

AMENDED AND RESTATED HERITAGE PUBLIC IMPROVEMENT DISTRICT  
FINANCING AND REIMBURSEMENT AGREEMENT

BETWEEN

~~SLF IV DRIPPING SPRINGS JV, L.P., a Texas~~ M/I HOMES OF AUSTIN, LLC, an Ohio  
limited ~~partnership~~ liability company.

AND

THE CITY OF DRIPPING SPRINGS, TEXAS

**TABLE OF CONTENTS**

ARTICLE I. SCOPE OF AGREEMENT ..... 4

ARTICLE II. APPORTIONMENT, LEVY AND COLLECTION OF SPECIAL ASSESSMENTS  
..... 4

    Section 2.01. Preliminary Matters ..... 4

    Section 2.02. Apportionment and Levy of Special Assessments..... 6

    Section 2.03. Collection of Special Assessments. ..... 6

    Section 2.04. Approval and Recordation of Special Assessments through Landowner  
Agreement Certificate..... 7

    Section 2.05. Costs..... 7

    Section 2.06. Obligations Secured by Special Assessments..... 9

ARTICLE III. CONSTRUCTION AND ACQUISITION ..... 9

    Section 3.01. Acquisition of Public Authorized Improvements..... 9

    Section 3.02. Designation of Construction Manager, Construction Engineers ..... 10

    Section 3.03. Designation of Construction Manager Subcontractor..... 11

    Section 3.04. Fiscal Security..... 11

    Section 3.05. Maintenance of Project, Warranties..... 11

    Section 3.06. Sales and Use Tax Exemptions..... 11

    Section 3.07. Regulatory Requirements..... 12

~~Section 3.09. Waiver of Agricultural Use Valuation..... 13~~ Section 3.08. Owner’s Association  
..... 11

ARTICLE IV. PAYMENT FOR PUBLIC IMPROVEMENTS..... 13

    Section 4.01. Overall Requirements ..... 13

    Section 4.02. Improvement Area #1 Public Improvements/Shared Public Authorized  
Improvements ..... 16

    Section 4.03. Future Improvement Area #2 Public Authorized Improvements..... 18

    Section 4.04. Segments..... 21

    Section 4.05. Qualified Tax-Exempt Status..... 21

ARTICLE V. PID BONDS..... 23

    Section 5.01. Issuance of PID Bonds..... 23

    Section 5.02. Project Fund ..... 26

    Section 5.03. Sale of PID Bonds..... 26

    Section 5.04. Phased Issuance of Debt ..... 26

    Section 5.05. Special Assessments ..... ~~26~~ Dissolution Upon Non-Issuance PID Bonds  
..... 21

ARTICLE VI. REPRESENTATIONS AND WARRANTIES ..... 27

    Section 6.01. Representations and Warranties of City. .... 27

    Section 6.02. Representation and Warranties of Owner ..... 27

ARTICLE VII. DEFAULT AND REMEDIES .....	28
ARTICLE VIII. GENERAL PROVISIONS.....	29
Section 8.01. Notices. ....	29

Section 8.02. Fee Arrangement.....	30
Section 8.03. Assignment .....	30
Section 8.04. Construction of Certain Terms.....	31
Section 8.05. Table of Contents; Titles and Headings.....	32
Section 8.06. Amendments. ....	32
Section 8.07. Time .....	32
Section 8.08. Counterparts .....	33
Section 8.09. Entire Agreement .....	33
Section 8.10. Severability; Waiver .....	33
Section 8.11. Owner as Independent Contractor .....	33
Section 8.12. Supplemental Agreements .....	33
<b>Section 8.13. City's Acceptance of Public Improvements .....</b>	<b>33</b>
<b>Section 8.14. Exhibits.....</b>	<b>33</b>

<u>Exhibit "A".....</u>	<u>A-1</u>
<u>Exhibit "B".....</u>	<u>B-1</u>
<u>Exhibit "B-1".....</u>	<u>B-1-1</u>
<u>Exhibit "B-2".....</u>	<u>B-2-1</u>
<u>Exhibit "B-3".....</u>	<u>B-3-1</u>
<u>Exhibit "C".....</u>	<u>C-1</u>
<u>Exhibit "D".....</u>	<u>D-1</u>
<u>Exhibit "E".....</u>	<u>E-1</u>
<u>Exhibit "F".....</u>	<u>F-1</u>
<u>Exhibit "G".....</u>	<u>G-1</u>
<u>Section 8.13. City's Acceptance of Authorized Improvements .....</u>	<u>27</u>
<u>Section 8.14. No Boycott Israel.....</u>	<u>27</u>
<u>Section 8.15. No Foreign Terrorist Organization.....</u>	<u>28</u>
<u>Section 8.16. No Firearm Entity Boycott.....</u>	<u>28</u>
<u>Section 8.17. No Energy Company Boycotts.....</u>	<u>29</u>
<u>Section 8.18. Disclosure of Interested Parties .....</u>	<u>29</u>
<u>Section 8.19. Exhibits.....</u>	<u>29</u>



AMENDED AND RESTATED HERITAGE PUBLIC IMPROVEMENT DISTRICT  
FINANCING AND REIMBURSEMENT AGREEMENT

This Amended and Restated Heritage Public Improvement District Financing and Reimbursement Agreement (this "Agreement"), dated as of ~~October 17, 2017~~December 20, 2022, (the "Effective Date"), is entered into between ~~SLF IV – Dripping Springs JV, L.P., a Texas limited partnership, (M/I Homes of Austin, LLC, an Ohio limited liability company (including its successors, assigns, or transferees, the "Owner"),~~ and the City of Dripping Springs, Texas (the "City"), ~~an incorporated Type A, General Law municipality located in Hays County, Texas,~~ a municipal corporation, acting by and through its duly authorized representative, ~~with BobWhite Investments, L.P., a Texas limited partnership ("BobWhite"), and Tri Pointe Homes Texas, Inc., a Texas corporation formerly known as Trendmaker Homes ("Tri Pointe"),~~ each as a consenting party (BobWhite and Tri Pointe are collectively referred to herein as the "Consenting Party") (the City and the Owner are individually referred to herein as a "Party" and collectively as the "Parties").

Recitals:

RECITALS:

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

**WHEREAS**, ~~it is intended that~~ the Property ~~will be~~is being developed as a master planned community by Owner, its affiliates and/or their successors and assigns, including future owners and developers (the "Project");

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

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

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

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

**WHEREAS**, the City Council approved that certain Annexation and Development Agreement, ~~by and between SLF, BobWhite, and the City,~~ dated October 17, 2017 (~~"Annexation and Development Agreement"~~), covering the Property which, among other things, addresses certain aspects of the annexation, and zoning and development of the Property, ~~and on May 3,~~

2021, SLF, the Owner, and Tri Pointe entered into that certain Assignment of Annexation and Development Agreement, in which SLF assigned all its right, title and interest in the Annexation and Development Agreement to the Owner and Tri Pointe (collectively, the “Annexation and Development Agreement”);

WHEREAS, the City Council ~~has~~ approved that certain Offsite Road and Trail Agreement dated ~~October 17, 2017 (“~~by and between SLF and the City, on October 17, 2017, and on May 3, 2021, SLF, the Owner, and Tri Pointe entered into that certain Assignment of Offsite Road and Trail Agreement~~”)~~;, in which SLF assigned all its right, title and interest in the Offsite Road and Trail Agreement to the Owner and Tri Pointe (collectively, the “Offsite Road and Trail Agreement”);

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

~~WHEREAS, the City adopted Annexation Ordinance: 1803.91 annexing the Property into the City;~~

~~WHEREAS, the City adopted Ordinance No. 1220.124 on establishing zoning for the Property;~~

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

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

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

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

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

entirety;

**WHEREAS**, the City acknowledges that Owner's cooperation in this endeavor enables the City to establish, define, and protect the City's jurisdiction and regulatory authority over the Property, and that Owner ~~would not have consented to the annexation and zoning of the Property but for the intention to enter~~undertook, as assignee of and/or successor to the Owner's predecessor, the rights and obligations under the prior agreements relating to the Property, including the Annexation and Development Agreement, the Offsite Trail and Road Agreement, the Wastewater Agreement, and the Original Agreement, in contemplation of entering into this Agreement;

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

**WHEREAS**, pursuant to the terms of this Agreement, the City has agreed to accept and to pay or reimburse the Owner via the District for certain of the improvements that will serve the Property in the District being the Improvement Area #1 Public Authorized Improvements, the Future Improvement Area #2 ~~Public Improvements and the Shared Public Authorized~~ Improvements all as shown in the Assessment Plan (defined herein) (collectively, the ~~"Public Authorized Improvements";~~");

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

**WHEREAS**, the Owner and the City estimate that the total costs of the Project will be ~~\$49,432,315~~55,127,650, consisting of the cost of the Public Authorized Improvements in the amount of \$24,048,376, the costs of the Non-PID Funded Public Authorized Improvements anticipated to be ~~\$17,883,989~~182,682 and the cost of the Private Improvements anticipated to be ~~\$7,499,950~~13,896,593 (provided that such estimates are for informational purposes and may deviate from the final amounts);

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

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

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

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

**WHEREAS**, it is also intended that Owner will be reimbursed for its Costs (as defined herein) not covered by the PID Bonds by allowing Owner to receive a portion of available Special Assessments (as defined herein) over time ~~and/or receiving funds resulting from the issuance of any Parity Bonds~~, as more particularly described herein, all to the extent sufficient Special Assessment Revenues ([defined herein](#)) are available for such reimbursement.

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

## **ARTICLE I. SCOPE OF AGREEMENT**

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

## **ARTICLE II. APPORTIONMENT, LEVY AND COLLECTION OF [SPECIAL ASSESSMENTS](#)**

### **Section 2.01. Preliminary Matters**

~~The City will consider the PID Petition in authorizing the formation of the District. The District includes all of the Property.~~

(a) The Property is intended to be developed in Phases. It is anticipated that some of the [PublicAuthorized](#) Improvements will be constructed that benefit only one or more Phases, while other [PublicAuthorized](#) Improvements will benefit the entire District. As a result, Special Assessments will be levied on a given Improvement Area from time to time as provided in this Agreement. The Costs for the Improvement Area #1 [PublicAuthorized](#) Improvements are anticipated to be initially funded by the Owner and then reimbursed from the proceeds of the Special Assessments on Improvement Area #1 and the proceeds of Improvement Area #1 Bonds. The Costs

for the Future Improvement Area #2 PublicAuthorized Improvements are anticipated to be initially funded by the Owner and then reimbursed from the proceeds of the Special Assessments on Future Improvement Area #2Areas and the proceeds of Future Improvement Area #2 Bonds, as applicable. Notwithstanding the foregoing, ~~it is hereby acknowledged that~~ with respect to the Shared PublicAuthorized Improvements, the pro rata benefit of the Cost of those PublicShared Improvements also constituting Authorized Improvements to each Improvement Area (as set forth in the Assessment Plan) will be allocated to each Improvement Area based on the benefit to that Improvement Area (as set forth in the Assessment Plan), such that only the Allocable Share of the Cost of a Shared PublicAuthorized Improvement will be funded by the PID Bonds secured by the Special Assessments on each Improvement Area. ~~Parity Bonds may be issued to reimburse Owner for any Costs for the Public Improvements benefiting an Improvement Area that remain unreimbursed after issuance of the initial PID Bonds secured by that Improvement Area.~~ The Parties hereby acknowledge and agree that any references in this Agreement to the Owner's obligation to construct any given Wastewater Improvements and offsite road and/or offsite trail may be disregarded should the City build such improvement and in such event the provisions of this Agreement pertaining to design, construction, acquisition and administration of PublicAuthorized Improvements do not apply to those improvements built by the City.

~~A draft of the initial Assessment Plan for the Property is attached hereto as Exhibit "F".~~

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

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

~~(e)~~

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

~~(f)~~

(e) Prior to issuing any PID Bonds, and in the event the City determines to use an Appraisal ~~pursuant to Section 5.01(f),~~ the City shall obtain an Appraisal at the expense of the Owner covering the Improvement Areas that will be subject to the Special Assessments securing such PID Bonds. The City shall select the appraiser, with input from the Owner, and all reasonable

fees of the Appraisal shall be paid by the Owner. Notwithstanding the foregoing, the City has the authority to make the final decision on the appraiser.

~~(g)~~

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

~~(h)~~ ~~The (g) If the Owner provides a Bond Issuance Request, the~~ City will ~~use diligent, good faith efforts to issue~~ consider the issuance of PID Bonds as set forth in Section 5.01 (a) below.

~~(i)~~

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

### Section 2.02. Apportionment and Levy of Special Assessments~~–.~~

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

### Section 2.03. Collection of Special Assessments~~–.~~

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

It is hereby acknowledged that

~~(e)(b)~~ The Special Assessments can be used for the following purposes: (i) after completion of the applicable Public Authorized Improvements (or Segments), but prior to the issuance of PID Bonds for those Public Authorized Improvements secured by assessments levied on a specific Improvement Area, Owner will be reimbursed for Costs associated with those Public Authorized Improvements (or Segments) from Special Assessment Revenues collected by the City from the Improvement Area in question ~~pursuant to an applicable Acquisition and Reimbursement Agreement~~ and (ii) after PID Bonds are issued secured by any assessments levied on a specific Improvement Area, the Special Assessment Revenues from such Improvement Area will be used first to fund debt service, prepayment and delinquency reserves and Administrative Expenses payable for such year pursuant to the Indenture, and second, to the extent (and only to the extent) any such Special Assessment Revenues are remaining, to reimburse Owner for any Costs not reimbursed by the PID Bonds, ~~subject to the use of Special Assessments to secure Parity~~

~~Bonds as provided herein.~~ Any reimbursement obligation to Owner under ~~an Acquisition and Reimbursement Agreement~~ Sections 4.01, 4.02, or 4.03 hereof or from Special Assessments as provided above, will be subordinate to use of Special Assessments for payment of the applicable PID Bonds as provided in ~~the~~ Indenture and ~~an Acquisition and Reimbursement Agreement~~ will terminate immediately at the earlier of (i) the date that the Owner has been reimbursed for all reimbursable Costs or (ii) the date that all PID Bonds have been issued.

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

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

~~Section 2.02.~~ Section 2.04. Approval and Recordation of Special Assessments through Landowner ~~Agreement~~ Certificate.

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

Section 2.05. Costs

(a) Notwithstanding anything to the contrary contained herein, the City and Owner hereby acknowledge and agree that the Costs expended by Owner may not be fully reimbursed from Special Assessments or the applicable series of PID Bonds. The Costs expended by Owner, but not funded by the applicable series of PID Bonds, are payable solely from ~~(i) the Owner~~ applicable PID Reimbursement ~~Account~~ Fund as more particularly described herein ~~and (ii) from Parity Bonds, if issued;~~ provided that sufficient Special Assessment Revenues are available for the foregoing.

~~(b) — It is contemplated that Parity Bonds may be issued after the initial series of PID Bonds secured by assessments levied on a specific Improvement Area. The purpose of the Parity~~

~~Bonds issuance would be to fund (i) Public Improvements benefitting an Improvement Area that were not completed at the time the initial PID Bonds secured by that Improvement Area were issued; or (ii) the Cost of Public Improvements that were completed at the time the initial PID Bonds secured by assessments levied on a specific Improvement Area were issued but were not fully reimbursed by the initial PID Bonds. There may be more than one series of Parity Bonds secured by assessments levied on a specific Improvement Area. If the Parity Bonds secured by assessments levied on a specific Improvement Area are sufficient to fully reimburse Owner for the unreimbursed Costs for that Improvement Area, then Owner's right to receive any portion of the Special Assessments for the Owner Reimbursement shall automatically terminate. However, if the net proceeds of the Parity Bonds are not sufficient to reimburse Owner for the unreimbursed Costs eligible to be paid from Special Assessments for a given Improvement Area, then Owner shall continue to receive a portion of the Special Assessment Revenues from the Owner Reimbursement Account for that Improvement Area to the extent, and only to the extent, funds remain in the Owner Reimbursement Accounts after debt service is paid on the PID Bonds until the date the Owner is fully repaid for the unreimbursed Costs eligible to be paid from Special Assessments.~~

(b) ~~(e)~~—The provisions of this Section 2.05 shall hereby constitute a "reimbursement" under Chapter 372 of the Texas Local Government Code.

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

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

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

If the applicable portion of Authorized Improvements has not already been constructed and to the extent PID Bond proceeds are insufficient to fund such Cost, Owner shall, at the time of

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

~~Section 2.03.~~ Section 2.06. Obligations Payable from Special Assessment Revenues.

**THE PID BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE CITY SECURED SOLELY BY PLEDGED REVENUES (AS DEFINED IN THE INDENTURE) AND ANY OTHER FUNDS HELD UNDER THE INDENTURE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE PID BONDS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY AND ARE NOT SECURED EXCEPT AS PROVIDED IN THE INDENTURE. THE OWNERS OF THE PID BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND ANY OTHER FUNDS HELD UNDER THE INDENTURE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO THE OWNERS OF THE PID BONDS TO PAY THE PID BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES.**

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

**ARTICLE III. CONSTRUCTION AND ACQUISITION**

**Section 3.01.** Acquisition of PublicAuthorized Improvements

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

(b) The Owner will dedicate those PublicAuthorized Improvements not addressed by Subsection (c) or (d) below to the City upon completion of said PublicAuthorized Improvements, and the City will accept dedication of such PublicAuthorized Improvements after confirming that

the ~~Public~~Authorized Improvements have been completed in accordance with this Agreement, applicable Code provisions and have been accepted by the City Council.

