along the same; by purchasing, condemning, and taking property therefore; by filling, grading, raising, lowering, paving, repaving and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvement authorized hereinabove, or any combination or part thereof. The cost of such development and improvement may be paid partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof, and such assessments may be levied in any amount and under any procedure not prohibited by the laws of the State of Texas; provided, that no assessment shall be made against such land or owners in excess of the enhancement in value of such property occasioned by such improvement.

If improvements are ordered constructed in any part of any such area used or occupied by the tracks or facilities of any railway or public utility, then the City Council shall have the power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or utility, and shall have power by ordinance to provide for the enforcement of such assessment.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within its corporate limits, the City shall have the power and authority to proceed in accordance with all of the powers granted to cities permitted by law.

ARTICLE IV. - THE COUNCIL

Sec. 4.01. - Number, selection and term of office.

Section 4.01(a)

The Council shall be composed of a Mayor and eight Councilmembers. The Mayor, unless sooner removed under the provisions of this Charter, shall serve for three-year terms, from the first Tuesday following the election until the first Tuesday following the general election three years later, or until a successor has been elected and duly qualified. Each Councilmember, unless sooner removed under the provisions of this Charter, shall serve for three-year terms, from the first Tuesday following their election until the first Tuesday following the general election three years later, or until a successor has been elected and duly qualified.

Section 4.01(b)

All Councilmembers and the Mayor shall be elected for three-year terms. In all elections for Mayor each qualified voter shall vote for not more than one candidate for Mayor. In all elections for Councilmember from the qualified voter's ward, each qualified voter shall vote for not more than one candidate for Councilmember from the qualified voter's ward. In all elections for each of the four council-at-large positions, each qualified voter shall vote for not more than one candidate for each of the four council-at-large positions.

Section 4.01 (c)

Beginning with the November 2024 election, the Council shall transition to three-year terms as provided in this subsection.

- (1) For the November 2024 election, the candidates elected to the At-Large Positions 1, 2, 3, and 4 shall serve three-year terms.
- (2) For the November 2025 election, the elected to office of Mayor and Wards 1, 2, 3, and 4 shall serve three-year terms.
- (3) Thereafter, the candidates elected to the City Council in the November general election will be elected to three-year terms.

Sec. 4.02. - Qualifications.

At the time of election to office and during their tenure of office, the Mayor and each member of the Council shall be a citizen and a qualified registered voter of the State of Texas and the City of Huntsville and, if a Councilmember from a specific Ward, a resident of such Ward. No member of Council shall have resided in the City for less than 12 months next preceding the election and no member shall be less than 21 years old. No member of the Council shall be indebted to the City or be delinquent in the payment to the City of any tax or assessment. No member of the Council shall hold any other office or employment under the City government while a member of the Council. A member of the Council ceasing to possess any of the foregoing qualifications shall immediately forfeit their office.

Sec. 4.03. - Designation of members of council and residential requirements.

The Mayor shall be designated as such and as a candidate for such office may reside anywhere within the City. The eight Councilmembers shall be designated as:

Councilmember — Ward 1
Councilmember — Ward 2
Councilmember — Ward 3
Councilmember — Ward 4
Councilmember-at-Large — Position 1
Councilmember-at-Large — Position 2
Councilmember-at-Large — Position 3
Councilmember-at-Large — Position 4

To be eligible as a candidate for Councilmember from a specific Ward, a person must be a resident of such Ward. Candidates for all positions of Councilmember-at-Large may reside anywhere within the City.

Sec. 4.04. - City divided into wards.

The City is presently divided in four Wards, known as Ward 1, Ward 2, Ward 3, and Ward 4, and shall remain as such until the City is redistricted by ordinance of the City Council.

Sec. 4.05. - Investigative body.

The Council shall have the power to inquire into the official conduct of any department, agency, office, officer, or employee of the City and for that purpose shall have the power to administer oaths, subpoena witnesses, and compel the production of books, papers, and other evidence material to the inquiry. The Council shall provide by ordinance penalties for contempt in failing or refusing to obey any such subpoena or to produce any such books, papers, or other evidence, and shall have the power to punish any such contempt in the manner provided by such ordinance. No member of the Council shall ever vote upon any matter involving the consideration of the member's own official conduct.

Sec. 4.06. - City secretary.

The Council, upon recommendation of the Mayor, shall appoint the City Secretary, who shall serve at the pleasure of the Council. The City Secretary shall keep the records of the Council and shall have such other duties and responsibilities as may be assigned to the City Secretary by this Charter or by the Council. The City Secretary shall appoint such assistants as may be authorized by the Council. Written minutes of the City Council meeting are to be kept as permanent records with provisions for public access.

Sec. 4.07. - Meetings of the council.

There shall be one or more regular meetings of the City Council each month, which shall be held at such times and places as shall be prescribed by ordinance. Special meetings may be called at any time by the Mayor, the City Manager, or by a majority of the Councilmembers qualified and serving by giving notice to the City Secretary who shall in turn give notice of such special meetings to all members of the Council in accordance with state law. All meetings of the Council shall be held at the City Hall of Huntsville or at such other public place as may be approved by Council and, except as otherwise permitted by law, all meetings shall be open to the public and closed or executive meetings or sessions shall only be permitted as authorized by law.

Sec. 4.08. - Rules of procedure.

The Council shall by ordinance determine its own rules and order of business. A majority of the Council qualified and serving shall constitute a quorum for all meetings for the transaction of all business, but no action of the Council shall be of any force and effect unless it is adopted by the favorable vote of a majority of the members of the Council qualified and serving, unless otherwise provided by this Charter or as required by state law. No action of the Council shall be of any force or effect unless considered by five (5) Councilmembers, with no abstentions. Minutes of all meetings of the Council shall be taken and recorded, and such minutes shall constitute a public record.

Sec. 4.09. - Abstentions.

The Mayor and each member of the Council in attendance at the Council meeting shall vote on every issue that a vote is called unless that person declares a conflict of interest and files an affidavit stating the nature and extent of the interest. A person who fails or refuses to vote without filing the affidavit describing the conflict of interest shall be recorded as having cast a negative vote.

Sec. 4.10. - Powers of the council.

All powers and authority which are expressly or impliedly conferred on or possessed by the City shall be vested in and exercised by the Council; provided, that the Council shall have no power to exercise those powers which are expressly conferred on other City officers by this Charter.

Sec. 4.11. - Removal of officers appointed by city council.

The Council may suspend or remove any appointed, salaried officer or employee of the City that the Mayor or Council under this Charter has the power to appoint.

Sec. 4.12. - Procedure to enact legislation.

The Council may legislate and act only by ordinance, resolution or motion; and all ordinances, resolutions or motions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriations. The enacting clause of every ordinance shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS". Before any ordinance shall be adopted, the attorney for the city shall approve such ordinance in writing as to form or shall file with the City Secretary written legal objections thereto. Every ordinance enacted by the Council shall be signed by the Mayor, however, should the Mayor refuse to sign or is unable to sign in his or her official capacity the Mayor Pro-Tem shall act in his or her stead. Should neither the Mayor nor Mayor Pro-Tem be able to perform, any two (2) Councilmembers shall sign the ordinance. Every ordinance shall be filed with and recorded by the City Secretary before the same shall become effective. Every ordinance shall become effective upon adoption, or at any later time specified in the ordinance, except that every ordinance imposing any penalty, fine or forfeiture shall become effective after the procedures in Article IV, Section 4.13 of this Charter have been followed.

Except as otherwise provided in this charter, no ordinance shall be finally passed until it has been considered by the Council at two (2) separate council meetings unless the requirements for reading it on two (2) separate days be dispensed with by the affirmative vote of a two-thirds (2/3) majority of the Council qualified and serving. The requirement of consideration on an ordinance at two (2) separate council meetings shall not apply and only one (1) reading at one (1) Council meeting shall be required for the final passage of an ordinance relating to:

- (1) The adoption or amendment of a budget;
- (2) The assessment, levy or collection of taxes;
- (3) The calling of an election or the canvassing of the returns and declaration of the results of an election;
- (4) An emergency; or
- (5) When a state statute provides that it controls over a city charter.

In the event an ordinance is adopted as an emergency measure, the same shall be expressed in the title and the body of such ordinance. The Council may adopt emergency ordinances only to meet public emergencies affecting life, health, property, or the public peace. In particular, such ordinances shall not levy taxes, grant or renew or extend a franchise, or regulate the rate charged by any public utility for its services. Neither shall they authorize the borrowing of money, except as provided in Article XI. After adoption, an ordinance shall not be amended or repealed except by the adoption of another ordinance amending or repealing the original ordinance. Any member of Council may offer any ordinance in writing that he desires after it has been approved by the attorney for the city as to form and has been placed on the agenda of a regular Council meeting.

An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance can be adopted with or without amendment or rejected at the meeting at which it is introduced. The affirmative vote of at least two-thirds (2/3) of the members of Council present shall be required for adoption. After adoption, the ordinance shall be published as required for other adopted ordinances and shall become effective in the same manner. Every emergency ordinance so adopted, except one authorizing the

borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61st) day following the day on which it became effective, but this shall not prevent reenactment as a regular ordinance."

Sec. 4.13. - Publication of ordinances.

The City Secretary shall give notice of the enactment of every ordinance imposing any penalty, fine, or forfeiture for any violation of any of its provisions, and every other ordinance required by law or by this Charter to be published, by causing the ordinance, or its descriptive caption and penalty, to be published in accordance with state law. Such ordinances shall take effect ten days after final passage, provided that any penal ordinance passed as an emergency measure shall take effect immediately upon publication.

Sec. 4.14. - Code of ordinances.

The Council shall have the power to cause all general ordinances of the City to be compiled and printed in code form. Every general ordinance enacted subsequent to such codification shall be enacted as an amendment to the code. The Council shall cause all general ordinances to be codified, recodified, and reprinted whenever in its discretion such is deemed desirable, or when such codification or recodification is required by law. When adopted by the Council, the printed code of general ordinances contemplated by this section shall be in full force and effect without the necessity of such code or any part thereof being published in any newspaper. The caption, descriptive clause, and other formal parts of the ordinances of the City may be omitted without affecting the validity of such ordinances when they are published as a code.

Sec. 4.15. - Limitation of number of terms of councilmember.

No person shall be elected to more than three consecutive regular three-year terms as a Councilmember.

Sec. 4.16. - Compensation of councilmembers.

Each Councilmember shall receive a salary of Twenty Dollars (\$20.00) per month.

Sec. 4.17. - Vacancies in the office of councilmember.

For vacancies in the office of Councilmember arising from any cause, for an unexpired term of twelve months or less, the remaining members of the City Council may appoint a person to serve as a Councilmember or call a special election to be held on the first uniform election date not earlier than 30 days after the vacancy occurs. The City Council shall not appoint more than one Councilmember in any twelve-month period.

Vacancies in the office of Councilmember arising from any cause for an unexpired term of more than twelve months shall be filled for the remainder of the unexpired term at an election to be held on the first uniform election date not earlier than 30 days after the vacancy occurs. A special election shall be called in accordance with state law to elect successors to fill such unexpired terms. Any person elected to fill a vacancy in the office of Councilmember shall possess all of the qualifications herein required for the office.

Sec. 4.18. - Forfeiture of office of councilmember because of absence.

The Mayor or a Councilmember who is absent from more than four consecutive regular meetings of the Council, unless such absences are the result of illness or the conduct of official City business, shall be deemed to have forfeited and removed from the office. The City Council shall determine whether forfeiture has occurred, and the Council shall fill such vacancy in the manner prescribed by the Charter.

ARTICLE V. - THE MAYOR

Sec. 5.01. - Mayor.

The Mayor shall preside at all meetings of the Council and shall be recognized as head of the City Government for all ceremonial purposes, for the purpose of receiving services of civil process, for emergency purposes, and for military purposes, but the Mayor shall have no administrative duties.

It shall be the Mayor's duty to see to the general welfare of the City, to keep abreast of and project the needs of the City, and to recommend legislation to the Council to meet these objectives. The Mayor shall conduct, in person or by naming someone to represent the Mayor, all intercourse and business of the City with other governmental entities.

Sec. 5.02. - Mayor pro tem.

At the first meeting following each general City election, the Council shall by election designate one of its member Councilmembers as Mayor Pro Tem. The Mayor Pro Tem shall act as Mayor during the absence, disability or disqualification of the Mayor and shall have the power to perform every act the Mayor could perform if present.

Sec. 5.03. - Acting mayor.

In the event of the absence, disability, or disqualification of both the Mayor and Mayor Pro Tem at any particular meeting of the Council, the remaining members of the Council shall by election designate one of their members as Acting Mayor and that member shall act as Mayor for such particular meeting and shall have power to perform every act, except the power to remove or suspend officers and employees, the Mayor could perform if present.

Sec. 5.04. - Vacancy.

In the event of a vacancy in the office of Mayor arising from any cause, the Mayor Pro Tem shall become Mayor for the completion of the unexpired term if one year or less of such unexpired term remains. If more than one year of such unexpired term remains, however, the Council shall call a special election to be held on the first uniform election date not earlier than 30 days after the vacancy occurs to fill such vacancy for the unexpired term. The Mayor Pro Tem shall act as Mayor until a successor to the office of Mayor has been elected and duly qualified.

Sec. 5.05. - General powers of the mayor.

The Mayor shall have and exercise such powers, prerogatives, and authorities as are expressly or impliedly conferred on the office by this Charter or by the Council.

Sec. 5.06. - Privilege of vote.

The Mayor, as a member of the Council, shall vote upon all matters considered by the Council, except in those instances where such privilege of vote is specifically denied the Mayor by this Charter.

Sec. 5.07. - Removal of appointed, non-paid persons.

The Mayor may, with approval of Council, remove from office or position all persons appointed by the Mayor to serve on boards, commissions, or committees, or agencies of the City or to serve in any similar non-paid offices or positions of the City. The action of the Mayor and Council shall be final.

Sec. 5.08. - Other duties and powers.

Unless otherwise provided by law or by this Charter, the powers and responsibilities of the Mayor shall include, but shall not be limited by the following:

- (a) Must appoint, subject to the confirmation and approval of the Council, the City Secretary, the City Attorney, the Municipal Court Judge, the Certified Public Accountant, and all members of all Boards, Commissions and Committees of the City.
- (b) To recommend to the Council such measures, resolutions and ordinances as the Mayor may deem proper and necessary.
- (c) To perform such other duties as may be prescribed by this Charter or required of the Mayor by the Council.

Sec. 5.09. - Compensation of mayor.

The Mayor shall receive a monthly salary of \$50.00.

Sec. 5.10. - Limitation on number of terms of mayor.

No person shall be elected to more than three consecutive regular three-year terms as Mayor.

ARTICLE VI. - ELECTIONS

Sec. 6.01. - General elections.

Regular City general elections shall be held on the uniform election date in November. Each election shall be ordered by the Mayor or, in the event the Mayor fails to do so, by the Council. The City Secretary shall give notice of such election by causing the notice to be published in accordance with State Law.

Sec. 6.02. - Run-off elections.

In the event any candidate for Mayor or Councilmember fails to receive a majority of all votes cast for a particular office at any regular or special election, the Mayor or, if the Mayor fails to do so, the Council shall following the completion of the official count of ballots cast at the first election, order a second election to be held on a Saturday in accordance with the Texas Election Code at which election the two candidates receiving the highest number of votes cast for such particular office in the first election, at which no one was elected to such office by receiving a majority of all votes cast for all candidates for such particular office, shall again be voted for, and the one receiving the highest number of votes cast shall be elected to such office. The City Secretary shall give notice of such run-off election by causing said notice to be published at least ten days prior to the date of such election in accordance with state law.

Sec. 6.03. - Order of names on ballot.

In all elections, regular or special, first or run-off, the order of names of candidates for a particular office on the ballot shall be determined by the Texas Election Code.

Sec. 6.04. - Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the Council for the conduct of elections. The Council shall appoint the Election Judges and other election officials and shall provide for the compensation of

all election officials in City elections and for all other expenses of holding such elections. Municipal elections shall be conducted by the appointed election authorities in accordance with state law.

Sec. 6.05. - Filing of candidates.

Any qualified person who desires to become a candidate for election to the office of Mayor or Councilmember shall file with the City Secretary an application for that person's name to appear on the ballot beginning on the 91st day and ending on the 62nd day prior to the election. Such application shall clearly designate the office and, if a candidate for Councilmember, the Ward or At-Large position to which the candidate seeks election and shall contain a sworn statement by the candidate that the person is fully qualified under the laws of the State of Texas and the provisions of this Charter to hold the office the person seeks.

Sec. 6.06. - Canvassing election and declaring results.

The returns of every municipal election shall be delivered forthwith by the Election Judges to the City Secretary. The Council shall canvass the returns, investigate the qualifications of the candidates, and declare the official results of the election. The returns of every municipal election shall be recorded in the minutes of the Council by Ward totals when applicable. At each first election the qualified person receiving a majority of all votes cast for the office that person seeks shall thereupon be declared by said Council elected. The decision of the Council as to qualifications of candidates shall be conclusive and final for all purposes.

Sec. 6.07. - Notification and qualification of city officials.

It shall be the duty of the City Secretary to notify all persons elected or appointed to office of their election or appointment. All officials newly elected at a City election may enter upon their duties in accordance with state law. All elected or appointed officials must qualify by taking and subscribing their oath of office within thirty days following the date of their election or appointment; otherwise, the office shall be deemed vacant.

Sec. 6.08. - Special elections.

The Council may by ordinance or resolution call such special elections as are authorized by the laws of the State of Texas and by this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable according to the provisions governing City general elections. It is specifically provided, however, that if the laws of the State of Texas specify a different period or method of notice of any special election, the time and method provided for therein shall prevail over the general provisions of this Charter.

ARTICLE VII. - INITIATIVE, REFERENDUM, AND RECALL

Sec. 7.01. - Power of initiative.

The people of the City reserve the power of direct legislation by initiative, and in the exercise of such power may propose any ordinance, except ordinances appropriating money or levying taxes, or ordinances repealing ordinances appropriating money or levying taxes, not in conflict with this Charter or the Constitution of the laws of the State of Texas. Any initiated ordinance may be submitted to the Council by a petition signed by not less than 1,000 (one thousand) of the qualified voters of the City.

Sec. 7.02. - Power of referendum.

The people reserve the power to approve or reject at the polls any legislation enacted by the Council which is subject of the initiative process under this Charter, except ordinances authorizing the issuance of either tax or

revenue bonds, whether original or refunding bonds, shall not be subject to such referendum. Prior to or within thirty days after the effective date of any ordinance which is subject to referendum, a petition signed by not less than 1,000 (one thousand) of the qualified voters of the City may be filed with the City Secretary requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the City Secretary, the ordinance specified in the petition shall not go into effect, or further action thereon shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

Sec. 7.03. - Form of petitions.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a descriptive caption. Referendum petition papers shall contain a sufficient description of the ordinance sought to be referred to identify it, or if the ordinance has been passed by Council, the full text of the ordinance sought to be referred shall be included in such papers. For a petition signature to be valid, a petition must contain, in addition to the signature, the printed name of the signer, the signer's voter registration number, the signer's residence address, or date of birth, and the date of signing. No signature shall be counted where there is a reason to believe it is not the actual signature of the purported signer or that it is a duplication either of name or of handwriting used in any other signature on the petition. Before the signatures on any petition paper may be counted, one of the signers of such petition paper, a qualified voter, shall make oath before the City Secretary or any other officer competent to administer oaths, that the statements made therein are true, that each signature to the paper appended is a genuine signature of the person whose name purports to be signed thereto, and that such signatures were placed thereon in that person's presence.

Sec. 7.04. - Filing, examination, and certification of petitions.

Within thirty days after an initiative or referendum petition is filed, the City Secretary shall determine whether the same is properly signed by the requisite number of qualified voters. The City Secretary shall declare void any petition paper which does not have an affidavit attached thereto as required in Section 7.03 of this Article. In examining the petition, the City Secretary shall write the letters "D.V." (declared void), in red ink opposite the names of the signers found not qualified. After completing the examination of the petition, the City Secretary shall certify the results thereof to the Council at its next regular meeting. If the certificate of the City Secretary shall show an initiative or referendum petition to be insufficient, the City Secretary shall notify the person filing the petition, and it may be amended within ten days from the date of such notice by filing a supplementary petition upon additional papers signed and filed as provided for in the original petition. Within thirty days after such amendment is filed, the City Secretary shall examine the amended petition and certify as to its sufficiency. If the amended petition is then found to be insufficient, no further proceedings shall be had with regard to it, except as provided in Section 7.06 below.

Sec. 7.05. - Council consideration and submission to voters.

When the Council receives an authorized initiative petition certified by the City Secretary to be sufficient, the Council shall either: (a) pass the initiated ordinance without amendment within twenty-one days after the date of the certification to the Council; or (b) submit said initiated ordinance without amendments to a vote of the qualified voters of the City at a regular or special election to be held on the first uniform election date not earlier than 30 days after the date of the certification to the Council.

When the Council receives an authorized referendum petition certified by the City Secretary to be sufficient, the Council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed within twenty-one days, it shall be submitted to the qualified voters of the City at a regular or special election to be held on the first uniform election date not earlier than 30 days after the date of the certification to the Council.

Special elections on initiated or referred ordinances shall not be held more frequently than once each six months, and no ordinance on the same subject as an initiated ordinance which has been defeated or on the same subject as a referred ordinance which has been approved at any election may be initiated by the voters within two years from the date of such election.

Sec. 7.06. - Results of election.

Any number of ordinances may be voted on at the same election in accordance with the provisions of this Article. If a majority of the legal votes cast is in favor of an initiated ordinance, it shall thereupon be effective as an ordinance of the City. An ordinance so adopted may be repealed or amended at any time after the expiration of two years by a vote of two thirds of the Councilmembers qualified and serving. A referred ordinance which is rejected by a majority of the legal votes cast in a referendum election shall be deemed thereupon repealed and may not be reenacted by the Council for a period of two years.

Sec. 7.07. - Power of recall.

The people of the City reserve the power to recall any elected officer of the City of Huntsville and may exercise such power by filing with the City Secretary a petition, signed by not less than 1,000 (one thousand) of the qualified voters of the City demanding the removal of such elected officers. The petition shall be signed and verified in the manner required for an initiative petition.

Sec. 7.08. - Recall elections.

The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the City Secretary to be sufficient, the Council shall order an election to be held on the first uniform election date not earlier than 30 days following such certification to determine whether such officer shall be recalled.

Sec. 7.09. - Results of recall election.

If the majority of the legal votes cast at a recall election be for the recall of the officer named on the ballot, the Council shall immediately declare that office vacant, and a special election for the filling of such vacancy shall be called and held forthwith in accordance with provisions of this Charter on elections. An officer thus removed shall not be eligible to hold office again in the City of Huntsville within a period of two years from the date of the recall.

Sec. 7.10. - Limitation on recall.

No recall petition shall be filed against an officer within six months after that officer takes office, and no officer shall be subjected to more than one recall election during a term of office.

ARTICLE VIII. - CITY MANAGER, ADMINISTRATIVE OFFICES AND DEPARTMENTS

Sec. 8.01. - The city manager.

The Council shall appoint a City Manager who shall be the Chief Administrative and Executive Officer of the City. The City Manager shall be chosen by the Council solely on the basis of the person's executive and administrative training, experience, and ability, and need not, when appointed, be a resident of the City of Huntsville; however, during the tenure of office, the City Manager shall reside within the City or its Extra-Territorial Jurisdiction (ETJ).

The City Manager shall not be appointed for a definite term but may be removed at the will and pleasure of the Council with or without cause, by the vote of a majority of all Councilmembers qualified and serving. The action of the Council in removing the City Manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the Council. The City Manager shall receive such compensation as may be fixed by the Council.

No member of the Council shall, during the time for which that member is elected or for two years thereafter, be chosen as City Manager.

Sec. 8.02. - Powers and duties of the city manager.

The City Manager shall be responsible to the Council for the proper administration of all the affairs of the City. The powers herein conferred upon the City Manager shall include, but shall not be limited by, the following:

- (a) To appoint and remove any officer or employee of the City except those officers and employees whose appointment or election is otherwise provided for by law or by this Charter.
- (b) To perform such other duties as may be prescribed by this Charter or required of the City Manager by the Council, not inconsistent with the provisions of this Charter.

Sec. 8.03. - Administrative departments.

There shall be such administrative departments as are established by this Charter and as may be established by ordinance, all of which shall be under the control and direction of the City Manager. The Council may abolish or combine one or more departments created by it.

Sec. 8.04. - Directors of departments.

At the head of each department there shall be a Director who shall be appointed, and who may be removed, by the City Manager. Such Directors shall have supervision and control over their respective departments and may serve as Chief of Divisions within their respective departments. Two or more departments may be headed by the same individual, and the City Manager may head one or more departments. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and shall not give orders to any of the Manager's subordinates, either publicly or privately.

Sec. 8.05. - Rights of the city manager and other officers in council.

The City Manager, and such other officers of the City as may be designated by vote of the Council shall be entitled to seats at the Council table but shall not be members thereof and shall have no vote therein. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and other officers shall be entitled to take part in all discussions of the Council, relating to their respective offices, departments, or agencies.

Sec. 8.06. - Bonds of city officers.

The Council may require any officer of the City to give bond with such surety and in such sum as may be prescribed by ordinance, which sum shall be of sufficient amount to protect the City. The premium of such bond shall be paid for by the City.

ARTICLE IX. DEPARTMENT OF LAW

Sec. 9.01. - City attorney.

The Council, upon recommendation of the Mayor, shall appoint a competent and duly licensed attorney in the State of Texas who shall be its City Attorney. The City Attorney shall be the legal advisor of and attorney for all of the offices and departments of the City and shall represent the City in all litigation and legal proceedings. The City Council may engage other attorneys to assist the City Attorney. The City Attorney shall draft, approve, or file any written legal objections to every ordinance adopted by the Council, and it shall be the duty of the City Attorney to perform all services incident to the position as may be required by statute, this Charter or the Council.

Sec. 9.02. - Assistant city attorneys.

There shall be such Assistant City Attorneys as may be authorized by the Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney.

ARTICLE X. - MUNICIPAL COURT

Sec. 10.01. - Municipal court.

There shall be a Municipal Court of the City of Huntsville, which Court shall be deemed always open for the trial of causes, and with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

Sec. 10.02. - Judge of the municipal court.

The Municipal Court shall be presided over by a magistrate who shall be known as the Judge of the Municipal Court. The Council, upon recommendation of the Mayor, shall appoint such Judge, who shall be an attorney at law.

In the event the Judge of the Municipal Court is temporarily unable to act for any reason, a qualified person shall be appointed to act in the Judge's place.

The Council shall have the power to appoint on recommendation of the Mayor more than one Judge of the Municipal Court, each of whom shall be a magistrate.

Sec. 10.03. - Clerk of the municipal court.

There may be a Clerk of the Municipal Court who shall be appointed by the City Manager. Such Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the Court thereto, and otherwise perform any and all acts necessary in issuing process of such Court and conducting the business thereof.

There may be such Deputy Clerks of the Municipal Court as may be authorized by the Council and appointed by the City Manager, which Deputy Clerks shall have authority to act for and on behalf of the Clerk of the Municipal Court.

Any Clerk and Deputy Clerk of the Municipal Court shall be responsible to the City Manager and shall be subject to the City Manager's direction and control.

Sec. 10.04. - Process and procedure in the corporation court.

The style of all writs issued out of the Municipal Court shall be in the name of the City of Huntsville.

All jurors shall be residents of said City and otherwise possess the same qualifications as jurors in the State courts, and they shall be summoned in the same manner as provided for in Justice Court.

Sec. 10.05. - Court separate from all departments.

The Municipal Court of the City shall always be separate and apart from all departments of the City.

ARTICLE XI. - FINANCE**Sec. 11.01. - Department of finance.**

There shall be a Department of Finance headed by a Director appointed by the City Manager.

Sec. 11.02. - Fiscal procedures.

The Director of Finance shall administer and supervise all financial affairs of the City, and to that end shall have authority and shall be required to ensure internal controls are in place to provide assurance that bills, invoices, payrolls, claims, demands, or charges against the City are valid:

- (a) Have custody of and be responsible for all monies belonging to or under the control of the City or any office, department or agency thereof, and shall promptly deposit all such monies in the City depository or depositories.
- (b) Examine all contracts, orders, and other documents by which the City government incurs financial obligations, having previously ascertained that money has been appropriated and allotted and will be available when the obligation becomes due and payable.
- (c) Prescribe the forms of receipts, vouchers, bills, claims and bookkeeping procedures to be used by all offices, departments and agencies of the City.
- (d) Review for approval before payment all bills, invoices, payrolls, and other evidence of claims, demands or charges against the City. The Director of Finance shall, when it is deemed necessary, seek the written advice of the City Attorney in order to determine the regularity, legality, and correctness of such claims, demands, or charges, prior to presentation of the same to the Council for approval.
- (e) Provide at a minimum quarterly reports/statements that provide sufficient information as to the financial condition of the City. Provisions shall be made for public access.
- (f) Provide a financial statement of the financial condition of the City, including the status of all general and special accounts, and bonded and other indebtedness of the City in the form and as often as a majority of the Councilmembers qualified and serving may require, but at least once each fiscal year. Such financial report must be audited by a Certified Public Accountant which shall be the same one as appointed under Section 11.16 of this Charter and shall possess the qualifications as set out in said Section. The financial report shall be submitted to the Council for acceptance or rejection at a regular meeting of the Council and the results shall be made a matter of record and provision shall be made for public access.
- (g) Invest all funds deemed in excess of current needs in the manner authorized by the laws of the State of Texas; current needs are hereby defined as expenditures to be made within a given ninety (90) day period.
- (h) Record all investments in investor funds of the City, or in the possession of the City in a fiduciary capacity.
- (i) Maintain a general accounting system for the City government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department, and agency; keep separate accounts for the items of appropriations contained in the City budget, each of which account shall show the amount of the appropriations, the amount paid there from, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending office, department or agency of the City to be made daily or at such intervals as the Director may deem expedient.

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- (j) Pay no claim against the City unless it is evidenced by bill or voucher submitted and approved by the head of the department for which the indebtedness was incurred. Each officer and their surety shall be liable to the City for all loss or damage sustained by the City by reason of negligence or corrupt approval of such claim.

Sec. 11.03. - Depository.

All monies received by any person, department or agency of the City, for and in connection with the affairs of the City shall be deposited promptly in the City depository or depositories, which shall be designated by the Council in accordance with such regulations and subject to such requirements as to security for deposits and interest thereon as may be established by ordinance. All checks, vouchers, or warrants for the withdrawals of money from the City depositories shall be signed by the Mayor and countersigned by the City Manager. Provided, that the Council, under such regulations and limitations as it may prescribe, may by ordinance authorize the use of machine-imprinted/electronic, facsimile signatures of said Mayor and City Manager on such checks, vouchers and warrants.

Sec. 11.04. - Fiscal year.

The fiscal year of the City shall begin on the first day of October and end on the last day of September of the succeeding year. All funds collected by the City during any fiscal year and except for funds derived to pay interest and create a sinking fund of the bonded indebtedness of the City, may be applied to the payment of expenses incurred during such fiscal year, except as provided in this Charter. All revenues uncollected at the ends of any fiscal years, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

Sec. 11.05. - Budget preparation and adoption.

At least thirty days prior to the end of each fiscal year, the City Manager shall submit to the Council a proposed budget presenting a complete financial plan for the ensuing fiscal year. Such budget shall be prepared and public hearings shall be held thereon in the manner prescribed by the laws of the State of Texas relating to budgets in cities and towns. The budget shall be finally adopted not later than the 27th day of the last month of the fiscal year. Should the Council take no action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the Council. No budget shall be adopted, or appropriations made unless the total of estimated revenues, income, and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided in this Article.

Sec. 11.06. - Appropriations.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. Except as provided in this Article, no funds of the City shall be expended nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual appropriation ordinance provided by this Article. At the close of each fiscal year, any unencumbered balance of any appropriation shall revert to the fund from which appropriated and become available for reappropriation for the next fiscal year. The Council may transfer any unencumbered appropriated balance or portion thereof from one office, department, or agency to another at any time. The Council shall have the authority to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the City.

Sec. 11.07. - Emergency appropriations.

At any time in any fiscal year, the Council may, pursuant to this Section, make emergency appropriations to meet a pressing need for public expenditures, for other than regular or recurring requirements, to protect the

public health, safety, or welfare. Such appropriations shall be by ordinance adopted by the favorable votes of two-thirds of the Councilmembers qualified and serving.

Should the unappropriated and unencumbered revenues, income and available funds of the City for such fiscal year be not sufficient to meet the expenditures under the appropriation authorized by this Section, thereby creating a deficit, it shall be the duty of the Council to include the amount of such deficit in its budget for the following fiscal year, and said deficit shall be paid off and discharged during the current fiscal year.

Sec. 11.08. - Borrowing to meet emergency appropriations.

In the absence of unappropriated available revenues or other funds to meet emergency appropriations under the provisions of the next preceding Section, the Council may by resolution authorize the borrowing of money to meet such deficit by the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed from time to time, but all such notes of any such fiscal year and any renewals thereof shall mature and be payable not later than the last day of the fiscal year in which the emergency appropriation was made.

Sec. 11.09. - Borrowing in anticipation of property taxes.

In any fiscal year, in anticipation of the collection of the ad valorem property tax for such year, whether levied or to be levied in such year, the Council may by resolution authorize the borrowing of money, not to exceed in any fiscal year an amount equal to ten percent of the budget for that fiscal year. Such borrowing shall be made by the issuance of negotiable notes of the City, each of which shall be designated "tax anticipation note for the year ____" (stating the tax year). Such notes shall mature and be payable not later than the end of the fiscal year in which issued and may be secured by the pledge of the ad valorem property taxes for such year.

Sec. 11.10. - General obligation bonds.

The City shall have the power to borrow money on the credit of the City and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the Constitution and Laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the City previously issued. All bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 11.11. - Limitations on bonded indebtedness payable from taxes.

The maximum bonded indebtedness of the City outstanding at any one time and payable from taxation shall not exceed ten percent of the assessed valuation of all taxable property on the City's tax rolls.

Sec. 11.12. - Revenue bonds.

The City shall have the power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities, or any other self-liquidating municipal function not prohibited by the Constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable solely from the properties, or interest therein, pledged, or the income there from, or both, and shall never be a debt of the City. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 11.13. - Sale of bonds.

No bond, other than refunding bonds issued to refund and in exchange for previously issued outstanding bonds, issued by the City shall be sold for less than par value and accrued interest.

All bonds of the City having been issued in conformity with the laws of the State of Texas and having been delivered to the purchaser thereof, shall thereafter be incontestable, and all bonds issued to refund and in exchange for outstanding bonds previously issued shall, after said exchange, be incontestable.

Sec. 11.14. - Use of bond proceeds.

The proceeds of all bonds authorized, issued, and sold by the city shall be used only for the purpose for which voted or authorized and the diversion of any such bond proceeds to any other purpose may be enjoined by any property tax paying citizen of the city.

Sec. 11.15. - Purchase procedures.

The Council may by ordinance confer upon the City Manager's general authority to contract for expenditures without further approval of the Council for all budgeted items. All contracts and purchases shall be made in compliance with applicable state statutes and the City's purchasing policies and procedures approved by City Council.

Sec. 11.16. - Independent audit.

At the close of each fiscal year, and at such other times as it may deem necessary, the Council shall cause an independent audit to be made of all accounts of the City by a Certified Public Accountant appointed by the Mayor with approval of the Council. The Certified Public Accountant so selected shall have no personal interest, directly or indirectly, in the financial affairs of the City or any of its officers. Upon completion of the audit, the results thereof shall be published in accordance with state law and provisions made for public access.

ARTICLE XII. - TAXATION

Sec. 12.01. - Power of taxation.

The City shall have the powers to levy, assess, and collect taxes of every character and type not prohibited by the Constitution and Laws of the State of Texas, and for any municipal purpose. Except as otherwise provided by law or by this Charter, the Council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations, and mode of procedure to enforce the collection by and payment to the City Tax Assessor and Collector as it may deem expedient, and may provide such penalties for the failure to pay such taxes as it may deem expedient.

Sec. 12.02. - Ad valorem taxes.

All property, real, personal, or mixed, situated within the corporate limits of the City of January 1 of each year, not expressly exempt by law, shall be subject to taxation by the City for such year.

Sec. 12.03. - Tax abatement or rebate.

A two-thirds ($\frac{2}{3}$) majority vote of the Council qualified and serving is required to authorize any abatement of any city taxes or any rebate of any city taxes to any individual or entity.

ARTICLE XIII. - FRANCHISES AND PUBLIC UTILITIES

Sec. 13.01. - Inalienability of control of public property.

The City shall have the full power, to the extent the same is conferred by applicable law, to own, lease, operate, prohibit, regulate and control any public utility within or without the limits of the City and to provide for the compensation and rental to be paid to the City by any public utility for the use of its streets, highways and public areas. No act or omission by the Council or any officer or agent of the City shall be construed to grant, renew, extend, or amend, expressly or by estoppel or implication, any right, franchise, or easement affecting such public streets, highways, sidewalks, alleys, parks, public squares, public places and other real property, except as provided in this Charter.

Sec. 13.02. - Power to grant franchise.

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all The City Council shall have power by ordinance to grant, renew and extend all franchises of public utilities of every character operating within the City and for such purposes is granted full power. The term "public utility" as used herein is construed to mean any person, firm or corporation furnishing to the public any general public service, including, but not limited to, heat, light, gas, power, telephone service, communication services, community antenna or cable television service, sewer service and the treatment thereof, water, wrecker service, the carrying of passengers for hire, or any other public service whereby a right to, in part, appropriate or use the streets, highways, or other property of the City, as necessary or proper is granted. Provided, however, that no franchise shall be granted for an indeterminate term, and that no franchise shall be granted for a term of more than thirty years.

Sec. 13.03. - Ordinance granting franchise.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be presented in writing at two regular meetings of the Council and shall not be finally acted upon until thirty days after the first presentation thereof. Within five days following each of the two presentations of the ordinance, a descriptive caption of the ordinance stating in summary the purpose of the ordinance shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

Sec. 13.04. - Transfer of franchise.

Except as provided by law, no public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by the ordinance.

Sec. 13.05. - Franchise value not allowed.

In fixing reasonable rates and charges for public utility service within the City and in determining the just compensation to be paid by the City for public utility property which the City may acquire by condemnation or otherwise, nothing shall be included as the value of any franchise by the City under this Charter.

Sec. 13.06. - Regulation of franchise.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

- (a) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and

setting a reasonable time for the correction of such failure and shall be exercised only after hearing and after such reasonable time has expired.

- (b) To impose reasonable regulations to insure safe, efficient, and continuous service to the public and establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates.
- (c) To require such expansion, extension, enlargement, and improvement of plants and facilities as are necessary to provide adequate service to the public and to require that maintenance of facilities be performed at the highest reasonable standard of efficiency.
- (d) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length, and terminals of all facilities of such franchise holder in, over, and under the streets, alleys, and other public properties of the City, and to regulate and control the location, relocation, and removal of such facilities.
- (e) To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, viaducts, and other public places of the City as represent the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of the cost of such operations as results from the damage to or the disturbance of such public places caused by such public utility; or to compel such public utility to perform at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.
- (f) To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council such use shall be in the public interest, provided that in such an event a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be an excuse for failure to comply with such requirement by the Council.
- (g)
 - (1) To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts, and profits of all kind of such franchise holder.
 - (2) To examine and audit at any time during business hours the accounts and other records of any franchise holder.
 - (3) To require reports on the operation of the utility, which shall be in such form and contain such information as the Council shall prescribe.
- (h) To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant, or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.
- (i) To impose such other reasonable regulations, restrictions, requirements and conditions as may be deemed necessary or desirable to promote the health, safety, welfare, or accommodations of the public.
- (j) To require that the franchise holder restore to the applicable City standards at that time, at his/her expense, all public and private property damaged or destroyed by construction, maintenance, or removal by such franchise holder.

Sec. 13.07. - Franchise records.

Within six months after the effective date of this Charter every public utility operating in the City and every owner of public utility franchise within the City shall file with the City Secretary certified copies of all franchises owned or claimed or under which such utility is operating in the City of Huntsville. The City shall compile and maintain a public record of public utility franchises.

Sec. 13.08. - Other franchise conditions.

All franchises heretofore granted are recognized as contracts between the City and the grantee, and the contractual rights as contained in any such franchise shall not be impaired by the provisions of this Charter, except that the power of the City to exercise the right of eminent domain in the acquisition of any utility property is in all things reserved; and except that the general power of the City, heretofore existing and herein provided for to regulate the rates and services of a grantee, shall include the right to require proper and adequate extension of plant and service and the maintenance of the plant and equipment at the highest reasonable standard of efficiency. All franchises hereafter granted shall be held subject to all terms and conditions contained in the various sections of this article whether or not such terms are specifically mentioned in the franchise.

Sec. 13.09. - Regulation of rates and service.

The City Council subject to applicable law shall have full power, after due notice and hearing, to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City. Every franchise holder who shall request an increase in rates, charges or fares shall have, at a hearing of the City Council called to consider such request, the burden of establishing by clear, competent, and convincing evidence the value of its investment property allocable to service in the City, the amount and character of its expenses and revenues connected with the rendering of such service, and any additional evidence required by the City Council. If no agreement between the City Council and the franchise holder can be reached on such request for an increase in rates, charges, or fares, the City Council may select and employ rate consultants, auditors and attorneys to investigate and, if necessary, litigate such request. The franchise holder shall reimburse the City for its reasonable and necessary expenses so incurred and may be allowed to recover such expenses through its rates during the period of recovery if authorized to do so by the City Council.

ARTICLE XIV. - GENERAL PROVISIONS**Sec. 14.01. - Continuation of government.**

Any ordinance in effect at the time this Charter is adopted, and not otherwise in conflict with this Charter, which refers to some office or employment of the City which ceases to exist under this Charter, shall continue in force and the powers and duties of the office or employment which, under this Charter, succeeds to the same general powers and duties of such office or employment under the previous Charter.

Sec. 14.02. - Effect of charter on existing law.

All ordinances, resolutions, rules, and regulations in force in the City on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended, or repealed by the Council. All taxes, assessments, liens, encumbrances, and demands of or against the City, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this Charter.

Sec. 14.03. - Official oath.

All officers of the City shall, before entering upon the duties of their respective offices, take and subscribe the official oath prescribed in the Constitution of the State of Texas.

Sec. 14.04. - Public records.

It is hereby declared to be the policy of the City to provide for efficient, economical, and effective controls over all public records of the City, consistent with the requirements of the Local Government Records Act and accepted records management practice. Public records shall be available to the public in accordance with applicable State or Federal law.

Sec. 14.05. - Information on public matters.

The Council shall cause to be published in any medium allowed by state law all ordinances, notices, and other matters required by this Charter, by the ordinances of the City, and by the Constitution or laws of the State of Texas to be published.

Sec. 14.06. - Notice of claim.

The City of Huntsville shall not be held responsible on account of any claim for damages or injuries to any person, whether such damages or injuries resulted in death or not, or property unless the person making such complaint or claiming such damages or injuries, shall within six months after the time in which it is claimed such damages or injuries were inflicted upon such person or property, file with the City Secretary a true statement under oath as to the nature and character of such damages or injuries, the extent of the same, and the place where same happened, the circumstances under which it happened, the conditions causing same, and a detailed statement of each item of damages and the amount thereof and, if it be for personal injuries, whether resulting in death or not, giving a list of witnesses, if any, known to affiants who witnessed such accident.

Sec. 14.07. - Assignment, execution, and garnishment.

The property, real and personal, belonging to the City shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the City, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the City be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any such writ of garnishment on any account. The City shall not be obligated to recognize any assignment of wages by its employees unless required by law.

Sec. 14.08. - Security or bond not required.

It shall not be necessary in action, suit, or proceeding in which the City shall be a party for any bond, undertaking, or security to be executed in behalf of the City; but all actions, suits, and proceeding shall be conducted in the same manner as if such bond, undertaking, or security had been given. The City shall have all remedies of appeal provided by law to all courts in this State without bond or security of any kind. For all the purposes of such actions, suits, proceedings and appeals, the City shall be liable in the same manner and to the same extent as if bond, undertaking, or security in ordinary cases had been given and executed.

Sec. 14.09. - Personal interest in city contracts.

No City official or employee shall participate in a vote or decision on any matter involving a business entity or real property in which the official or employee has a substantial interest as provided by state law.

Sec. 14.10. - Nepotism.

No person related within the second degree by affinity or within the third degree by consanguinity to the Mayor, any member of the Council or City Manager, shall be appointed to any office, position, clerkship or other

service of the City. Nothing herein contained shall prevent the appointment, voting for, or confirmation of any person who shall have been continuously employed in any office, position, clerkship, employment or duty for the following period prior to the election or appointment, as applicable, of the officer or member related to such employee in the prohibited degree:

- (1) at least thirty days, if the officer or member is appointed; or
- (2) at least six months, if the officer or member is elected.

Sec. 14.11. - Limitation on reimbursement of expenses.

The Council may authorize the reimbursement of actual and receipted expenses incurred by any officer or employee of the City while acting in the City's behalf in their official capacity; provided, the Mayor and Councilmembers for each fiscal year shall not be entitled to such reimbursements exceeding budgeted the amount for City Council for each fiscal year; the limit may only be exceeded by the affirmative vote of a two-thirds (2/3) majority of the Council qualified and serving.

Sec. 14.12. - Mineral leases on city-owned property.

No City-owned property or any part thereof shall be leased for the purpose of prospecting for, mining, drilling, or producing oil, gas, or other minerals there from unless such lease agreement specifically provides that the City shall retain a royalty interest equivalent to at least one-eighth of the total production of such oil, gas, or other minerals therefrom.

Sec. 14.13. - Sale or lease of real estate.

- (a) No public park shall be sold, or any part thereof, until the question of such sale has been submitted to a vote of the qualified voters of the City and approved by a majority of the votes cast at such elections.
- (b) Any sale or lease of real estate owned by the City shall be performed according to state law.

Sec. 14.14. - Limitations on contracts.

From the date of any general election until the canvassing of said election, the Council shall not create, make, or enter into any contract in excess of fifty thousand dollars.

Sec. 14.15. - Qualifications of contractors.

All contractors who bid and/or contract with the City for the construction or repair of public works must meet the bid requirements and possess the qualifications as required by the City Council.

Sec. 14.16. - Participation of city employees or use of city equipment in municipal politics.

No officer or employee of the City shall be required to participate in any City election in behalf of any candidate for Mayor or Councilmember, nor shall any City equipment be used by or in behalf of any candidate for Mayor or Councilmember.

Sec. 14.17. - Health, life, and accident insurance for city employees.

The City Council shall have the power, exercisable in its discretion, and subject to such limitations and regulations as it may deem proper to create, operate, amend, and contract for an insurance plan covering health, life, and accident insurance, or any of them, for any and all City officers and employees, except members of the Council, and to pay any portion of the premiums therefore.

Sec. 14.18. - Violation of charter provisions or laws of the state of Texas.

Any willful violation of the provisions of this Charter or of the laws of the State of Texas relating to Home Rule Cities shall constitute malfeasance in office, and any officer of the City guilty thereof shall immediately forfeit their office or position, and said office or position shall be deemed vacant. The City Council shall determine whether forfeiture has occurred. Any elected official of the City convicted in any court of a crime involving moral turpitude shall forfeit his or her office.

Sec. 14.19. - Rearrangement and renumbering.

The Council shall have the power, by ordinance, to renumber and rearrange all Articles, Sections, and paragraphs of this Charter, or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof, certified by the City Secretary, shall be forwarded to the Secretary of State for filing.

Sec. 14.20. - Construction of charter.

This Charter shall not be construed as a mere grant of enumerated powers, but shall be construed as a general grant of power and as a limitation of power on the government of the City in the same manner as the Constitution of Texas is construed as a limitation on the powers of the Legislature. Except where expressly prohibited by this Charter, each and every power under Article IX, Section 5, of the Constitution of Texas, which it would be competent for the people of the City of Huntsville to grant expressly to the City, shall be construed to be granted to the City by this Charter.

Sec. 14.21. - Severability clause.

If any Section or part of a Section of this Charter is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force, or effect of any other Section or part of a Section of this Charter.

Sec. 14.22. - Amendment.

- (a) Amendments to this Charter shall be framed and submitted to the voters of the City in the manner provided by Chapter 9 of the Texas Local Government Code, as heretofore or hereafter amended.
- (b) Every five years the Mayor, with approval of Council, shall appoint at least three persons to a Charter Review Committee. The Committee shall report to City Council amendments, if any, to the City Charter that it recommends for submission to the City at a municipal election.

ADOPTED: September 28, 1968

AMENDED: November 17, 1970

AMENDED: November 28, 1972

AMENDED: April 7, 1979

AMENDED: April 3, 1982

AMENDED: April 5, 1986

AMENDED: January 21, 1992

AMENDED: May 15, 2004

AMENDED: November 3, 2009

AMENDED: November 5, 2013

AMENDED: November 6, 2018

AMENDED: November 7, 2023



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 6.a.

Agenda Item: City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 to receive legal advice on Cause No. 2230703, City of Huntsville vs. Architects Design Group/ADG, Inc. in the 278th District Court, Walker County, Texas.

Initiating Department/Presenter: City Attorney

Presenter:

Leonard Schneider, City Attorney

Recommended Motion: Not Applicable

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:

Leonard Schneider

Aron Kulhavy

Kristy Doll

Associated Information:



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 6.b.

Agenda Item: City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 to receive legal advice on authorizing the release of 2,029.01 acres, parcel numbers 12735 and 12700, as requested by Joseph Adams, from the City of Huntsville Extra Territorial Jurisdiction (ETJ) pursuant to Senate Bill 2038 enacted during the 88th Texas Legislative Session and current legal action filed by other Cities..

Initiating Department/Presenter: City Attorney

Presenter:

Leonard Schneider, City Attorney

Recommended Motion: None

Strategic Initiative: Goal #4, Infrastructure - Ensure the quality of the City utilities, transportation and physical structures so that the City's core services can be provided in an effective and efficient manner.

Discussion:

Previous Council Action: None

Financial Implications: None

Approvals:

Kevin Byal
Aron Kulhavy
Kristy Doll

Associated Information:

1. 1- Petition for ETJ Release (002)
2. Concept Plan



City of Huntsville

Incorporated in 1845 under the Republic of Texas

Petition for Release from Extraterritorial Jurisdiction

The undersigned does hereby petition for release of 2,029.01 acres located in the extraterritorial jurisdiction of the City of Huntsville, Texas. The property is more particularly described in the attached survey description (title as exhibit A) and shown on the attached map (title as exhibit B). The undersigned also certifies that the following required information concerning the land and its inhabitants is reasonably accurate and assumes responsibility for the completion of said information prior to scheduled action on the request of the City of Huntsville.

1. Is this petition being initiated by either (please indicate yes or no):
 - a. A majority of registered voters in the area of request? _____, or
 - b. A majority in value of the holders of title of land in the area? YES
2. Is the area subject to a non-annexation agreement or a strategic partnership agreement with the City of Huntsville? NO
3. How many dwelling units are located within the area requested for release? 0
4. Estimated population of the area in request:
 - a. Total: 0
 - b. Number of Registered Voters: 1

Please provide the additional items below:

- ☒ Legal description by metes and bounds or lot and block number. (exhibit A)
- ☒ Map of the land to be released. (exhibit B)
- ☐ Attached petition signature/s of the owner/s of a majority of value of land in the area (based on tax rolls) or of a majority of the registered voters of the area. (if applicable)

Name and signature of Petitioner

(if multiple petitioners, please use additional petitioners page)

<u>Joseph Adams</u>	<u>[Signature]</u>
Printed Name	Signature
<u>500 Adams Lane New Waverle</u>	<u>11-30-2023</u>
Signer's Residence Address/ City/State/Zip	Date
<u>[Redacted] 77958</u>	
<u>6023-131-02300 & 2360-13-0020</u>	
Date of Birth or Voter Registration Number	Parcel ID (2000A) & (23A)

Development Services Department

448 State Highway North - Huntsville, TX 77320-1118 - (936) 294-5700 Fax - (936) 294-5701

Our vision for the City of Huntsville is a community that is beautiful, historic, culturally diverse, affordable, safe, and well planned with great opportunity for our citizens.



TEXAS PROFESSIONAL SURVEYING, LLC.

3032 N. FRAZIER STREET, CONROE, TEXAS 77303
(936)756-7447 FAX (936)756-7448
FIRM REGISTRATION No. 100834-00

FIELD NOTE DESCRIPTION

2,005.480 ACRES

**IN THE THEODORE BENNETT SURVEY, ABSTRACT NUMBER 68,
THE B.B. GOODRICH SURVEY, ABSTRACT NUMBER 23,
THE NICHOLAS L. GARRETT SURVEY, ABSTRACT NUMBER 219,
AND IN THE ELIZABETH RIDGEWAY SURVEY, ABSTRACT NUMBER 472,
WALKER COUNTY, TEXAS**

BEING a 2,005.480 acre tract situated in the Theodore Bennett Survey, Abstract Number 68, the B.B. Goodrich Survey, Abstract Number 23, the Nicholas L. Garrett Survey, Abstract Number 219, and the Elizabeth Ridgeway Survey, Abstract Number 472, Walker County, Texas, being all of that certain called 1,277.71 acre tract described as "Tract Eight" in instrument to Atakapa, LLC, recorded in Volume 1062, page 42 of the Official Records of Walker County, Texas (O.R.W.C.T.), all of the certain called 440 acre tract described as "Tract Six" in said instrument to Atakapa, LLC, all of that certain called 5 acre tract described as "Tract Three" in said instrument to Atakapa, LLC., all of that certain called 220.88 acre tract described as "Tract Nineteen" in said instrument to Atakapa, LLC, said 2,005.480 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a ½ inch iron pipe found in the easterly right-of-way of the Union Pacific Railroad, the easterly margin of Pine Ridge Lane (county maintained) in the apparent common line between said Bennett Survey and Ridgeway Survey, for the common westerly corner of said "Tract Eight" Pine Ridge Subdivision, Section 3, as shown on the map or plat thereof, recorded in Volume 195, Page 664 of the Deed Records of Walker County, Texas (D.R.W.C.T.), being the most westerly north corner of the herein described 2,005.480 acre tract;

THENCE South 47°21'16" East, along the apparent common line between said Bennett Survey and said Ridgeway Survey, with the southwesterly line of said Section 3, and Pine Ridge Subdivision, Section 1, as shown on the map or plat thereof, recorded in Volume 195, Page 660, D.R.W.C.T., common to the northeasterly line of said "Tract Eight" at a distance of 183.21 feet, pass a ½ inch iron pipe found for reference, in all, a total distance of 1,761.84 feet, to a 1 inch iron pipe found for the common southerly corner of said Section 1 and said "Tract Six", being an interior corner of the herein described 2,005.480 acre tract;

THENCE North 44°38'05" East, 4,461.90 feet, with the southeasterly line of said Section 1, and Pine Ridge Subdivision, Section 2, as shown on the map or plat thereof, recorded in Volume 195, Page 667, D.R.W.C.T., common to the northwesterly line of said "Tract Six", to 1 inch iron pipe found in the apparent common line between said Ridgeway Survey and said Goodrich Survey, in the southwesterly line of Unrestricted Reserve of the James William Haynes 77.65 acre tract, as shown on the Affidavit of Minor Plat, recorded in Volume 1240, Page 804, O.R.W.C.T., for the common northerly corner of said Section 2 and said "Tract Six", being the most northerly north corner of the herein described 2,005.480 acre tract;

THENCE South 46°20'54" East, 3,558.02 feet, along the apparent common line between said Ridgeway Survey and said Goodrich Survey, with the southwesterly line of said Unrestricted Reserve, Lot 1 of Blackjack Road Estates, as shown on the map or plat thereof, recorded in Volume 3, Page 22, P.R.W.C.T., Lot 2 of said Blackjack Road Estates, described in instrument to Erik T. Van Dorn, recorded in Volume 431, Page 764, O.R.W.C.T., and a called 70.66 acre tract described as "Tract Two" in instrument to Jo Ann Wright, recorded in Volume 964, Page 358, O.R.W.C.T., common to the northeasterly line of said "Tract Six", to a 5/8 inch iron rod with cap found for a common corner of said "Tract Six, said "Tract Three", and said 70.66 acre tract, being an interior corner of the herein described 2,005.480 acre tract;

THENCE North 44°06'41" East, 170.47 feet, with the common line between said "Tract Three" and said 70.66 acre tract, to a 1/2 inch iron rod with cap stamped "TPS 100834-00" set for the common northerly corner of said "Tract Three" and that certain called 214.9117 acre tract described as "Tract One" in instrument to Big Thicket Land Co. Tract 2 & 3, LTD., recorded in Volume 608, Page 457, O.R.W.C.T., being the most easterly north corner of the herein described 2,005.480 acre tract, from which a 3/4 inch iron pipe found for reference bears North 44°06'41" East, 411.63 feet;

THENCE South 13°50'25" East, 4,606.52 feet, with the northeasterly line of said "Tract Three", said "Tract Six", and said "Tract Nineteen", common to the southwesterly line of said 214.9117 acre tract, to a 1/2 inch iron rod with cap stamped "TPS 100834-00" set in the apparent common line of said Garrett Survey and the Joseph Hollis Survey, Abstract Number 253, the northwesterly line of a tract described as "Tract (J12h)" in instrument to United States of America, recorded in Volume 82, Page 399, D.R.W.C.T., for the common southerly corner of said "Tract Nineteen" and said 214.9117 acre tract, being a southeasterly corner of the herein described 2,005.480 acre tract, from which a 3 inch round concrete monument with 3 inch brass disk found for reference bears North 44°18'16" East, 2,247.90 feet;

THENCE South 44°18'16" West, 2,038.12 feet, along the apparent common between of said Garrett Survey and Hollis Surveys, with the common line of said "Tract Nineteen" and said Tract (J12h), to a 1 1/2 inch iron pipe with 3 inch aluminum disk found in the apparent northeasterly line of said Bennett Survey, the northeasterly line of said "Tract Eight", for the apparent common southerly corner of said Garrett Survey and Hollis Survey and the common southerly corner of said "Tract Nineteen" and said Tract (J12h), being an interior corner of the herein described 2,005.480 acre tract;

THENCE South 47°18'50" East, 6,038.03 feet, along the apparent northeasterly line of said Bennett Survey, common to the apparent southwesterly line of said Hollis Survey and the Cemon Contreras Survey, Abstract Number 149, with the northeasterly line of said "Tract Eight", common to the southwesterly line of said Tract (J12h) and a tract shown to be owned by Rayonier Forest Resources, LP, per Walker County Appraisal District (WCAD) ID Number 16156, to a 5/8 inch iron rod found for the apparent common northerly corner of said Bennett Survey and the Phillip L. McCarty Survey, Abstract Number 395, the common northerly corner of said "Tract Eight" and those certain tracts described in instrument to Faulkner Estate Family Partnership, LTD., recorded in Volume 410, Page 647, O.R.W.C.T., being the most easterly corner of the herein described 2,005.480 acre tract;

THENCE South 41°25'57" West, 891.46 feet, along the apparent common line of said Bennett Survey and McCarty Survey, with the common line between said "Tract Eight" and said Faulkner tracts, to a 1 1/2 inch iron pipe with 3 inch aluminum disk found for the common easterly corner of said "Tract Eight" and a tract described as "Tract J3g" in instrument to United States of America, recorded in Volume 92, Page 468, D.R.W.C.T., being the most southerly corner of the herein described 2,005.480 acre tract;

THENCE North 78°29'37" West, 11,133.55 feet, with the common line of said "Tract Eight" and said Tract J3g, to a 1 ½ inch iron pipe with 3 inch aluminum disk found in the easterly right-of-way of said Union Pacific Railroad, for the common westerly corner of said "Tract Eight" and said Tract J3g, being the southwesterly corner of the herein described 2,005.480 acre tract;

THENCE North 20°24'48" West, 657.89 feet, with the westerly line of said "Tract Eight" and the easterly right-of-way of said Union Pacific Railroad, to a ½ inch iron rod with cap found for the beginning of a curve to the right;

THENCE Northwesterly, 2,788.25 feet, with the arc of said curve to the right and continuing with the westerly line of said "Tract Eight" and the easterly right-of-way of said Union Pacific Railroad, having a radius of 5,206.76 feet, a central angle of 30°40'56", and a chord that bears North 06°23'06" West, 2,755.06 feet to a ½ inch iron rod with cap found for the end of said curve;

THENCE North 08°16'05" East, 5,527.48 feet, with the westerly line of said "Tract Eight", the easterly right-of-way of said Union Pacific Railroad, to the **PLACE OF BEGINNING**;

CONTAINING a computed area of 2,005.480 acres of land within this Field Note Description.

This Field Note Description was prepared from a survey performed on the ground on January 25, 2021, by Texas Professional Surveying, LLC., Registered Professional Land Surveyors and is referenced to Survey Drawing Project Number H297-345.

Bearings recited hereon are based on GPS observations and are referenced to the North American Datum (NAD) 1983, Texas State Plane Coordinate System, Central Zone (4203).

February 10, 2021
Date

A handwritten signature in black ink, appearing to read "C. Johnson", written over a horizontal line.

Carey A. Johnson
R.P.L.S. No. 6524



TEXAS PROFESSIONAL SURVEYING, LLC.

3032 N. FRAZIER STREET, CONROE, TEXAS 77303
(936)756-7447 FAX (936)756-7448
FIRM REGISTRATION No. 100834-00

FIELD NOTE DESCRIPTION 23.531 ACRES IN THE B.B. GOODRICH SURVEY, ABSTRACT NUMBER 23 WALKER COUNTY, TEXAS

BEING a 23.531 acre tract of land situated in the B.B. Goodrich Survey, Abstract Number 23, Walker County, Texas, being a portion of that same tract of land described as Tract 1 of Blackjack Road Estates Subdivision, as shown on the map or plat thereof, recorded in Volume 3, Page 22 of the Plat Records of Walker County, Texas in instrument to Erik T. Van Dorn, recorded Volume 431, Page 764 of the Official Public Records of Walker County, Texas (O.R.W.C.T.), said 23.531 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found in the arc of a curve, in the westerly right-of-way line of Twin Oaks Lane (60 feet wide), for the common easterly corner of said Tract 2 and Tract 1 of said Blackjack Road Estates, being the westerly north corner of the herein described 23.531 acre tract;

THENCE in a northeasterly direction 123.92 feet, along the arc of said curve to the left having a radius of 50.00 feet, a central angle of $142^{\circ}00'00''$, a chord that bears North $62^{\circ}09'58''$ East, 94.55 feet, to a calculated point for the end of said curve to the left, a northerly corner of the herein described 23.531 acre tract;

THENCE North $44^{\circ}14'13''$ East, 19.26 feet, along the southeasterly right-of-way line of said Twin Oaks Lane, the northwesterly line of said Tract 2, to a calculated point for the common westerly corner of said Tract 2 and that certain tract of land described as Tract 3 of said Blackjacks Road Estates, being the northerly corner of the herein described 23.531 acre tract;

THENCE South $42^{\circ}29'38''$ East, with the common line between said Tract 2 and Tract 3, a distance of 10.45 feet, pass a 5/8 inch iron rod found for reference, in all, a total distance of 580.91 feet, to a 5/8 inch iron rod found in the northwesterly line of that certain called 70.66 acre tract described in instrument to Jo Ann Wright, recorded in Volume 964, Page 358, O.R.W.C.T., for the common easterly corner of said Tract 2 and Tract 3, being the easterly corner of the herein described 23.531 acre tract;

THENCE South $44^{\circ}14'13''$ West, with the common line between said Tract 2 and said 70.66 acre tract, at a distance of 1,650.27 feet, pass a 5/8 inch iron rod with 1,655.93 feet, to a calculated point for corner in the apparent common line of said Goodrich Survey and the Elizabeth Ridgeway Survey, Abstract Number 472, the northeasterly line of that certain now or formerly called 440 acre tract described as 28th Tract in instrument to Thomas S. Foster, recorded in Volume 33, Page 310 of the Deed Records of Walker County, Texas (D.R.W.C.T.), for the common southerly corner of said Tract 2 and said 70.66 acre tract, being the southerly corner of the herein described 23.531 acre tract;

THENCE North $46^{\circ}20'54''$ West, 619.42 feet, with the apparent common line between said Goodrich and Ridgeway Surveys, the common line between said Tract 2 and said 440 acre tract, to a calculated point for the common southerly corner of said Tract 2 and Tract, being the easterly corner of the herein described 23.531 acre tract;

THENCE North 44°36'34" East, with the common line between said Tract 2 and Tract 1, at a distance of 8.17 feet, pass a 5/8 inch iron rod found for reference, in all, a total distance of 1,586.20 feet, to the **POINT OF BEGINNING**;

CONTAINING a computed area of 23.531 acres of land within this Field Note Description.

This Field Note Description was prepared from a survey performed on the ground on May 12, 2021 by Texas Professional Surveying, LLC., Registered Professional Land Surveyors and is referenced to Survey Drawing Project Number S658-07.

Bearings recited hereon are based on GPS observations and are referenced to the North American Datum (NAD) 1983, Texas State Plane Coordinate System, Central Zone (4203).

May 31, 2021
Date



Carey A. Johnson
R.P.L.S. No. 6524



LEGEND

MAJOR ROADS

LOCAL STREETS

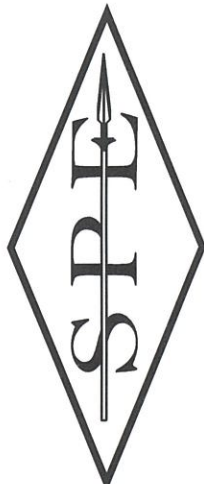
LOTS (1 ACRE) - 1,214

MAJOR ROADS - 22,300 LF

LOCAL STREETS - 107,720 LF

100 YR FLOOD PLAIN

DETENTION AREAS



SPEAR POINT ENGINEERING, LLC

TBPE Firm No. 18904
604 W WORSHAM
WILLIS, TX 77378
936-256-2626

LEGACY RANCH

PROJECT #50310

DATE: 10/5/2023

22-96



CITY COUNCIL AGENDA

12/19/2023

Agenda Item Number: 6.c.

Agenda Item: City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 – Personnel Matters: regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Manager Aron Kulhavy.

Initiating Department/Presenter: City Council

Presenter:

Pat Graham, Councilmember Ward 4

Karen Denman, Councilmember At-Large Position 2

Tore Fossum, Councilmember Ward 1

Recommended Motion: None

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:

Leonard Schneider

Aron Kulhavy

Kristy Doll

Associated Information: