

STATE OF TEXAS §
 §
COUNTY OF MEDINA §

**ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
CITY OF CASTROVILLE, TEXAS AND VICTORY LANE PARTNERS, LTD.**

This Economic Development Agreement (“Agreement”) is entered into by and between the City of Castroville, Texas (as further defined herein, the “City”), and Victory Lane Partners, Ltd. (as further defined herein, “Developer”) and is effective as of the Effective Date for the duration of the Term.

RECITALS

WHEREAS, the City is authorized under Chapter 380 of the Texas Local Government Code to offer certain economic development incentives for public purposes, including the promotion of local economic development and the stimulation of business and commercial activity within the City; and

WHEREAS, City actively seeks economic development prospects in Castroville through participation in and establishment of an economic development program; and

WHEREAS, City desires to stimulate business, property tax base, sales and use tax base, and utility system customer base, creating additional commercial opportunities for City residents, and providing the City with a manner for acquiring additional and necessary public infrastructure and public improvements; and

WHEREAS, Developer owns approximately 50.40 acres of real property, as more particularly described by metes and bounds and location map attached hereto as **Exhibit A** (the “Property”); and

WHEREAS, Developer intends to develop the Property for commercial and other uses, to include associated infrastructure and other public improvements (as further described herein, the “Project”); and

WHEREAS, Developer has agreed, in exchange and as consideration for certain incentives from the City, to accommodate the provisions of the Major Thoroughfare Plan (“MTP”) that impacts the Property and to dedicate to the City (or another political subdivision or agency of the State as directed by the City) right-of-way for said MTP; and

WHEREAS, the Parties intend that the Property be developed (i) as a high-quality commercial development and Developer plans to develop the Project at its sole cost, as is required of the Developer by the City of Castroville ordinances, and shall convey applicable public

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infrastructure to the City; and

WHEREAS, in exchange for the performance of the duties and obligations herein imposed, the City will deliver to the Developer the financial incentives herein described; and

WHEREAS, this Agreement is an economic development agreement of the type described under Chapter 380; and

WHEREAS, the City has, in the Authorizing Ordinance, determined that the financial incentives herein provided to Developer are made in accordance with and pursuant to the Economic Development Program heretofore established by the City; and

WHEREAS, the City and Developer agree that the provisions of this Agreement substantially advance a legitimate interest of the City by providing public infrastructure and public improvements, and right-of-way, expanding the City's ad valorem tax, sales and use tax, and utility system customer bases, increasing employment and City population, and promoting economic development; and

WHEREAS, the City Council has found that development of the Property in compliance with this Agreement will serve a public purpose and benefit the economy of the City and is in the best interests of the residents of the City; and

NOW, THEREFORE, for and in consideration of the above stated recitals, which are made a part of this Agreement for all purposes, the benefits described below, and the mutual promises expressed herein, the sufficiency of which is hereby acknowledged by the Parties, the Parties hereby contract, covenant, and agree as follows:

ARTICLE 1 DEFINED TERMS

1.01 Construction of Terms. All terms and phrases defined herein shall have the meanings and definitions ascribed thereto. Terms that have well known technical, municipal, or construction or development industry meanings are used in accordance with such recognized meanings, unless otherwise defined herein or unless the context clearly indicates a different meaning. If appropriate in the context of this Agreement, words of the singular shall be considered to include the plural, words of the plural shall be considered to include the singular, and words of the masculine, feminine, or neuter gender shall be considered to include the other genders.

1.02 Definition of Certain Terms. The following terms used in this Agreement have the meaning ascribed thereto:

"Ad Valorem Tax Grants" means Grants funded from the City Ad Valorem Tax Proceeds Subaccount.

"Affidavit of Payment" means an affidavit of payment from any contractor, subcontractor, material supplier, and/or laborer that has provided goods and/or services in relation to any Public

Improvement or Public Infrastructure and that is the subject of a Developer's Reimbursement Request submitted by Developer to the City in accordance with Section 4.05 hereof.

"Agreement" has the meaning ascribed thereto in the first paragraph hereof.

"Approved Plats" means final plats for portions of the Property that are approved, from time to time, by the City Council or City staff, as applicable, in accordance with the Governing Regulations.

"Authorizing Ordinance" means the ordinance adopted by the City Council on _____, 202__, which ordinance authorizes the City's entering into this Agreement and authorizes other matters necessary or incidental to the foregoing, all in accordance with Chapter 380.

"Bankruptcy Event" means (a) commencement of an involuntary proceeding or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of Developer or of a substantial part of the assets of the Developer under any insolvency or debtor relief law or (ii) the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Developer or a substantial part of the Developer's assets and, in any case referred to in the foregoing clauses (i) and (ii), such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered; or (b) Developer shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator, custodian, sequestrator, conservator or similar official for the Developer or for a substantial part of the Developer's assets, or (ii) generally not be paying its debts as they become due unless such debts are the subject of a bona fide dispute, or (iii) make a general assignment for the benefit of creditors, or (iv) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition with respect to it described in clause (b)(i) of this definition, or (v) commence a voluntary proceeding under any insolvency or debtor relief law, or file a voluntary petition seeking liquidation, reorganization, an arrangement with creditors or an order for relief under any insolvency debtor relief law, or (i) file an answer admitting the material allegations of a petition filed against it in any proceeding referred to in the foregoing clauses (i) through (v), inclusive, of this part (b), and, in any case referred to in the foregoing clauses (i) through (v), such action has not been cured within twenty (20) days thereafter.

"Capital Costs" means an amount equal to the lesser of (i) six million dollars (\$6,000,000) and (ii) the Developer's actual capital costs incurred resultant from annexing the Property, designing, constructing, developing, and acquiring the Public Infrastructure and the Public Improvements, paying to the City amounts specified in the USA that are contributed toward satisfaction of costs associated with Phase I System Improvements, and delivering the Developer's Capital Contribution, as evidenced in the schedule attached hereto as **Exhibit B** (and pursuant to the provisions hereafter described, as, if, and to the extent applicable), which the Developer anticipates recouping from the City in the form of Grants. For avoidance of doubt, the amount of the Capital Costs shall not exceed, and shall be reduced as and if necessary to reflect, the actual amount incurred by Developer with respect to its delivery of or payment for the items hereinbefore described. The term Capital Costs specifically excludes Financing Costs.

"Certified Inspector" has the meaning ascribed thereto in Section 3.01(a) hereof.

“Chapter 43” means Chapter 43, as amended, Texas Local Government Code.

“Chapter 245” means Chapter 245, as amended, Texas Local Government Code.

“Chapter 380” means Chapter 380, as amended, Texas Local Government Code.

“City” means the City of Castroville, Texas, a Texas General Law Type A Municipality, located in the County.

“City Ad Valorem Tax Proceeds Subaccount” means the “City of Castroville, Texas Victory Lane Development Ad Valorem Tax Proceeds Collection Subaccount,” being a subaccount of the Grant Proceeds Collection Account, established, created, and required to be maintained by the City pursuant to the Authorizing Ordinance.

“City Ad Valorem Taxes” means the City revenues derived from those annual maintenance and operations ad valorem taxes levied upon the Property during the Term and collected by the City through the Reimbursement Period from the Property owners, but which term specifically excludes any and all City annual ad valorem taxes levied and collected for payment of debt service on City ad valorem tax supported indebtedness now or hereafter outstanding.

“City Council” means the City Council of the City, as its governing body.

“City Representative” means the City Administrator of the City or another official or representative of the City, as the City representative designated by the City Council to undertake certain duties and obligations hereunder on the City’s behalf.

“City Sales Taxes” means the City sales and use tax revenues derived from its direct or indirect imposition and collection of sales and use tax on commerce involving Taxable Items within the Property.

“City Sales Tax Proceeds Subaccount” means the “City of Castroville, Texas Victory Lane Development Sales Tax Proceeds Collection Subaccount,” being a subaccount of the Grant Proceeds Collection Account, established, created, and required to be maintained by the City pursuant to the Authorizing Ordinance.

“City Takeover Event” has the meaning ascribed thereto in Section 4.07 hereof.

“Code” means the City Code of Ordinances, as from time to time amended by the City Council.

“Commercial Area” means those portions of the Project identified as “Commercial/Retail.”

“County” means Medina County, Texas.

“Design Criteria” means the City’s Castroville Design Criteria for Commercial Buildings Located in the Commercial Districts Along U.S. Highway 90 Version 1.4, adopted March 13, 2006.

“Developer” means Victory Lane Partners, Ltd., a Texas limited partnership, its successors, transfers, and assigns.

“Developer Capital Contribution” has the meaning ascribed thereto in Section 3.04(a) hereof.

“Developer’s Costs” means, together, the Capital Costs and the Financing Costs.

“Developer’s Engineer” means one or more engineering firms licensed by the Texas Board of Professional Engineers from time to time engaged by Developer to serve as the engineer of record for the Project, initially being Pape-Dawson Engineers.

“Developer’s Reimbursement Request” means a Grant Installment payment request made by Developer for Developer’s Costs incurred, which request shall be in the form attached hereto as **Exhibit D** and shall include the requirements specified in Section 4.04 hereof.

“Economic Development Program” means a program for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City, as authorized by and in compliance with Article III, Section 52-a of the Texas Constitution and Section 380.001, as amended, Texas Local Government Code, as established by the City in Ordinance No. 2019-014 adopted on September 24, 2019, which encompasses and contemplates economic development projects such as the Project and pursuant to which the Grants are made.

“Effective Date” means _____, 20__, being the date of this Agreement’s effectiveness.

“Final Grant Installment Payment Date” means the date that is the earlier to occur of (i) the Grant Installment Payment Date that is the last day of the Reimbursement Period, (ii) the regularly scheduled Grant Installment Payment Date upon which the aggregate amount of all Grant Installments paid to Developer under this Agreement totals the Maximum Disbursement Amount, and (iii) the regularly scheduled Grant Installment Payment Date that occurs in conjunction with a City Takeover Event.

“Financing Costs” means that portion of the Developer’s Costs attributable to its financing the Capital Costs, being the sum of interest accruing (at a floating rate equal to a per annum the Prime Interest Rate, plus a 1% margin rate of 8.5%) on Capital Costs from their actual date of payment by the Developer through and until reimbursement by the City in the form of Grants; provided, however, that the amount of the Financing Costs shall not exceed and, as and if necessary shall be reduced to reflect, the actual costs incurred by Developer with respect to the foregoing.

“Force Majeure” means the occurrence of war, act of terrorism, acts of God, civil commotion, fire, severe flood, hurricane, tornado, explosion, court order, pandemic or change in legal requirements applicable to the Project other than those in existence as of the Effective Date, but only to the extent that such events or circumstances delay development of the Project by the Developer (as and if applicable) or otherwise make Developer’s development of the Project (as and if applicable) impracticable or impossible, in such responsible Party’s commercially

reasonable judgement, after taking reasonable steps to mitigate the effects thereof.

“Form 1295” has the meaning ascribed thereto in Section 11.03(r) hereof.

“Governing Regulations” except as specifically provided in this Agreement, shall mean the following regulations (together, the “Governing Regulations”):

- (i) this Agreement;
- (ii) the Code;
- (iii) the Comprehensive Zoning Ordinance;
- (iv) the Approved Plats; and
- (v) the 2006 International Building Codes, heretofore adopted by the City.
- (vi) the Design Criteria.

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“Grant Installment” has the meaning ascribed thereto in Section 4.04 hereof.

“Grant Installment Payment Date” means (i) March 15, June 15, September 15, and December 15 of each year, commencing on the first such payment date to occur after the Initial Infrastructure Completion Date, and (ii) the last day of the Reimbursement Period.

“Grant Proceeds Collection Account” means the “City of Castroville, Texas Victory Lane Development Grant Proceeds Collection Account” established, created, and required to be maintained by the City pursuant to the Authorizing Ordinance.

“Grants” means the Ad Valorem Tax Grant and the Sales Tax Grant, in the combined, aggregate amount (calculated as of each Grant Installment Payment Date) not to exceed the Maximum Disbursement Amount.

“Indemnified Parties” has the meaning ascribed thereto in Article 13 hereof.

“Major Thoroughfare Plan” or “MTP” means the City’s Major Thoroughfare Plan that identifies, among other matters, an alternative traffic route around the City, generally in the north-northwest direction, and which includes the MTP Segment.

“Maximum Disbursement Amount” means the maximum amount of Grants that Developer is eligible to receive hereunder, calculated on the basis and as the sum of the maximum amount of Capital Costs and Financing Costs, respectively.

“MTP Segment” means that portion of the street and road improvements included in the Major Thoroughfare Plan that traverses the Property.

“Party” or “Parties” means the City and Developer, collectively or (as applicable and in

context) singularly.

“Phase” means a segment of Project development relating to a portion of the Project.

“Phase I System Improvements” means those System Improvements that are currently under design by the City and anticipated to be complete on or before _____, 20__.

“Phase II System Improvements” means those System Improvements that the City determines remain necessary, after taking into account the impact of the Phase I System Improvements, to permit the orderly development of the general area of the City’s water and wastewater certificate of convenience and necessity in which the Property resides, including completion of the Project that is not facilitated by the Phase I System Improvements.

“Prime Interest Rate” means the rate of interest publicly announced from time to time by J.P. Morgan Chase as its prime rate (or base rate) for U.S. dollar loans. If such bank ceases to announce a prime rate, the “Prime Interest Rate” shall mean the prime rate published in The Wall Street Journal under “Money Rate” or a comparable replacement publication or source reasonably selected by the Parties.

“Project” means the development of the Property that includes commercial retail, office, and other commercial development and associated parking and access roads, Public Infrastructure and Public Improvements.

“Project Commencement Date” means the date on which the Developer commences site work on the Property to facilitate the acquisition, installation, or construction of Public Improvements or Public Infrastructure.

“Property” has the meaning ascribed thereto in the recitals of this Agreement.

“Public Improvements” means sidewalks, open space and other improvements accessible and enjoyed by the general public, as the same are identified and described in **Exhibit E** hereto, the design, construction, acquisition, development, and payment of which are the responsibility of the Developer (as herein provided).

“Public Infrastructure” means the on-site and off-site water, wastewater, natural gas, electric power, drainage, streets and roadway improvements (including the MTP Segment) and other public infrastructure necessary or incidental to serve the Property, as the same are identified and described in **Exhibit E** hereto, the design, construction, acquisition, development, and payment of which are the responsibility of the Developer (as herein provided).

“Reimbursement Period” means the period of time during which the City collects City Sales Taxes and City Ad Valorem Taxes that are subject to the City’s obligation to make, and the source of the City’s payment of, Ad Valorem Tax Grants and Sales Tax Grants, which period of time includes the Term and the remainder of the calendar year of the year in which occurs the Termination Date; provided, however, that the Reimbursement Period ends on the Termination Date if the Termination Date’s occurrence results from a City Takeover Event.

“Retail Municipal Utility Service” means potable water, sewer, gas, and garbage services

provided by the City to the Property.

“Retail Municipal Utility Service Rate Ordinance” means any City ordinance from time to time adopted that establishes the then-current rate schedule for the retail provision of any Retail Municipal Utility Service.

“Sales Tax Grant” means Grants funded from the City’s Sales Tax Proceeds subaccount.

“Sign” shall mean the sign on the Property to be built and located generally as depicted in **Exhibit F**.

“State” shall mean the State of Texas.

“System Improvements” means, as applicable, the improvements to the City’s water and wastewater to permit the City’s provision of retail water and wastewater services to the Property and surrounding properties as necessary to support the Property’s development in accordance with this Agreement, as well as the orderly development of the surrounding properties.

“Taxable Items” has the meaning given to such term in Section 151.010, as amended, Texas Tax Code.

“Term” means the period of time beginning on the Effective Date and ending on the Termination Date.

“Termination Date” means the date that is the first to occur of (i) (1) the twentieth (20th) anniversary of the Effective Date; (ii) the City’s payment to Developer of the Maximum Disbursement Amount; or (iii) the date of a City Takeover Event.

ARTICLE 2 AUTHORITY AND TERM

2.01 Authority. The City enters into this Agreement pursuant to the authority granted thereto under the Constitution and general laws of the State of Texas, including (particularly) Article III, Section 52-a of the Texas Constitution, and Chapter 380, and the Authorizing Ordinance. Developer enters into this Agreement pursuant to its general corporate powers exercised pursuant to a resolution of its governing body.

2.02 Term. This Agreement shall become effective and enforceable on the Effective Date and shall continue through the Termination Date. If the Termination Date is the date specified in Clause (i) of the definition of such term given in Section 1.02 hereof, then this Agreement shall terminate notwithstanding the City’s ~~not having~~having not paid to Developer the Maximum Disbursement Amount (or that such payment in full is not expected to be made through conclusion of the Reimbursement Period).

ARTICLE 3
PUBLIC IMPROVEMENTS AND PUBLIC INFRASTRUCTURE, MTP, ~~AND CITY~~
SIGN, ~~AND COMMERCIAL PROJECT~~

3.01 Public Improvement and Public Infrastructure.

(a) ~~Design Standards; Inspection.~~ Public Infrastructure and Public Improvements shall be designed to comply with the Governing Regulations, and no construction or installation of Public Infrastructure or Public Improvements shall begin until plans and specifications thereafter have been approved by the City.

The Governing Regulations are exclusive, and no other ordinances, rules, regulations, standards, policies, orders, guidelines, or other City-adopted or City-enforced requirements of any kind (including but not limited to any development moratorium adopted by the City after the Effective Date) apply to the development of the Property. Notwithstanding the foregoing, and to the extent consistent with the provisions of this Agreement, the Developer may exercise rights under Chapter 245. The Parties hereby agree that the Effective Date shall be the date for establishment of the Developer's rights under Chapter 245, pursuant to Section 245.002(a-1) of such Chapter. The Developer may not take advantage of any changes to laws, rules, regulations, or ordinances of the City or other regulatory agency occurring after the Effective Date that are inconsistent with the terms of this Agreement without prior receipt of the City's consent (such consent not to be unreasonably withheld), which shall be reflected in the form of an amendment to this Agreement made in accordance with Section 13.05 hereof. For the avoidance of doubt, the foregoing restriction shall not prohibit the Developer from taking advantage of prospective changes in laws, rules, regulations, or City ordinances that do not otherwise conflict with the provisions of this Agreement.

All Public Infrastructure and Public Improvements shall be constructed and installed in compliance with the Governing Regulations and shall be inspected by inspectors (certified and State-licensed, to the extent required by law) that have been approved by the City and that have agreed, in writing, to be bound by this Agreement and to follow State bond submittal inspection requirements, as and to the extent applicable (each, a "Certified Inspector"). The cost for such inspections shall be paid for by the owner of the property on which the work is being performed. All Public Infrastructure and Public Improvements constructed by Developer or by any person or entity on behalf of or in the name of Developer shall have a maintenance bond with an expiration period of two years after completion and City acceptance of such Public Infrastructure or Public Improvement. Maintenance bonds shall name the City as a co-beneficiary and shall be assignable to the City.

Each Certified Inspector shall maintain a permanent record of all Public Infrastructure and Public Improvements inspected. All such records shall be available for copying by the City and Developer. All such records shall be kept in a form reasonably approved by the City. Each Certified Inspector shall provide to the City and Developer a copy of each Public Infrastructure and Public Improvement inspection report within ten (10) days after the inspection is performed (including reports that identify deficiencies and subsequent corrective action). Unless the City shall have objected in writing with reasonable specificity to Developer within thirty (30) days of the City's receipt of copies of such certificates, records, or reports, then such certificates, records, or reports

shall be deemed accepted and approved by the City for all purposes.

The City and Developer each shall have the right to terminate any Certified Inspector for failure to properly perform any duty or for failure to provide inspection reports, all as required by this Agreement (after written notice to the Certified Inspector and the other Party and the failure of the Certified Inspector to cure the failure within ten (10) days); provided, however, that Developer shall have no right to terminate the employment of any City employee then serving in the capacity of a Certified Inspector, but may only terminate such City employee's engagement as Certified Inspector of the Public Infrastructure and Public Improvements. Upon any such termination, the City, at its option, may allow the use of another Certified Inspector or may elect to perform some or all of the duties of the Certified Inspectors (unless such terminated Certified Inspector was a City employee, in which case the replacement Certified Inspector shall be a qualified third-party engaged to serve in such capacity). If the City elects to perform any of those duties, such duties shall be performed (and reports provided to Developer) in the same manner as would be applicable to the Certified Inspectors, and the actual, reasonable costs and expenses paid or incurred by the City in performing the duties shall be paid by Developer (or the contractor or builder or by the owner of the property on which the work is being performed). Notwithstanding the foregoing, Developer shall have no right to terminate a Certified Inspector provided at the sole cost and expense of the City.

The City shall have the right, at its sole cost and expense, to conduct additional inspections, from time to time, of the construction of any Public Infrastructure or Public Improvement. If the City determines that any Public Infrastructure or Public Improvement is not being constructed in compliance with the Governing Regulations and the contractor or builder fails to correct the non-compliance within a reasonable period of time after notice thereof, the City shall have the right to enforce compliance and to stop new work on the Public Infrastructure or Public Improvement by the issuance of a "stop-work order" until the non-compliance is corrected to the reasonable satisfaction of the City.

(b) Dedication of Public Infrastructure and Public Improvements to City. Upon completion, Public Infrastructure and Public Improvements shall be dedicated and conveyed to, and accepted by, the City. As a condition to the City's final acceptance of any Public Infrastructure or Public Improvement, the following shall be delivered to the City:

- (i) a report of a Certified Inspector concerning the subject Public Infrastructure or Public Improvement, in form satisfactory to the City in its reasonable judgment;
- (ii) executed Affidavit of Payment, bills of sale, assignments, or other instruments of transfer (and evidence of recordation thereof in the deed records of the County) reasonably requested by the City;
- (iii) utility, drainage, and other easements or rights-of-way (and evidence of recordation thereof in the deed records of the County) that are related to or necessary for use of the subject Public Infrastructure or Public Improvement; and

- (iv) all bonds, warranties, guarantees, and other assurances of performance, “record” drawings in both hard copy and digital (PDF and CAD) and sealed by the Developer’s Engineer pursuant to Chapter 1001, as amended, Texas Occupations Code, easements, project manuals and all other documentation related to subject Public Infrastructure or Public Improvement.

After delivery of the foregoing, and upon the City issuing to Developer a letter indicating satisfaction of the conditions precedent to such acceptance pursuant to and in accordance with this Agreement, Developer shall, by proper instrument (as agreed to by the City and Developer), dedicate the subject Public Infrastructure or Public Improvement to the City and cause such dedication to be recorded in the deed records of the County. The City shall then accept each such completed Public Infrastructure or Public Improvement for ownership, operation, and maintenance within twenty (20) business days of such dedication.

(c) City to Own, Operate and Maintain Dedicated Public Improvements and Public Infrastructure. From and after the time of the City’s final acceptance of Public Infrastructure or a Public Improvement, the City will own, operate, and maintain each such Public Infrastructure or Public Improvement and shall be responsible for all costs associated therewith.

(d) Developer Access to Dedicated Public Infrastructure and Public Improvements. Upon the City’s acceptance of Public Infrastructure or a Public Improvement within a particular Approved Plat, Developer shall be allowed to connect, access or otherwise utilize the dedicated Public Infrastructure or Public Improvement in such a manner to serve lots or tracts within the particular Phase, subject to (i) payment to the City of applicable Impact Fees, rates, charges and other connection fees, as and to the extent applicable, and (ii) satisfaction of any such connection, access, or use requirements of any Governing Regulation.

3.02 Water and Wastewater Service.

(a) To provide for delivery of retail water and wastewater service to the Property, the City and the Developer shall enter into the USA.

(b) For water service capacity (in the form of living unit equivalents (“LUEs”) to be allocated to the Property, the Developer has entered into the Multi-Party Agreement to facilitate City water system expansion to enable provision of service to the Project. The terms by which the Developer may access this capacity, which includes the Developer’s payment (or its causing to be paid) the water system capacity allocation charge, shall be specified in the USA.

(c) For the wastewater service capacity (in the form of LUEs) to be allocated to the Property, which capacity the City is in the process of obtaining, the Developer shall pay to the City the applicable Impact Fees, in accordance with, at the times and in the amounts specified in the Code, as further specified in the USA.

(d) The Developer shall, at its expense, design, construct, acquire and install all offsite (relative to the Property) improvements necessary to connect to the Phase I System Improvements to permit retail water and wastewater service to the Property. The design of these offsite improvements shall be coordinated with and approved by the City engineer. Subject to the

City's reimbursement to the Developer of the incremental cost associated therewith, the offsite improvements that are the subject of this Subsection (c) shall include capacity oversizing requirements as and to the extent required by the City, if at all.

(e) To permit adequate water and wastewater service capacity available to the Property, in addition to the capacity initially allocated thereto from the Phase I System Improvements as described above, to allow complete Project development as herein contemplated, the Developer shall participate in the City's development of the Phase II System Improvements. This participation shall include (but not be limited to) notification to the City of the additional capacity (in LUEs) required for completed Project development, the general timing of the need for such additional capacity, assisting the City in the design and identification of the optimal location of components of the Phase II System Improvements, modifying (to the extent necessary or reasonably required) the final Project design to accommodate Phase II System Improvements design, and providing necessary easements, rights of way, leases, or other real property interests on those portions of the Property that have been identified in the design process as optimal locations for components of the Phase II System Improvements. As evidence of its commitment to participate in the development of the Phase II System Improvements, the Developer has entered into that certain Multi-Party Agreement to Pay Costs of Due Diligence Associated with Planned City Utility System Expansion, dated as of September 14, 2021, the terms of which shall control regarding the subject matter of this Section 3.05(d).

3.03 Commitment to Major Thoroughfare Plan.

(a) The Developer hereby commits to and agrees to accommodate the provisions of the Major Thoroughfare Plan that impact the Property, to be reflected in the final Project designs, plans, specifications, and plats.

(b) The Major Thoroughfare Plan identifies the general thoroughfare route that traverses the Property. The City shall, not later than 180 days after the Effective Date, deliver to the Developer the final route for the portion of the Major Thoroughfare Plan that impacts the Property (the *Final Route*) to permit the Developer to complete the Project's design.

(c) The Developer hereby agrees to dedicate to the City (or another political subdivision or agency of the State as directed by the City) right-of-way of not more than 120 feet in width for the East/West component of the MTP Segment and approximately 70 feet for the North/South component of the MTP Segment to accommodate the MTP.

(d) Notwithstanding any provision hereof to the contrary regarding timing, the Developer shall, if requested by the City and (if so), upon the timing specified thereby, cause the construction of the MTP Segment in accordance with the plans and specifications thereto provided by the City; provided, however, that in lieu of the Developer itself developing and constructing the MTP Segment, the Developer shall, if requested by the City, deliver the amount it had budgeted toward this cost to the City or another political subdivision that has assumed or been assigned responsibility for developing and constructing all or any part of the MTP (including the MTP Segment).

3.04 City Sign; Developer Capital Contribution.

(a) As additional consideration for the City's entering into this Agreement, the Developer has agreed, at an actual cost not to exceed \$25,000 to design and construct on a portion of the Property and, upon completion, dedicate to the City a sign and monument welcoming vehicular traffic to the City as generally located as indicated in **Exhibit F** attached hereto (such sign and monument, the *Sign*; the Developer's efforts and payment of costs to deliver the Sign, the *Developer's Capital Contribution*).

(b) Developer representatives and consultants shall coordinate with City staff, working by and through the City Administrator, to complete the design, construction, and dedication of the Sign.

(c) The City shall have full control over final approval of the Sign's design. The Developer shall coordinate design renderings to the City and submit for approval by the City Council not later than the first (1st) anniversary of the Effective Date. Thereafter, the Developer shall undertake development activities relative to the Sign (which shall be completed and dedicated to the City not later than the first (1st) anniversary of the City Council's approval of the Sign's design).

(d) Following dedication, the City will own, operate, and maintain the Sign.

3.05 Commercial Project Construction Standards.

Structures within the Commercial Area shall be constructed pursuant to and in accordance with the Governing Regulations and in a manner that will accommodate and facilitate commercial development of the general type that will enhance the business and retail opportunities and amenities of the City's residents, to include restaurants, retail, and medical and other professional office space. Compliance with the Design Criteria shall be achieved by development of facilities within the Commercial Area in accordance with the site plan.

(a) Specific Standards. The Developer shall incorporate or cause to be incorporated into the Project's development the following attributes:

(i) Utilities. Service line utility extensions for electrical, telephone and broadband internet shall be permitted to be installed overhead along the perimeter of the private lots. Utilities to service structures on each individual lot shall be underground.

(ii) All outdoor lighting fixtures shall be designed and installed to minimize light spill, glare and skyglow.

(iii) Landscaping. The Developer shall comply with the City's landscaping standards as of the Effective Date.

(iv) Safety and way-finding signage incorporating the following elements:

(1) Blades:

a. Printed on 080 Aluminum, 100% coverage in prismatic

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color, reflective, UV rated;

b. 9" tall, using oversized bracket detail to eliminate tilt; and

c. Blades can either have standard or wrap around assembly.

(2) Poles:

a. Lighter gauge round pole, made to bend if hit by car (cheaper and easier to replace);

b. 2-3/8" round tube BWG-T poles (option provided by Texas Department of Transportation) galvanized or painted (vinyl guard coated if required); and

c. topped with a matching "ball cap".

(3) Sign foundation to be built so that if a sign needs to be replaced, the foundation can be reused.

(b) Prohibited Uses. The following uses shall not be permitted within the Project: i) sexually oriented business, or shops dedicated primarily to the sale of drug or tobacco paraphernalia, ii) vape shops, iii) unlicensed massage parlors, iv) flea markets, v) bingo halls, vi) pawn shops, vii) payday lenders, and viii) truck stops.

(d) _____

ARTICLE 4 CHAPTER 380 PROGRAM

4.01 Generally. Other than their inclusion as a Capital Cost and Financing Cost respectively, as herein described, the Public Infrastructure and Public Improvements shall be developed, constructed, and dedicated by the Developer at no expense to the City, and the Developer Capital Contribution is made available to the City with no payment or reimbursement obligation of the City. These Project-related public financial benefits, when combined with the potential population increase, increased property tax revenue, increased sales and use tax revenue, increased utility service customer base, and other benefits potentially created by the Project, are intended to provide a catalyst to the economy of the City in numerous ways. In exchange for delivery of these Project-related public financial benefits, the City agrees to provide Developer with the economic development incentives as outlined below.

4.02 Grants. In exchange for Developer's satisfaction of its duties and obligations hereunder, the City shall grant, convey and deliver to Developer, at the times, in the amounts, subject to the limitations and otherwise in accordance with the terms hereafter provided, financial incentives, in an amount equal to the Developer's Costs, in the form of the Grants. The Grants are made, granted, conveyed, and delivered to Developer pursuant to and in furtherance of the

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Economic Development Program established in the Authorizing Ordinance.

Grants shall be funded by the City solely from, and subject to the availability of, City Ad Valorem Taxes and City Sales Taxes in amounts sufficient to fund the Ad Valorem Tax Grant and the Sales Tax Grant (being the amounts at such time on deposit in the City Ad Valorem Tax Proceeds Subaccount and City Sales Tax Proceeds Subaccount, respectively, of the Grant Proceeds Collection Account), and from no other source of City funds or revenues. The City makes no representations or warranties as to the sufficiency or availability of City Ad Valorem Taxes and City Sales Taxes to fund the Grants and because this City payment obligation is so limited as to source and amount as heretofore described, Developer and City agree that the City's obligation to pay Grants to Developer does not result in the creation of a City debt as prohibited by the state constitution. No lien is granted, nor does Developer possess any right of access, priority, or preference to the City Ad Valorem Taxes or the City Sales Taxes or amounts from time to time on deposit and held in the Grant Proceeds Collections Account or the subaccounts thereof.

As stated above, Grants shall only be paid to Developer subject to the availability of City Ad Valorem Taxes and City Sales Taxes to fund the Grants from amounts at such time on deposit in the Grant Proceeds Collection Account. Further, Grants shall only be made to Developer for those Developer's Costs actually incurred and, regarding Public Infrastructure and Public Improvements with respect to which the subject Developer's Costs relate, such Public Infrastructure or Public Improvements shall have been conveyed to and accepted by the City or other applicable or appropriate local governmental entity pursuant to Section 3.04 hereof.

4.03 Grant Proceeds Collection Account. In the Authorizing Ordinance, the City has established the Grant Proceeds Collection Account and, within such Account, the City Ad Valorem Tax Proceeds Subaccount, and the City Sales Tax Proceeds Subaccount. As required by the Authorizing Ordinance, the City shall deposit to the applicable subaccount of the Grant Proceeds Collection Account, as received, City Ad Valorem Taxes and City Sales Taxes, an amount equal to ~~seventy-five~~^{seventy-five} percent (75%) of the City Ad Valorem Taxes and the City Sales Taxes, respectively. Upon receipt, (i) City Ad Valorem Taxes shall be deposited to the City Ad Valorem Tax Proceeds Subaccount of the Grant Proceeds Collection Account and (ii) City Sales Taxes shall be deposited to the City Sales Tax Proceeds Subaccount of the Grant Proceeds Collection Account.

4.04 Payment of Grants; Grant Installment Payment Dates. Grants shall be funded in installments (each, a "Grant Installment") on each Grant Installment Payment Date solely from and to the extent of availability of funds on deposit in the Grant Proceeds Collection Account. Each Grant Installment shall equal to the lesser of (i) the amount of eligible Developer's Costs included in a Developer's Reimbursement Request (defined herein) received by City from Developer in accordance with Section 5.05 hereof prior to the subject Grant Installment Payment Date, plus any eligible Developer's Costs included in any previously-submitted Developer's Reimbursement Request that remain unpaid because of unavailability of funds in the Grant Proceeds Collection Account, and (ii) the amount of funds at such time on deposit in the Grant Proceeds Collection Account. The City shall make Grant Installment payments on each Grant Installment Payment Date by withdrawing from the Grant Proceeds Collections Account an amount of money equal to the Grant Installment to be paid on such date, calculated in the manner hereinbefore described, and delivering such sum to Developer, by check, to the address identified in Section 8.04 hereof.

4.05 Developer Reports; Requests for Grant Installment Payment. When Developer has incurred Developer's Costs pursuant to the terms of this Agreement, and unless such Developer's Costs are the subject of a previously-submitted Developer's Reimbursement Request, Developer shall, not later than the fifteenth (15th) calendar day of the month preceding the month in which occurs the next Grant Installment Payment Date, deliver to the City a Developer's Reimbursement Request, which request shall be substantially in the form attached hereto as **Exhibit D** and include:

- (a) the amount of Developer's Costs;
- (b) a statement of no default hereunder;
- (c) documentation evidencing the name and address of the entity or entities that performed the work or service for which such Developer's Costs were incurred, a description of the contract pursuant to which the payment is made, the amount of such payment, the original contract amount, total payments made to date on such contract, adequate proof of payment (i.e., cancelled checks and invoices for said payments, if available, or properly executed Affidavit of Payment);
- (d) an estimate of remaining work to be completed on the specific Phase, the cost of such remaining work, and the anticipated timing of its completion;
- (e) if the Developer's Reimbursement Request relates to Developer's Costs incurred with respect to any Public Infrastructure or Public Improvements; and
- (f) with respect to any Developer's Costs included in the Developer's Reimbursement Request that are Financing Costs, appropriate receipts, ledgers, or other documentation evidencing Developer's incurrence of such Financing Costs.

The City is not obligated to fund any Developer's Reimbursement Request until such time as all documentation required by this Section shall have been submitted to the City and determined, in the City's reasonable judgment, to be accurate and complete. The City shall have ten (10) calendar days after receipt of a Developer's Reimbursement Request to object to any matter contained therein, after which Developer may remedy such objection(s) and resubmit the Reimbursement Request. Upon determination of satisfactory completion of the requirements under this Section, the City shall fund the Developer's Reimbursement Request on the next occurring Grant Installment Payment Date that is at least five (5) calendar days after the date of the City's determination of satisfaction.

4.06 Continued Delivery of Developer's Reimbursement Requests; City's Continuing Obligation to Pay. Developer shall continue to submit Developer's Reimbursement Requests until such time as the total amount of Developer's Costs included in all Developer's Reimbursement Requests equal to the Maximum Disbursement Amount have been reimbursed. Subject to the amounts at such time held in the Grant Proceeds Collection Account, the City shall pay Grant Installments on each Grant Installment Payment Date through the Final Grant Installment Payment Date; provided, however, that if, on the Final Grant Installment Payment Date, the aggregate amount of Grant Installments total an amount less than the Maximum Disbursement Amount, the City shall have no obligation to reimburse Developer for Developer's

Costs that at such time remain unreimbursed. As of the Final Grant Installment Payment Date, the City shall have no continuing obligation to fund Grants from the Grant Proceeds Collection Account and those City Ad Valorem Taxes and City Sales Taxes that have previously been required to be deposited to the Grant Proceeds Collection Account shall be available for use by the City and shall immediately be transferred to the City's General Fund for utilization for any lawful purpose.

4.07 City Takeover. Not later than the thirtieth (30th) day prior to any Grant Installment Payment Date, the City may provide written notice to Developer of its intent to assume the financial responsibility for delivering Public Improvements and Public Infrastructure that have not yet been completed by Developer (such event, a "City Takeover Event"). Any such notice shall be accompanied by action of the City Council evidencing the City's agreement to complete any incomplete Public Infrastructure and Public Improvements and (ii) pay to Developer on the next occurring Grant Installment Payment Date, all Developer's Costs that at such time remain outstanding and unpaid and Developer's development costs for Public Infrastructure and Public Improvements that are at such time in progress but incomplete or not yet conveyed and dedicated to the City. After receipt of notice of a City Takeover Event, the Developer shall include in the next Developer's Reimbursement Request all expenses of the type heretofore described for review, approval, and payment by the City on the applicable Grant Installment Payment Date. The City shall pay amounts owed to Developer on the Grant Installment Payment Date that occurs after delivery to Developer of a notice of City Takeover Event from funds on deposit in the Grant Proceeds Collection Account or any other source of funds that are lawfully available to the City.

ARTICLE 5 GENERAL REQUIREMENTS

5.01 Developer agrees as good and valuable consideration for this Agreement that construction of the Improvements by Developer will be in accordance with all applicable federal, state, and local laws, city codes, ordinances, rules and regulations.

5.02 Construction plans for the Improvements constructed on the Property by the Developer will be filed with the City, which shall be deemed to be incorporated by reference herein and made a part hereof for all purposes.

5.03 Developer agrees to maintain the Improvements owned by it during the term of this Agreement in accordance with all applicable federal, state and local laws, city codes, ordinances, rules and regulations.

ARTICLE 6 ANNEXATION

6.01 Petition for Annexation into City. Developer hereby agrees to the voluntary, full-purpose annexation of any portion of the Property outside the corporate limits of the City into the City and shall submit a petition requesting the annexation of the Property in the form attached

hereto as **Exhibit H** (the “Petition”).

6.02 City Council Action. City action initiating Property annexation shall occur as soon as practicable after the Effective Date and after the City’s receipt of the completed Petition, which shall include the steps required under Chapter 43 for the full-purpose annexation of all Property. Notwithstanding its full-purpose annexation of the Property, provision of City services, including extension of Public Infrastructure, to the Property shall be made subject to this Agreement and no other agreement, regulation, or law.

ARTICLE 7 MUNICIPAL SERVICES

7.01 Retail Municipal Utility Services. The City shall provide Retail Municipal Utility Services to lots within the Property and will connect each structure to the City’s water, sewer, and gas system upon payment of applicable fees and issuance of a certificate of occupancy for the structure. Retail Municipal Utility Services will be delivered pursuant to and in accordance with State law and the Governing Regulations, and rates and charges for such services imposed pursuant to and in accordance with the Retail Municipal Utility Services Rate Ordinance.

7.02 Police Services. The City shall, upon annexation (and not before), provide police service to the Property.

7.03 Electric Service. Retail electric service shall be provided to the Property by City Public Service Board of San Antonio, Texas, also known as CPS Energy, subject to a franchise fee paid by CPS Energy to the City.

7.04 Fire and Emergency Response Services. Fire and emergency response services to the Property will be provided by a Texas political subdivision having jurisdiction over such area and charged with the responsibility of providing such services, initially being the Medina County Emergency Services District No. 1.

ARTICLE 8 ASSIGNMENT OF COMMITMENTS AND OBLIGATIONS; SUCCESSORS

8.01 Assignment of Developer Rights. Developer may assign in whole or part its rights and obligations under this Agreement to persons purchasing all of the Property or a part of the Property. In the event Developer assigns all of its respective rights under this Agreement in conjunction with the conveyance of any unplatted portion of the Property, a written assignment of said rights must be filed of record in the Official Public Records of the County in order to be effective.

Because the City’s entering into this Agreement with Developer is conditioned, in part, on Developer’s demonstrated skill, expertise, and financial resources with respect to the development of projects similar to the Project, demonstrating its ability to satisfy its obligations arising under

this Agreement, any assignment by Developer of its rights hereunder shall be subject to the City's approval, not to be unreasonably withheld; provided, however, an assignment by Developer to any Developer-affiliated entity does not require approval by the City. In connection with any request for approval of assignment Developer shall provide to the City evidence of the assignee's similar experience, resources, and financial resources that are demonstrative of such assignee's ability to complete Project development in a manner at least equal to those of Developer.

8.02 Lot Conveyance Not an Assignment. The mere conveyance of a lot or any portion of the Property without a written assignment of the Developer rights under this Agreement shall not be sufficient to constitute an assignment of the rights or obligations of Developer hereunder, unless specifically provided herein.

8.03 Agreement Binding on Assigns. In the event of an assignment of this Agreement, Developer shall be released from any obligations of this Agreement, provided the successors or assigns agree in writing to all terms and conditions of this Agreement. Any reference to Developer or Parties shall be deemed to and will include the successors or assigns thereof, and all the covenants and agreements in this Agreement shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

ARTICLE 9 DEFAULT AND NOTICE

9.01 Notice and Opportunity to Cure. If either Party defaults in its obligations under this Agreement, the other Party must, prior to exercising a remedy available to that Party due to the default, give written notice to the defaulting Party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) calendar days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the thirty (30) calendar day period, the commencement of the cure within the thirty (30) calendar day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period. Notwithstanding the foregoing, the occurrence of a Bankruptcy Event shall result in immediate default hereunder without opportunity to cure.

9.02 Enforcement. The Parties may enforce this Agreement by any proceeding at law or equity. Failure of either Party to enforce this Agreement shall not be deemed a waiver to enforce the provisions of this Agreement thereafter. The Parties agree that monetary damages are not a sufficient remedy for a default of this Agreement. As a remedy for default, the non-defaulting party shall be entitled to equitable relief, including specific performance of this Agreement, but not monetary damages. In addition to the foregoing, a remedy to each Party for the other's default hereunder, after compliance with Section 9.01 hereof, shall be termination of this Agreement; provided, however, that no termination of this Agreement by a Party as a result of the other Party's default shall allow the reduction or elimination of the Developer's right to receive Grants equal to the amount of Capital Costs as of such time of termination incurred, plus, with respect to Capital Costs, Financing Costs accrued or to accrue thereon until such time of reimbursement in the form of Grants in accordance with the applicable terms of this Agreement. The City shall be under no

obligation to honor a Developer's Reimbursement Request while Developer's default under the terms of this Agreement has occurred and is at such time continuing and uncured.

9.03 Litigation. In the event of any third-party lawsuit or other claim relating to the validity of this Agreement or any actions taken by the Parties hereunder, Developer and the City intend to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution of their respective rights and obligations under this Agreement. The City's participation in the defense of such a lawsuit is expressly conditioned on budgetary appropriations for such action by the City Council and shall be covered by Article 12 hereof, as applicable. The filing of any third-party lawsuit relating to this Agreement or the development of the Project will not delay, stop or otherwise affect the development of the Project or the City's processing or issuance of any approvals for the Project or Project development or Grant Installment Payments, unless otherwise required by a court of competent jurisdiction.

9.04 Notices. Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed received on the earlier of (i) actual receipt by mail, Federal Express or other delivery service, fax, email or hand delivery; or (ii) three (3) business days after being sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to City or Developer, as the case may be, at the address stated below.

Any notice mailed to the City shall be addressed:

City of Castroville
Attn.: City Administrator
1209 Fiorella St.
Castroville, Texas 78009

With a copy to:

Daniel C. Jones
Denton, Navarro, Rodriguez, Bernal,
Santee & Zech, P.C.
~~2517 North Main Avenue 2500 W.-~~
~~William Cannon Dr., Suite 609~~
~~San Antonio, Austin, Texas~~
~~78212745~~

Any notice mailed to the Developer shall be addressed:

Victory Lane Partners, Ltd.
Attn: Greg Gibson
9311 San Pedro, Suite 850
San Antonio, Texas 78216

With a copy to:

Killen, Griffin & Farrimond, PLLC
Attn: Rob Killen

10101 Reunion Place, Suite 250
San Antonio, Texas 78216

Any Party may change the address for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

ARTICLE 10 CERTIFICATE OF COMPLIANCE

Within thirty (30) calendar days of written request by either Party given to the other Party requesting a statement of compliance with this Agreement, the other Party will execute and deliver to the requesting Party a statement certifying that:

- (a) this Agreement is unmodified and in full force and effect, or if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of each modification; and
- (b) there are no current uncured defaults under this Agreement, or specifying the date and nature of each default.

ARTICLE 11 REPRESENTATIONS, WARRANTIES, AND COVENANTS

11.01 Mutual Representations, Warranties and Covenants of the Parties. The Parties acknowledge that each Party is acting in reliance upon the other Party's performance of its obligations under this Agreement in making the decision to commit substantial resources and money to the Project's development. In recognition of such mutual reliance, each Party represents and warrants to the other that it shall employ commercially reasonable efforts to perform its duties and obligations hereunder and shall adhere to the requirements of this Agreement.

11.02 City Representations, Warranties and Covenants.

(a) The City covenants, represents and warrants to Developer that the City has and shall exercise *sole* and exclusive jurisdiction over the review and approval of preliminary and final plats, the inspection of Public Infrastructure and Public Improvements (except to the extent that such inspection responsibilities are undertaken by a Certified Inspector pursuant to Section 3.01(a) hereof) and the issuance of Certificates of Occupancy for Structures.

(b) As stated in Article 5, the City shall pay, but only from and to the extent of the availability of amounts from time to time *held* in the Grant Proceeds Collection Account, respectively, the Developer's Costs, in the form of Grants, as and when required by (but subject to the limitations of) this Agreement.

(c) The City shall place no lien on, pledge, or otherwise encumber the City Ad Valorem

Taxes or City Sales Taxes required to be deposited to the Grant Proceeds Collection Account or the amounts from time to time on deposit in the Grant Proceeds Collection Account.

(d) The City recognizes this Agreement as a development agreement under Subchapter G of Chapter 212.

(e) The City recognizes this Agreement as an economic development agreement under Chapter 380.

(f) To the extent required to implement Project development, the City shall provide necessary waivers and variances to the Code as herein provided.

(g) The City has, pursuant to the Authorizing Ordinance, taken all requisite and necessary actions to enter into this Agreement, and this Agreement represents a valid and binding agreement of the City, subject to governmental immunity and principles of bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights in general and by general principles of equity.

(h) To the extent (but only to the extent) its obligations are not uncertain or in dispute, the City is not entitled to claim immunity on the grounds of sovereignty from (i) relief by writ of mandamus to perform its obligations hereunder or (ii) enforcement by writ of mandamus of its payment obligations with respect to amounts due to Developer pursuant to the terms of this Agreement.

11.03 Developer Representations, Warranties and Covenants.

(a) The Developer hereby represents to the City that it owns the Property, free and clear of any and all liens or mortgages

(b) The Developer hereby warrants and covenants to the City that any prospective lien, mortgage, or encumbrance on any portion of the Property shall be made subject to the dedication of Public Infrastructure and Public Improvements, as indicated on the Approved Plat that is applicable to the portion of the Property to be subject to any such lien, mortgage, or encumbrance.

(c) Developer agrees to dutifully, diligently, and continually work to develop the Property and shall complete, or cause to be completed, the Public Infrastructure and Public Improvements and pay their costs, notwithstanding the actual costs of those Public Infrastructure and Public Improvements exceeding the Capital Costs therefor identified herein.

(d) Developer shall deliver to the City the Public Infrastructure, the Public Improvements, and the Developer's Capital Contribution at the times, in the amounts, and in the condition required by the terms of this Agreement.

(e) Developer shall provide, or cause to be provided, all materials, labor, and services for completing the Public Infrastructure and Public Improvements, which materials, labor, and services shall be of adequate quality when graded against industry standards.

(f) Developer agrees to obtain or cause to be obtained all necessary permits and

approvals required by any Governing Regulation from the City and/or all other governmental entities having jurisdiction or regulatory authority over the construction, installation, operation, or maintenance of improvements within the Property and, with respect thereto, pay or cause to be paid all applicable permit, or similar, license fees.

(g) Developer acknowledges and agrees that, pursuant to State law, Developer is required to make information regarding its contractual relationships regarding construction or acquisition of Public Infrastructure and Public Improvements generally available as public records and, with respect thereto, Developer acknowledges and agrees that any information provided by Developer to the City with respect to the Public Infrastructure and Public Improvements, this Agreement, and any work performed by Developer, a contractor, or a subcontractor for any Public Infrastructure and Public Improvements (including pricing and payment information) may be subject to public disclosure by the City pursuant to applicable law.

(h) Developer shall use good faith, commercially-reasonable efforts to obtain the best price (taking into account the reputation of relevant contractors and vendors and all other reasonable factors) and quality of goods and services (including from Developer affiliates) in connection with the development, construction, financing and acquisition of any Public Infrastructure and Public Improvements.

(i) Developer shall notify the City of any change in Developer's Engineer.

(j) Developer shall prepare, or cause to be prepared, for each Phase of the Project, plats that are compliant with applicable provisions of the Governing Regulations and shall submit such plats to, and have such plats approved by, the City prior to starting any construction in said Phase.

(k) Developer shall supervise the construction of the Project and cause the construction to be performed in accordance any Approved Plats.

(l) If substantial completion of the Project is delayed by reason of Force Majeure, governmental restrictions, regulations, fire or other casualty, court injunction, necessary condemnation proceedings, interference by third parties or drop in overall economic conditions, or any circumstances reasonably beyond Developer's control, then following written request of Developer made to the City (which request shall document the relied-upon reason for delay), the deadlines set forth in the construction schedule shall be extended by the period of each such delay (which period shall be evidenced in the aforementioned request).

(m) Development services that are performed by the Developer hereunder shall be enforced in compliance with the Governing Regulations.

(n) all personnel supplied or used by Developer in the performance of its obligations arising under this Agreement shall be deemed employees, contractors or subcontractors of the Developer and shall not be considered employees, agents, or subcontractors of the City for any purpose whatsoever. The Developer shall be solely responsible for the compensation of all such personnel.

(o) Developer acknowledges and agrees that it is subject as an employer to all applicable unemployment compensation statutes and agrees to indemnify and hold harmless the

City from any and all responsibilities thereunder toward employees of Developer.

(p) As and to the extent applicable, Developer shall comply with all regulations concerning employment of labor required by law (including, but not limited to, Chapter 2258 requiring the Developer to pay prevailing wages to workers, which shall be determined using the wage scales from time to time published online by Wage Determinations online at www.wdol.gov/wdol/scafiles/davisbacon/tx.html). The reference to this source of prevailing wages is not a warranty, guaranty or other representation by the City that adequate numbers of skilled or unskilled workers are actually available in the local market to perform the required services or that workers may be hired for the wages identified in the such prevailing wage schedule.

(q) Developer hereby represents, warrants, and covenants for the benefit of the City:

- (i) Developer is a limited partnership, duly organized and validly existing under the laws of the State of Texas, is in compliance with the laws of the State of Texas, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated;
- (ii) Developer has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered on behalf of the Developer;
- (iii) this Agreement is a valid and enforceable obligation of the Developer and is enforceable against the Developer in accordance with its terms, subject to bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights in general and by general principles of equity;
- (iv) Developer will not include any costs that are not Developer's Costs in any Developer Reimbursement Request;
- (v) Developer will diligently follow all procedures set forth in this Agreement with respect to its request for payment of Grant Installments;
- (vi) Developer understands the duties, limitations, and responsibilities imposed upon the City under the applicable State law having application to matters that are the subject of this Agreement, including Project development, its making of the Grants, and the development, construction, and dedication of the Public Infrastructure and Public Improvements; and
- (vii) Developer has sufficient knowledge, experience, and financial resources to perform its obligations under this Agreement in accordance with all duties, obligations, regulations, Governing Regulation requirements, and other applicable law affecting or required to perform the development work with respect to the Project and, in this regard, the Developer shall bid, procure, supervise, manage, perform, and from time to time provide

information relating to such development work regarding Project development in compliance with all duties, obligations, regulations, code and legal requirements arising under any Governing Regulation with jurisdiction over the subject development work and the Project.

(r) Developer has delivered, unless exempted under State law, the Certificate of Interested Parties Form 1295 (“Form 1295”) and certification of filing generated by the Texas Ethics Commission’s electronic portal, signed by an authorized agent, prior to the execution of this Agreement by the City and Developer. Developer and the City understand that none of the City or any City representative, consultant, or advisor have the ability to verify the information included in Form 1295, and none of the City or any City employee, official consultant, or advisor have an obligation, nor have undertaken any responsibility, for advising Developer with respect to the proper completion of Form 1295 other than providing the identification numbers required for the completion of Form 1295.

(s) Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, as amended, and to the extent such section does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with Developer and exists to make a profit.

(t) Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, as amended, and posted on any of the following pages of such officer’s Internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,

<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or

<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, as amended, and to the extent such Section does not contravene applicable Texas or federal law and excludes Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. Developer understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with Developer and

exists to make a profit.

(u) To the extent this Agreement constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislative 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 comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall mean, without an ordinary business purpose, refusing to *deal* with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

(v) To the extent this Agreement constitutes a contract for goods or services for which a written verification statement is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislative Session, “SB 19”), 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,

(1) do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

(2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” (A) means, with respect to the entity or association, to (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a

firearm entity or firearm trade association. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

ARTICLE 12 TAX INCREMENT REINVESTMENT ZONE

Prior to the Initial Infrastructure Completion Date, Developer shall, if requested by the City, take such necessary steps to allow the City’s designation of all or part of the Property as a Tax Increment Reinvestment Zone under Chapter 311. If the City so elects, and other taxing units whose jurisdiction includes the Property or such portion thereof participate in such a Zone, then the City shall be permitted to utilize any incremental tax revenues thereunder generated as a source of payment of Developer’s Costs that are reimbursable to the Developer hereunder in the form of Grants and such payment shall relieve the City from its obligation to fund Grants, in such amount of these other available funds, from City Ad Valorem Taxes and City Sales Taxes; provided, however, that such methodology of reimbursement shall not otherwise impact, modify, or lessen the City’s obligations hereunder or impose obligations on the Developer in addition to any that are herein described (unless specifically agreed to by each of the Parties and memorialized in an amendment to this Agreement in the manner specified in Section 14.05). The City agrees that if it exercises its option to create a Tax Increment Reinvestment Zone, no additional costs or fees will be imposed upon Developer other than such costs, fees, and contributions explicitly provided for herein.

ARTICLE 13 INDEMNIFICATION

DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS THE CITY, THE CITY COUNCIL, AND ANY OTHER OFFICIAL, EMPLOYEE, AGENT, ATTORNEY, OR REPRESENTATIVE OF ANY OF THE FOREGOING (TOGETHER, THE “INDEMNIFIED PARTIES”) FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE BROUGHT BY A THIRD PARTY, INCLUDING BUT NOT LIMITED TO, PERSONAL OR BODILY INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON ANY INDEMNIFIED PARTY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER’S ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF THE DEVELOPER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONTRACTOR OF DEVELOPER, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES, WHILE IN THE EXERCISE OF PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT

OF ANY INDEMNIFIED PARTY. IN THE EVENT THE DEVELOPER AND AN INDEMNIFIED PARTY ARE FOUND JOINTLY LIABLE, BECAUSE OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNIFIED PARTY, BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO ANY SUCH INDEMNIFIED PARTY UNDER APPLICABLE TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES HERETO UNDER TEXAS LAW AS TO SAID

CLAIMANTS. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. DEVELOPER SHALL IMMEDIATELY ADVISE THE CITY, IN WRITING, OF ANY CLAIM OR DEMAND AGAINST DEVELOPER OR AN INDEMNIFIED PARTY, TO THE EXTENT AND WHEN KNOWN TO THE DEVELOPER, RELATED TO OR ARISING OUT OF DEVELOPER'S ACTIVITIES UNDER THIS AGREEMENT.

In addition to the indemnification provided above, Developer shall also require each of its general contractors working on the Project to indemnify each Indemnified Party from and against any and all claims, losses, damages, causes of actions, suits and liabilities arising out of their actions related to the performance of this Agreement, utilizing (in its entirety) the same indemnification language contained herein.

ARTICLE 14 MISCELLANEOUS

14.01 Multiple Originals. The Parties may execute this Agreement in one or more duplicate originals, each of equal dignity.

14.02 Entire Agreement; Parties in Interest. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties with respect to its subject matter, and may not be amended except by a writing signed by all Parties with authority to sign and dated subsequent to the date hereof. There are no other agreements, oral or written, except as expressly set forth herein. No person, other than a Party, shall acquire or have any right hereunder or by virtue hereof.

14.03 Recordation. A copy of this Agreement will be recorded in the Official Public Records of the County by the City.

14.04 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State. This Agreement is performable in the County. Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in a court of competent jurisdiction located in the County. Notwithstanding the foregoing, the parties hereto agree that any dispute that may arise under this Agreement shall first be submitted to non-binding mediation, or to alternative dispute resolution

proceedings, before litigation is filed in court.

14.05 Termination or Amendment by Agreement. This Agreement may only be terminated prior to the Termination Date or its terms amended by mutual written consent of the Parties.

14.06 No Oral or Implied Waiver. The Parties may waive any of their respective rights or conditions contained herein or any of the obligations of the other Party hereunder, but unless this Agreement expressly provides that a condition, right, or obligation is deemed waived, any such waiver will be effective only if in writing and signed by the party waiving such condition, right, or obligation. The failure of either party to insist at any time upon the strict performance of any covenant or agreement in this Agreement or to exercise any right, power, or remedy contained in this Agreement will not be construed as a waiver or a relinquishment thereof for the future.

14.07 No Third-Party Beneficiary. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided herein.

14.08 No Personal Liability. None of the members of the City Council, nor any officer, agent, or employee of the City, shall be charged personally by Developer with any liability, or be held liable to Developer under any term or provision of this Agreement, or because of execution or attempted execution, or because of any breach or attempted or alleged breach, of this Agreement.

14.09 Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions, or in all jurisdictions because it conflicts with any provision of any Constitution, statute, rule of public policy, or any other reason, such circumstances shall not have the effect of rendering the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

14.10 Section Headings. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provisions of this Agreement.

* * *

DEVELOPER:

Victory Lane Partners, Ltd.,
A Texas limited partnership

BY: Victory Lane Partners GP, LLC,
a Texas limited liability company

By: _____

Name: _____

Title: _____

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2025, by
_____, _____ of _____.

Notary Public in and for the State of Texas

CITY OF CASTROVILLE, TEXAS

By: _____
_____, Mayor

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF MEDINA §

This instrument was acknowledged before me on _____, 2025, by
_____, _____ of City of Castroville, Texas.

Notary Public in and for the State of Texas

INDEX TO EXHIBITS

Exhibit A.....	Property Description (Metes and Bounds and Location Map)
Exhibit B.....	Schedule of Capital Costs
Exhibit C Commercial Area	Concept Site Plan , Elevation Renderings, and Design Criteria
Exhibit D.....	Developer's Reimbursement Request
Exhibit E.....	Public Infrastructure and Public Improvements
Exhibit F.....	Sign
Exhibit G.....	Project Development Schedule
Exhibit H.....	Petition for Annexation

Exhibit A
Property Description (Metes and Bounds and Location Map)

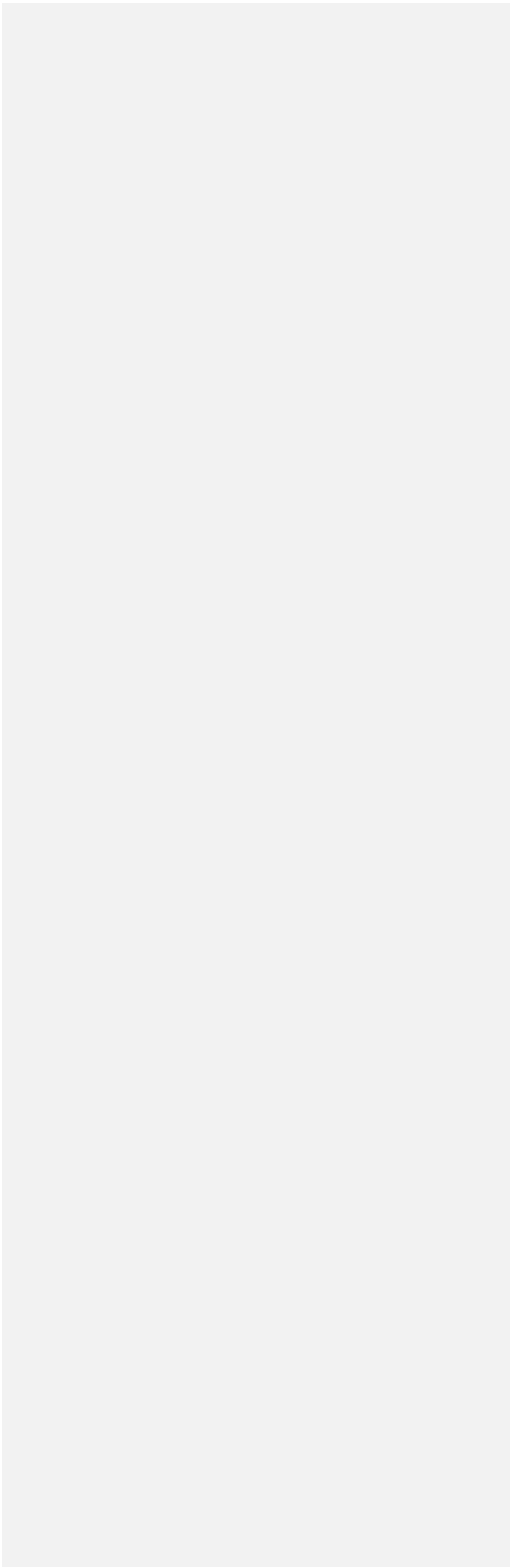


Exhibit B
Schedule of Capital Costs

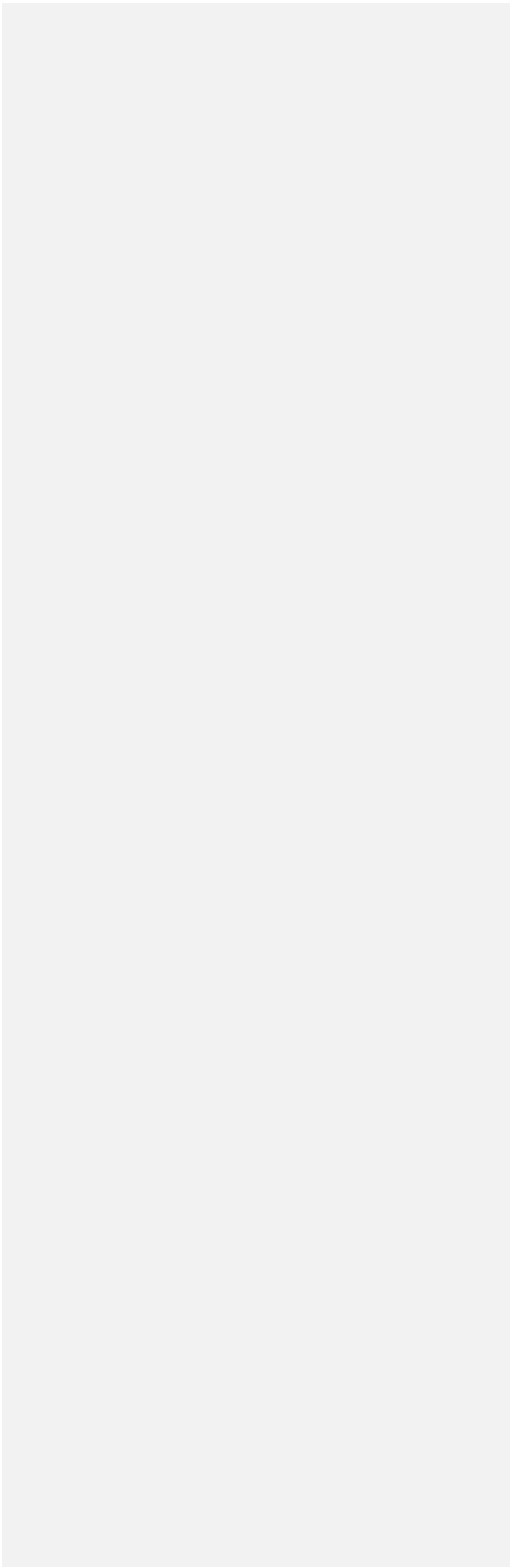


Exhibit C
Commercial Area Site Plan, Elevation Renderings, and Design Criteria

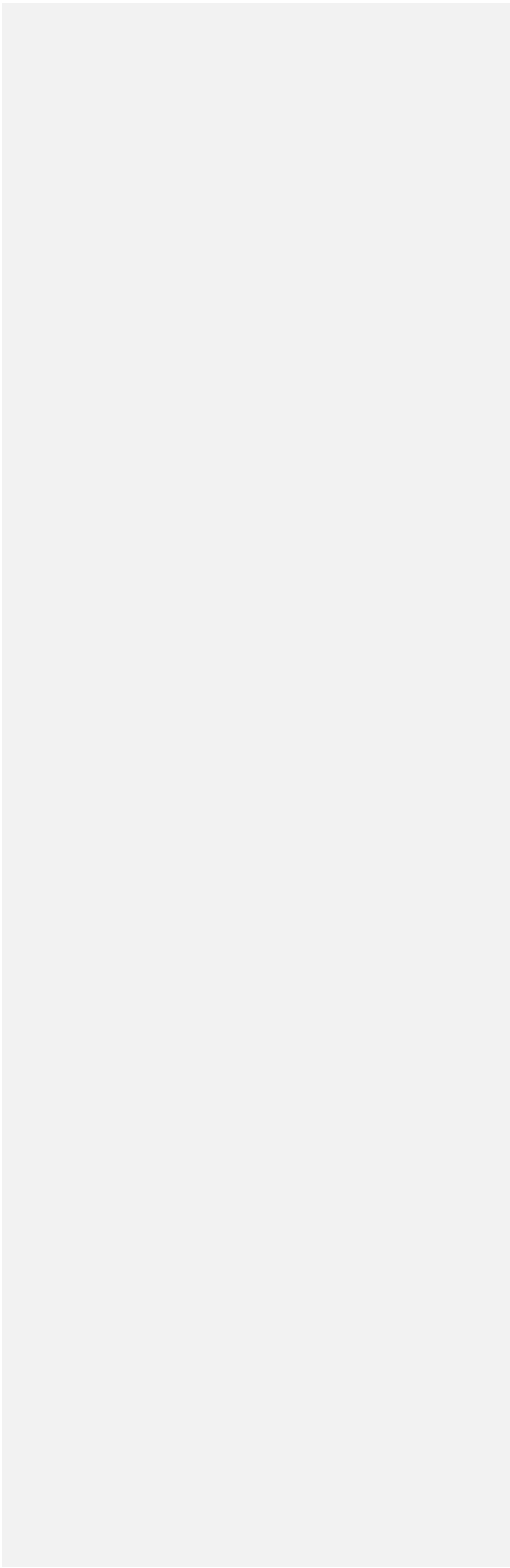


Exhibit D
Developer's Reimbursement Request

THE STATE OF TEXAS §
 §
COUNTY OF MEDINA §

I, the undersigned, being an authorized representative of Victory Lane Partners, Ltd. (the "Developer"), in such capacity and in connection with this Developer's Reimbursement Request (this "Request"), made under that certain Development Agreement (the "Agreement"), dated and effective as of _____, 2025, by and among Developer and City of Castroville, Texas, do hereby request reimbursement for the hereinafter-described Developer's Costs actually incurred, which reimbursement shall be in the form of Grants, in the amount of \$ _____, and in connection with this Request, I DO HEREBY CERTIFY:

(i) There now exists no default under the Agreement and no event has occurred which, with the giving of notice, passage of time, or otherwise would constitute an event of default under the Agreement.

(ii) The representations and warranties made in the Agreement are true and correct in all material respects as of this date.

(iii) The Developer's Costs that are the subject of this Request represent actual costs incurred by Developer, as evidenced by the invoices, executed releases or waivers of mechanics' and materialmen's liens and receipted bills showing payment of all amounts due to all parties who have furnished materials or services or performed labor of any kind in connection with the Developer's Costs heretofore referenced that are attached hereto and included herewith.

(iv) To the date hereof, approximately __% of the current Phase has been completed and the estimated completion date of all work relative to such Phase is _____, 20__.

(v) All work in furtherance of Project completion performed to the date hereof has been performed in a good and workmanlike manner.

(vi) With respect to Developer's Costs of Public Infrastructure or Public Improvements that are the subject of this request,

(1) There are no liens or encumbrances against the Public Infrastructure or Public Improvements.

(2) Attached herewith are the items described in Section 4.05 of the Agreement.

Capitalized terms used herein without definition have the meanings ascribed thereto in the Agreement.

DATED as of this, the _____ day of _____, 20__.

Victory Lane Partners, Ltd

By: _____

Name: _____

Title: _____

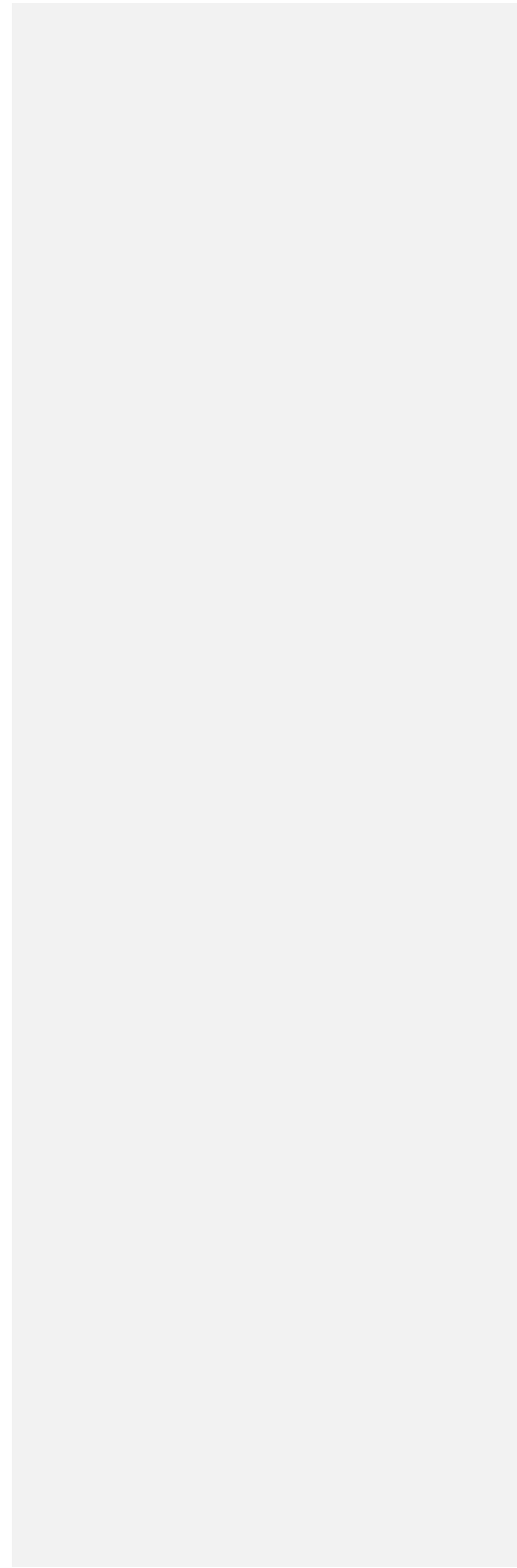


Exhibit E
Public Infrastructure and Public Improvements

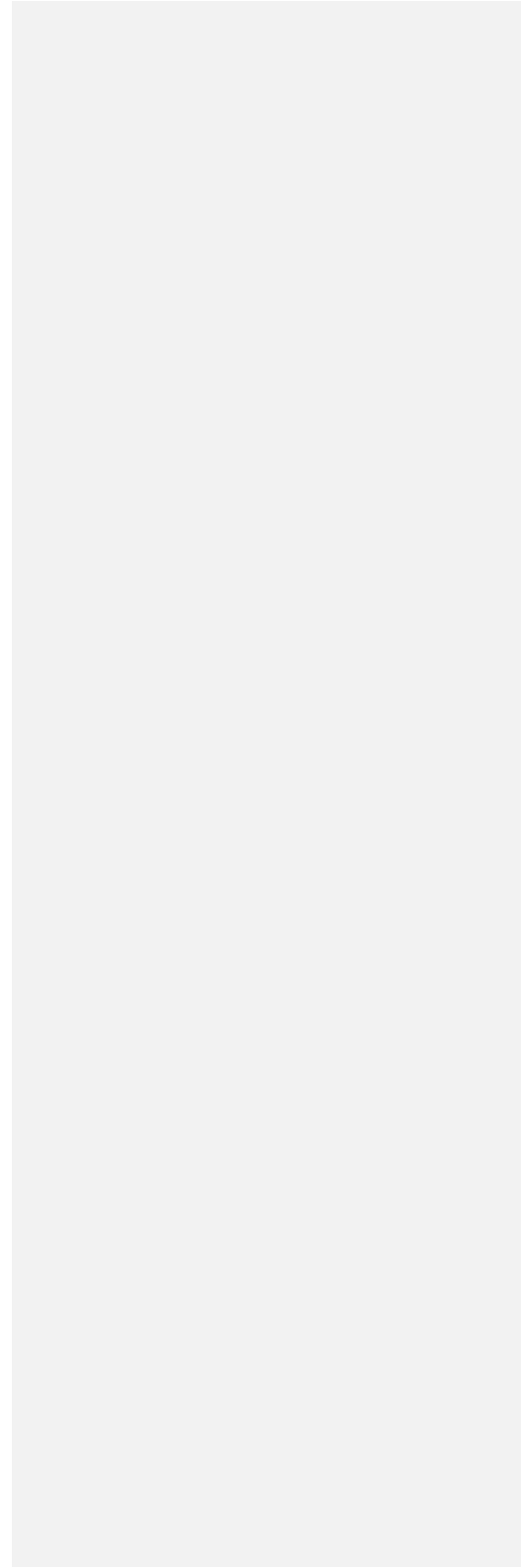


Exhibit F
Sign

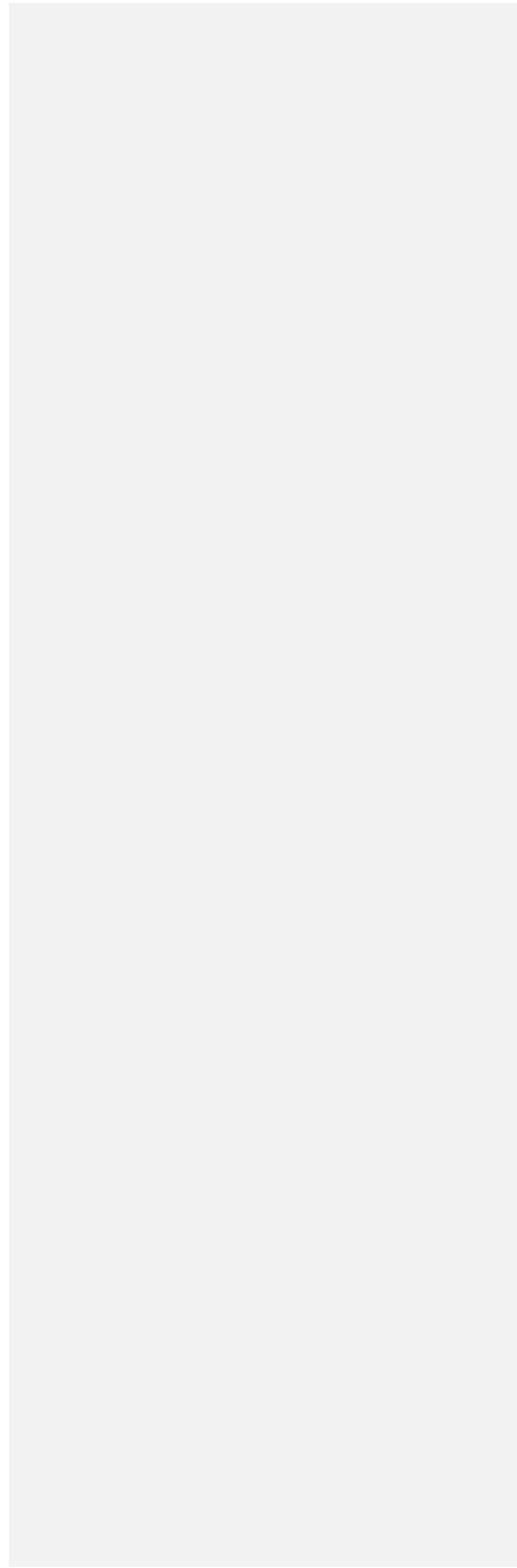


Exhibit G
Project Development Schedule

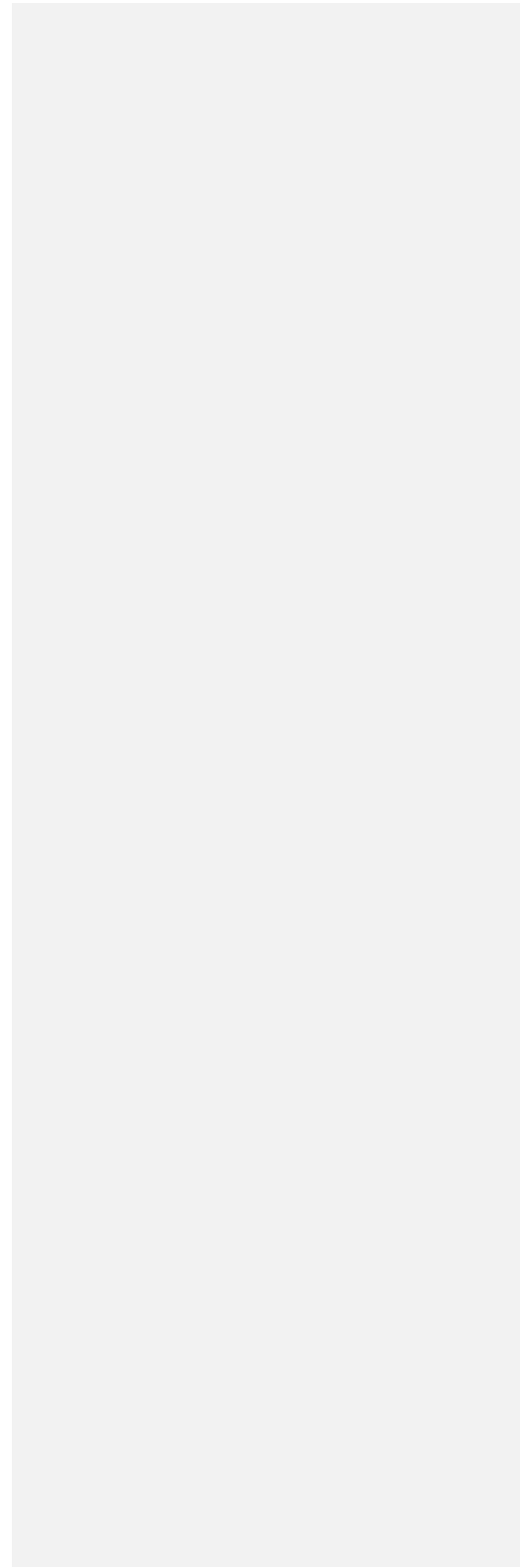


Exhibit H
Petition for Annexation

**PETITION FOR ANNEXATION
OF LAND INTO THE CITY OF CASTROVILLE**

TO THE HONORABLE CITY COUNCIL, CITY OF CASTROVILLE, TEXAS:

We, Victory Lane Partners, Ltd., owner(s) of the land described below by metes and bounds and, being adjacent land and territory to the present corporate limits of the City of Castroville, Texas, hereby request annexation of the described land into the City of Castroville. We understand that the request does not necessarily mean that the land will be annexed, but that the City will consider the request based upon requests received from other landowners and an evaluation of services to be provided.

Name: _____

Address: _____

City/State/Zip: _____

***{INSERT LEGAL DESCRIPTION AND/OR ATTACH PLAT & METES AND BOUNDS
DESCRIPTION}***

Wherefore, petitioners respectfully request that the hereinabove described land be forthwith incorporated into and become a part of the territory of the municipal corporation of the City of Castroville, Medina County, Texas.

Respectfully Submitted,

Petitioner(s) Signature

STATE OF TEXAS
COUNTY OF MEDINA

BEFORE ME, the undersigned authority, on this day personally appeared _____, who having knowledge of the facts contained herein acknowledged to me that he executed the same for the purposes and consideration therein expressed, on this _____ day of _____, 2025.

Notary Public