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

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

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

### **Section 3.02. Designation of Construction Manager, Construction Engineers**

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

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

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

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

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

**Section 3.03. Designation of Construction Manager Subcontractor**  
~~The City acknowledges and agrees that~~

Owner may subcontract out all or some of the duties of Construction Manager to a third party. Owner may designate an individual, company, or partnership or other entity as a subcontractor for construction management services for one or more [PublicAuthorized](#) Improvements or distinct Segments thereof. The Owner shall provide the City with written notice ~~to the City~~ within ten (10) days of such subcontract or designation.

**Section 3.04. Fiscal Security**

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

**Section 3.05. Maintenance of Project, Warranties**

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

**Section 3.06. Sales and Use Tax Exemptions**

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

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

### **Section 3.07. Regulatory Requirements**

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

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

(c) The City Construction Representative ~~agrees to will~~ cooperate with the Owner to the extent reasonably possible for proper engineering review, comment, and revision on the review and approval of the engineering, design, plans, and specifications of all PublicAuthorized Improvements submitted by the Owner.

### **Section 3.08. Owner's Association**

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

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

### ~~Section 3.09. Waiver of Agricultural Use Valuation~~

~~—Prior to issuing PID Bonds on each Improvement Area, the Owner and any other owner of property within the Improvement Area (if applicable) will execute a Waiver of Agricultural Use Valuation generally in the form of Exhibit "E" attached hereto pursuant to which Owner will agree to waive its right to claim any of the agricultural use exemptions or valuations on the applicable portion of Property arising under Section 23.41 of the Texas Tax Code.~~

## **ARTICLE IV. PAYMENT FOR PUBLIC IMPROVEMENTS**

### **Section 4.01. Overall Requirements**

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

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

(c) The Public Authorized Improvements are intended to be constructed pursuant to ~~one or more Acquisition and Reimbursement Agreements~~ this Agreement and paid for by the Owner prior to the issuance of PID Bonds intended to fund such Public Authorized Improvements. Such funding of the Public Authorized Improvements will be governed generally by the applicable Acquisition and Reimbursement Agreement and terms of this Section 4.01, Section 4.02 (for Improvement Area #1 Public Authorized Improvements/Shared Public Improvements) and Section 4.03 (for Future Improvement Area #2 Public Authorized Improvements) of this Agreement.

### ~~Section 4.02. Improvement Area #1 Public Improvements/Shared Public Improvements~~

~~(a) —The costs of the Improvement Area #1 Public Improvements and Shared Public Improvements will be initially financed through the Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement. Pursuant to the terms of such agreement, the Owner shall convey, and the City shall acquire, as more particularly described in Section 3.01 above, the given Improvement Area #1 Public Improvement or Shared Public Improvement for the Cost, after such Improvement Area #1 Public Improvement or Shared Public Improvement is completed and has been accepted by the City. The general process for funding of~~

~~Improvement Area #1 Public Improvements and Shared Public Improvements is as follows:~~

~~(1) — Concurrently with or prior to letting the first construction contract for the first Improvement Area #1 Public Improvements or Shared Public Improvements, the City and Owner will execute the Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement for the Improvement Area #1 Public Improvements and Shared Public Improvements which will provide that (d) In the event that the City adopts an Assessment Ordinance or ordinances levying Special Assessments without the intention to immediately issue PID Bonds secured by such Special Assessments, the City hereby undertakes to establish a fund corresponding to each such Assessment Ordinance, to be segregated from all other City funds, into which the City shall deposit Special Assessment Revenues corresponding to such Assessment Ordinance (each, a “PID Reimbursement Fund”).~~

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

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

~~(g) Prior to the issuance of PID Bonds, the applicable portion of the unpaid Reimbursement Balance shall bear simple interest at the rate not to exceed five percent (5%) above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index~~

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

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

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

Bonds, amounts in the PID Reimbursement Fund shall be transferred to the applicable Project Fund and disbursed according to the terms hereof and the applicable Indenture.

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

#### **Section 4.02. Improvement Area #1 Authorized Improvements**

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

(1) As soon as practical after the Owner's written request, and prior to the transfer of any Parcel to a homebuyer, the City will adopt an Assessment Ordinance which will include the initial Assessment Plan. The City will levy the Special Assessments on (i) Improvement Area #1 for the Improvement Area #1 ~~Public Improvements and Shared Public Improvements~~ and (ii) on Improvement Area #2 for the ~~Shared Public~~ Authorized Improvements in accordance with the Assessment Plan and the applicable Assessment Ordinance.

(32) As requested by Owner and as set forth in the Assessment Ordinance, after the completion of some or all of the Improvement Area #1 ~~Public Improvements and Shared Public~~ Authorized Improvements, the City will begin collecting the Special Assessments on Improvement Area #1. ~~Although it is anticipated that the Special Assessments levied on~~

(3) Upon completion of the Improvement Area #1 ~~will begin to be collected upon completion of those Improvement Area #1 Public~~ Authorized Improvements (including ~~Shared Authorized~~ Improvements ~~to be funded by the initial Improvement Area #1 Bonds, in the event homes are sold to homebuyers prior to such completion date, then assessments on all of Improvement Area #1 will begin to be collected at that time. Upon collection of such Special Assessment Revenues, the City will place such Special Assessment Revenues in a designated account separate from the City's other accounts. The funds within the account will be used, after payment of Administrative Expenses, to reimburse Owner for the Costs of the Improvement Area #1 ~~Public~~ listed on Exhibit "F", save and except those Authorized Improvements and Improvement Area #1's Allocable Share of the Shared Public Improvements pursuant to the terms of the Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement and the Indenture.~~

(4) ~~As requested by Owner, after the completion of some or all of the Shared Public Improvements, the City will begin collecting the Special Assessments on Improvement Area #2. In any event, such Special Assessments on Improvement Area #2 will begin to be collected on the earlier of (i) two (2) years after collections of Special Assessments are commenced on Improvement Area #1 or (ii) prior to the sale of any homes to homeowners in Improvement~~

~~Area #2. Upon collection of such Special Assessment Revenues, the City will place such Special Assessment Revenues in a designated account separate from the City's other accounts. The funds within the account will be used, after payment of Administrative Expenses, to reimburse Owner for the Costs of Improvement Area #2's Allocable Share of the Shared Public Improvements pursuant to the terms of the Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement and the Indenture.~~

~~(5) — Upon completion of the Improvement Area #1 Public Improvements and Shared Public Improvements contemplated by the Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement and as requested by Owner, the City will issue described on Exhibit "G", the City Council will consider the issuance of the Improvement Area #1 Bonds, subject to meeting the requirements and conditions stated herein, in Section 5.01, and State law, to reimburse the Owner for the Cost of those Improvement Area #1 Public Improvements and Improvement Area #1's Allocable Share of the Shared Public Authorized Improvements that are complete at the time of bond issue less any amounts already reimbursed to Owner pursuant to from the PID Reimbursement Fund for Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement. Owner may provide the City a Bond Issuance Request including the anticipated completion date for the Improvement Area #1 Public Improvements and Shared Public Authorized Improvements that are to be funded by the initial Improvement Area #1 Bonds one hundred and twenty (120) days prior to the anticipated completion date for such improvements. Improvement Area #1 Authorized Improvements. The City shall commence will consider commencing the documentation and preparation for sale of the initial Improvement Area #1 Bonds based upon receipt of such Bond Issuance Request from the Owner. Improvement Area #2's Allocable Share of the Shared Public Improvements may be funded with Improvement Area #2 Bonds in accordance with Section 4.03 below. It is hereby agreed that the Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement will specify which Public Improvements must be complete before PID Bonds are issued. and approval of issuance of the PID Bonds by the City Council.~~

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

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

(d) At the time of the closing of any Improvement Area #1 Bonds ~~(whether via initial Improvement Area #1 Bonds or the Parity Bonds)~~,<sup>2</sup> Owner shall, concurrently with the draw from the proceeds of the Improvement Area #1 Bonds, submit a Closing Disbursement Request, in the form attached hereto as Schedule III, to the City and the Trustee to be reimbursed for ~~those, as applicable, costs of issuance of PID Bonds and payments of costs incurred in the establishment, administration, and operation of the PID, and any other eligible items expended by the Owner Expended Funds accrued to date not reimbursed by previously issued Improvement Area #1 Bonds.~~ Prior to disbursement of proceeds of any Improvement Area #1 Bonds ~~(whether via initial Improvement Area #1 Bonds or Parity Bonds)~~,<sup>2</sup> the City will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of any such Improvement Area #1 Bonds, Owner shall be reimbursed an amount equal to the applicable Owner Expended Funds the amount approved in the Closing Disbursement Request from amounts on deposit in the costs of issuance account created under the Indenture and such amount shall be transferred by the Trustee for distribution to the Owner or the Owner's designee as provided for in the ~~Trust~~ Indenture.

#### **Section 4.03. Future Improvement Area #2 Public Authorized Improvements**

~~(a)~~ (a) The costs of the Future Improvement Area #2 Public Authorized Improvements will be initially financed through ~~the Improvement Area #2 Acquisition and Reimbursement Agreement. Pursuant to the terms of such Improvement Area #2 Acquisition and Reimbursement Agreement, the~~ this Section 4.03. The Owner shall convey, and the City shall acquire, as more particularly described in Section 3.01 above, the given Future Improvement Area #2 Public Authorized Improvement for the Cost, after such Future Improvement Area #2 Public Authorized Improvement is completed and has been accepted by the City. ~~The general process for funding of Improvement Area #2 Public Improvements is as follows:~~

~~(1) — Prior to entering into the first construction contract to build an Improvement Area #2 Public Improvement, Owner and the City shall execute the Improvement Area #2 Acquisition and Reimbursement Agreement for the Improvement Area #2 Public Improvements, which will provide that the Special Assessments will reimburse the Owner for Costs incurred in connection with the Improvement Area #2 Public Improvements until Improvement Area #2 Bonds, and Parity Bonds, if necessary, are issued in an amount necessary to reimburse Owner for the Costs of the Improvement Area #2 Public Improvements less any amounts already reimbursed to Owner pursuant to the Improvement Area #2 Acquisition and Reimbursement Agreement. It is hereby~~ It being acknowledged that ~~Owner will only be reimbursed for those Costs for which Special Assessments Revenues or PID Bond proceeds are available.~~

~~(1a) — Simultaneously, the initial Assessment Plan will be amended to reflect the Improvement Area #2 Public Improvements and the Special Assessments on Improvement Area #2 which are in addition to the Special Assessments levied against Improvement Area #2 for Improvement Area #2's Allocable Share of the Shared Public Improvements pursuant to Section 4.02 above, as contemplated by the Improvement Area #2 Acquisition and Reimbursement Agreement. At the same time~~ Authorized Improvements not completed at the time of the Improvement Area #1 Bond issue do not benefit Improvement Area #1 and will be funded by the Future Improvement Areas, as applicable. Each Future Improvement Area will be allocated its proportionate share of the cost of those Shared Authorized Improvements, and the concept generally described in the preceding sentence shall similarly apply to those Shared Authorized Improvements not completed at the time of any given Future Improvement Area Bonds. The general process for funding of Future Improvement Area Authorized Improvements is outlined in Section 4.01(e)-(j) above and as follows.

~~(1) — As soon as practical after the Owner's written request, and prior to the transfer of any Parcel to a homebuyer in the applicable Future Improvement Area, the City will adopt an Assessment Ordinance levying the Special Assessments on a given Future Improvement Area #2 for the Authorized Improvements relating to such Future Improvement Area #2 Public Improvements. The City will levy and collect the Special Assessments on the applicable Future Improvement Area #2 for the Future Improvement Area #2 Public~~ Authorized Improvements in accordance with the Assessment Plan and the applicable Assessment Ordinance.

~~(2) — At the request of Owner, after the completion of some or all of the Future Improvement Area #2 Public~~ Authorized Improvements contemplated by the Improvement Area #2 Acquisition and Reimbursement Agreement, the City will begin collecting the Special Assessments for the Improvement Area #2 Public Improvements. Upon collection of such Special Assessments, the City will place such Special Assessments in a designated account separate from the City's other accounts. The funds within the account will be used to reimburse Owner for the Costs of the Improvement Area #2 Public Improvements pursuant to the terms of the Improvement Area #2 Acquisition and Reimbursement Agreement. Future Improvement Area Authorized Improvements.

~~(3) — Upon completion of the Shared Public Improvements or~~ Future Improvement Area #2 Public Authorized Improvements contemplated by an Acquisition and Reimbursement Agreement for a given Future Improvement Area and as requested by Owner, the City will ~~issue~~ consider the issuance of Future Improvement Area #2 Bonds, subject to meeting the requirements and conditions stated in this Section, Section 5.01, and State law, to reimburse the

Owner for ~~Improvement Area #2's Allocable Share of the costs of those Shared Public Improvements and~~ the Cost of ~~those~~ the Future Improvement Area #2 ~~Public Authorized Improvements for the applicable Future Improvement Area~~ that are completed at the time ~~of the Bond issue~~ the Future Improvement Area Bonds are issued less any amounts already reimbursed to Owner ~~pursuant to either Acquisition and~~ from the applicable PID Reimbursement Agreement Fund. Owner may provide the City a Bond Issuance Request including the anticipated completion date for the ~~Shared Public Improvements and~~ applicable Future Improvement Area #2 ~~Public Authorized~~ Improvements that are to be funded by the given Future Improvement Area #2 Bond issue one hundred and twenty (120) days prior to such anticipated date. The City shall commence the documentation and preparation for sale of ~~the any Future~~ Improvement Area #2 Bonds based upon receipt of such Bond Issuance Request from the Owner and approval by City Council to issue the Bonds.

(b) To receive funds from the proceeds of the Future Improvement Area #2 Bonds to ~~pay~~ reimburse the Owner for the Cost of ~~the Future Improvement Area #2's Allocable Share of the Shared Public Authorized Improvements and the Improvement Area #2 Public Improvements (whether via initial Improvement Area #2 Bonds or the Parity Bonds),~~ the Owner shall deliver to the City, the PID Administrator and the Project Engineer (i) a Certification for Payment evidencing the Cost, (ii) evidence of the acceptance by the City of the Future Improvement Area #2 ~~Public Improvements and Shared Public Authorized~~ Improvements to be funded by the ~~PID Future Improvement Area~~ Bonds in question and the conveyance to the City of those Future Improvement Area #2 ~~Public Improvements and Shared Public Authorized~~ Improvements to be funded by the ~~PID Future Improvement Area~~ Bonds in question as described in Section 3.01 above, and (iii) an assignment of the warranties and guaranties, if applicable, for the Future Improvement Area #2 ~~Public Improvements and Shared Public Authorized~~ Improvements to be funded by the PID Bonds in question, in a form reasonably acceptable to the City. Nothing herein shall prohibit Owner from being reimbursed for design costs associated with ~~an~~ Future Improvement Area #2 ~~Public Improvement and Shared Public Authorized~~ Improvements.

(c) After the Certification for Payment is submitted to the City, the City shall conduct a review to confirm those Future Improvement Area #2 ~~Public Improvements and Shared Public Authorized~~ Improvements to be funded by the ~~PID Bond~~ Future Improvement Area Bonds in question were constructed in accordance with the plans therefor and to verify the Cost of the Future Improvement Area #2 ~~Public Improvements and Shared Public Authorized~~ Improvements specified in such Certification for Payment. The City agrees to conduct such review in an expeditious manner after the Certification for Payment is submitted to the City and the Owner agrees to cooperate with the City in conducting each such review and to provide the City with such additional information and documentation as is reasonably necessary for the City to conclude each such review. Upon confirmation by the City that Future Improvement Area #2 ~~Public Improvements and Shared Public Authorized~~ Improvements to be funded by the ~~PID Bond~~ Future Improvement Area Bonds in question have been constructed in accordance with the plans therefor, and verification and approval of the Cost of those Future Improvement Area #2 ~~Public Improvements and Improvement Area #2's Allocable Share of the Shared Public Authorized~~ Improvements, the City shall within thirty (30) calendar days thereafter accept those Future Improvement Area #2 ~~Public Improvements and Shared Public Authorized~~ Improvements that have not been previously accepted by the City and an authorized representative of the City shall sign the Certification for Payment and forward the same to the City Administrator. The City

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

(d) At the time of the closing of any Future Improvement Area #2-Bonds ~~(whether via the Initial Improvement Area #2 Bond or Parity Bonds),~~ Owner shall, concurrently with the draw from the proceeds of the Future Improvement Area #2-Bonds, submit a Closing Disbursement Request, in the form attached hereto as Schedule III, to the City and the Trustee to be reimbursed for ~~those Owner Expended Funds accrued to date not reimbursed by previously issued Improvement Area #2 Bonds,~~ as applicable, costs of issuance of PID Bonds and payments of costs incurred in the establishment, administration, and operation of the PID, and any other eligible items expended by the Owner. Prior to disbursement of proceeds of any Future Improvement Area #2-Bonds ~~(whether via initial Improvement Area #2 Bonds or Parity Bonds),~~ the City will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of any such Future Improvement Area #2-Bonds, Owner shall be reimbursed ~~an~~the amount equal to the applicable Owner Expended Funds approved in the Closing Disbursement Request from amounts on deposit in the costs of issuance account created under the Indenture and such amount shall be transferred ~~to~~by the Trustee for distribution to the Owner or the Owner's designee ~~as provided for in the Indenture.~~

#### Section 4.04. Segments

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

#### Section 4.04. Segments.

The provisions of Section 4.01, 4.02, and 4.03 above regarding funding of Public Authorized Improvements also apply to Segments of those Public Authorized Improvements as specified in the Acquisition and Reimbursement Agreements.

#### Section 4.05. Qualified Tax-Exempt Status.

(a) In any calendar year in which PID Bonds are issued, the Owner agrees to pay the City additional costs ~~("Additional Costs")~~ the City may incur in the issuance of City obligations (the "City Obligations") as described in this Section if the City Obligations are deemed not to qualify for the designation of "qualified tax-exempt obligations" ~~("QTEO")~~ as defined in section 265(b)(3) of the Internal Revenue Code of 1986, as amended, as a result of the issuance of PID Bonds by the City in any given year. The City agrees to deposit all funds for the payment of such Additional Costs received under this Section into a segregated account of the City, and such funds shall remain separate and apart from all other funds and accounts of the City until December 31 of the calendar year in which the PID Bonds are issued, at which time the City is authorized to utilize such funds for any purpose permitted by law; ~~provided, however that~~ if the City ~~fails to use diligent, good faith efforts to does not~~ issue the PID Bonds as required by Section 5.01(a) and that failure causes PID Bonds to be issued in a different the end of the calendar year ~~or not to be issued at all,~~ in which the Additional Costs would be incurred by the City shall in the

issuance of the City Obligations, the City will refund to the Owner ~~at~~the Additional Costs paid by the Owner ~~as a result of in~~ such ~~failure. calendar year within ten (10) business days after the end of such calendar year.~~ Additionally, the City will provide the Owner on an annual basis no later than December 15th each year the projected amount of City Obligations to be issued in the upcoming year based on its annual budget process.

(b) In the event the City issues PID Bonds prior to the issuance of City Obligations, the City, with assistance from its Financial Advisor, shall calculate the estimated Additional Costs based on the market conditions as they exist approximately forty-five (45) days prior to the pricing of the PID Bonds using independent third party public pricing information to the date of the pricing of the PID Bonds (the ~~"**Estimated Additional Costs**"~~), the City shall provide a written invoice to the Owner, and the Owner shall have 10 days to review and provide input on the calculation to the City. The Owner shall pay such Estimated Additional Costs to the City on or before the earlier of (i) ten (10) business days after the date of the City's invoice or (ii) fifteen (15) business days prior to pricing the PID Bonds. The City shall not be required to price or sell any issue of PID Bonds until the Owner has paid to the City the Estimated Additional Costs related to the PID Bonds then being issued. The Estimated Additional Costs are an estimate of the increased cost to the City to issue its City Obligations as non-QTEO. Upon the City's issuance of the City Obligations, the City's Financial Advisor shall calculate the actual Additional Costs to the City of issuing its City Obligations as non-QTEO (the ~~"**Actual Increased Costs**"~~). The City will, within five (5) business days after the issuance of the City Obligations, notify the Owner of the Actual Increased Costs. In the event the Actual Increased Costs are less than the Estimated Additional Costs, the City will refund to the Owner the difference between the Actual Increased Costs and the Estimated Additional Costs within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased Costs. If the Actual Increased Costs are more than the Estimated Additional Costs, the Owner will pay to the City the difference between the Actual Increased Costs and the Estimated Additional Costs within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased Costs. If the Owner does not pay the City the difference between the Actual Increased Costs and the Estimated Additional Costs within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased Costs, the Owner shall not be paid any reimbursement amounts ~~under any Acquisition and from the PID Reimbursement Agreement(s)~~Fund related to the PID or the Project until such payment is made in full. If the City does not issue the City Obligations by the end of the calendar year in which PID Bonds are issued, the City will refund to the Owner the Additional Costs paid by the Owner in such calendar year within ten (10) business days after the end of such calendar year.

(c) In the event the City issues City Obligations prior to the issuance of PID Bonds, the City's Financial Advisor shall calculate the estimated Additional Costs based on the market conditions as they exist approximately forty-five (45) days prior to the date of the pricing using independent third party public pricing information of the City Obligations (the ~~"**Estimated Additional City Obligation Costs**"~~), the City shall provide a written invoice to the Owner, and the Owner shall have 10 days to review and provide input on the calculation to the City. In the event Owner intends to issue PID Bonds in that calendar year, the Owner shall pay such Estimated Additional City Obligation Costs to the City at least fifteen (15) days prior to pricing the City Obligations. If the Owner has not paid the Estimated Additional City Obligation Costs to the City by the required time, the City, at its option, may elect to designate such City Obligations as QTEO, and the City shall not be required to issue any PID Bonds in such calendar year. The Estimated

Additional City Obligation Costs are an estimate of the increased cost to the City to issue its City Obligations as non-QTEO. Upon the City's issuance of the City Obligations, the City's Financial Advisor shall calculate the actual Additional Costs to the City of issuing its City Obligations as non-QTEO (the ~~"Actual Increased City Obligation Costs"~~). The City will, within five (5) business days after the issuance of the City Obligations, notify the Owner of the Actual Increased City Obligation Costs. In the event the Actual Increased City Obligation Costs are less than the Estimated Additional City Obligation Costs, the City will refund to the Owner the difference between the Actual Increased City Obligation Costs and the Estimated Additional City Obligation Costs within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased City Obligation Costs. If the Actual Increased City Obligation Costs are more than the Estimated Additional City Obligation Costs, the Owner will pay to the City the difference between the Actual Increased City Obligation Costs and the Estimated Additional City Obligation Costs within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased City Obligation Costs. If the Owner does not pay the City the difference between the Actual Increased City Obligation Costs and the Estimated Additional City Obligation Costs within ten (10) business days of the date of the City's notice to the Owner of the Actual Increased City Obligation Costs, the Owner shall not be paid any reimbursement amounts ~~under any Acquisition and from the PID Reimbursement Agreement(s) Fund~~ related to the PID or the Project until such payment is made in full.

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

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

## ARTICLE V. PID BONDS

### Section 5.01. Issuance of PID Bonds.

(a) Subject to the terms and conditions set forth in this Article ~~V~~, if the Owner provides a Bond Issuance Request, the City ~~intends to authorize~~will consider the issuance of the PID Bonds to pay for the Costs with respect to the Public Authorized Improvements as contemplated by Article IV. The City will ~~use diligent, good faith efforts, to issue~~consider the issuance of PID ~~bonds~~Bonds

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

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

(c) The final maturity for each series of PID Bonds ~~(initial bonds and Parity Bonds)~~ secured by a given Improvement Area shall occur no later than 30 fiscal years from the issuance date of the first series of PID Bonds secured by the Improvement Area in question. ~~As a result, the final maturity for each series of Parity Bonds will be less than 30 years to accommodate the 30 year limitation on Special Assessments for all PID Bonds issued secured by a given Improvement Area.~~

~~(d) — Notwithstanding subsection (c) above, it is hereby agreed that no PID Bonds shall be issued such that Special Assessments would remain outstanding more than thirty (30) years after the due date of the first collection of Special Assessments on Improvement Area #1 and Improvement Area #2, respectively. Notwithstanding the foregoing, the thirty (30) year period shall be extended on a month by month basis for up to five (5) additional years for each month that the issuance by TCEQ of the Discharge Permit (as defined in the Wastewater Agreement) is delayed beyond April 2018.~~

~~(e) — It is the intent of the Owner to request the issuance of the PID Bonds and any Parity~~

~~(d) Owner may request the issuance of the PID Bonds, subject to the condition that the maximum aggregate par amount of all of the PID Bonds shall not exceed \$27,500,000 and the maximum aggregate initial offering premium from the sale of such PID Bonds shall not exceed two percent (2%) of the actual dollar amount of such PID Bonds.~~

~~(f) — The minimum value (appraised value) to lien value (par bond amount) ratio as evidenced by the Appraisal at the issuance date of the initial series of PID Bonds for each Improvement Area shall be 3 to 1 on a parcel by parcel basis. Each issuance of Parity Bonds shall be subject to the Appraisal requirement in the preceding sentence, unless otherwise determined by the City in its sole discretion. The following five (5) components will be used to determine the 3 to 1 value calculation: 1) finished lots, 2) lots under construction (land plus improvements on the ground), 3) land, 4) finished homes and 5) value of the infrastructure improvements (to the extent not already included in the value of finished lots), the valuation thereof to be determined by the Appraisal. Furthermore, if lots under construction or unfinished platted lots are to be counted at full build out value (less appropriate cost of carry discounts as determined by the City's independent appraiser), the City may require that the cost of improving the lots so that they are at full build out value is fully funded in the form of cash prior to the issuance of any PID Bonds.~~

~~(g) — The maximum annual PID installment equivalent tax rate as determined at the time the Special Assessments are levied shall not exceed~~

~~(e) The targeted annual PID installment equivalent tax rate (inclusive of total debt service, prepayment and delinquency reserve fund contributions, and Administrative Expenses) at the time the Special Assessments are levied is \$0.73 per \$100.00 of valuation (based on estimated build out values at the time the Assessment Plan is adopted and as agreed upon by the Owner and the City) as further described on the Assessment Plan. Total debt service, prepayment and delinquency reserve fund contributions and Administrative Expenses must not exceed the special assessment revenue based on the \$0.73 annual assessment installment as the tax rate equivalent as determined above. This Agreement shall not apply to any bonds issued for refunding purposes that are payable from the PID Bond securities and any reductions due to the issuance of such refunding bonds for savings shall be disregarded for purposes of this subsection.)~~ The Owner and the City understand that it is the intent to have a fixed assessment for all the assessed property categories throughout the District regardless of annual PID installment equivalent tax rate metrics as recommended by the City's consultants or PID Administrator. As a result, the equivalent tax rate may be adjusted accordingly.

~~(f)~~

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

~~(g)~~

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

~~(h)~~

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

~~(i)~~

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

~~(j)~~

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

~~(k)~~

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

## **Section 5.02. Project Fund**

The City hereby covenants and agrees that the Indenture will establish a Project Fund as a separate fund to be held by the Trustee under the Indenture. The portion of the proceeds of the PID Bonds issued to pay Costs of PublicAuthorized Improvements and Bond Issuance Costs shall be deposited upon issuance into separate accounts within the Project Fund, as provided in the Indenture.

## **Section 5.03. Sale of PID Bonds.**

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

## **~~Section 5.03.~~ Section 5.04. Phased Issuance of Debt.**

As previously stated, the proposed bond issuance program is anticipated to entail two up to four (4) series of Improvement Area Bond financings ~~and two or more series of Parity Bond financings~~ that will reimburse Owner for the costs of the PublicAuthorized Improvements required for the development of the Project. ~~This financing will be undertaken in phases to coincide with the private investment and development of the PublicAuthorized Improvements. Following the issuance of the Improvement Area #1 Bonds, Parity Bonds may be issued pursuant to a Supplemental Indenture for the purposes set forth in Section 2.01(b). Following the issuance of the Improvement Area #2 Bonds, Parity Bonds may be issued pursuant to a Supplemental Indenture for the purposes set forth in Section 2.01(b).~~

## **~~Section 5.04. Special Assessments~~**

~~On the Effective Date, the Parties recognize that it is not possible to determine with sufficient certainty the amount of special benefit each Parcel within the District will receive from Public Improvements that are to be financed with the PID Bonds. Therefore, until the Assessment Plan is approved, Parcels will not be assessed. Once the Assessment Plan has been approved, the applicable Parcels will be assessed for the special benefits conferred upon the Parcel because of the Public Improvements.~~

~~The Parity Bonds may be issued under a Supplemental Indenture; however all of the Special Assessments pledged for the payment of the Parity Bonds will have the same lien priority as the Special Assessments pledged for the payment of the applicable PID Bonds.~~

~~If the total Special Assessments levied on a particular Parcel within the Project consist of Special Assessments stemming from two or more series of PID Bonds and an owner of Assessed Property pays only a portion of the Annual Installment due for such Special Assessments, then such payment will be allocated pro-rata to the payment of the Annual Installment based on the portions of each Special Assessment as it relates to the total Special Assessments.~~

~~Further detail regarding partial payments of the Annual Installments will be contained in the Indenture.~~

**Section 5.06**

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

~~Owner shall petition~~ Owner's predecessor-in-interest has petitioned the City to dissolve the District if no Special Assessments have been levied ~~within seven (7) years from the Effective Date by October 17, 2024,~~ so long as the City has made reasonable efforts to levy the Special Assessments in accordance with the terms hereof. Contemporaneously with the creation of the District, ~~Owner shall provide~~ Owner's predecessor-in-interest provided the Petition for Dissolution of the ~~PID District,~~ which is ~~to be being~~ held in escrow pursuant to ~~an escrow agreement as generally provided for in the form attached as Exhibit "D".~~ Escrow Agreement.

**ARTICLE VI. REPRESENTATIONS AND WARRANTIES**

**Section 6.01. Representations and Warranties of City.**

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

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

**Section 6.02. Representation and Warranties of Owner**

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

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

(b) The Owner represents and warrants that the Owner has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered on behalf of the Owner.

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

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

~~(d)(e)~~ The Owner covenants that it will not commit any act in, upon or to the Property or the Project in violation of any law, ordinance, rule, regulation, or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the Property or the Project.

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

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

## ARTICLE VII. DEFAULT AND REMEDIES

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

~~(h)(b)~~ Before any failure of any Party to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such failure shall notify, in writing, the Party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within thirty (30) days of the receipt of such notice, subject, however, in the case of non-monetary default, to the terms and provisions of subparagraph (c). Upon a breach of this Agreement, the non-defaulting Party in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained (and/or an action for mandamus as and if appropriate). Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Article VII or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any Party at law or in equity. Each of the Parties shall have the affirmative obligation to mitigate its damages in the event of a default by the other Party. Notwithstanding any provision contained herein to the contrary, the Owner shall not be required to construct any portion of the Public Authorized Improvements (or take any other action related to or in furtherance of same) while the City is in default under this Agreement. Each party shall be responsible for the expenses incurred

by such party in connection with the institution of legal proceedings, including, without limitation, court costs and attorney fees.

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

~~ARTICLE VII.~~ ARTICLE VIII. GENERAL PROVISIONS

~~Section 7.01.~~ Section 8.01. Notices.

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

If to City:                   City of Dripping Springs  
                                  Attn: City Administrator  
                                  P.O. Box 384  
                                  511 Mercer Street  
                                  Dripping Springs, Texas 78641  
                                  Facsimile: (512) 858-5646

With a copy to:           Bojorquez Law Firm  
                                  Attn: Alan Bojorquez  
                                  12325 Hymeadow Drive, Bldg. 2, Suite 100  
                                  Austin, Texas 78750  
                                  Facsimile: (512) 250-0749

~~If to Owner:~~           SLF IV City of Dripping Springs JV, L.P.  
                                  Attn: City Attorney

511 Mercer Street  
Dripping Springs, Texas 78620

If to Owner: M/I Homes of Austin, LLC  
Attn: ~~Asset Manager~~Royce Rippy  
5949 Sherry Lane, Suite 800  
Dallas, ~~7600 N. Capital of~~ Texas 75225  
Faesimile: (214) 368-9192

With a copy to: Hudnall P.Hwy Bldg. C- Suite 250  
Attn: Allan Katz  
5949 Sherry Lane, Suite 800  
Dallas, ~~75225~~ Austin, Texas 78731  
rrippy@mihomes.com

With a copy to: Metcalf Wolff Stuart & Williams, LLP  
Attn: Steven C. Metcalfe  
221 W. 6th, Suite 1300  
Austin, Texas 78701  
Facsimile: (512) 404-2244  
smetcalfe@mwswtexas.com

**Section 8.02.** Fee Arrangement

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

~~(b)~~

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

~~Section 7.02.~~ **Section 8.03.** Assignment

(a) This Agreement and the rights and obligations of Owner hereunder may be

assigned by Owner to an affiliate of Owner without the consent of the City, provided that the assignee assumes all of the obligations of Owner hereunder.

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

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

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

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

#### ~~Section 7.03.~~ Section 8.04. Construction of Certain Terms

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

- (a) Words importing a gender include either gender.
- (b) Words importing the singular include the plural and vice versa.
- (c) A reference to a document includes an amendment, supplement, or addition to, or replacement, substitution, or novation of, that document but, if applicable, only if such amendment, supplement, addition, replacement, substitution, or novation is permitted by and in accordance with that applicable document.
- (d) Any term defined herein by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.
- (e) A reference to any Party in a particular capacity excludes such Party in any other capacity or individually.

(f) All references in this Agreement to designated "Articles," "Sections," and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Agreement. All references in this Agreement to "Exhibits" are to the designated Exhibits to this Agreement.

(g) The words "herein," "hereof," "hereto," "hereby," "hereunder," and other words of similar import refer to this Agreement as a whole and not to the specific Section or provision where such word appears.

(h) The words "including" and "includes," and words of similar import, are deemed to be followed by the phrase "without limitation."

(i) Unless the context otherwise requires, a reference to the "Property," the "Public" "Authorized" Improvements," or the "District" is deemed to be followed by the phrase "or a portion thereof."

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

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

#### ~~Section 7.04.~~ Section 8.05. Table of Contents; Titles and Headings

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

#### Section 8.06. Amendments.

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

#### Section 8.07. Time

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

**Section 8.08.** Counterparts

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

~~Section 7.05.~~ **Section 8.09.** Entire Agreement

This Agreement contains the entire agreement of the Parties.

~~Section 7.06.~~ **Section 8.10.** Severability; Waiver

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

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

**Section 8.11.** Owner as Independent Contractor

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

~~Section 7.07.~~ **Section 8.12.** Supplemental Agreements

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

~~Section 7.08.~~ **Section 8.13.** ~~Section 8.13.~~ — City's Acceptance of **PublicAuthorized** Improvements.

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

**Section 8.14.** No Boycott Israel

The Owner, BobWhite, and Tri Pointe (collectively, the “Verifying Party”) hereby verify, for purposes of Section 2271 of the Texas Government Code, that at the time of execution and delivery of this Agreement, neither the Verifying Party, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, boycotts Israel or, to the extent this Agreement is a contract for goods or services, will boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas

Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycotts Israel” and “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Verifying Party understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

#### **Section 8.15. No Foreign Terrorist Organization**

The Verifying Party hereby verifies that, neither the Verifying Party, nor any parent company, wholly- or majority-owned subsidiaries or affiliates of the same, if any, are companies identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudanlist.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/ftolist.pdf>. The foregoing verification is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Verifying Party and each parent company, wholly- or majority-owned subsidiaries, and other affiliates of the same, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Verifying Party understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

#### **Section 8.16. No Firearm Entity Boycott**

Pursuant to Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Verifying Party hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and, to the extent this Agreement is a contract for goods or services, will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” (A) means, with respect to the entity or association, to (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm

accessories; and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. The Verifying Party understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

#### **Section 8.17. No Energy Company Boycotts**

Pursuant to Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Verifying Party hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, to the extent this Agreement is a contract for goods or services, will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above. The Verifying Party understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Verifying Party within the meaning of SEC Rule 405, 17. C.F.R. § 230.405, and exists to make a profit.

#### **Section 8.18. Disclosure of Interested Parties.**

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

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

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

contained in the Form 1295 has been provided solely by BobWhite; and, neither the City nor its consultants have verified such information.

**Section 8.1419.** Exhibits

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

- Exhibit A - Definitions
- Exhibit B - Property
- Exhibit B-1 - Phasing Map
- Exhibit B-2 - Improvement Area #1
- Exhibit B-3 - Future Improvement Area #2
- Exhibit C - Private Improvements
- Exhibit D - Draft Form of Escrow Agreement Intentionally Omitted
- Exhibit E - Draft Form of Waiver of Agricultural Use Valuation Intentionally Omitted
- Exhibit F - Draft Assessment Plan Improvement Area #1 Authorized Improvements
- Exhibit G - Draft Authorized Improvements for which Acceptance by City Prior to Bond Issuance Request Not Required
- Schedule I - Form of Acquisition and Certification for Payment
- Schedule II - Reimbursement Agreement Balances

Schedule III - Form of Closing Disbursement Request

**CITY OF DRIPPING SPRINGS,**  
a political subdivision of the State of Texas

By: \_\_\_\_\_  
Name: \_\_\_\_\_ Bill

Title: \_\_\_\_\_ Mayor

Foulds, Jr.

STATE OF TEXAS §

§

COUNTY OF HAYS §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022, by Bill Foulds, Jr., Mayor of the City of Dripping Springs, Texas, a political subdivision of the State of Texas, on behalf of said municipality.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

[Signatures Continue on Next Page]

SLF IV – Dripping Springs JV, L.P., a Texas limited partnership;

By: ~~SLF IV Property GP~~ M/I Homes of Austin, LLC,

a Texas an Ohio limited liability company, its ~~General Partner~~

By: \_\_\_\_\_

Name: William G. Peckman

Title: Area President

STATE OF TEXAS §

§

COUNTY OF §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by William G. Peckman, Area President of M/I Homes of Austin

~~By: Stratford Land Fund IV, L.P.~~  
a Delaware limited partnership,  
its ~~Co-Managing Member~~

By: ~~Stratford Fund IV GP, LLC~~,  
a Texas an Ohio limited liability company, its ~~General Partner~~ on behalf of said company.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

It is hereby acknowledged that the (SEAL) \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas



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

**CONSENTING PARTY:**

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

By: \_\_\_\_\_

Name: Bryan Havel

Title: Division President - Austin

**STATE OF TEXAS** §

§

**COUNTY OF** §

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

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

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

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

\_\_\_\_\_ By:  
BobWhite GP, LLC, a Texas limited  
liability company, ~~its~~  
Its: General Partner

By: \_\_\_\_\_

~~By:~~ \_\_\_\_\_

Name:

\_\_\_\_\_ Sarah  
D. Henline

Title: \_\_\_\_\_

General Manager

STATE OF TEXAS §  
§  
COUNTY OF §

THIS INSTRUMENT was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022, by Sarah D. Henline, General Manager of BobWhite GP, LLC, a Texas limited liability company and the General Partner of BobWhite Investments, LP, a Texas limited partnership, on behalf of said partnership.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

**Exhibit "A"**  
**DEFINITIONS**

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

~~**"Acquisition and Reimbursement Agreement"** means the Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement and the Improvement Area #2 Acquisition and Reimbursement Agreement, each to be entered into by the Owner and City in accordance with the terms of Article IV hereof, and generally in the form of Exhibit "G" attached hereto.~~

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

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

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

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

**"Agreement"** has the meaning given in the recitals to this Agreement.

**"Allocable Share"** means Improvement Area #1's or Improvementsa Future Improvement Area ~~#2's~~, as applicable, pro rata share of the Shared PublicAuthorized Improvements, as specified in the Assessment Plan.

~~**"Annexation and Development Agreement"** means that certain Annexation and Development~~ has the meaning given in the recitals to this Agreement dated October 17, 2017 by and between Owner and the City, as such Agreement may be amended from time to time.

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

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

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

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

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

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

~~**“Bond Improvement Account”** means an account established pursuant to an Indenture and into which the Trustee will deposit proceeds of the PID Bonds to be used to reimburse Owner for the construction of any Public Improvements.~~

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

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

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

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

~~**“Certification for Payment”** means the certificate so defined in the Indenture” is attached hereto as Schedule I.~~

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

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

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

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

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

**“Closing Disbursement Request”** means the request ~~(whether one or more)~~ in the form set forth in the ~~Indenture~~ attached hereto as Schedule III.

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

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

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

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

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

**“County”** means Hays County, Texas.

~~**“Debt”**~~ means any bond, note, or other evidence of indebtedness incurred, entered into, or issued by the City related exclusively to the **“District”**

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

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

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

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

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

**“Financial Advisor”** means ~~First Southwest, a Division of~~ Hilltop Securities, Inc.

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

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

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

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

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

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

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

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

~~"Improvement Area #1 Bonds" means PID Bonds that are secured by Special Assessments levied on an Assessed Parcel within Improvement Area #1 in order to fund (i) Improvement Area #1 Public Authorized Improvements and (ii) Improvement Area #1's Allocable Share of the Shared Public Improvements.~~

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

~~"Improvement Area #1/Shared Public Improvements Acquisition and Reimbursement Agreement" means such agreement described in Section 4.02 hereof.~~

~~"Improvement Area #2" means the land (being Phase 3 and 4 of the Project) which is more particularly described and/or depicted on Exhibit "B-3" attached hereto.~~

~~"Improvement Area #2 Acquisition and Reimbursement Agreement" means such agreement described in Section 4.03 hereof.~~

~~"Improvement Area #2 Bonds" means PID Bonds that are secured by Special Assessments levied on an Assessed Parcel within Improvement Area #2~~1~~ in order to fund (i) Improvement Area #2 Public Improvements and (ii) Improvement Area #2's Allocable Share of the Shared Public Authorized Improvements.~~

~~"Improvement Area #2 Public Improvements" means those Public Improvements that confer a special benefit only on 1 Special Assessments" has the meaning given in Section 4.02 of this Agreement.~~

~~"Improvement Area #2 and are to be financed with Improvement Area #2 Bonds.~~

~~"Improvement Areas"(s)" means collectively Improvement Area #1 and any Future Improvement Area #2 Areas.~~

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

~~“Interest”~~ shall mean the interest rate charged for the PID Bonds or such other interest rate as may be required by applicable law or as provided ~~in the applicable Acquisition and Reimbursement Agreement herein.~~

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

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

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

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

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

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

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

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

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

~~“Owner Expended Funds”~~ means for any given PID Bond issue (i) the amount of Costs not previously reimbursed to Owner under the applicable Acquisition and Reimbursement Agreement and (ii) any other qualified and permitted costs submitted to the City (e.g. bond issuance costs and consultant fees).

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

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

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

~~“Parity Bonds”~~ means PID Bonds, other than the initial series of PID Bonds secured by Special Assessments levied on either Improvement Area #1 or Improvement Area #2, to be issued

by the City that will be secured by Special Assessments levied on either Improvement Area #1 or Improvement Area #2 (as applicable).

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

**"PDD #5 Ordinance"** means the Heritage Planned Development District approved by the City on ~~even date herewith~~ October 10, 2017.

**"Phase"** means any one of Phase 1, 2, 3, 4, and/or 45 of the Project as conceptually shown on Exhibit B-1 and as more particularly described in the ~~Service and~~ Assessment Plan.

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

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

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

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

**"PID Bonds"** means the bonds expected to be issued by the City, including the Improvement Area #1 Bonds, ~~and~~ the Future Improvement Area ~~#2 Bonds, and Parity~~ Bonds which may include funds for any required reserves and amounts necessary to pay the Bond Issuance Costs, and to be secured by a pledge of the PID Bond Security pursuant to the authority granted in the PID Act, and as required by this Agreement for the purposes of (i) financing the costs of the Public Authorized Improvements and related costs, and (ii) reimbursing the Owner for Costs paid prior to the issuance of and payment for the PID Bonds.

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

~~"PID Reserve Account" will have the meaning set forth in the Indenture.~~

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

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

~~"PID Reserve Fund Requirement" will have the meaning set forth in the Indenture.~~

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

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

**"Project"** has the meaning given in the recitals to this Agreement.

~~"Project Costs" means the aggregate amount of all Costs.~~

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

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

**"Property"** has the meaning given in the recitals to this Agreement.

~~"Public Improvements" means collectively any and all improvements, as mutually agreed by the City and Owner, which are included in the Assessment Plan as such plan is amended and updated from time to time, currently contemplated to include the Improvement Area #1 Public Improvements and the Improvement Area #2 Public Improvements and the Shared Public Improvements. Non-PID-Funded Public Improvements do not constitute Public Improvements.~~

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

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

~~"Regulatory Requirements" means the requirements and provisions of any state or federal law, and any permits, rules, orders or regulations issued or adopted from time to time by any regulatory authority, state, federal or other, having jurisdiction over the Public Improvements.~~

~~"SAP Consultant" means the entity selected by the City to serve as its SAP Consultant.~~

**"Segment" or Segments"** means the discrete portions of the Public Authorized Improvements necessary to serve a Phase identified as such ~~in the applicable Acquisition and Reimbursement Agreement herein.~~

**"Shared Public Authorized Improvements"** means those Public Authorized Improvements that benefit both Improvement Area #1 and a given Future Improvement Area #2 which will be funded by both Improvement Area #1 Bonds and Future Improvement Area #2 Bonds.

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

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

**"State"** means the State of Texas.

~~**"Supplemental Indenture"** means any supplement to an Indenture, pursuant to which Parity Bonds are issued.~~

**"TEC"** has the meaning given in Section 8.18 of this Agreement.

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

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

~~**"Wastewater Agreement"** means that certain Wastewater Service and Impact Fee" has the meaning given in the recitals to this Agreement by and between Owner and City, dated October 17, 2017, as such agreement may be amended from time to time.~~

**"Wastewater Improvements"** means those Public Authorized Improvements constructed or to be constructed as contemplated pursuant to the Wastewater Agreement.

**Exhibit "B"**

PROPERTY ~~DESCRIPTION FOR PROJECT~~

[See Attached]

**Exhibit "B-1"**

**PHASING MAP**

[See attached]

**Exhibit "B-2"**

**IMPROVEMENT AREA #1**

[See attached]

Exhibit "B-3"

FUTURE IMPROVEMENT AREA-#2

[\[See attached\]](#)

## Exhibit "C"

### PRIVATE IMPROVEMENTS

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

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

Notes:

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

**Exhibit "D"**

**DRAFT FORM OF ESCROW AGREEMENT**

INTENTIONALLY OMITTED

**Exhibit "E"**

~~DRAFT FORM OF WAIVER OF AGRICULTURAL USE VALUATION~~

INTENTIONALLY OMITTED

**Exhibit "F"**  
**DRAFT ASSESSMENT PLAN**

IMPROVEMENT AREA #1 AUTHORIZED IMPROVEMENTS

**Exhibit "G"**

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

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

SCHEDULE 1

FORM OF ~~ACQUISITION AND REIMBURSEMENT AGREEMENT~~ CERTIFICATION FOR PAYMENT

(“**Construction Manager**”)

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

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

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

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

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



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

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

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

\_\_\_\_\_

[Signature Page Follows]

SIGNATURE PAGE TO  
CERTIFICATION FOR PAYMENT

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

Date : \_\_\_\_\_ [Construction Manager Signature Block to

\_\_\_\_\_ Be inserted]

JOINDER OF PROJECT ENGINEER

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

---

Project Engineer

JOINDER OF PROJECT ENGINEER

APPROVAL BY THE CITY

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

Date: \_\_\_\_\_

**CITY OF DRIPPING SPRINGS, TEXAS**

By: \_\_\_\_\_

APPROVAL BY THE CITY

ATTACHMENT A TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

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

ATTACHMENT B TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

[bills paid affidavit – attached]



ATTACHMENT D TO CERTIFICATION FOR PAYMENT

[lender consents or approvals - attached]

## SCHEDULE II

### 1. Reimbursement Balance – Improvement Area #1

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

### 2. Reimbursement Balance – Improvement Area #[ \_\_\_\_ ]

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

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

**3. Reimbursement Balance – Improvement Area #[ ]**

a. Original Principal Amount: \$[ ]

b. Interest Rate: Interest Rate on any unpaid portion of the Reimbursement Balance – Improvement Area #[ ] Authorized Improvements shall be the lesser of: (1) the interest rates on the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[ ] (Heritage Public Improvement District Improvement Area #[ ] Project), or (2) [ ]% based on the Bond Index Rate of [ ]% as the highest average index rate reported for the *Bond Buyer's Index of 25 Revenue Bonds*, a weekly bond index approved by the City Council of the City, in the month before the date of approval of the Assessment Ordinance levying the Special Assessments on Improvement Area #[ ].

c. Date of Assessment Ordinance Approval: Ordinance No. [ ] approved on [ ], 20[ ] and recorded in the real property records of Hays County, Texas on \_\_\_\_\_, 20[ ], as Document No. \_\_\_\_\_

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

**4. Reimbursement Balance – Improvement Area #[ ]**

a. Original Principal Amount: \$[ ]

b. Interest Rate: Interest Rate on any unpaid portion of the Reimbursement Balance – Improvement Area #[ ] Authorized Improvements shall be the lesser of: (1) the interest rates on the City of Dripping Springs, Texas, Special Assessment Revenue Bonds, Series 20[ ] (Heritage Public Improvement District Improvement Area #[ ] Project), or (2) [ ]% based on the Bond Index Rate of [ ]% as the highest average index rate reported for the *Bond Buyer's Index of 25 Revenue Bonds*, a weekly bond index approved by the City Council of the City, in the month before the date of approval of the Assessment Ordinance levying the Special Assessments on Improvement Area #[ ].

c. Date of Assessment Ordinance Approval: Ordinance No. [ ] approved on [ ], 20[ ] and recorded in the real property records of

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

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

## SCHEDULE III

### FORM OF CLOSING DISBURSEMENT REQUEST

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

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

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

**Payments requested hereunder shall be made as directed below:**

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

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

**[OWNER],**

a Texas \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

**APPROVAL OF REQUEST BY CITY**

The City is in receipt of the attached Closing Disbursement Request, acknowledges the Closing Disbursement Request, and finds the Closing Disbursement Request to be in order. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request and shall include said payments in the City Certificate (defined in the Indenture) submitted to the Trustee directing payments to be made from the [applicable account][Costs of Issuance Account] of the Project Fund under the Indenture upon delivery of the PID Bonds.

**CITY OF DRIPPING SPRINGS, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_