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, Ward 1
Casey Cox, Ward 2
Anissa Antwine, Ward 3
Jon Strong, Ward 4

HUNTSVILLE CITY COUNCIL AGENDA
TUESDAY, MAY 7, 2024

JOINT WORKSHOP WITH PLANNING COMMISSION 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.

JOINT WORKSHOP (5:00 p.m.) - Joint Workshop with Planning Commission

DISCUSSION

a. Receive a presentation to discuss possible amendments to the Huntsville Development Code to include additional zoning districts.
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.*

PROCLAMATION

a. Proclamation No. 2024-10 Muncipal Clerk's Week
Russell Humphrey, Mayor

PRESENTATIONS

a. Recognize Citizens who completed the Citizenship Prep Course held by SHSU LEAP Center.

PUBLIC HEARING

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 April 16, 2024, Regular City Council Meeting.
Kristy Doll, City Secretary

b. Consider authorizing the City Manager to enter into an interlocal agreement with the North Central Texas Council of Governments (NCTCOG) in order for the City to participate in the TXShare public purchasing cooperative.
Steve Ritter, Finance Director

c. Consider authorizing the City Manager to enter into an agreement with Burditt Consultants for the development of the Parks and Recreation Master Plan.
Penny Joiner, Director of Parks and Leisure

d. Consider authorizing the City Manager to approve an annual purchase order of various road and drainage materials from Vulcan Materials for a one-year term with the option to renew for one year.
Brent Sherrod, Public Works Director

2. STATUTORY AGENDA

a. **First Reading** - Consider the adoption of Ordinance 2024-6 authorizing the settlement of a proposed rate increase of CenterPoint Energy Resource Corp in the Houston, Texas Coast, South Texas, and Beaumont/East Texas Division.
Leonard Schneider, City Attorney

b. **First Reading** - Consider Ordinance 2024-7 adopting the 2024 City of Huntsville Water Conservation and Drought Contingency Plan.
Brent Sherrod, Public Works Director

c. Consider authorizing the City Manager to execute the Second 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

d. Consider authorizing the City Manager to enter into an Agreement for the Construction and Funding of Authorized Improvements and Reimbursement of Advances, related to "the Reserves of Huntsville", PID # 1, by and between the City of Huntsville, Texas and PHD - Huntsville 34, LP, a Texas limited partnership.
Kevin Byal, Director of Development Services

3. CITY COUNCIL/MAYOR/CITY MANAGER

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 551.087 for deliberation regarding economic development negotiations - Project Goose
Tammy Gann, Director of Economic Development

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.DC-22-09128, City of Dallas, et. al vs. Defendant Netflix, et al . in the 14th District Court, Dallas County, Texas; Cause No. 2331107, Lucio and Laura Castilleja v City of Huntsville, in the 278th District Court, Walker County, Texas; and to receive legal advice on permit procedures and improvements for the Woods at Elkins Lake development.
Leonard Schneider, City Attorney

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: May 3, 2024

TIME OF POSTING: 11:35 a.m.

TAKEN DOWN:

Kristy Doll

Kristy Doll, City Secretary

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: a.

Agenda Item: Receive a presentation to discuss possible amendments to the Huntsville Development Code to include additional zoning districts.

Initiating Department/Presenter: Development Services

Presenter:
Kevin Byal, Director of Development Services

Recommended Motion: Not applicable

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:
Kristy Doll

Associated Information:

CITY COUNCIL AGENDA

5/7/2024

Agenda Item Number: a.

Agenda Item: Proclamation No. 2024-10 Muncipal Clerk's Week

Initiating Department/Presenter: City Council

Presenter:
Russell Humphrey, Mayor

Recommended Motion: Not Applicable

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:
Kristy Doll

Associated Information:

CITY COUNCIL AGENDA

5/7/2024

Agenda Item Number: a.

Agenda Item: Recognize Citizens who completed the Citizenship Prep Course held by SHSU LEAP Center.

Initiating Department/Presenter: City Council

Presenter:

Recommended Motion: Not applicable

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:
Kristy Doll

Associated Information:

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 1.a.

Agenda Item: Consider approving the Minutes from the April 16, 2024, Regular City Council Meeting.

Initiating Department/Presenter: City Secretary

Presenter:
Kristy Doll, City Secretary

Recommended Motion: Motion to approve the Minutes from the April 16, 2024 Regular City Council Meeting.

Strategic Initiative:

Discussion:

Previous Council Action:

Financial Implications:

Approvals:
Kristy Doll

Associated Information:
1. April 16, 2024 City Council Meeting Minutes-final

MINUTES FROM THE HUNTSVILLE CITY COUNCIL REGULAR MEETING HELD ON THE 16th DAY OF APRIL 2024, 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 2 Cox, Councilmember Ward 3 Antwine, Councilmember At-Large Position 4 Graham, Councilmember Ward 4 Strong

COUNCILMEMBERS ABSENT: None

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

MAIN SESSION CALL TO ORDER
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.*

Councilmember Bert Lyle gave the invocation and Mayor Russell Humphrey led the pledges.

PROCLAMATION

a. **Proclamation No. 2024-08: Public Safety Telecommunications Week Russell Humphrey, Mayor**

2. **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 April 2, 2024, Regular City Council Meeting.**
Kristy Doll, City Secretary

b. **Consider authorizing the City Manager to approve Additional Services with Aurora Technical Services, LLC for professional engineering for the water line replacement along Old Madisonville Road, Project # 24-10-10.**
Kathlie Jeng-Bulloch, City Engineer

c. **Consider authorizing the City Manager to approve a supply agreement with Badger Meter for water meters, software and associated supply items.**
Brent Sherrod, Public Works Director

d. **Consider authorizing the City Manager to execute a change order in excess of $50,000 for the Palm Street 30" line stop and valve installation project.**
Brent Sherrod, Public Works Director

Councilmember Vicki McKenzie made a motion to approve Consent Agenda Items a through d. The motion was seconded by Councilmember Anissa Antwine.Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Bert Lyle, Anissa Antwine, Tore Fossum, Casey Cox No: None

3. STATUTORY AGENDA

a. Consider authorizing the City Manager to award the purchase of Street Milling/Overlay Services. Brent Sherrod, Public Works Director

Councilmember Bert Lyle made a motion to authorize the City Manager to award the purchase of Street Milling and Overlay Services, to Vulcan Materials Asphalt and Construction LLC in the amount of $1,901,090.00. The motion was seconded by Councilmember Tore Fossum.Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Bert Lyle, Anissa Antwine, Tore Fossum, Casey Cox No: None

4. CITY COUNCIL/MAYOR/CITY MANAGER

a. Consider the appointment to the Planning Commission vacant board position. Russell Humphrey, Mayor

Mayor Humphrey moves to nominate Tommy Harris to seat five of the Planning Commission. The motion was seconded by Councilmember Vicki McKenzie.Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Bert Lyle, Anissa Antwine, Tore Fossum, Casey Cox No: None

5. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA

6. ITEMS OF COMMUNITY INTEREST

7. 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 the request to authorize the release of 103.33 acres, parcel number 17230, as requested by Paul Hammock, from the City of Huntsville Extra Territorial Jurisdiction (ETJ)
Leonard Schneider, City Attorney

b. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.087 for deliberation regarding economic development negotiations - Project Goose Tammy Gann, Director of Economic Development

City Council convened into executive session at 6:23 p.m.

8. RECONVENE

Council reconvened from Executive Session at 7:29 p.m.

Councilmember Vicki McKenzie made a motion to decline the petition for disannexation filed by Paul Hammock pursuant to section 42.023 of the local government code. The motion was seconded by Councilmember Anissa Antwine.Yes: Russell Humphrey, Karen Denman, Vicki McKenzie, Jon Strong, Pat Graham, Bert Lyle, Anissa Antwine, Tore Fossum, Casey Cox No: None

ADJOURNMENT

Mayor Humphrey adjourned the meeting without objection at 7:30 p.m.

ATTEST:	**CITY OF HUNTSVILLE**
Kristy Doll, City Secretary	**Russell Humphrey, Mayor**

CITY COUNCIL AGENDA

5/7/2024

Agenda Item Number: 1.b.

Agenda Item: Consider authorizing the City Manager to enter into an interlocal agreement with the North Central Texas Council of Governments (NCTCOG) in order for the City to participate in the TXShare public purchasing cooperative.

Initiating Department/Presenter: Finance

Presenter:
Steve Ritter, Finance Director

Recommended Motion: Move to authorize the City Manager to enter into an interlocal agreement with the North Central Texas Council of Governments (NCTCOG) in order for the City to participate in the TXShare public purchasing cooperative.

Strategic Initiative: Strategic Priority #3 - Quality of Life: Establish an environment where citizens can thrive and enjoy the City in which they live. Provide services that enhance the quality of life for all, with a focus on the full life cycle (children, students, families, and retirees) by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and natural environment.

Discussion: The City is exploring software services related to E-Procurement and Contract Management. One of the vendors for such is already approved through NCTCOG's "TXShare" purchasing cooperative. The City would like to participate in "TXShare" in the event it is decided the vendor in their approved list is the vendor we would like to use for these services. There is no cost to join "TXShare".

Previous Council Action: None

Financial Implications: This would be in the FY 24-25 Budget (if approved as a Decision Package/Supplemental Request in the FY 24-25 Budget).

Approvals:
Steve Ritter
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 1.c.

Agenda Item: Consider authorizing the City Manager to enter into an agreement with Burditt Consultants for the development of the Parks and Recreation Master Plan.

Initiating Department/Presenter: Parks and Leisure

Presenter:
Penny Joiner, Director of Parks and Leisure

Recommended Motion: Move to authorize the City Manager to enter into an agreement with Burditt Consultants for the development of the Parks and Recreation Master Plan.

Strategic Initiative: Strategic Priority #3, Quality of Life – Establish an environment where citizens can thrive and enjoy the city in which they live. Provide services that enhance the quality of life for all, with focus on the full life cycle (children, students, families, and retirees) - by creating amenities that support physical, mental and social well-being. Support access to quality health services, education, housing, transportation, recreation and natural environment.

Discussion: With the growing needs and expectations of our residents, coupled with evolving trends in recreational activities, it has become imperative to develop an updated comprehensive Parks and Recreation Master Plan. This 5-year plan will serve as a roadmap for future development, maintenance, and enhancement of our parks system and recreation programming. In addition to serving as a tool for city staff to prioritize the wants and needs of the community, it is also beneficial and almost necessary in the grant application process. A well-crafted Parks and Recreation Master Plan is essential to ensure that our parks meet our community's ever-changing needs and contribute to our residents' overall quality of life.

The primary objective of this agreement is to engage Burditt Consultants, along with staff and community members alike, to develop a Parks Master Plan that details the following scope of services:

1. Conducts a comprehensive inventory and assessment of existing parks and recreational facilities.
2. Engage stakeholders, including residents, community groups, Parks and Recreation Board members, and City Staff.
3. Conduct workshops, facilitate an Open House event, participate in official city meetings, and develop an online survey to identify preferences and needs of parks and recreation facilities and programs.
4. Analyze and prioritize current and future needs in recreational programming and park usage, and deliver a preliminary Master Plan for review.
5. Explore the feasibility of a sports tourism complex as a component of the Master

Plan, and provide a summary report of the findings.
6. Establish clear goals and objectives, and develop implementation strategies to include conceptual designs of priority projects, park renderings, and opinions of probable costs.
7. Provides recommendations for prioritizing capital improvements and maintenance projects.
8. Deliver a final draft of the Master Plan to be adopted by City Council.

Previous Council Action: City Council approved the Capital Improvement Project (CIP) Budget Item for the Parks Master Plan and Sports Facility Feasibility Study in the amount of $100,000.00

Financial Implications: Contract: $100,000.00

Approvals:
Penny Joiner
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:
1. Parks&Rec Master Plan.SOW.Fee Proposal 2024
2. Parks Master Plan RFQ NO. 24-11 Bid Tabulation

April 30, 2024

Sent Via Email: cbodinturner@huntsvilletx.gov
pjoiner@huntsvilletx.gov

Ms. Christina Bodin-Turner, Purchasing Specialist
Ms. Penny Joiner, Parks & Leisure Director
City of Huntsville
1212 Avenue M
Huntsville, Texas 77340

RE: Proposed Scope of Work and Fee Proposal, 2024 Parks and Recreation Master Plan Update

Christina and Penny,

We are excited to have been selected to develop the City of Huntsville's 2024 Parks and Recreation Master Plan. We enjoyed working with your community on past projects and are honored that the City found our qualifications and planning approach to be appropriate for Huntsville. We stand ready to deliver on the City's behalf.

Attached please find our proposed Scope of Services and draft Terms and Conditions for your review. We have structured the proposal to provide a comprehensive, detailed, usable product that will serve as a policy, planning, and management tool for your parks and recreation system for the next decade. Our team is prepared to proceed expeditiously upon execution of this proposal for services or a mutually approved Professional Services Agreement.

We are open to any feedback on this scope/cost proposal or use of the City's standard PSA. Our goal is to make the approval process as mutual as possible, and we will quickly respond to any modifications or clarifications as required.

On behalf of all of us at Burditt, thank you again for the opportunity to collaborate with you on this important project for citizens of Huntsville.

Sincerely,

Paul S Howard

Paul Howard
Project Manager

Conroe:
310 Longmire Road
Conroe, Texas 77304

Bryan:
105 N. Main, Ste. 123
Bryan, Texas 77803

www.burditt.com

Conroe 936.756.3041
Bryan 979.977.5846
Fax 936.539.3240

Cc: Charles Burditt

Attachments: Exhibit A: Scope of Work
Terms and Conditions
Burditt 2024 Hourly Rates

Approval and Notice to Proceed:

____ **Date** __________________________________
By:

City of Huntsville

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Exhibit A
Scope of Work

UNDERSTANDING OF WORK

The City of Huntsville is a robust community that prides itself on providing excellent services in all areas of governance. The parks, programs, and facilities in Huntsville are a key factor in ensuring a high quality of life in the community, and the City recognizes a need to develop a comprehensive master plan to capture the community's vision for the parks and recreation system moving forward.

In addition to being a visionary document that identifies the community's demand for parks, programs and amenities, the document must also provide recommendations for improvements and additions to the parks system along with conceptual renderings and opinions of probable cost for capital improvement planning and budgeting. The following Scope of Work seeks to address the City's master plan goals with a comprehensive assessment of existing parks, facilities, trails, and programs followed by robust stakeholder involvement and plan development. Additionally, a study will be conducted of an existing City-owned property located adjacent to the City's Police Department. The study is to consider the 40-acre parcel for potential development as a sports tourism destination.

TASK 1 – PROJECT INITIATION & PARK INVENTORY

ACTIVITIES:

Establish project understanding and objectives with City's Project Manager and the Consultant Team:

1. Define objectives;
2. Confirm schedule;
3. Identify all team members (including City staff, officials, administration, boards, committees and stakeholders) and roles;
4. Identify decision makers, milestones and target deliverables;
5. Identify base information to be examined by team and arrange with staff to obtain;
6. Identify critical community information to identify relevant issues that affect the physical planning for the project (including identification of facilities and programs to be considered).
7. Review relevant existing planning documents to formulate understanding of prior planning and requirements and/or new data to be collected or created.
8. Review and analyze codes, Comprehensive Plan and zoning regulations, compile planning and design criteria critical to the development of the Master Plan;
9. Inventory existing City-owned parks, recreation facilities, trails, and properties and those of other recreational entities public and private;
10. Provide general condition assessment of existing indoor and outdoor

recreation facilities, including appearance, maintenance, and functional limitations.

KEY DELIVERABLES:

- Project Kickoff Memo,
- Identification of Data Required to Develop Master Plan
- Opportunities and Constraints/Site or Facility Evaluation Commencement

PREREQUISITES:

- Receipt of authorization by City.
- City shall identify a Project Manager to be Consultant's point of contact for all matters.
- City will provide copies of prior studies and documents relative to polices, regulations, standards, criteria, etc. as may be pertinent to the assigned work.

TASK 2 – STAKEHOLDER INVOLVEMENT STRATEGIES

ACTIVITIES:
Burditt will, in cooperation with City's Project Manager, develop a Stakeholder Involvement Plan to engage all Team and City identified audiences. The purpose of this task is the following:

1. To reaffirm the goals and objectives for public and City involvement and determine the means and methods by which they will be reached;
2. Prepare a Stakeholder Involvement Plan that establishes audiences, meeting dates and locations, and how the public will be notified or invited to participate;
3. Establish Workshop dates for City personnel and officials (and invitees) to gain consensus for vision direction, various departmental and elected official input including Planning, Police, Fire, Public Works, and other Departmental Staff as appropriate;
4. Develop evaluation criteria that will become the basis for inclusion in the final document;
5. Assist in identification of potential focus groups;
6. Develop online survey;
7. Provide content and assistance for use in web-oriented media;
8. Assist in preparation of content for public relations efforts;
9. Finalize goals statement and process for the project;
10. Interview decision-makers and the project Committee as appropriate.

KEY DELIVERABLES:

- Develop the Stakeholder Involvement Plan

- Goals and Evaluation Criteria.

PREREQUISITES:

- Availability of base information and participating Parks Commission and staff

TASK 3 – WORKSHOPS AND PUBLIC INPUT MEETINGS

ACTIVITIES:
Burditt will, based on the approved Stakeholder Involvement Plan (established in Task 2), facilitate planned events to identify Community Vision and also to seek City Administration, Staff, Elected Officials, Boards, and other City invited participants to offer input regarding a variety of departmental or citywide issues.

The Burditt team will conduct stakeholder engagement strategies including:

1. Conduct two (2) Public Workshops.
2. Attend up to four (4) City Staff/Official Meetings. This may include Parks & Recreation Advisory Board, City Council, or other parties as directed by the City Project Manager.
3. Host one (1) Open House event to present draft recommendations.
4. Develop and conduct an online recreation survey to identify residents' preferences and needs for parks and recreation facilities and programs.

Meetings are intended to achieve the following outcomes:

1. Assist the City in guiding government officials and staff in establishing consistent, effective and high-quality community engagement;
2. Ensure meaningful, timely and sufficient City and Community participation in all phases of the plan update;
3. Allow the public and community interests to recommend projects and issues for government consideration;
4. Involve the public early in identification of issues and opportunities for city policies, programs, projects, design and concept development;
5. Build a framework for long-term, collaborative working relationships with community partners and stakeholders;
6. Create processes that respect a range of values and interests as well as offer historically excluded individuals and groups authentic inclusion in process, activities and policy making;
7. Create transparency of public decision-making processes ensuring citizen trust in accessible, open, and understandable receipt of information;
8. Promote accountability of both City leaders and staff by ensuring meaningful public involvement in the work of City government.
9. Allow for departments to collaborate along with elected officials and provide

opportunities for close tracking of the process and providing thoughtful and meaningful input into the final product.

KEY DELIVERABLES:

- Prepare graphic design for workshop/public meeting invitations (PDF format).
- Facilitate all Workshops and Public Meetings;
- Conduct Online Survey and analyze results;
- Prepare Narrative Report of Public Meetings and Online Survey.

PREREQUISITES:

- Availability of participating City Project Manager, and internal workshop participants

TASK 4 – DEVELOP PRIORITIZATION OF NEEDS

ACTIVITIES:

Burditt will, based on the Public Input Summary and Demand Analysis, develop the following:

1. Conduct prioritization process incorporating results from previous analysis of all phases;
2. Written narrative summarizing results documenting the process followed by project team, public and City participants;
3. Obtain approval of priorities from Staff, Council, and, if deemed appropriate, other identified Stakeholders.
4. Identify service gaps for facility, programs, and amenities based on current inventory and demand identified from stakeholder engagement.
5. Recommend best uses for newly acquired park properties to achieve community recreation goals.
6. Identify potential pedestrian and bicycle connections throughout the community.

KEY DELIVERABLES:

- Prepare written narrative summarizing results and identification of Prioritized Needs for inclusion in Parks Master Plan.

PREREQUISITES:

- Appropriate input from City Project Manager, Staff, Council, Boards, and internal workshop participants.

TASK 5 – PRELIMINARY DRAFT DOCUMENT PREPARATION – FIVE (5) YEAR ACTION PLAN

ACTIVITIES:
Based on evaluation of community input, departmental input, facility evaluation, prior Draft Plan review, and edited version with deletions of extraneous data, Burditt will begin revisions and create additional content of narrative, supporting graphics, and budgets. This plan will consider the following:

1. Programming changes or additions;
2. Improvements to existing recreation facilities;
3. Programming of facilities and amenities;
4. New Facilities;
5. Opportunities for natural resource/wildlife habitat-based recreation (trails, education, etc.);
6. Consider the City Workshop and Stakeholder Input;
7. Research existing non-City owned properties that may be considered for acquisition and use by the City for future recreational purposes;
8. Provide written narrative summarizing master plan recommendations, using charts, graphs, tables, photos (sketches, renderings);
9. Seek / obtain input of staff, advisory boards, stakeholders, City Council @ 50% and 95% completion;
10. Develop Implementation Strategies;
11. Create Actionable Item Hierarchy with dated goals and accomplishments to be used by City for monitoring progress.
12. Prepare Budget and Expenditure Plan with level of magnitude costs and recommendations for renovation and improvements to existing facilities;

Applicable sections and/or components of the plan will be submitted to respective department staff for review and comment prior to compilation and submittal as a preliminary document for City review and edit. Burditt will develop a draft version for review by City Project Manager and entire City Team.

KEY DELIVERABLES:

- Preliminary Master Plan

PREREQUISITES:

- Review and approval of Preliminary Parks Master Pan sections by appropriate departmental staff or City Project Manager.

TASK 6 – SPORTS TOURISM FEASIBILITY STUDY

Potential for a Sports Complex Feasibility component of the master plan will include base-level analysis of sports destination/tourism opportunities and constraints. The potential for generating revenues from sports tourism while meeting the demand for local recreation and competitive play requires an understanding of both the regional demand for competitive athletic facilities as well as the direct and indirect economic impact and public revenues generated by fees, hotel stays, dining, and shopping.

1. A cursory Market Analysis will be performed to provide data on comparable athletic facilities to determine gaps/opportunities to provide specific recreational recommendations and provide information on potential user fees.
2. A leakage assessment of hotel and sales tax revenues "lost" due to existing limitations on successful competition for hosting of tournaments and events will be conducted.
3. The analysis will also examine the potential revenues and economic impact of facilities in Huntsville serving tournaments and large events.
4. All of these components will be coalesced into an informational section that provides a coherent sense of opportunities, costs, and impacts of providing ample competitive destination sports facilities including types and numbers of fields and structures necessary for such an endeavor.
5. Evaluate the proposed 40-acre property adjacent to the new police station on FM 2821to identify opportunities and constraints as they pertain to feasibility for desired sports complex development.

ACTIVITIES:

MARKET ANALYSIS TASKS

1. Meet with appropriate Staff and operational personnel (one meeting) for relevant input and direction as needed.
2. Conduct preliminary study of relevant current Huntsville code and other regulatory agency requirements.
3. Research preliminary site issues related to existing facilities and assess potential growth and expansion sites.
4. Conduct trend analysis with respect to amenities with a focus on regional supply and demand.
5. Meet with relevant user-groups and other stakeholders as necessary to develop picture of facility demand and current use.
6. Incorporate user group information with publicly available demographic and psychographic data regarding participation in sports and recreation activity, spending, and consumer habits relevant to a potential complex.
7. Research regional facility capacity and offerings relevant to amenities sought by

the community.

8. Develop Market Analysis document with demand and capacity findings aggregated into base program recommendations.

RETAIL AND HOTEL REVENUE/TAX LEAKAGE ASSESSMENT

1. Evaluate visitor data (as available) for retail and hotel revenues "lost" because of current tournament visitors failing to stay overnight in Huntsville.
2. Evaluate "lost" sales tax and hotel tax revenues because of current tournament visitors failing to stay overnight in Huntsville.
3. Compile results and compare to visitor information, revenues, and tax revenues for relevant tournament host-cities in the region.

KEY DELIVERABLES:

- Summary report of study findings within the Master Plan document.

TASK 7 – CONCEPTUAL DESIGNS & PRELIMINARY STATEMENTS OF PROBABLE COSTS

ACTIVITIES:

The planning process will result in the determination of various community recreation needs which may include the renovation or additions to existing parks or new construction of recreational facilities. Burditt will create conceptual drawings that respond to Plan recommendations for renovations, additions, or new construction. Each concept will include Opinions of Probable Costs (OPCs) to aid decision makers with capital improvements budgets and planning.

KEY DELIVERABLES:

- Early Conceptual Design of Selected Priority Projects
- Park Renderings
- Opinions of Probable Costs

PREREQUISITES:

- Review and approval of by appropriate departmental staff or City Project Manager.

TASK 8 – FINAL PARK MASTER PLAN DOCUMENT, COUNCIL ADOPTION AND APPROVAL

ACTIVITIES:

Burditt will further refine the Preliminary Draft Document by incorporating comments, revisions and edits recommended by the City.

1. Create 5-year Action Plan/Expenditure Plan;
2. Finalize written narrative and supporting documentation to reflect revisions;

3. Plan shall, as feasible under the basic scope described be formatted to accommodate submittal for Awards as may be available from Texas Recreation and Parks Society (TRAPS), American Planning Association (APA), National Parks and Recreation Association (NRPA).
4. The Final Master Plan Document will be created in electronic format and will be provided when adopted by City Council or prior to adoption if previously authorized by City's Project Manager;
5. Burditt Team will attend Council Meeting and/or Workshop in preparation for adoption;
6. Model document for compliance with TPWD regarding grant eligibility (indoor/outdoor/trails).

KEY DELIVERABLES:

- Final Parks Master Plan (also suitable for Web Publishing)
- Electronic Copies of the Final Parks Master Plan Document (printing costs for final plans will be invoiced at cost plus 10%). The quantity of print copies will be at the direction of the City Project Manager.

BASIC SERVICES FEE PROPOSAL:

BASIC SERVICES

Basic Services include all detailed and quoted components found in the Scope of Services included. These services shall be invoiced as a lump sum based upon a percentage of completion throughout the project assignment. Increases in project scope as directed by Parks and Recreation Department shall be provided upon mutual agreement and execution of amendment to the Professional Service Agreement or other appropriate document.

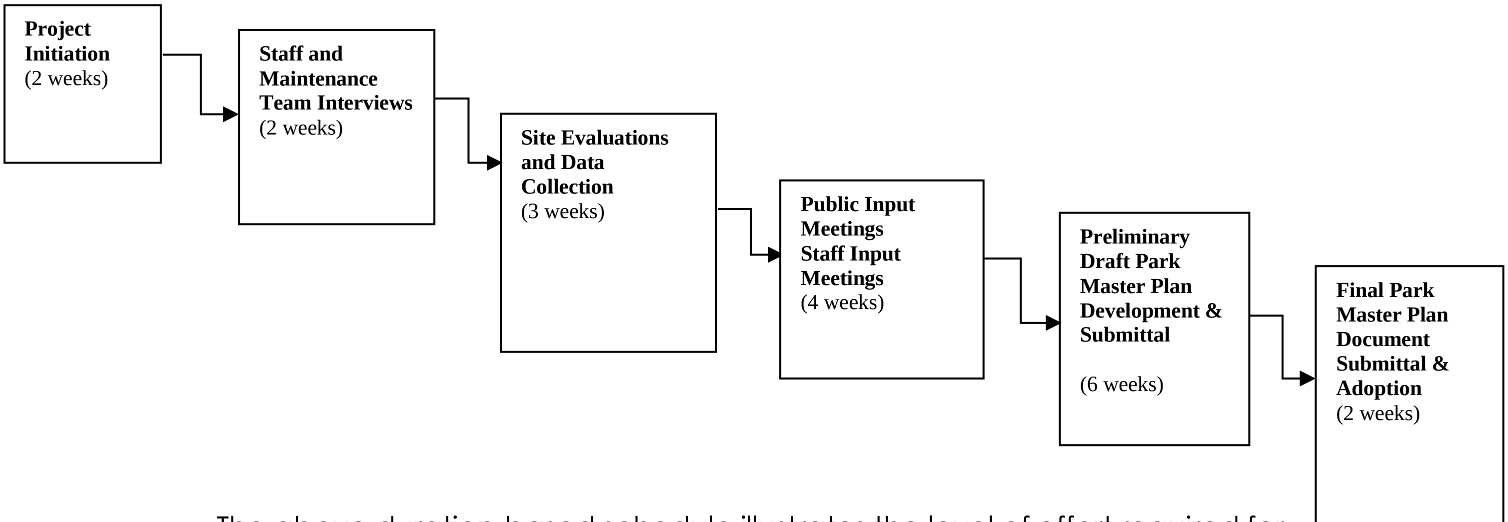
Based on the proposed Scope of Work and general program currently understood, we propose the following lump sum fees:

BASIC SERVICES $100,000

REIMBURSABLE EXPENESES:

Burditt will limit reimbursable expenses to printing costs associated with issuance of final deliverable master plan documents at cost plus 10%. Travel, administrative and other expenses will not be charged to the Client as they are contemplated in the lump sum compensation amounts.

PROJECT SCHEDULE:



The above duration-based schedule illustrates the level of effort required for each phase. Some tasks may run concurrently. We have identified a preliminary project timeline of April 2024 through October 2024 (6 Months) to conduct Data Collection, Assessment & Analysis, Stakeholder Involvement Plan, Staff/Parks Board/Public Workshops/Meetings, Conceptual Design, Preliminary Master Plan Draft, Final Master Plan for Adoption.

While we believe this timeframe is generally appropriate, City input or schedule may dictate potential adjustments to the schedule. Upon project initiation, together we will develop a revised schedule reflecting the actual milestones, meeting dates, etc.

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EXHIBIT B
TERMS AND CONDITIONS

ADDITIONAL SERVICES

Additional assignments outside the scope of work will be invoiced at an agreed upon lump sum or the Burditt established hourly rates. Additional assignments include, but are not limited to, any changes due to revisions in the original scope of work, base data relating to this matter, any additional meetings or services and any such services requested by Client. Additional services will be provided, with prior written authorization from Client, and will be invoiced as additional services.

PAYMENT OF FEES

For the scope of services stated herein, Client agrees to pay Consultant the compensation stated in this agreement. Consultant agrees to submit invoices monthly for services rendered. Invoices shall be forwarded upon completion or, based upon the percentage of completion, or in the event projects is delayed beyond the control of Consultant, invoices will be forwarded based upon the percentage of completion. Invoices are due and payable, in Conroe, Texas, within 30 days of receipt. Any invoice payment due past 30 days will be subject to interest at the rate of the lesser of (i) one and one-half percent (1 1/2%) per month or (ii) the maximum rate allowed by law.

FORCE MAJEURE

Circumstances or events may occur that are outside the control of either party. Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

STANDARD OF CARE

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care used by members of Consultant's profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

DISPUTE RESOLUTION

Client and Consultant agree that they shall first submit any and all unsettled claims, counter claims, disputes and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this agreement. If mediation fails and dispute shall be brought in District Court in Walker County, Texas.

INDEMNIFICATION

Client and Consultant each agree, to the fullest extent permitted by law, to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Consultant, they shall be borne by each party in proportion to its negligence.

RISK ALLOCATION

Burditt Consultants, LLC agrees to carry out and perform the services herein agreed to in a professional and competent manner. In recognition of the relative risks, rewards, and benefits of the project both to the Client and Burditt, the risks have been allocated so that the Client agrees that, to the fullest extent permitted by law, Burditt's total liability to the Client, for any and all claims, losses, expenses, damages or claim expenses arising out of this agreement, from any cause or causes, shall not exceed the total amount of Burditt's fee or other amount agreed upon when added under Special Conditions. Such causes include, but are not limited to, Burditt's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

OWNERSHIP OF DOCUMENTS

All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant's professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant's professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant's written permission, shall be at Client's sole risk.

USE OF ELECTRONIC MEDIA

Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by Consultant to Client are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

HAZARDOUS ENVIRONMENTAL CONDITIONS
It is acknowledged by both parties that Consultant's scope of services does not include any services related to the presence at the site of asbestos, PCBs, petroleum, hazardous waste or radioactive materials. Client acknowledges that Consulting is performing professional services for Client and Consultant is not and shall not be required to become an "arranger," "operator," "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA).

OPINIONS OF COST
When included in Consultant's scope of service, opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent Consultant's judgment as a professional general familiar with the industry. However, since Consultant has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Consultant's opinions or estimates of probable construction cost.

TERMINATION OF CONTRACT
Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Consultant has been paid in full all amounts due for services, expenses and other related charges. Neither Client or Consultants will be liable to the other party for any indirect, special, punitive, consequential (including without limitation, lost profits) or incidental damages, whether based on a claim or action of contract, warranty, negligence, strict liability, or other tort, breach of any statutory duty, indemnity or contribution, or otherwise, even if the party has been advised of the possibility of such damages.

CONSTRUCTION PHASE SERVICES
If this Agreement provides for any construction phase services by Consultant, it is understood that the Contractor, not Consultant, is responsible for the construction of the project, and that Consultant is not responsible for the acts or omissions of any contractor, subcontractor or material supplier; for safety precautions, programs or enforcement; or for construction means, methods, techniques, sequences and procedures employed by the Contractor.

INSURANCE
Consultant shall maintain in force insurance in the following amounts
$1,000,000 – General Liability
$1,000,000 – Professional Liability
Commercial Automobile and Worker's Compensation in the amount required by state law.

TO BE PROVIDED BY CLIENT
Client shall provide the following information if needed:

1. Existing planning documents.

BURDITT CONSULTANTS, LLC
2024 HOURLY RATES

HOURLY RATES APPLY ONLY TO ADDITIONAL SERVICES OR FOR REQUESTS MADE OUTSIDE OF BASIC **SERVICES**. Professional Services requested and approved by Client shall be provided at the following rates:

DIVISION	CLASSIFICATION	RATE
DESIGN	Principal	$225
	Program Manager	$200
	Project Manager	$175
	Project Architect	$200
	Project Landscape Architect	$200
	Licensed Irrigator	$150
	Architect Associate	$115
	Landscape Architect Associate	$115
	CAD Design II	$90
	CAD Design I	$80
PLANNING	Senior Planner	$160
	Planning Associate	$150
	Geographic Information Systems (GIS) Planner	$135
NATURAL RESOURCES	Natural Resource Planner/Forester	$150
	Wetland Scientist	$150
URBAN FORESTRY	Senior Urban Forester	$160
ADMINISTRATION	Administrative Assistant II	$70
	Administration Assistant I	$55

Invoices are prepared monthly with payments due 30 days from receipt. Interest at the rate of 1.5 % per month will be charged on all accounts not paid by the 30th day following the billing date. Necessary sub- consultants not currently required by project authorized and approved by Client shall be invoiced at cost plus ten percent (10%).

Bid Tabulation

Project Name: Parks and Recreation Master Plan Update

RFQ NO. 24-11

Date: January 30, 2024   Time: 3:00 p.m.   Central Time

#	Company Name	Addenda Received
1	Burditt Consultants, LLC	☑ Yes ☐ No
2	Clark Condon	☐ Yes ☑ No
3	MHS Planning & Design, LLC	☐ Yes ☐ No
4		☑ Yes ☐ No
5		☐ Yes ☐ No
6		☐ Yes ☐ No
7		☐ Yes ☐ No
8		☐ Yes ☐ No
9		☐ Yes ☐ No
10		☐ Yes ☐ No
11		☐ Yes ☐ No
12		☐ Yes ☐ No

***NOTICE: Bid award is contingent upon vendor meeting bid requirements and formal authorization by City Officals**

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 1.d.

Agenda Item: Consider authorizing the City Manager to approve an annual purchase order of various road and drainage materials from Vulcan Materials for a one-year term with the option to renew for one year.

Initiating Department/Presenter: Public Works

Presenter:
Brent Sherrod, Public Works Director

Recommended Motion: Move to authorize the City Manager to approve an annual purchase order of various road and drainage materials from Vulcan Materials for a one-year term with the option to renew for one year.

Strategic Initiative: Strategic Priority #4, Infrastructure - Develop and maintain a comprehensive and well-planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage and transportation services.

Discussion: The road and drainage materials annual purchase order is important because it contains items used daily for the repair, maintenance, and improvement of street infrastructure. Including work such as sidewalk repairs, storm sewer maintenance, utility damage repairs, and street failure repairs. The City of Huntsville keeps items on hand to respond quickly and provide the citizens with quality infrastructure. By establishing annual purchase orders, the staff is allowed to purchase items as needed knowing that City Council has previously approved the purchase.

City staff solicited competitive sealed proposals with the notice published as required. The invitation to bid was advertised on the City's website, in the Huntsville Item and Electronic State Business Daily, and sent to several potential bidders. Two (2) bids were received and opened on April 11, 2024, in response to the invitation for proposals. The bids received are reflected in the attached bid tabulation. Public Works staff evaluated the bids received to determine the best value to the City and allow the City to select the lowest most responsible bidder per item. The terms allow for a one-year term with an option to renew for one year in April 2025, with an expiration date of May 1, 2026. There is a no-fault written cancelation clause should either party not be satisfied. Vulcan Materials was the only local vendor to respond to the bid.

The term of this contract is May 2024-April 2025 with the option to renew for one (1) additional one (1) year term. This option to extend is contingent on City Council approval of the budget. With an estimated expense of $95,000 for FY23/24, estimated expense of at least $190,000 for FY24/25 and $95,000 for FY25/26.

Previous Council Action: Council previously approved a Road Materials contract in March 2022.

Financial Implications: Item is budgeted in various departmental budgets in the total estimated expense of $380,000 over the time frame of the agreement.

Approvals:
Brent Sherrod
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:
1. Bid Tab - Bid NO. 24-25

Bid Tabulation

Project Name: Bid NO. 24-25 Road Materials Readvertisement

Location: 1212 Avenue M Huntsville, TX 77340

Date: Thursday, April 11, 2024 Time: 2:00 P.M. Central Time

Line	Description	Estimated Annual Usage	Unit Of Measure	Vulcan Construction Materials, LLC Price Per Unit FOB/Delivered	Unique Paving Materials Corp. Price Per Unit FOB/Delivered
1	Type B,C,D,F HMAC	10,000	Tons	$90.00 FOB $97.00 Delivered	No Bid
2	Cold Mix(UPM)	50	Tons	$115.00 FOB $122.00 Delivered	$166.15/Ton
3	Flexible Base	500	Tons	$41.00 FOB $48.00 Delivered	No Bid
4	Stabilized Flexible Base (2 sack per cyd)	500	Tons	$52.00 FOB $59.00 Delivered	No Bid
5	Stabilized Sand (2 sack per cyd)	500	Tons	$35.50 FOB $42.50 Delivered	No Bid
6	Ice Rock (Type F Limestone)	300	Tons	$49.75 FOB $56.75 Delivered	No Bid
7	5/8" Limestone Chip Rock	As Needed	Tons		No Bid
8	Top Soil	As Needed	Tons/Cubic Yards		No Bid
9	Field Sand	As Needed	Tons		No Bid
10	Concrete Washed Sand	500	Tons		No Bid
11	Ready – Mix Concrete – Less five (5) delivered	As Needed	Cubic Yards		No Bid
12	Ready – Mix Concrete – More five (5) delivered	As Needed	Cubic Yards		No Bid
13	Flowable Fill	100	Cubic Yards		No Bid
14	3x5 Rip Rap	As Needed	Tons	$51.00 FOB $58.00 Delivered	No Bid
15	5x8 Rip Rap	As Needed	Tons	$51.00 FOB $59.00 Delivered	No Bid
16	12" Rip Rap	As Needed	Tons	$71.25 FOB $80.25 Delivered	No Bid
17	18" Rip Rap	As Needed	Tons	$71.25 FOB $81.25 Delivered	No Bid
18	24" Rip Rap	As Needed	Tons	$71.25 FOB $82.25 Delivered	No Bid
19	Stabilized Flexible Base (3 sack per cyd)	As Needed	Tons	$52.00 FOB $57.00 Delivered	No Bid
20	Stabilized Sand (3 sack per cyd)	As Needed	Tons	$35.50 FOB $42.50 Delivered	No Bid
21	Rip Rap	As Needed	Tons	See Above	No Bid

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 2.a.

Agenda Item: **First Reading** - Consider the adoption of Ordinance 2024-6 authorizing the settlement of a proposed rate increase of CenterPoint Energy Resource Corp in the Houston, Texas Coast, South Texas, and Beaumont/East Texas Division.

Initiating Department/Presenter: City Attorney

Presenter:
Leonard Schneider, City Attorney

Recommended Motion: FIRST READING - No action needed. Should the City Council wish to approve this item tonight, the recommended motion would be: **Move to waive second reading requirements and approve Ordinance 2024-6 adopting the CenterPoint proposed settlement of the CenterPoint proposed rate increase in the Houston, Texas Coast, South Texas, and Beaumont/East Texas Division.**

Strategic Initiative: Strategic Priority #4, Infrastructure - Develop and maintain a comprehensive and well-planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage and transportation services.

Discussion: CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas (“CenterPoint” revised its Statement of Intent on December 19, 2023, and increased its requested revenue to $38.8 million. The Steering Committee of Cities, Railroad Commission and other third parties have agreed to resolve the rate request proceedings by Centerpoint agreeing to a rate level increase of $5 million and the rate increase is expected to have no bill impact on customers in the Beaumont/East Texas Division (Huntsville). The Lawton Law Firm, who represents Huntsville, and the Steering Committee of Cities, recommends the City pass the above-referenced ordinance. Centerpoint has also agreed to a reduced rate of return on equity from its request 10.5% to 9.8%. Centerpoint is not expected to file another base rate case until 2029. In the interim, the only rate changes expected to occur will be annual GRIP adjustments to the customer charge and adjustments for changes in gas market commodity costs. It is recommended the Council waive the two reading requirement.

Previous Council Action: Approved Ordinance No. 2023-27 to intervene and have the Lawton Law Firm contest the rate increase.

Financial Implications: None

Approvals:
Leonard Schneider
Sam Masiel

Aron Kulhavy
Kristy Doll

Associated Information:

1. 2024 Ordinance Approving CP Settlement

ORDINANCE NO. 2024-6

AN ORDINANCE BY THE CITY OF HUNTSVILLE, TEXAS AUTHORIZING THE SETTLEMENT OF CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY ENTEX AND CENTERPOINT ENERGY TEXAS GAS'S STATEMENT OF INTENT TO INCREASE RATES IN THE HOUSTON, TEXAS COAST, SOUTH TEXAS, AND BEAUMONT/EAST TEXAS DIVISIONS, FILED OCTOBER 30, 2023; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE

WHEREAS, on or about October 30, 2023, CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Entex and CenterPoint Energy Texas Gas ("CenterPoint" or "Company") filed a Statement of Intent with the City of Huntsville ("City") and concurrently with the Railroad Commission of Texas ("Railroad Commission") to increase gas rates in the Houston, Texas Coast, South Texas and Beaumont/East Texas Divisions by $37.4 million per year; and

WHEREAS, the Company revised its Statement of Intent on December 19, 2023, and increased its requested revenue increase to $38.8 million; and

WHEREAS, the City of Huntsville joined the Steering Committee of Cities to intervene and participate in the Railroad Commission proceedings; and

WHEREAS, CenterPoint, Railroad Commission Staff, and other intervening parties including the Steering Committee of Cities participated in settlement discussions to resolve all contested rate case issues without litigation; and

WHEREAS, CenterPoint agreed to settle the rate request at an overall rate increase level of $5 million per year for the Houston, Texas Coast, South Texas and Beaumont/East Texas Divisions combined; and

WHEREAS, the agreed rate increase is expected to have no bill impact on customers in the Beaumont/East Texas Division; and

WHEREAS, the Railroad Commission Staff, the Lawton Law Firm, and counsel for other city groups participating in these proceedings have recommended approval of the Settlement terms as a reasonable alternative to resolve all contested rate case issues without the need for prolonged litigation.

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

Section 1. The statement and findings set out in the preamble to this Ordinance are hereby in all things approved and adopted.

Section 2. The City of Huntsville hereby authorizes the settlement of the CenterPoint rate case proceedings at an overall rate increase level of $5 million per year.

Section 3. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 4. This ordinance shall become effective from and after its passage.

PASSED AND APPROVED this _________ day of __________________, 2024.

THE CITY OF HUNTSVILLE, TEXAS

____

Russell Humphrey, Mayor

ATTEST:

____

Kristy Doll, City Secretary

APPROVED AS TO FORM:

____

Leonard Schneider, City Attorney

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 2.b.

Agenda Item: **First Reading** - Consider Ordinance 2024-7 adopting the 2024 City of Huntsville Water Conservation and Drought Contingency Plan.

Initiating Department/Presenter: Public Works

Presenter:
Brent Sherrod, Public Works Director

Recommended Motion: FIRST READING - No action needed. Should the City Council wish to approve this item tonight, the recommended motion would be: **Move to waive the requirement for readings on two separate days and approve Ordinance 2024-7 adopting the 2024 City of Huntsville Water Conservation and Drought Contingency Plan.**

Strategic Initiative: Strategic Priority #4, Infrastructure - Develop and maintain a comprehensive and well-planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage and transportation services.

Discussion: The Texas Commission on Environmental Quality (TCEQ) rules state "for community water systems providing service to 3,300 or more connections, a Water Conservation and Drought Contingency Plan shall be submitted to the Executive Director of the TCEQ." It is required that this plan be updated every five years. The 2019 Plan was found to be satisfactory in many regards and staff recommended only minor changes and additions.

Some of the areas addressed in the new revision include updated census and utility profile information, and water production volumes. The firm of Alan Plummer and Associates was retained to assist in the revision of this plan. The entire document is on file in the City Secretary's Office, but pages 14-22 are attached. The attached pages include the Stage 1, 2 and 3 triggers and restrictions, along with Procedures for Enforcement. The last time the triggers were reached, and the plan enforced was in June of 2016 and was caused by a failure in the 30" line that feeds raw water to the Trinity River Authority(TRA). Following is a description from the plan, of the triggers, restrictions and enforcement:

Stage 1 Triggers:
(a) Average daily water consumption exceeds 80% of firm production capacity for a period of five (5) consecutive days; or
(b) Weather conditions are considered to be in drought as determined by the National Integrated Drought Information System (NIDIS); or
(c) As required by the Trinity River Authority (TRA).

Stage 1 Restrictions:
(1) The City may reduce or discontinue the flushing of water mains.
(b) Water Use Restrictions for Reducing Demand Include:

(1) Landscape irrigation for all customers is prohibited between the hours of 7:00 AM to 7:00 PM. Watering with handheld hose or drip irrigation shall be allowed at any time
(2) Even numbered single-family residential addresses are permitted to irrigate on Tuesdays, Thursdays and Saturdays.
(3) Odd numbered single-family residential addresses are permitted to irrigate on Wednesdays, Fridays and Sundays.
(4) Multi-family residential, commercial, institutional and public water customers are permitted to irrigate on Mondays, Wednesdays and Fridays

Stage 2 Triggers:
(a) Average daily water consumption exceeds 90% of firm production capacity for a period of five (5) consecutive days; or
(b) Weather conditions indicate moderate drought will continue; or
(c) Storage capacity (water level) is not being maintained at 75% of available storage capacity; or
(d) As required by TRA

Stage 2 Restrictions:
(1) The City will discontinue the routine flushing of water mains, limiting the practice for the purpose of maintaining water quality
(1) Landscape irrigation for all customers is prohibited between the hours of 7:00 AM to 7:00 PM.
(2) Even numbered single-family residential addresses are permitted to irrigate on Tuesdays and Saturdays.
(3) Odd numbered single-family residential addresses are permitted to irrigate on Wednesdays and Sundays.
(4) Multi-family residential, commercial, institutional and public water customers are permitted to irrigate on Mondays & Fridays.
(5) Water use associated with such tasks as: washing house windows, sidings, eaves and roof with a hose without the use of a cutoff valve and bucket; washing driveways, streets, curbs and gutters; washing vehicles with a hose without cutoff valve and bucket; unattended hose end watering of landscape shrubs and grass; and draining and filling swimming pools is prohibited.
(6) All aesthetic water use is prohibited.

Stage 3 Triggers:
(a) Average daily water consumption will not enable storage levels to be maintained; or
(b) Water system demand exceeds available high service pump capacity; or
(c) Required by TRA; or
(d) The water system is contaminated either accidentally or intentionally. Condition is reached immediately upon detection; or
(e) The water system fails from acts of God (tornadoes, hurricanes) or man. Condition is reached immediately upon detection.

Stage 3 Restrictions:
(1) The City will discontinue the flushing of water mains.
(2) The City will discontinue the irrigation of public landscaped areas.
(3) The City will reduce system pressure where possible to conserve water.
(b) Water Use Restrictions for Reducing Demand Include:
(1) All outdoor water use is prohibited, except for that required for the protection of public health, safety, and welfare.
(2) The City may prioritize or curtail water service in accordance to the following sequence:
(i) Recreational
(ii) Residential
(iii) Commercial

(iv) Industrial
(v) Schools
(vi) Hospitals
(3) The permitting and prioritization of water service shall not apply to raw clarified water provided under a contract with Tenaska Energy for the purpose of electrical power production.

Mandatory water use restrictions may be imposed in Stage 1, Stage 2, and Stage 3. These mandatory water restrictions will be enforced by Notices of Violation and penalties as follows:

- On the first violation, customers will be given a written notice of violation of the mandatory water use restriction.
- On the second and subsequent violations, citations may be issued to customers.
- After two violations have occurred, the City of Huntsville may install a flow restrictor in the line to limit the amount of water that may pass through the meter in a 24-hour period.
- After three violations have occurred, the City of Huntsville may terminate water service to the customer.

Previous Council Action: The City Council approved the 2019 Water Conservation and Drought Contingency Plan on April 16, 2019.

Financial Implications: There is no financial impact associated with this item.

Approvals:
Brent Sherrod
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:
1. Water and Drought Contingency Plan Ordiance 2024-7
2. Pages 14-22 of Drought Contingency.

ORDINANCE NO. 2024-7

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, ADOPTING A WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR VIOLATION OF THE PLANS; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Huntsville, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes; and

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas to prepare water conservation and drought contingency plans; and

WHEREAS, as authorized under law, and in the best interests of the citizens of Huntsville, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during the drought and other water supply emergencies;

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

Section 1. That the City of Huntsville, Texas Water Conservation and Drought Contingency Plan attached hereto as Exhibit "A" and made a part hereto for all purposes be, and the same are hereby, adopted as the official policies of the City and referenced in the Code of Ordinances, Chapter 46, Sections 46-49 and 46-50.

Section 2. Any person, corporation, partnership, association or other entity violating the drought contingency measure or water conservation measure implemented by the City of Huntsville pursuant to the City of Huntsville, Texas Water Conservation and Drought Contingency Plan shall be subject to the general penalty provisions set out in Section 1-11 of the Code of Ordinances of the City of Huntsville, Texas, and a separate offense shall be deemed committed upon each and every day that any drought contingency measure is violated.

Section 3. All ordinances that are in conflict with the provisions of this Ordinance are, and that same 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 paragraph, sentence, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

Section 5 This Ordinance, being a penal ordinance, becomes effective ten (10) days after its date of passage by the City Council, as provided by Article 4.13 of the Charter of the City of Huntsville, Texas.

PASSED AND APPROVED on this the _________________ day of May 2024.

THE CITY OF HUNTSVILLE, TEXAS

____

Russell Humphrey, Mayor

ATTEST:

____
Kristy Doll, City Secretary

APPROVED AS TO FORM:

____
Leonard Schneider, City Attorney

5 Additional Required Water Conservation Plan Content

Title 30 of the Texas Administration Code also includes additional requirements for water conservation plans for public drinking suppliers that serve a population of 5,000 people or more and/or a projected population of 5,000 people or more within the next ten years:

- §288.2(a)(2)(A) – Leak Detection, Repair, and Water Loss Accounting
- §288.2(a)(2)(B) – Requirement that Wholesale Customers Develop and Implement a Water Conservation Plan

5.1 Leak Detection and Repair; Pressure Control

Measures to control unaccounted water are routine for the City of Huntsville. Meter readers watch for and report signs of illegal connections so they can be addressed quickly. Crews look for and report evidence of leaks in the water distribution system. Maintenance crews respond quickly to repair leaks reported by the public and city personnel. Areas of the water distribution system where numerous leaks and line breaks occur are targeted for replacement as funds are available.

5.2 Requirement that Wholesale Customers Develop and Implement a Water Conservation Plan

A requirement shall be included in every wholesale water supply contract entered into or renewed after official adoption of this Plan (by either ordinance, resolution, or tariff), including contract extensions, that each successive wholesale customer develops and implements a water conservation plan or water conservation measures using the applicable elements of Texas Water Code §11.039. If the customer intends to resell the water, the contract between the initial supplier and customer must include that resale of the water must have water conservation requirements so that each successive customer in the resale of the water will be required to implement water conservation measures in accordance with Texas Water Code §11.039.

6 Drought Contingency Plan

This Section of the Plan includes a Drought Contingency Plan, intended to be available for adoption by the City of Huntsville and its customers. This Plan addresses all of the current Texas Commission on Environmental Quality requirements for a drought contingency plan. The purpose of this drought contingency plan is as follows:

- To conserve the available water supply in times of drought and emergency
- To maintain supplies for domestic water use, sanitation, and fire protection
- To protect and preserve public health, welfare, and safety
- To minimize the adverse impacts of water supply shortages
- To minimize the adverse impacts of emergency water supply conditions

The City of Huntsville supplies treated water to its customers and the following provisions of this Plan apply only to those customers. In order to adopt this plan, the City of Huntsville City Council will need to adopt ordinance(s) or regulation(s) implementing the plan, including the determination of fines and enforcement procedures.

6.1 Texas Commission on Environmental Quality Rules

The TCEQ rules governing development of drought contingency plans for retail public water suppliers are contained in Title 30, Part1, Chapter 288, Subchapter B, Rule §288.20 of the Texas Administrative Code, which is included in Appendix B. For the purpose of these rules, a drought contingency plan is defined as "a strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies."

6.2 State Requirements for Drought Contingency Plans

TCEQ's minimum requirements for drought contingency plans are addressed in the following Sections of this report:

- §288.20(a)(1)(A) – Provisions to Inform the Public and Provide Opportunity for Public Input
- Section 6.3
- §288.20(a)(1)(B) – Provisions for Continuing Public Education and Information – Section 6.4
- §288.20(a)(1)(C) – Coordination with Regional Water Planning Group – Section 7.5.1
- §288.20(a)(1)(D) – Criteria for Initiation and Termination of Drought Stages – Section 6.5
- §288.20(a)(1)(E) – Drought and Emergency Response Stages – Section 7
- §288.20(a)(1)(F) – Specific, Quantified Targets for Water Use Reduction – Section 7
- §288.20(a)(1)(G) – Water Supply and Demand Management Measures for Each Stage – Section 7
- §288.20(a)(1)(H) – Procedures for Initiation and Termination of Drought Stages – Section 6.5
- §288.20(a)(1)(I) – Procedures for Granting Variances – Section 7.4
- §288.20(a)(1)(J) – Procedures for Enforcement of Mandatory Restrictions – Section 7.5
- §288.20(b) – Notification of Implementation of Mandatory Measures – Section 7.5
- §288.20(c) – Review and Update of Plan– Section 7.5.4

6.3 Provisions to Inform the Public and Opportunity for Public Input

The City of Huntsville City Council meets on select Tuesdays at 6:00 p.m. A meeting agenda is posted in accordance with the State law, listing items to be acted upon by the council. Meetings are open to the public, and the public is given an opportunity to speak and voice their views and opinions. City Council meetings are attended by representatives of local newspapers and radio stations. The news media sources provide excellent distribution of events and subjects.

6.4 Provision for Continuing Public Education and Information Education

The City of Huntsville will inform its customers of various recommended methods to reduce water consumption by mailing brochures with monthly water bills, making available copies of "Homeowner's Guide to Water Use and Water Conservation," and will use resource materials made available by the Texas Water Development Board and other agencies and organizations.

6.5 Initiation and Termination of Drought Response Stages

Section 6.5.1 includes procedures for initiation of drought response stages and Section 6.5.2 includes procedures for termination of drought response stages.

6.5.1 Initiation of Drought Response Stages

The City Manager or his/her designee may order the implementation of a drought response stage or water emergency when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought stage is initiated:

- The public will be notified through local media and message boards
- If any mandatory provisions of the Drought Contingency Plan are activated, the City of Huntsville will notify the Executive Director of the Texas Commission on Environmental Quality within 5 business days.

For other trigger conditions, the City Manager or his/her designee may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met. Factors that could influence such a decision include, but are not limited to, the time of year, weather conditions, the anticipation of replenished water supplies, or the anticipation that facilities will become available to meet needs.

6.5.2 Termination of Drought Response Stages

The City Manager or his/her designee may order the termination of a drought response stage or water emergency when the conditions for termination are met or at his discretion. The following actions will be taken when a drought stage is terminated:

- The public will be notified through local media.
- When any mandatory provisions of the drought contingency plan that have been activated are terminated, the city will notify the Executive Director of the TCEQ within 5 business days.

The City Manager or his/her designee may decide not to order the termination of a drought response stage or water emergency even though the conditions for termination of the stage are met. Factors that could influence such a decision include, but are not limited to, the time of year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought stage.

7 Drought and Emergency Response Stages

At any time during the year, due to weather conditions or as requested by the TRA, the City may request voluntary drought contingency efforts aimed at delaying the need for more stringent drought management requirements.

7.1 Stage 1 Response

Stage 1, mild water shortage trigger and termination conditions are described in Sections 7.1.1 and 7.1.2. Actions for water use reductions during Stage 1 are described in Section 7.1.3.

7.1.1 Stage 1 Triggers- Mild Water Shortage Conditions Occur When

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses defined in Section 2 of this Plan, when:

(a) Average daily water consumption exceeds 80% of firm production capacity for a period of five (5) consecutive days; or

(b) Weather conditions are considered to be in drought as determined by the National Integrated Drought Information System (NIDIS); or

(c) As required by the Trinity River Authority (TRA).

7.1.2 Stage 1 Triggers- Mild Water Shortage Conditions Terminate When

Requirements for termination

Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period described below.

(a) Average daily water consumption falls below 80% of firm production capacity for a period of 10 consecutive days;

(b) Weather conditions are not considered to be in drought as determined by the National Integrated Drought Information System (NIDIS); and

(c) TRA no longer requires implementation of Stage 1.

7.1.3 Goal for Use Reduction and Actions Available Under Stage 1

Target: Reduce daily demand for the City of Huntsville water system to less than 80% of firm production capacity.

(a) Best Management Practices for Reducing Demand Include:

(1) The City may reduce or discontinue the flushing of water mains.

(b) Water Use Restrictions for Reducing Demand Include:

(1) Landscape irrigation for all customers is prohibited between the hours of 7:00 AM to 7:00 PM. Watering with handheld hose or drip irrigation shall be allowed at any time.

(2) Even numbered single-family residential addresses are permitted to irrigate on Tuesdays, Thursdays and Saturdays.

(3) Odd numbered single-family residential addresses are permitted to irrigate on Wednesdays, Fridays and Sundays.

(4) Multi-family residential, commercial, institutional and public water customers are permitted to irrigate on Mondays, Wednesdays and Fridays.

7.2 Stage 2 Response

Stage 2, moderate water shortage trigger and termination conditions are described in Sections 7.2.1 and 7.2.2. Actions for water use reductions during Stage 2 are described in Section 7.2.3.

7.2.1 Stage 2 Triggers- Moderate Water Shortage Conditions Occur When

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses defined in Section 2 of this Plan when:

(a) Average daily water consumption exceeds 90% of firm production capacity for a period of five (5) consecutive days; or

(b) Weather conditions indicate moderate drought will continue; or

(c) Storage capacity (water level) is not being maintained at 75% of available storage capacity; or

(d) As required by TRA

7.2.2 Stage 2 Triggers- Moderate Water Shortage Conditions are Terminated When

Requirements for termination

Stage 2 of the Plan may be rescinded when:

(a) Average daily water consumption falls below 80% of firm production capacity for 10 consecutive days;

(b) Weather conditions indicate mild drought conditions have ceased to exist;

(c) Storage capacity (water level) is being maintained at 75% of available storage capacity; and

(d) TRA no longer requires implementation of Stage 2.

7.2.3 Goal for Use Reduction and Actions Available Under Stage 2

Target: Reduce daily demand for the City of Huntsville water system to less than 80% of firm production capacity.

(a) Best Management Practices for Reducing Demand Include:

(1) The City will discontinue the routine flushing of water mains, limiting the practice for the purpose of maintaining water quality.

(b) Water Use Restrictions for Reducing Demand Include:

(1) Landscape irrigation for all customers is prohibited between the hours of 7:00 AM to 7:00 PM.

(2) Even numbered single-family residential addresses are permitted to irrigate on Tuesdays and Saturdays.

(3) Odd numbered single-family residential addresses are permitted to irrigate on Wednesdays and Sundays.

(4) Multi-family residential, commercial, institutional and public water customers are permitted to irrigate on Mondays & Fridays.

(5) Water use associated with such tasks as: washing house windows, sidings, eaves and roof with a hose without the use of a cutoff valve and bucket; washing driveways, streets, curbs and gutters; washing vehicles with a hose without cutoff valve and bucket; unattended hose end watering of landscape shrubs and grass; and draining and filling swimming pools is prohibited.

(6) All aesthetic water use is prohibited.

7.3 Stage 3 Response

Stage 3, severe water shortage trigger and termination conditions are described in Sections 7.3.1 and 7.3.2. Actions for water use reductions during Stage 3 are described in Section 7.3.3.

7.3.1 Stage 3 Triggers- Severe Water Shortage Conditions Occur When

Requirements for initiation

Customers shall be required to comply with the requirements and restrictions on certain non- essential water uses for Stage 3 of this Plan when:

(a) Average daily water consumption will not enable storage levels to be maintained; or

(b) Water system demand exceeds available high service pump capacity; or

(c) Required by TRA; or

(d) The water system is contaminated either accidentally or intentionally. Condition is reached immediately upon detection; or

(e) The water system fails from acts of God (tornadoes, hurricanes) or man. Condition is reached immediately upon detection.

7.3.2 Stage 3 Trigger- Severe Water Shortage Conditions Terminate When

Requirements for termination

Stage 3 of the Plan may be rescinded when:

(a) Average daily water consumption will enable storage levels to be maintained;

(b) Water system demand ceases to exceed available high service pump capacity; and

(c) TRA no longer requires implementation of Stage 3; and

(c) The water system is decontaminated; and

(d) The water system is restored after acts of God (tornadoes, hurricanes) or man.

7.3.3 Goal for Use Reduction and Actions Available Under Stage 3

Target: Achieve a 50% reduction in the City of Huntsville daily water demand.

(a) Best Management Practices for Reducing Demand Include:

(1) The City will discontinue the flushing of water mains.

(2) The City will discontinue the irrigation of public landscaped areas.

(3) The City will reduce system pressure where possible to conserve water.

(b) Water Use Restrictions for Reducing Demand Include:

(1) All outdoor water use is prohibited, except for that required for the protection of public health, safety, and welfare.

(2) The City may prioritize or curtail water service in accordance to the following sequence:

(i) Recreational
(ii) Residential
(iii) Commercial
(iv) Industrial
(v) Schools
(vi) Hospitals

(3) The permitting and prioritization of water service shall not apply to raw clarified water provided under a contract with Tenaska Energy for the purpose of electrical power production.

7.4 Procedures for Granting Variances to the Plan

(a) The city manager or his/her designee may grant temporary variances for existing water uses otherwise prohibited under this drought contingency plan if one or more of the following conditions are met:

(1) Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person requesting the variance.

(2) Compliance with this Plan cannot be accomplished due to technical or other limitations.

(3) Alternative methods that achieve the same level of reduction in water use can be implemented.

(b) Variances shall be granted or denied at the discretion of the city manager or his designee. All petitions for variances should be in writing and should include the following information:

(1) Name and address of the petitioner(s).

(2) Purpose of water use.

(3) Specific provisions from which relief is requested.

(4) Detailed statement of the adverse effect of the provision from which relief is requested.

(5) Description of the relief requested.

(6) Period of time for which the variance is sought.

(7) Alternative measures that will be taken to reduce water use.

(8) Other pertinent information.

(c) Persons using raw water for irrigation, whether from a customer owned and operated well or purchased raw water, must apply for a variance. The city manager may grant a raw water variance under the following conditions:

(1) The property passes a cross-connection and backflow protection inspection as required by Section 12.26 Chapter 12 of the City of Huntsville Code of Ordinances; and

(2) The Property owner erects and maintains a sign that clearly indicates that irrigation is with raw water.

7.5 Procedure Enforcing Mandatory Restrictions

Mandatory water use restrictions may be imposed in Stage 1, Stage 2, and Stage 3. These mandatory water restrictions will be enforced by Notices of Violation and penalties as follows:

- On the first violation, customers will be given a written notice of violation of the mandatory water use restriction.
- On the second and subsequent violations, citations may be issued to customers.
- After two violations have occurred, the City of Huntsville may install a flow restrictor in the line to limit the amount of water that may pass through the meter in a 24-hour period.
- After three violations have occurred, the City of Huntsville may terminate water service to the customer.

7.5.1 Coordination with Regional Water Planning Groups

The planning area consists of the City of Huntsville and its extraterritorial jurisdiction which contains 107.92 square miles. Huntsville is the county seat of Walker County and has a population of approximately 47,780. This area is located within the Region H water planning area, and the City of Huntsville has provided a copy of this plan to the Region H Water Planning Group.

7.5.2 Authorization

The city manager or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The Director of Public Works or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described.

7.5.3 Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City of Huntsville. The terms "person" and "customer" as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

7.5.4 Review and Update of Drought Contingency Plan

As required by Texas Commission on Environmental Quality rules, the City of Huntsville will review this drought contingency plan every five years, with the next update due on May 1, 2029. The plan will be updated as appropriate based on new or updated information. As the plan is reviewed and subsequently updated, a copy of the revised Drought Contingency Plan will be submitted to the Texas Commission on Environmental Quality and the Region H Water Planning Group (RHWPG) for their records.

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 2.c.

Agenda Item: Consider authorizing the City Manager to execute the Second 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 Second 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 (DA) 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 DA. 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 requested the first amendment to the DA in December 2023. The amendments included changes 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.

This Second Amendment to the DA has been initiated by City staff to clarify the extent of the Authorized Improvements that are eligible for reimbursement from the PID and transferable to the City for ownership and maintenance as detailed in the attached Second Amendment to the Reserves of Huntsville Development Agreement.

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.
December 19, 2023 - City Council authorized the City Manager to execute the First Amendment to the Development Agreement with PHD-Huntsville 34, L.P., for the development of "The Reserves of Huntsville", PID No. 1.

Financial Implications: There is no financial impact associated with this item. Any financial impact resulting from this agreement is eligible to be reimbursable through the PID assessment.

Approvals:
Kevin Byal
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:
1. Second Amendment to Reserves of Huntsville Development Agreement v2-4-30-24Clean
2. Executed-Final Agreement2022
3. 1st Admendment - executed all parties
4. Area Map
5. Concept Plan

SECOND AMENDMENT TO
RESERVES OF HUNTSVILLE DEVELOPMENT AGREEMENT

This Second Amendment to Reserves of Huntsville Development Agreement (this "Amendment") is entered into effective as of ______________________, 2024, 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 entered into that certain First Amendment to Reserves of Huntsville Development Agreement, dated effective as of December 19, 2023 ("First Amendment")

WHEREAS, the Developer and the City desire to further amend the Agreement to clarify that any land or facilities owned and maintained by the HOA shall not be considered an Authorized Improvement.

WHEREAS, the Developer and the City desire to further amend the Agreement to clarify that the park and pavilion areas, entrance signs and that the detention/retention ponds owned and maintained by the HOA shall not be considered an Authorized Improvement nor shall it convey to the City.

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:

   a. Section 5.3(b) of the Agreement, is hereby amended and restated as follows:

      The HOA shall maintain and operate the open spaces, trails, common area, detention/retention ponds, right-of-way irrigation systems, right-of-way landscaping, screening walls, and any other common improvements or appurtenances in the Property which the City chooses not to own or maintain ("Private Facilities"). Notwithstanding any provision of the Agreement or the First Amendment to the contrary, the City shall not be obligated to take title to any of the Private Facilities, which shall be owned and maintained by the HOA and shall not be considered Authorized Improvements, including but not limited to parks, park equipment, pavilions, entrance signs and detention/retention ponds.

   b. Exhibit C of the Agreement titled "Estimated Costs and Authorized Improvement Costs" shall hereby be deleted in its entirety and replaced with Exhibit C found in Attachment A, attached hereto.

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.

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: Mayor

APPROVED AS TO FORM:

By: __________________________
Name: __________________________
Title: City Attorney

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ATTACHMENT A

Exhibit C

Estimated Costs and Authorized Improvements

Description		Total Estimated Costs (1)		Eligible Improvements for PID Financing
Hard Costs				
Demolition	$	26,234	$	26,234
Paving and Grading	$	1,197,603	$	1,197,603
Earthwork	$	670,101	$	670,101
Storm Drainage	$	1,399,873	$	1,399,873
Water Utility	$	374,477	$	374,477
Water Utility Extension	$	219,505	$	219,505
Sanitary Utility	$	469,738	$	469,738
SWPPP	$	32,227	$	32,227
Miscellaneous	$	156,100	$	156,100
Road ROW	$	131,250	$	131,250
Extra Unit Price Items	$	175,880	$	-
Subtotal	**$**	**4,852,988**	**$**	**4,677,108**
Soft Costs				
Performance Bond	$	40,000	$	-
Maintenance Bond	$	15,000	$	-
Engineering Services	$	360,645	$	360,645
Project Management Fees	$	523,628	$	523,628
Horizontal Construction Interest	$	257,325	$	-
Loan Closing Costs	$	110,750	$	-
PID Formation Legal and Consulting	$	295,000	$	295,000
Subtotal	**$**	**1,602,348**	**$**	**1,179,273**
Total	**$**	**6,455,336**	**$**	**5,856,381**

Source: Per R Construction Civil, LLC executed bid contract dated 2/28/2024

Footnotes:

(1) To the extent permitted by Texas Local Government Code. Preliminary estimates are in 2024 dollars and are likely to increase over time due to inflation. Assumes 100% of paving, grading, water, wastewater, storm drainage, and of earthwork for publicly maintained improvements that are eligible for PID financing.

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 confersa 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.

5.4 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."

5.5 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

6.1 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.

6.2 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.

6.3 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.

6.4 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.

6.5 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.

6.6 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.

6.7 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 cost 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.

8.5 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.

8.6 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.

10.2 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.

10.3 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.

10.4 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.

13.3 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.

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

13.5 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.

13.6 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.

13.7 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:_________ ______________________

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.

(SEAL)

MARY JOYNER
NOTARY PUBLIC
STATE OF TEXAS
ID 124306205
EXP. 08-17-2026

Mary Joyner

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.

NOTARY PUBLIC STATE OF TEXAS
Jennifer Frazier
Notary Public, State of Texas
Comm. Expires 03-16-2026
Notary ID 131492357

Notarized Online with NotaryLive.com

Notary Public, State of Texas

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 inVolume 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 comer from which a 3" diameter concrete monument found bears N O1 °24'48"W- 1.44 feet and a 4"x4" concrete monument stamped "TPL" found for a southwest comer 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 StateofTexas 515 acre tracts, at 782.26 feet pass the common comer of said 28.31 and I0.05 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 comer of said Hall Trust 33.49 acres and the northwest comer 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 comer 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 comer and thenortheast comer 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+o2.40" for comer;

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°l 5'07"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 comer;

THENCE N O1°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

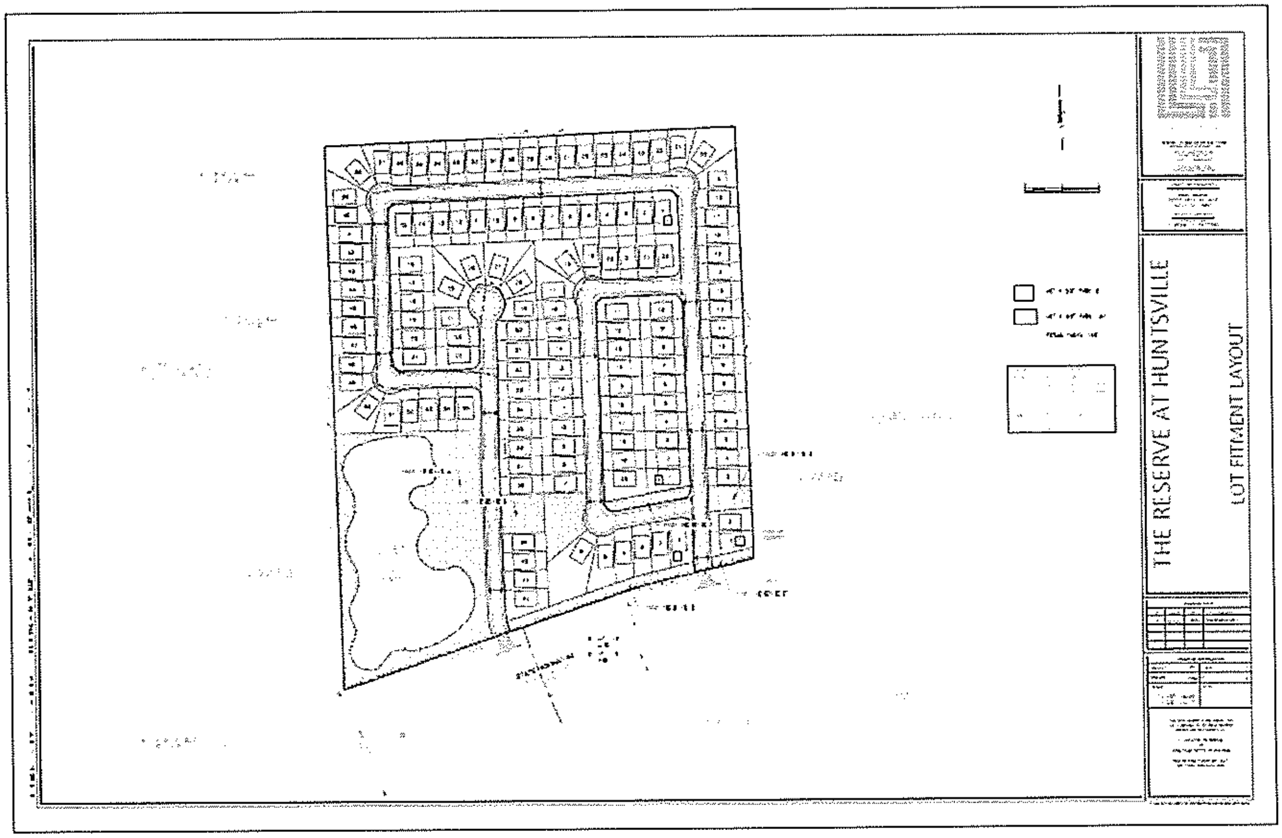

Exhibit C
Estimated Costs and Authorized Improvement Costs

Description		Total Estimated Costs		Eligible Improvements For PID Financing (1)
Hard Costs				
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
Soft Costs				
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
Land				
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

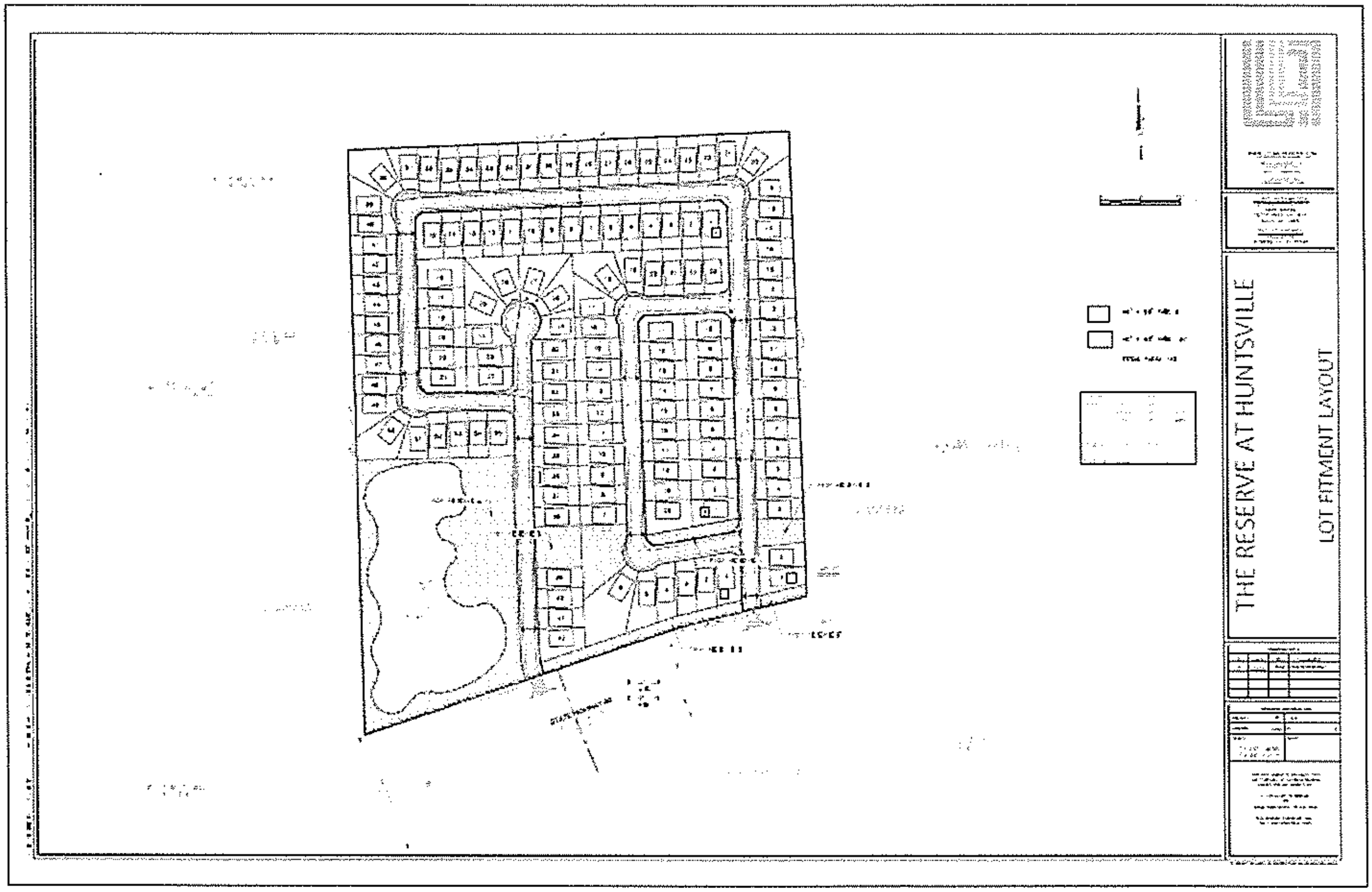

Exhibit E
Home Buyer Disclosure Program

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 orother 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

(SEAL)

MARY JOYNER
NOTARY PUBLIC
STATE OF TEXAS
ID 124306205
EXP. 08-17-2026

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 definitelydescribed 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 inVolume 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 comer from which a 3" diameter concrete monument found bears N O1 °24'48"W- 1.44 feet and a 4"x4" concrete monument stamped "TPL" found for a southwest comer 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 Stateof Texas 515 acre tracts, at 782.26 feet pass the common comer of said 28.31 and I0.05 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 comer of said Hall Trust 33.49 acres and the northwest comer 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 comer 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 comer and thenortheast comer 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+o2.40" for comer;

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°1 5'07"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 comer;

THENCE N O1°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:__________________

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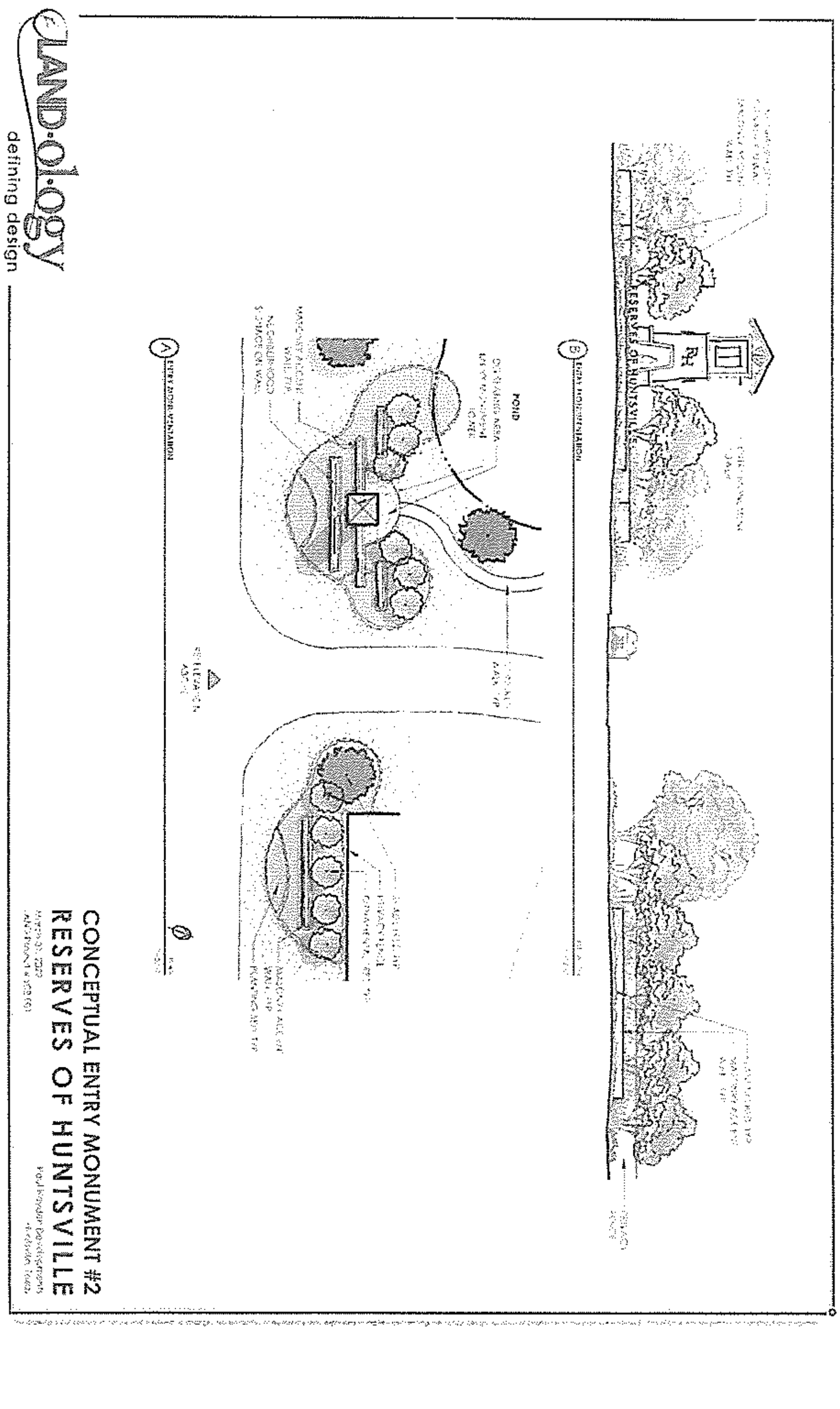
Exhibit H

Enhanced Subdivision Amenities



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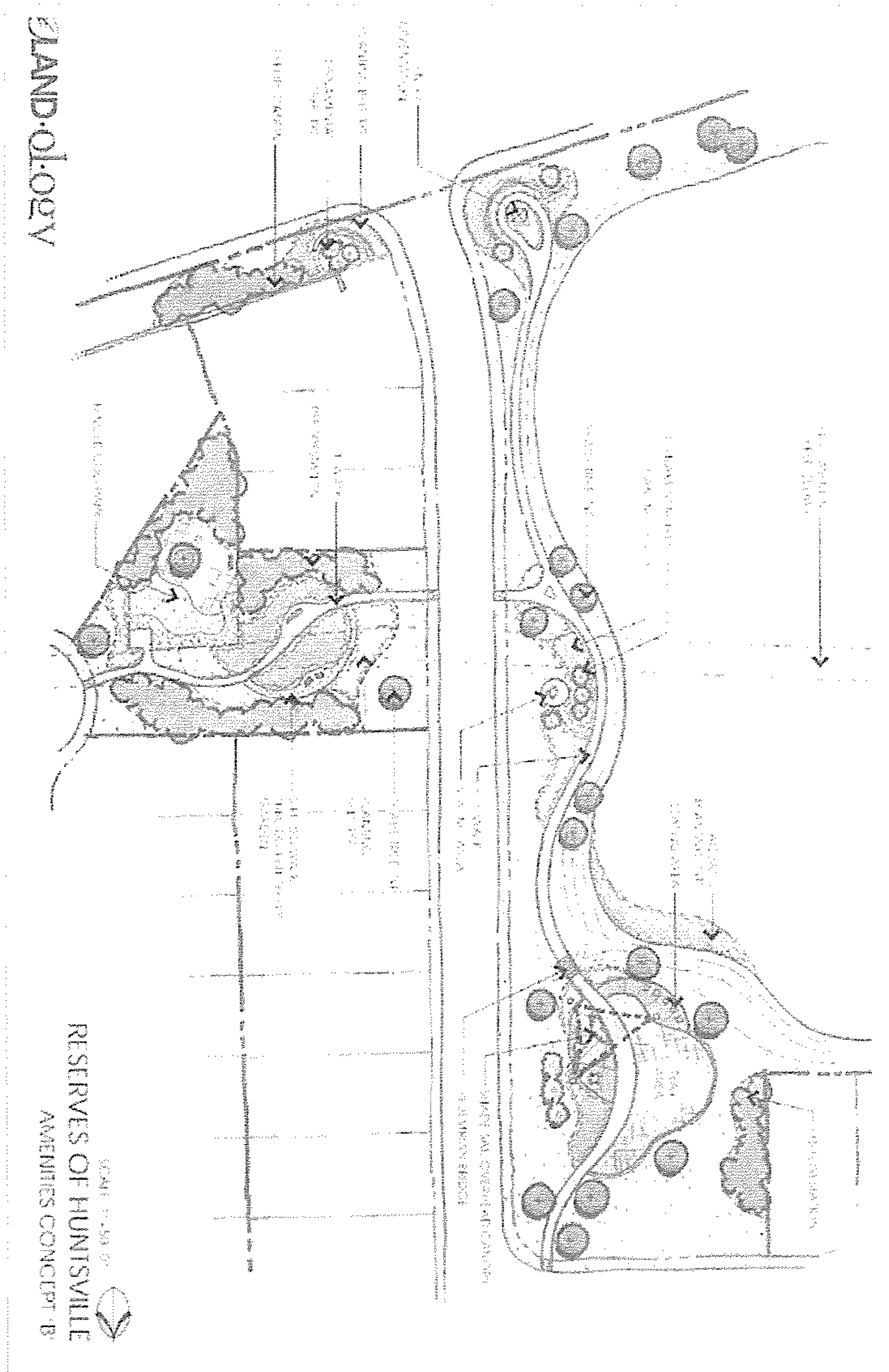
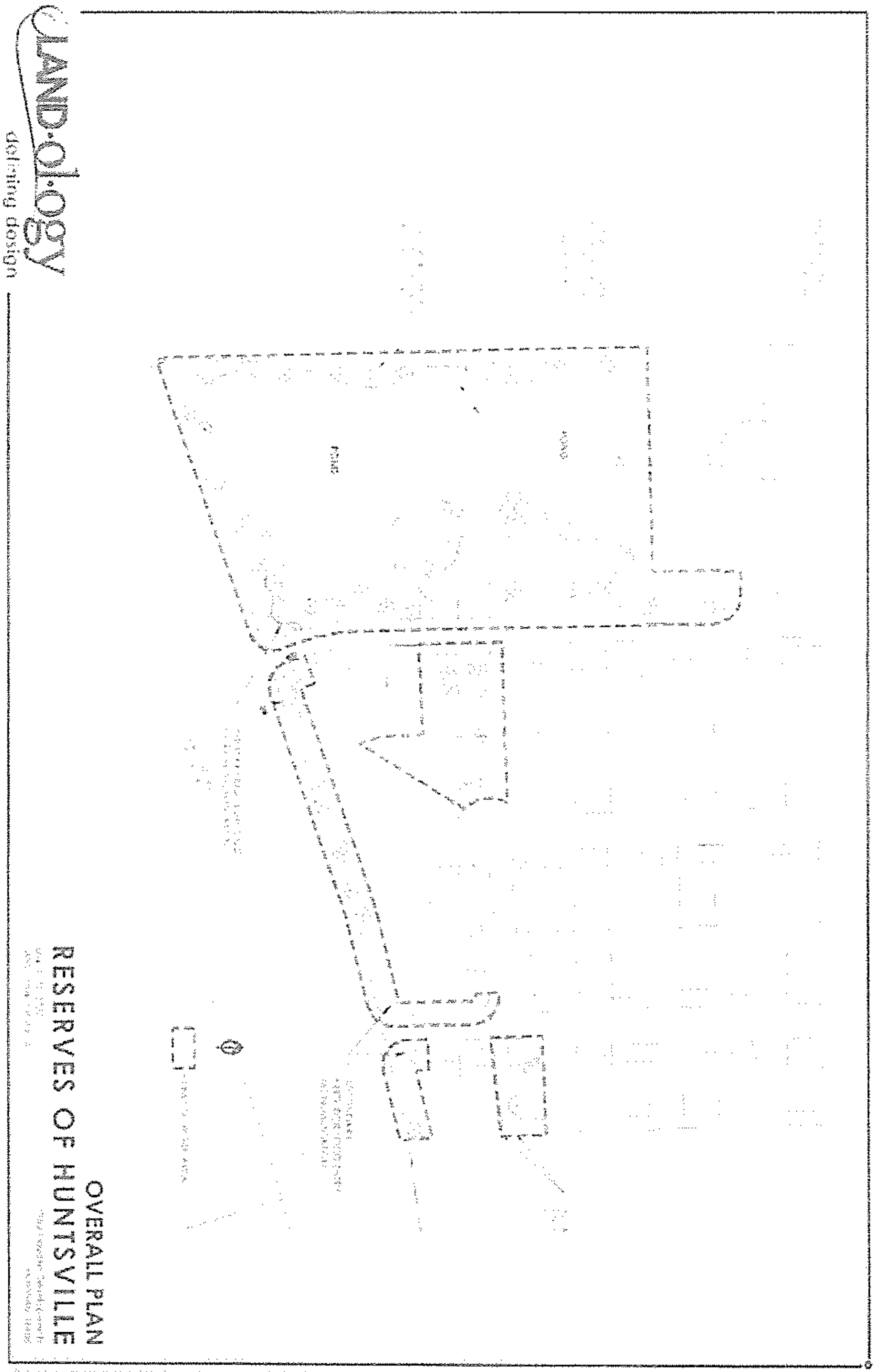

LAND·OLOGY
RESERVES OF HUNTSVILLE
AMENITIES CONCEPT 'B'



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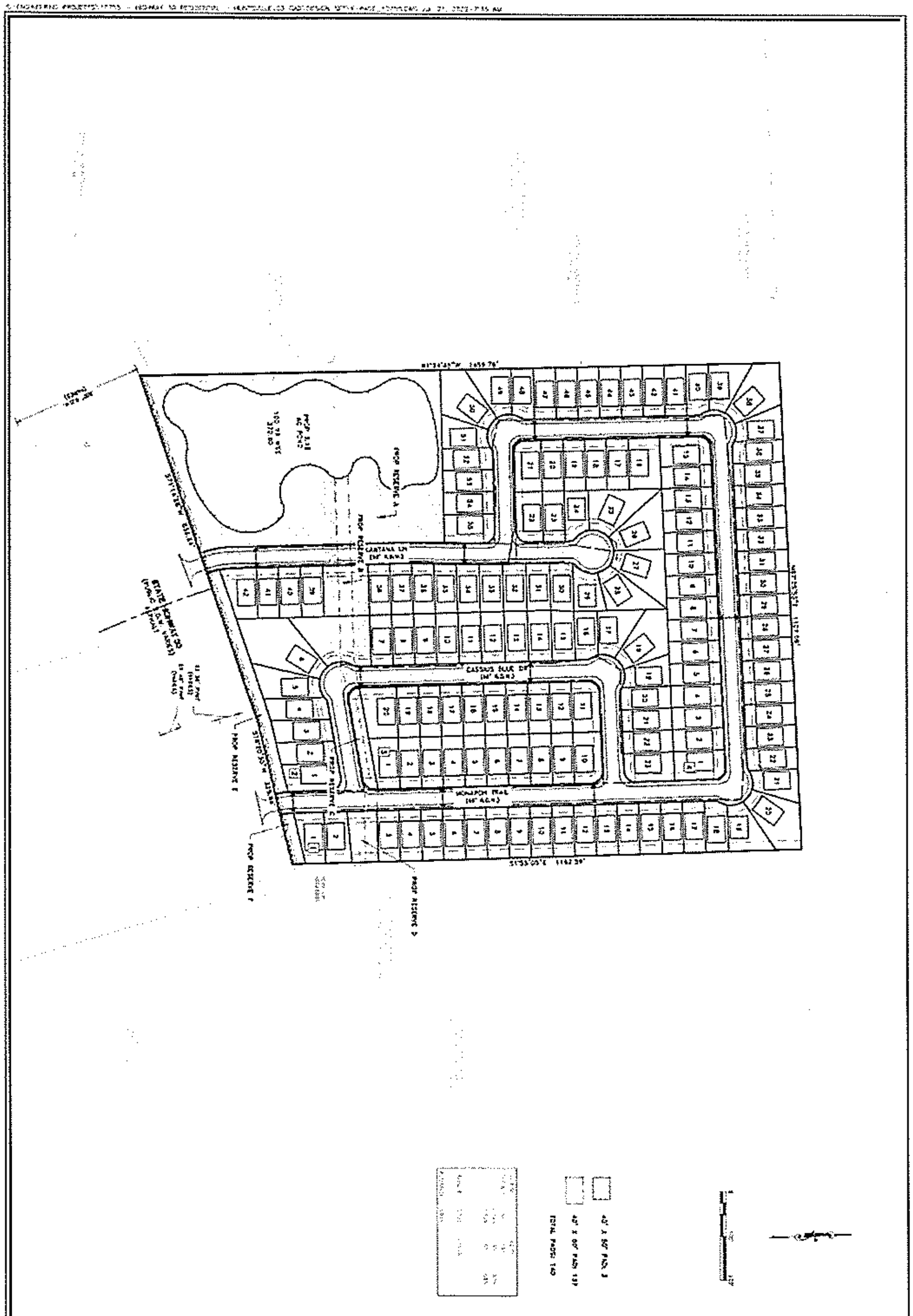

THE RESERVE AT HUNTSVILLE

LOT FITMENT LAYOUT

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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 December 19, 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: Paul Garza
Name: Paul Garza
Title: CEO / Managing Member

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

By: ______________________
Name: Aron Kulhavy
Title: City Manager

APPROVED AS TO FORM:

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

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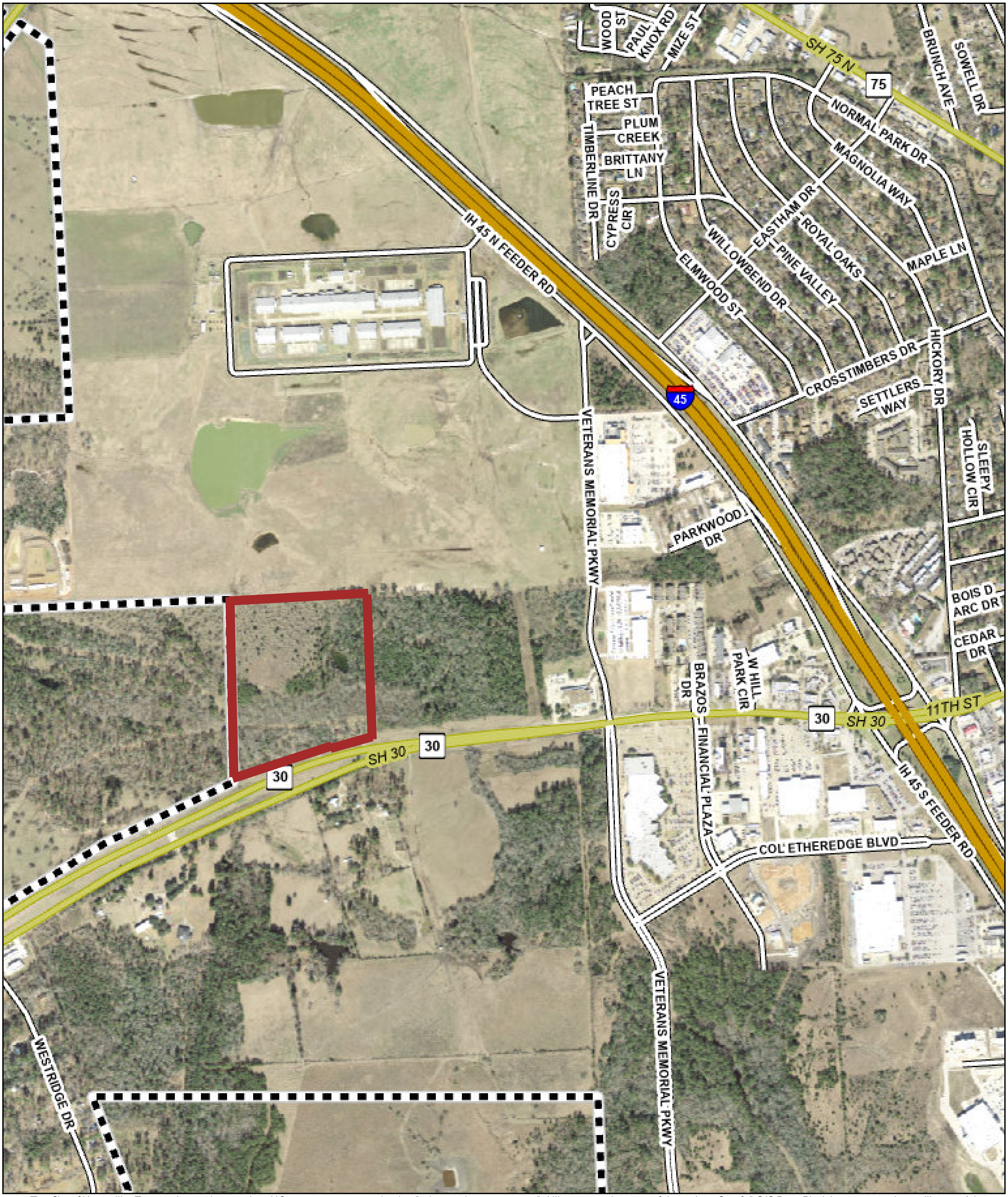

1 in = 1,000 ft

On 8.5 x 11 inch Print

0 0.1 0.2 0.4 mi

On Any Print Size

CREATED DATE: 11/29/2021

CITY OF HUNTSVILLE, TX
ENGINEERING DEPARTMENT / GIS DIVISION

3400 SH 30 West

Huntsville GIS Division

City of Huntsville

Service Layer Credits: City of Huntsville GIS Division

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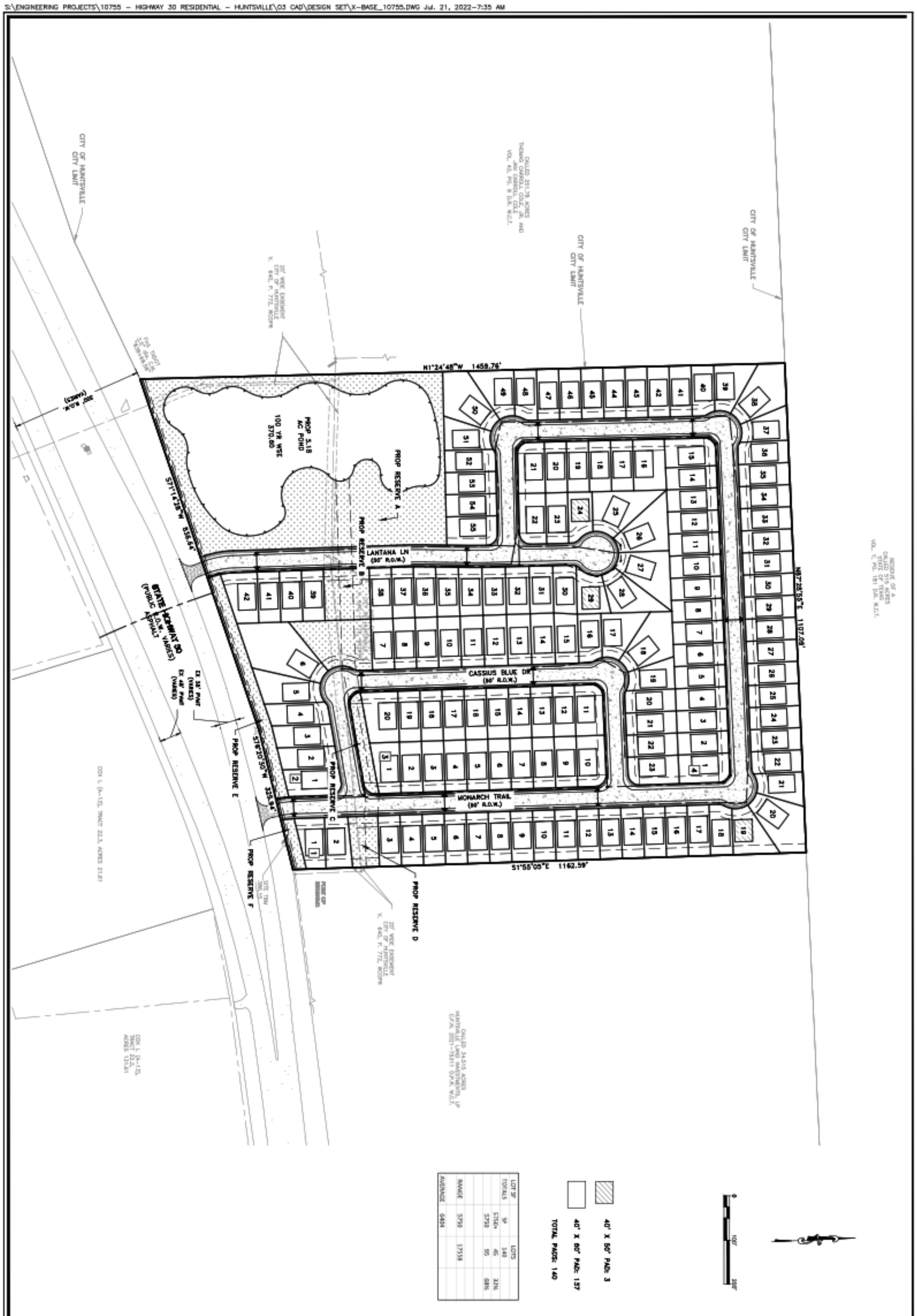

THE RESERVE AT HUNTSVILLE

LOT FITMENT LAYOUT

L SQUARED ENGINEERING

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 2.d.

Agenda Item: Consider authorizing the City Manager to enter into an Agreement for the Construction and Funding of Authorized Improvements and Reimbursement of Advances, related to "the Reserves of Huntsville", PID # 1, by and between the City of Huntsville, Texas and PHD - Huntsville 34, LP, a Texas limited partnership.

Initiating Department/Presenter: Development Services

Presenter:
Kevin Byal, Director of Development Services

Recommended Motion: Move to approve authorizing the City Manager to enter into an Agreement for the Construction and Funding of Authorized Improvements and Reimbursement of Advances, related to PID #1, by and between the City of Huntsville, Texas and PHD - Huntsville 34, LP, a Texas limited partnership.

Strategic Initiative: Strategic Priority #4, Infrastructure - Develop and maintain a comprehensive and well-planned infrastructure network that prepares for the challenges of the future and provides quality, modern and efficient, water, wastewater, drainage and transportation services.

Discussion: On August 16, 2022, City Council approved Resolution 2022-23, a resolution authorizing the creation of "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. Additionally, the City Council authorized the City Manager to enter into a development agreement (DA) with PHD-Huntsville 34, L.P. The development is proposed to be located on SH 30 west of the post office, and will be a single-family residential development having approximately 140 single-family home lots for sale with a minimum lot area of 5,750 square feet.

The PID establishes a mechanism to finance Authorized Public Improvements for the project, including but not limited to water, wastewater and drainage facilities, the initial payment of which may be through the issuance of bonds. The payments or repayments of bonds will be derived from special assessments against benefited properties.

This Agreement sets out the process by which the Authorized Public Improvements are to be constructed, defines qualifying expenditures that are eligible for reimbursement and the process by which requests for reimbursement for costs incurred by the Developer are to be paid out of the bond.

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.
December 19, 2023 - City Council authorized the City Manager to execute the First Amendment to the Development Agreement with PHD-Huntsville 34, L.P., for the development of “The Reserves of Huntsville”, PID No. 1.

Financial Implications: Any costs incurred by the City are reimbursable through the PID assessment.

Approvals:
Kevin Byal
Leonard Schneider
Sam Masiel
Aron Kulhavy
Kristy Doll

Associated Information:
1. Reserves of Huntsville PID Reimbursement Agreement

AGREEMENT FOR THE CONSTRUCTION AND FUNDING OF AUTHORIZED IMPROVEMENTS AND REIMBURSEMENT OF ADVANCES

This Agreement for the Construction and Funding of Authorized Improvements and Reimbursement of Advances (the "Agreement" or "Reimbursement Agreement") is made and entered into by and between the CITY OF HUNTSVILLE, TEXAS, a home rule city (the "City") and PHD - HUNTSVILLE 34, LP, a Texas limited partnership and its successors and assigns (the "Developer").

SECTION 1.
RECITALS

1.1 WHEREAS, capitalized terms used in this Agreement shall have the meanings given to them in Section 2;

1.2 WHEREAS, unless otherwise defined: (1) all references to "sections" shall mean sections of this Agreement; (2) all references to "exhibits" shall mean exhibits to this Agreement which are incorporated as part of this Agreement for all purposes; and (3) all references to "ordinances" or "resolutions" shall mean ordinances or resolutions adopted by the City Council;

1.3 WHEREAS, Developer and the City have entered into a Development Agreement, effective as of November 9, 2022, relating to the development of the property within the PID and the financing of public improvements within the PID;

1.4 WHEREAS, the City Council has approved a PID Creation Resolution authorizing the creation of the PID pursuant to the authority of the Act dated August 16, 2022, covering approximately 33.22 contiguous acres within the City's corporate limits;

1.5 WHEREAS, prior to the issuance of PID Bonds, Developer has paid and may continue to pay for the Actual Costs of the PID Projects benefitting the property within the PID;

1.6 WHEREAS, this Agreement is a "reimbursement agreement" authorized by Section 372.023(d)(1) of the Act;

1.7 WHEREAS, the recitals: (a) are part of this Agreement for all purposes; (b) are true and correct; and (c) each Party has relied upon such recitals in entering into this Agreement; and

NOW THEREFORE, for and in consideration of the mutual obligations of the Parties set forth herein, the Parties agree as follows:

SECTION 2.
DEFINITIONS

"Act" means Chapter 372, Texas Local Government Code, as amended.

"Actual Cost(s)" means with respect to PID Projects, the actual costs paid or incurred by or on behalf of the Developer, including: (1) the costs incurred by the Developer, or on behalf of the Developer (either directly or through affiliates) or the City for the design, planning, financing, administration/management, acquisition, installation, construction and/or implementation of such PID

Projects; (2) the fees paid for obtaining permits, licenses, or other governmental approvals for such PID Projects; (3) the costs incurred by or on behalf of the Developer for external professional costs, such as engineering, geotechnical, surveying, land planning, architectural landscapers, appraisals, legal, accounting, and similar professional services; (4) all labor, bonds, and materials, including equipment and fixtures, by contractors, builders, and materialmen in connection with the acquisition, construction, or implementation of the PID Projects; (5) all related permitting, and public approval expenses, architectural, engineering, legal and consulting fees, and governmental fees and charges; and (6) costs to implement, administer, and manage the above-described activities. Actual Costs refers to the PID Project costs actually incurred.

"Annual Collection Costs" means the actual or budgeted costs and expenses related to the operation of the PID, including, but not limited to, costs and expenses for: (1) the PID administrator; (2) legal counsel, engineers, accountants, financial advisors, and other consultants engaged by the City; (3) calculating, collecting, and maintaining records with respect to Assessments and Annual Installments; (4) preparing and maintaining records with respect to Assessment Rolls and annual service plan updates; (5) paying and redeeming PID Bonds; (6) investing or depositing Assessments and Annual Installments; (7) complying with the Service and Assessment Plan and the Act with respect to the PID Bonds, including the City's continuing disclosure and arbitrage rebate requirements; and (8) the paying agent/registrar and Trustee in connection with PID Bonds, including their respective legal counsel. Annual Collection Costs collected but not expended in any year shall be carried forward and applied to reduce Annual Collection Costs for subsequent years.

"Annual Installment" means the annual installment payment of an Assessment, as calculated by the PID administrator and approved by the City Council, that includes: (1) principal; (2) interest; and (3) Annual Collection Costs.

"Assessed Parcel(s)" means any parcel within the PID against which an Assessment is levied.

"Assessment(s)" means an assessment levied against Assessed Parcels pursuant to the provisions of the Act for payment of PID Project Costs, including the payment of PID Bonds and obligations under this Agreement.

"Assessment Ordinance" means the ordinance(s) adopted by the City Council levying Assessments on an Assessed Parcel within the PID to pay PID Project Costs, PID Bonds and obligations under this Agreement.

"Assessment Revenue" means the revenues received by the City from the collection of Assessments, including Prepayments, Annual Installments, and Foreclosure Proceeds.

"Assessment Roll" means any assessment roll for the Assessed Parcel within the PID, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the Act, including updates prepared in connection with the issuance of PID Bonds or any annual service plan update.

"Authorized Improvements" means (1) improvements authorized by Section 372.003 of the Act, (2) the costs of issuance of the PID Bonds, and (3) the costs of the formation of the PID. Authorized Improvements includes PID Projects.

“Bond Indenture” means the indenture of trust pursuant to which PID Bonds are issued.

“Bond Proceeds” mean the proceeds derived from the issuance and sale of PID Bonds that are deposited into the PID Project Fund and made available to pay PID Project Costs including design, engineering, construction and inspection costs in accordance with this Agreement and any Bond Indenture or SAP.

“Budgeted Cost” means the estimated cost for an Authorized Improvement as provided for in the Service and Assessment Plan.

“Certificate for Payment” means a certificate (substantially in the form of Exhibit A or as attached to the Bond Indenture or as otherwise approved by Developer and the City Representative) executed by a representative of Developer and approved by the City Representative, delivered to the City Representative (and/or, if applicable, to the Trustee named in the Bond Indenture), specifying the work performed and the amount charged (including materials and labor costs) for PID Project Costs, and requesting payment of such amount from the appropriate fund or funds. Each certificate shall include supporting documentation in the standard form for City construction projects and evidence that the PID Projects (or their completed segment(s)) covered by the certificate have been inspected by the City.

“City Council” means the governing body of the City.

“City Representative” means the Mayor or City Manager of the City, who are hereby authorized by the City Council to undertake the actions referenced herein.

“Closing Disbursement Request” means a request in the form of Exhibit B or as otherwise approved by the Parties and the trustee named in the Bond Indenture.

"Cost Overrun" means, with respect to each Authorized Improvement, the amount of the Actual Cost paid for the Authorized Improvement in excess of the Budgeted Cost for such Authorized Improvement as provided for in the Service and Assessment Plan.

“Default” is defined in Section 4.6.1.

“Delinquent Collection Costs” mean costs related to the foreclosure on an Assessed Parcel and the costs of collection of delinquent Assessments, delinquent Annual Installments, or any other delinquent amounts due under the Service and Assessment Plan, including penalties and reasonable attorney’s fees actually paid, but excluding amounts representing interest and penalty interest.

“Development Agreement” means that certain Development Agreement, effective as of November 9, 2022, by and between the Developer and the City.

“Developer Advances” mean monetary advances made by Developer to pay PID Project Costs.

“Developer Continuing Disclosure Agreement” means the Continuing Disclosure Agreement of Developer executed contemporaneously with the issuance and sale of PID Bonds.

“Failure” is defined in Section 4.6.1.

"Final Completion" means completion of an Authorized Improvement in compliance with existing City standards for dedication under the City's ordinances and the Development Agreement.

"Maturity Date" is the date one year after the final scheduled and non-delinquent Annual Installment is collected.

"PID" means the 'The Reserves of Huntsville Public Improvement District' created by the PID Creation Resolution.

"PID Bonds" means the bonds issued pursuant to the provisions of the Act in one or more series to fund PID Project Costs or to reimburse Developer for PID Project Costs.

"PID Creation Resolution" means the resolution passed and approved by the City Council on August 16, 2022 authorizing the creation of the PID.

"PID Pledged Revenue Fund" means the Pledged Revenue Fund, as defined in the Bond Indenture, established or to be established by the City (and segregated from all other funds of the City) into which the City deposits Assessment Revenue securing PID Bonds issued and still outstanding, as described in the Bond Indenture.

"PID Project Fund" means the Project Fund, as defined in the Bond Indenture, including all accounts created within such fund, established or to be established by the City (and segregated from all other funds of the City) into which the City deposits Bond Proceeds in the amounts and as described in the Bond Indenture.

"PID Reimbursement Fund" means the fund established by the City under this Agreement (and segregated from all other funds of the City) into which the City deposits Assessment Revenue until they are required to be deposited into the PID Pledged Revenue Fund.

"PID Projects" means the public improvements or services to be constructed or acquired by or on behalf of the Developer within the PID and described in the SAP, whether the SAP defines such public improvements or services as PID Projects or utilizes another term.

"PID Project Costs" means the actual costs of the PID Projects.

"Reimbursement Agreement Balance" is defined in Section 3.3.1.

"Service and Assessment Plan" or "SAP" means the service and assessment plan and any updates thereto approved by the City Council, prepared in relation to the property within the PID.

"Trustee" is defined in Section 3.5.2.

SECTION 3.
FUNDING PROJECT COSTS

3.1 Fund Deposits.

3.1.1 Unless and until PID Bonds are issued, the City shall bill, collect, and immediately deposit all Assessment Revenue into the PID Reimbursement Fund, which PID Reimbursement Fund is hereby created and established as a fund under this Agreement. After the issuance and delivery of PID Bonds for the PID Projects, the City shall bill, collect, and immediately deposit all Assessment Revenue in the manner set forth in the Bond Indenture. The City shall also deposit Bond Proceeds in the manner set forth in the Bond Indenture. Annual Installments shall be billed and collected by the City (or by any person, entity, or governmental agency permitted by law) in the same manner and at the same time as the City ad valorem taxes are billed and collected. Funds in the PID Project Fund shall only be used in accordance with the Bond Indenture. Funds in the PID Reimbursement Fund shall only be used to pay all or any portion of the Reimbursement Agreement Balance in accordance with this Agreement.

3.1.2 The City hereby confirms, covenants, and agrees that for so long as amounts are due to Developer under this Agreement and/or for so long as PID Bonds are outstanding, that the City will do the following in the manner and to the maximum extent permitted by applicable law, subject to any conflicting provisions in the Bond Indenture: (a) take and pursue all actions necessary to cause the Assessments to be levied and collected; (b) take and pursue all actions necessary to cause the liens related to the Assessments to be enforced continuously, including diligently prosecuting an action in district court to foreclose for delinquent or nonpayment of Assessments, including Annual Installments; and (c) take and pursue all actions necessary to cause no reduction, abatement or exemption of the Assessments. Notwithstanding the foregoing, the City shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Assessments or the corresponding Assessed Parcel. The City shall not be required under any circumstances to expend any funds for Delinquent Collection Costs or Annual Collection Costs in connection with its covenants and agreements under this Section or otherwise other than funds for such purpose on deposit in the PID Reimbursement Fund. Notwithstanding its collection efforts, if the City fails to receive all or any part of the Assessment Revenue and, as a result, is unable to make transfers from the PID Reimbursement Fund for payments to the Developer as required under this Agreement, such failure and inability shall not constitute a Failure or Default by the City under this Agreement. The Bond Indenture shall control in the event of any conflicts with this Agreement.

3.2 Payment of PID Project Costs.

3.2.1 Unless or until PID Bonds are issued to pay PID Project Costs, Developer may elect to make Developer Advances to pay such PID Project Costs. Prior to the City's adoption of an ordinance authorizing the issuance of a series of PID Bonds, Developer shall provide evidence of available funds of the Developer or of financial security from the project lender evidencing that sufficient funds are available and reserved for completion of the PID Projects or portion thereof to be funded by PID Bonds. If such evidence of financial security is not available, Developer shall deposit into the PID Project Fund an amount equal to the remaining costs not funded by the PID Bonds necessary to pay PID Project Costs.

3.2.2 Bond Proceeds (i) may be used to construct PID Projects and directly pay PID Project Costs in lieu of Developer Advances and reimbursement and (ii) shall be used in the manner provided in the Bond Indenture. Developer may, but shall not have the obligation to, make Developer Advances, unless the Bond Proceeds on deposit in the PID Project Fund are insufficient to pay any remaining PID Project Costs, in which case Developer shall make Developer Advances to pay the deficit.

3.2.3 As evidence of Developer Advances required in connection with the issuance of PID Bonds, Developer shall submit to the City for approval all information related to such costs that would be required by a Closing Disbursement Request at least fifteen (15) business days prior to the closing of the PID Bonds. The Developer shall also make Developer Advances to pay for Cost Overruns (after applying cost savings or reallocation of budget line items to reflect actual costs). An individual line item exceeding its estimated cost shall not be construed as a Cost Overrun; rather, the cost for each phase within the PID shall be viewed in its entirety. Upon the Final Completion of an Authorized Improvement and payment of all outstanding invoices for such Authorized Improvement, if the Actual Costs of such Authorized Improvement is less than the Budgeted Cost (a "Cost Underrun"), any remaining budgeted cost, as shown in the Service and Assessment Plan, will be available to pay Cost Overruns on any other Authorized Improvement. The City Representative shall promptly confirm that such remaining amounts are available to pay such Cost Overruns, and the Developer, the PID administrator and the City Representative will agree how to use such moneys to secure the payment and performance of the work for other Authorized Improvements. Any Cost Underrun for any Authorized Improvement is available to pay Cost Overruns on any other Authorized Improvement. The lack of Bond Proceeds or other funds in the PID Project Fund shall not diminish the obligation of Developer to pay PID Project Costs.

3.3 Payment of Reimbursement Agreement Balance.

3.3.1 Unless or until PID Bonds are issued, the City agrees to pay Developer solely from funds on deposit in the PID Reimbursement Fund, and Developer shall be entitled to receive payments from the City, from such source for amounts shown on each Certificate for Payment (which amounts include only PID Project Costs paid by or at the direction of Developer) (any unpaid amount owed Developer for all Certificates of Payment is referred to as the "Reimbursement Agreement Balance"). Upon the issuance of PID Bonds, the City agrees to pay Developer first from funds on deposit in the PID Project Fund and then from funds on deposit in the PID Reimbursement Fund, if any; and, notwithstanding anything in this Agreement to the contrary, the maximum amount that Developer may be reimbursed under this Agreement shall be equal to the amount of Bond Proceeds on deposit in the PID Project Fund plus amounts in the PID Reimbursement Fund, if any, plus simple interest on the unpaid principal balance of the Reimbursement Agreement Balance at a rate not to exceed the rates permitted under subsections (e)(1) and (e)(2) of Section 372.023 of the Act, or if PID Bonds are issued, then the interest rate on the PID Bonds; provided, however, that the interest rate for the unpaid balance of the Reimbursement Agreement Balance as set forth in this paragraph shall not exceed the rates permitted under subsections (e)(1) and (e)(2) of Section 372.023 of the Act. Interest on the unpaid principal balance of the Reimbursement Agreement Balance shall begin to accrue at the City's acceptance of the PID Projects.

3.3.2 The obligation of the City to pay the Reimbursement Agreement Balance is payable solely from the PID Reimbursement Fund or from Bond Proceeds on deposit in the PID Project Fund. No other City funds, revenue, taxes, income, or property shall be used. Payments from the PID Reimbursement Fund shall be applied in accordance with this Agreement. Each payment from the PID Reimbursement Fund shall be accompanied by an accounting that certifies the Reimbursement Agreement Balance as of the date of the payment and that itemizes all deposits to and disbursements from the fund since the last payment. If there is a dispute over the amount of any payment, the City shall nevertheless pay the undisputed amount, and the Parties shall use all reasonable efforts to resolve the disputed amount before the next payment is made.

3.4 PID Bonds. The City, in its sole, legislative discretion, may issue PID Bonds, in one or more series, when and if the City Council determines it is financially feasible for the purposes of: (a) paying all or a portion of the Reimbursement Agreement Balance; or (b) paying PID Project Costs directly. PID Bonds issued for such purpose will be secured by and paid solely as authorized by the Bond Indenture. Upon the issuance of PID Bonds for such purpose, Developer's right to receive payments each year in accordance herewith shall be subordinate to the deposits required under the Bond Indenture related to any outstanding PID Bonds. The failure of the City to issue PID Bonds shall not constitute a Failure by the City or otherwise result in a Default by the City. Upon the issuance of the PID Bonds, Developer has a duty to construct related PID Projects and shall not be relieved of such duty even if there are insufficient funds in the PID Project Fund to pay PID Project Costs.

3.5 Disbursements and Transfers at and after Bond Closing.

3.5.1 If PID Bonds are issued, the City will cause the Trustee under the Bond Indenture to pay from the Bond Proceeds at closing of the PID Bonds approved amounts from the appropriate account to the City, Developer, or their designees, as applicable, which costs may include payment for costs of issuance and payment of costs incurred in the establishment, administration, and operation of the PID and any other eligible items for which funds have been expended by Developer and the City as of the time of the delivery of the PID Bonds. In order to receive such a disbursement, Developer shall execute a Closing Disbursement Request substantially in the form attached hereto as Exhibit B to be delivered to the City no less than fifteen (15) business days prior to the scheduled closing date for the PID Bonds for payment in accordance with the provisions of the Bond Indenture. In order to receive additional disbursements from the applicable fund under the Bond Indenture, if PID Bonds are issued, or from the PID Reimbursement Fund, Developer shall execute a Certificate for Payment, no more frequently than monthly, to be delivered to the City for payment in accordance with the provisions of the Bond Indenture, if applicable, and/or this Agreement.

3.5.2 Upon receipt of a Certificate for Payment (along with all accompanying documentation reasonably required by the City) from Developer, the City shall conduct a review in order to confirm that such request is complete, to confirm that the work for which payment is requested was performed in accordance with all applicable governmental laws, rules and regulations and applicable plans therefor with the terms of this Agreement and any other agreement between the Parties related to property in the PID, and to verify and approve PID Project Costs of such work specified in such Certificate for Payment. The City shall also conduct such review as is required to confirm the matters certified in the Certificate for Payment. The Developer agrees to cooperate with the City in conducting each such review and to provide the City with such additional information and documentation as is reasonably necessary for the City to conclude each such review. Within fifteen (15) business days following receipt of any Certificate for Payment, the City shall either: (a) approve the Certificate for Payment and (i) forward it to the trustee bank named in the Bond Indenture (the "Trustee") for payment or (ii) pay such amount from the PID Reimbursement Fund; or, (b) provide Developer with written notification of disapproval of all or part of a Certificate for Payment, specifying in detail the basis for any such disapproval. Any disputes shall be resolved as required by Section 3.3.2 herein. If PID Bonds are issued, the City shall deliver the approved or partially approved Certificate for Payment to the Trustee for payment.

3.6 Obligations Limited. The obligations of the City under this Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or constitute a debt or other obligation of the City payable from any source other than the PID

Reimbursement Fund or the PID Project Fund. Unless approved by the City, no other City funds, revenues, taxes, or income of any kind other than the funds on deposit in the PID Reimbursement Fund or the PID Project Fund shall be used to pay: (a) the PID Project Costs; (b) the Reimbursement Agreement Balance, even if the Reimbursement Agreement Balance is not paid in-full on or before the Maturity Date; or (c) debt service on any PID Bonds. None of the City or any of its elected or appointed officials or any of its officers, employees, consultants, or representatives shall incur any liability hereunder to Developer or any other party in their individual capacities by reason of this Agreement or their acts or omissions under this Agreement.

3.7 Obligation to Pay. If Developer is then in current compliance with its obligations under the Development Agreement, the Developer Continuing Disclosure Agreement if applicable, and this Agreement, and is not delinquent in payment of the Special Assessments and paying property taxes, then following the inspection and approval of any portion of the PID Projects for which Developer seeks reimbursement of the PID Project Costs by submission of a Certificate for Payment or City approval of a Closing Disbursement Request, the obligations of the City under this Agreement to pay disbursements (whether to Developer or to any person designated by Developer) identified in any Closing Disbursement Request or in any Certificate for Payment are unconditional and not subject to any defenses or rights of offset except as may be provided in any Bond Indenture.

3.8 City Delegation of Authority. All PID Projects shall be constructed by or at the direction of Developer in accordance with the Development Agreement and this Agreement and any other applicable agreement between the Parties related to property in the PID. Developer shall perform, or cause to be performed, all of its obligations and shall conduct, or cause to be conducted, all operations with respect to the construction of PID Projects in a good and workmanlike manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Developer has sole responsibility of ensuring that all PID Projects are constructed in a good and workmanlike manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Developer shall, at all times, employ adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction, and installation of all PID Projects to be acquired and accepted by the City from Developer. If any PID Projects are or will be on land owned by the City, the City hereby grants to Developer a license to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) thereof. Inspection and acceptance of PID Projects will be in accordance with applicable City ordinances and regulations.

3.9 Security for PID Projects. The Developer shall provide or cause to be provided a two (2) year maintenance bond relating to the PID Projects. Nothing in this Agreement shall be deemed to prohibit Developer or the City from contesting in good faith the validity or amount of any mechanics or materialman's lien and/or judgment nor limit the remedies available to Developer or the City with respect thereto so long as such delay in performance shall not subject the PID Projects to foreclosure, forfeiture, or sale. In the event that any such lien and/or judgment with respect to the PID Projects is contested, Developer shall be required to post or cause the delivery of a surety bond or letter of credit, whichever is preferred by the City, in an amount reasonably determined by the City, not to exceed one hundred percent (100%) of the disputed amount.

3.10 Ownership and Transfer of PID Projects. The Developer shall furnish to the City a preliminary title report for land related to the PID Projects to be acquired and accepted by the City from Developer and not previously dedicated or otherwise conveyed to the City. The report shall be made available for City review and approval at least fifteen (15) business days prior to the scheduled transfer of title. The City shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the City, would materially affect the common use and enjoyment subscribed to such PID Projects. If the City objects to any preliminary title report, the City shall not be obligated to accept title to the applicable PID Projects until Developer has cured the objections to the reasonable satisfaction of the City.

SECTION 4.
ADDITIONAL PROVISIONS

4.1 Term. The term of this Agreement shall begin on the Effective Date and shall continue until the earliest to occur of: (i) the Maturity Date, (ii) the date on which the Reimbursement Agreement Balance is paid in full, or (iii) the date on which the PID Bonds are fully retired.

4.2 No Competitive Bidding. Construction of the PID Projects shall not require competitive bidding pursuant to Section 252.022(a)(9), Texas Local Government Code, as amended. All plans and specifications, but not construction contracts, shall be reviewed and approved, in writing, by the City prior to Developer selecting the contractor.

4.3 Independent Contractor. In performing this Agreement, Developer is an independent contractor and not the agent or employee of the City.

4.4 Audit. The City Representative shall have the right, during normal business hours and upon three (3) business days' prior written notice to Developer, to review all books and records of Developer pertaining to costs and expenses incurred by Developer with respect to any of the PID Projects. For a period of two (2) years after completion of the PID Projects, books shall be maintained in accordance with customary real estate accounting principles.

4.5 Representations and Warranties.

4.5.1 The Developer represents and warrants to the City that: (a) Developer has the authority to enter into and perform its obligations under this Agreement; (b) Developer has the financial resources, or the ability to obtain sufficient financial resources, to meet its obligations under this Agreement; (c) the person executing this Agreement on behalf of the Developer has been duly authorized to do so; (d) this Agreement is binding upon Developer in accordance with its terms; (e) the Developer is current on all taxes, assessments, fees and obligations to the City; (f) the Developer is not in default under the Development Agreement or any other agreement with the City related to the PID; and (g) the execution of this Agreement and the performance by Developer of its obligations under this Agreement do not constitute a breach or event of default by Developer under any other agreement, instrument, or order to which Developer is a party or by which Developer is bound.

4.5.2 The City represents and warrants to Developer that: (a) the City has the authority to enter into and perform its obligations under this Agreement; (b) the person executing this Agreement on behalf of the City has been duly authorized to do so; (c) this Agreement is binding upon the City in accordance with its terms; and (d) the execution of this Agreement and the performance by the City of its obligations under this Agreement do not constitute a breach or event of default by the City under any other agreement, instrument, or order to which the City is a party or by which the City is bound.

4.6 Default/Remedies.

4.6.1 If either Party fails to perform an obligation imposed on such Party by this Agreement (a "Failure") and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a "Default." If a Failure is monetary, the non-performing Party shall have ten (10) business days within which to cure. If the Failure is non-monetary, the non-performing Party shall have thirty (30) days within which to cure. However, if the non-monetary Failure is of such a nature that it cannot reasonably be expect to be cured within thirty (30) days, then the Party who failed to perform shall have such time as is necessary to cure the default, so long as the failing Party commences the cure within thirty (30) days and diligently pursues such cure to completion.

4.6.2 If Developer is in Default, the City shall have available all remedies at law or in equity; provided, however, no default by Developer shall entitle the City to terminate this Agreement, cease collection of the Assessments and deposit of the Assessment Revenues, or to withhold properly due payments to Developer from the PID Reimbursement Fund or the PID Project Fund in accordance with this Agreement and the Bond Indenture or on deposit in the PID Reimbursement Fund.

4.6.3 Subject to Section 3.7, if the City is in Default, Developer shall have available all remedies at law or in equity; provided, however, that no Default by the City shall entitle Developer to terminate this Agreement and that any financial obligation of the City will only be payable from monies available under the Bond Indenture or under this Agreement.

4.7 Remedies Outside the Agreement. Nothing in this Agreement constitutes a waiver by the City of any remedy the City may have outside this Agreement against Developer or any other person or entity involved in the design, construction, or installation of the PID Projects. The obligations of Developer hereunder shall be those of a Party hereto and not as an owner of property in the PID. Nothing herein shall be construed as affecting the City's or Developer's rights or duties to perform their respective obligations under other agreements, use regulations, or subdivision requirements relating to the development property in the PID.

4.8 Applicable Law; Venue. This Agreement is being executed and delivered and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply, the substantive laws of the State of Texas shall govern the interpretation and enforcement of this Agreement. In the event of a dispute involving this Agreement, venue shall lie in any court of competent jurisdiction in Walker County, Texas.

4.9 Notice. Any notice referenced in this Agreement must be in writing and shall be deemed given at the addresses shown below: (a) when delivered by a nationally recognized delivery service such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person is the named addressee; or (b) 72 hours after deposited with the United States Postal Service, Certified Mail, Return Receipt Requested.

To the City:	City of Huntsville, Texas Attn: City Manager 1212 Avenue M Huntsville, Texas 77340 Email:
To Developer:	PHD - Huntsville 34, LP Attn: Mr. Paul Garza 26207 Park Ivy Lane Katy, Texas 77365 Email: paul@paulhaydendevelopments.com
With a copy to:	Coats Rose, P.C. Attn: Timothy Green 9 Greenway Plaza, Suite 1000 Houston, Texas 77046 Email: tgreen@coatsrose.com

Any Party may change its address by delivering notice of the change in accordance with this section.

4.10 Conflicts; Amendment. In the event of any conflict between this Agreement and any other instrument, document, or agreement by which either Party is bound, the provisions and intent of the Bond Indenture controls. This Agreement may only be amended by written agreement of the Parties.

4.11 Severability. If any provision of this Agreement is held invalid by any court, such holding shall not affect the validity of the remaining provisions.

4.12 Non-Waiver. The failure by a Party to insist upon the strict performance of any provision of this Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the provisions of this Agreement.

4.13 Third Party Beneficiaries. Nothing in this Agreement is intended to or shall be construed to confer upon any person or entity other than the City and Developer, any rights under or by reason of this Agreement. All provisions of this Agreement shall be for the sole and exclusive benefit of the City and Developer.

4.14 Counterparts. This Agreement may be executed in multiple counterparts, which, when taken together, shall be deemed one original.

4.15 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.

4.16 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.

4.17 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 Developer 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.

4.18. Verifications Pursuant to Chapters 2274 and 2276, Texas Government Code. (a) To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2276.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session and redesignated by House Bill 4595, 88th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the Developer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies," a term defined in Section 2276.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above.

(b) To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the Developer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification and the following definitions, 'discriminate against a firearm entity or firearm trade association,' a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association, (b) 'firearm entity,' a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting), and (c) 'firearm trade association,' a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

4.19 Form 1295. The Developer represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, the Developer has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission's electronic filing system in accordance with the rules promulgated by the Texas Ethics Commission. The Developer further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the City at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate. The Parties agree that, except for the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295 completed by the Developer. The information contained in the Form 1295 completed by the Developer has been provided solely by the Developer and the City has not verified such information.

4.20 Assignment. The Developer may, in its sole discretion, assign this Agreement with respect to all or part of the property within the PID from time to time to any party in connection with the sale of the property within the PID or any portion thereof so long as the assigned rights and obligations are assumed without modifications to this Agreement. The Developer shall provide the City thirty (30) days prior written notice of any such assignment. Upon such assignment or partial assignment, the Developer shall be fully released form any and all obligations under this Agreement and shall have no further liability with respect to this Agreement for the part of the property within the PID so assigned.

[Signature Page Immediately Follows]

CITY:

CITY OF HUNTSVILLE, TEXAS

By: ______________________________

Name: ____________________________

Title: _____________________________

Date: _____________________________

Attest:

By: __________________________
City Secretary

Approved as to form:

By: __________________________
City Attorney

DEVELOPER:
PHD - HUNTSVILLE 34, LP
a Texas limited partnership

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

By: ___________________________

Name: _________________________

Title: __________________________

Date: __________________________

Exhibit A

FORM OF CERTIFICATE FOR PAYMENT

The undersigned is an agent of PHD - Huntsville 34, LP, a Texas limited partnership ("Developer"), and requests payment from the City of Huntsville, Texas (the "City") out of the [*PID Project Fund (as defined in the Bond Indenture) / PID Reimbursement Fund*] in the amount of $_____ for labor, materials, fees, and/or other general costs related to the creation, acquisition, or construction of certain PID Projects providing a special benefit to property within the Reserves of Huntsville Public Improvement District. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Reserves of Huntsville Public Improvement District Reimbursement Agreement, effective ________ (the "Reimbursement Agreement"). In connection with the above-referenced payment, Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of Developer, is qualified to execute this Certificate for Payment Form on behalf of Developer, and is knowledgeable as to the matters set forth herein.

2. The payment requested for the below-referenced PID Projects 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 below is a true and accurate representation of the PID Project Costs associated with the creation, acquisition, or construction of said PID Projects and such costs: (a) are in compliance with the Reimbursement Agreement; and (b) are consistent with the Service and Assessment Plan.

4. Developer is in compliance with the terms and provisions of the Development Agreement, Developer Continuing Disclosure Agreement, Reimbursement Agreement and the Service and Assessment Plan.

5. Developer has timely paid all ad valorem taxes and annual installments of special assessments it owes or an entity Developer controls owes, located in the Reserves of Huntsville Public Improvement District and has no outstanding delinquencies for such assessments.

6. All conditions set forth in the Bond Indenture for the payment hereby requested have been satisfied.

7. The work with respect to the PID Projects referenced below (or its completed segment, section, or portion thereof) has been completed, and the City has inspected such PID Projects.

8. 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.

9. No more than ninety-five percent (95%) of the budgeted or contracted hard costs for PID Project Costs identified may be paid until the work with respect to such PID Project Costs (or

segment) has been completed and the City has accepted such PID Project Costs-(or segment). One hundred percent (100%) of soft costs (e.g., engineering costs, inspection fees and the like) may be paid prior to City acceptance of such PID Projects Costs (or segment)

10. The Developer confirms that based on all prior amounts paid to Developer from the PID Reimbursement Fund as of the date of this Certification for Payment and based on the percentage of completion of the PID Project Costs as of the date of this Certification for Payment as verified by the City payment of the amounts requested in this Certification for Payment, taking into account all prior payments for the PID Project Costs and the amount of work related to the PID Project Costs remaining to be completed as of the date of this Certification for Payment will not cause the amounts on deposit in the PID Reimbursement Fund to fall below the amount necessary to complete the remaining PID Project Costs–taking into account the amounts available to the Developer under its private loan, a line of credit and/or any other form acceptable to the City.

Payments requested are as follows:

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

b. Payment / Wire Instructions

Attached hereto are invoices, cancelled checks, receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments. Also attached hereto are **"bills paid" affidavits and supporting documentation** in the standard form for City construction projects.

Pursuant to the Reimbursement Agreement, after receiving this payment request, the City has inspected the Authorized Improvements (or completed segment) and confirmed that said work has been completed in accordance with approved plans and all applicable governmental laws, rules, and regulations.

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

[remainder of page left blank intentionally]

PHD - HUNTSVILLE 34, L.P.
a Texas limited partnership

By: ____________________________

Name: _________________________

Title: __________________________

Date: __________________________

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APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Certificate for Payment, acknowledges the Certificate for Payment, acknowledges that the PID Projects (or its completed segment) covered by the certificate have been inspected by the City, and otherwise finds the Certificate for Payment to be in order. After reviewing the Certificate for Payment, the City approves the Certificate for Payment and directs _____________ to make such payments from the PID Project Fund to Developer or to any person designated by Developer.

CITY OF HUNTSVILLE, TEXAS

Finance Director
Name: ______________________________
Signature: ___________________________
Date: _______________________________

City Engineer
Name: ______________________________
Signature: ___________________________
Date: _______________________________

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Exhibit B

FORM OF CLOSING DISBURSEMENT REQUEST

The undersigned is an agent for PHD - Huntsville 34, L.P., a Texas limited partnership ("Developer") and requests payment to Developer (or to the person designated by Developer) from the applicable account of the PID Project Fund from __________ (the "Trustee") in the amount of _______________ ($__________) to be transferred from the applicable account of the PID Project Fund upon the delivery of the PID Bonds for costs incurred in the establishment, administration, and operation of Reserves of Huntsville Public Improvement District (the "District") and costs associated with the issuance of PID Bonds, as follows.

Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Indenture of Trust by and between the City and the Trustee dated as of ________ (the "Indenture") relating to the [________________________] (the "PID Bonds").

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

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

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

3. The amount listed for the below costs is a true and accurate representation of the PID Project Costs associated with the establishment, administration and operation of the District at the time of the delivery of the PID Bonds, and such costs are in compliance with the Service and Assessment Plan.

4. The Developer is in compliance with the terms and provisions of the Reimbursement Agreement, the Bond Indenture, and the Service and Assessment Plan.

5. All conditions set forth in the Indenture and the Reimbursement Agreement for the payment hereby requested have been satisfied.

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

Payments requested hereunder shall be made as directed below:

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

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

DEVELOPER:

PHD - HUNTSVILLE 34, L.P.
a Texas limited partnership

By: ___________________________

Name: _________________________

Title: __________________________

Date: __________________________

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APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Closing Disbursement Request, acknowledges the Closing Disbursement Request, and finds the Closing Disbursement Request to be in order. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request and directs payment to be made from Costs of Issuance Account upon delivery of the PID Bonds.

CITY OF HUNTSVILLE, TEXAS

Finance Director
Name: ______________________________
Signature: ___________________________
Date: _______________________________

City Engineer
Name: ______________________________
Signature: ___________________________
Date: _______________________________

CITY COUNCIL AGENDA
5/7/2024

Agenda Item Number: 6.a.

Agenda Item: City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.087 for deliberation regarding economic development negotiations - Project Goose

Initiating Department/Presenter: Economic Development

Presenter:
Tammy Gann, Director of Economic Development

Recommended Motion: No action required

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

Discussion:

Previous Council Action:

Financial Implications:

Approvals:
Sam Masiel

Associated Information:

CITY COUNCIL AGENDA
5/7/2024

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 Cause No.DC-22-09128, City of Dallas, et. al vs. Defendant Netflix, et al . in the 14th District Court, Dallas County, Texas; Cause No. 2331107, Lucio and Laura Castilleja v City of Huntsville, in the 278th District Court, Walker County, Texas; and to receive legal advice on permit procedures and improvements for the Woods at Elkins Lake development.

Initiating Department/Presenter: City Attorney

Presenter:
Leonard Schneider, City Attorney

Recommended Motion: None

Strategic Initiative:

Discussion:

Previous Council Action: N/A

Financial Implications: N/A

Approvals:
Kristy Doll

Associated Information: