

**ORDINANCE NO. 791**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EVERMAN, TEXAS, RATIFYING, AUTHORIZING, AND APPROVING THE CONVEYANCE OF CERTAIN TRACTS OF LAND, BEING LOT 11R AND LOT 12R, BLOCK 2 OF THE EUREKA ADDITION TO THE CITY OF EVERMAN, TARRANT COUNTY, TEXAS, TO THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION; AUTHORIZING THE CITY MANAGER'S EXECUTION OF ECONOMIC DEVELOPMENT PERFORMANCE AND 380 AGREEMENT BETWEEN THE CITY OF EVERMAN, THE EVERMAN ECONOMIC DEVELOPMENT CORPORATION, AND MUNEY DEVELOPMENT PARTNERS, LLC, INCLUDING ALL PROPERTY TRANSFER DOCUMENTS CONTAINING CERTAIN TERMS AND CONDITIONS.**

- WHEREAS,** the City of Everman, Texas (“City”), a home-rule municipality, on February 14, 2017, owned an interest in certain property described in Exhibit “A” (“Property”), attached hereto and incorporated herein by reference for all purposes at length as if fully set forth herein; and
- WHEREAS,** on February 14, 2017, the City Council approved Resolution No. 2017-02-02, approving the terms and conditions of an agreement, incorporated into Resolution No. 2017-02-02 by reference, by and between the City and the Everman Economic Development Corporation (“EEDC”) providing for the conveyance of the Property to the EEDC for new improvements (“Agreement”); and
- WHEREAS,** a municipality may transfer to an economic development corporation, for consideration described by Section 253.012, Texas Local Government Code, an interest in real property without complying with the notice and bidding requirements of Section 272.001(a), Texas Local Government Code; and
- WHEREAS,** Section 253.012(e) of the Texas Local Government Code requires that the transfer instrument include a provision that indicates the ownership of the property automatically reverts to the City if the nonprofit organization at any time fails to use the property in a manner that primarily promotes a public purpose; and
- WHEREAS,** the Agreement did not include the provisions required by Section 253.012(e); and
- WHEREAS,** the City and the EEDC continue to desire to have the Property used for economic development that primarily promotes a public purpose of the City, and
- WHEREAS,** the Everman Economic Development Corporation is an economic development corporation being a Type B corporation formed and governed by Chapter 505, Texas Local Government Code, and is considered an “independent foundation,”

formulated to provide for economic development that promotes a public purpose in the City of Everman; and

**WHEREAS,** the City of Everman has a population of less than 20,000 people; and

**WHEREAS,** the City did not acquire the Property described herein by eminent domain; and

**WHEREAS,** this City Council has determined that the consideration for this transfer to the EEDC is in the form of an agreement between the parties requiring the EEDC to use the Property in a manner that primarily promotes a public purpose of the City; and

**WHEREAS,** the EEDC will use and develop the Property in a manner that primarily promotes a public purpose of the City, which shall include the sale of the subject lands to a business prospect, Muney Development Partners, LLC, that will fulfill the statutory requirement that the property be developed in a manner that primarily promotes a public purpose of the City; and

**WHEREAS,** if the EEDC or its successors and assigns, at any time fails to use the Property in a manner that primarily promotes a public purpose of the City, ownership of the City's interest in the Property being conveyed herein and any improvements constructed on the same shall automatically revert to the City as required by Section 253.012, Texas Local Government Code; and

**WHEREAS,** the City and the EEDC desire to ratify the conveyance authorized in Resolution No. 2017-02-02, and authorize the City Manager to execute necessary documents pertaining to the conveyance of the Property under the terms of the Special Warranty Deed that is subject to certain restrictions, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference ("Special Warranty Deed") to comply with state law and provide for additional terms related to the public purpose of the City and related matters; and

**WHEREAS,** the City desires to provide, pursuant to Texas Local Government Code Chapter 380, ("Chapter 380"), an incentive to Muney Development Partners, LLC, for the location of the Development, as defined in the Economic Development Performance and 380 Agreement attached hereto as Exhibit "D", in the City, by providing access to water and sewer to the Development and authorizing permitting and plan review services by the Development to be conducted on a "fast track" basis and direct staff to assist during the platting and permitting process; and

**WHEREAS,** the City has the authority under Chapter 380 to make grants of public funds and assets for the purposes of promoting economic development and stimulation of business in the City;

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

**SECTION 1. Findings.** The City Council hereby deems the foregoing recitals above to be true and accurate findings that are incorporated into this Ordinance for all purposes.

**SECTION 2. Ratifying Conveyance and Ratifying.** The City Manager of the City of Everman is hereby authorized and directed to execute, on behalf of the City of Everman, all property transfer documents, including the Special Warranty Deed, attached hereto as Exhibit “B,” and incorporated herein for all intents and purposes, and all documents associated therewith, to effectuate the conveyance of the Property described in Exhibit “A” to the Everman Economic Development Corporation subject to the Restriction Agreement attached hereto as Exhibit “C”. The City Manager is authorized to execute other documents referenced above to effectuate the conveyance between the City of Everman, the Everman Economic Development Corporation, and Muney Development Partners, LLC, as described herein.

**SECTION 2. Economic Development Performance and 380 Agreement.** The City Manager of the City of Everman is hereby authorized and directed to execute, on behalf of the City of Everman, the Economic Development Performance and 380 Agreement between the City of Everman, the Everman Economic Development Corporation, and Muney Development Partners, LLC, attached hereto as Exhibit “D” and incorporated herein for all intents and purposes.

**SECTION 3. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity or the unenforceability will not affect any other provisions or applications of this Ordinance that can be given effect without the invalid provision.

**SECTION 4. Effective Date.** This Ordinance shall be effective immediately upon passage and be in full force and effect after its adoption.

**SECTION 5. Open Meetings.** It is hereby officially found and determined that the meeting at which the City Council passed this ordinance was open to the public and that the City gave public notice of the time, place, and purpose of said meeting as required by the Open Meetings Act, Texas Government Code, Chapter 551.

**PASSED AND APPROVED** this the \_\_\_ day of September 2022 by the City Council of the City of Everman, Texas.

**CITY OF EVERMAN, TEXAS**

By: \_\_\_\_\_  
Ray Richardson  
Mayor, City of Everman, Texas

ATTEST:

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Mindi Parks  
City Secretary, City of Everman, Texas

**Exhibit A**

**Property Description**

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**Street Address:** 405 King Street

**Legal Description:** LOT 11R, BLOCK 2 OF THE EUREKA ADDITION TO THE CITY OF EVERMAN, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 388-164, PAGE 9, PLAT RECORDS, TARRANT COUNTY, TEXAS.

**Instrument Number by which conveyed to City:** D198305179

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**Street Address:** 403 King Street

**Legal Description:** LOT 12R, BLOCK 2 OF THE EUREKA ADDITION TO THE CITY OF EVERMAN, TARRANT COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 388-164, PAGE 9, PLAT RECORDS, TARRANT COUNTY, TEXAS.

**Instrument Number by which conveyed to City:** D198305178

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**Exhibit B – Special Warranty Deed**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**SPECIAL WARRANTY DEED**

**STATE OF TEXAS           §  
  §       **KNOW ALL MEN BY THESE PRESENTS:**  
COUNTY OF TARRANT §**

Grantor:       City of Everman, Texas (“City”)

Mailing Address:  
  
212 N. Race Street  
Everman, Texas 76140

Grantee:       Everman Economic Development Corporation (“EEDC”)

Mailing Address:  
  
212 N. Race Street  
Everman, Texas 76140

Consideration:       The sum of Zero Dollars and no cents (\$0.00) and for other good and valuable consideration, including the including consideration in the form of an agreement between the parties that requires the EEDC to use the Property in a manner that primarily promotes a public purpose, as contained in the Reservations and the Restriction Agreement described below.

The Property:  
  
Lot 11R (405 King Street), and Lot 12R (403 King Street), Block 2, Eureka Addition to the City of Everman, Tarrant County, Texas, according to the plat recorded in Volume 388-164, Page 9, Plat Records, Tarrant County, Texas.

Conveyance:

For and in consideration of the sum of Zero Dollars and no cents (\$0.00) and for other good and valuable consideration, including consideration in the form of an agreement between the parties that requires the EEDC to use the Property in a manner that primarily promotes a public purpose, as contained in the Reservations and the Restriction Agreement described below, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby bargain, sell, and convey unto the Grantee and its successors and assigns, the Property described above subject to the warranty of title and the reservations from and exceptions to conveyance and warranty described below.

**Warranty of Title:**

Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the property to Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof through Grantor, but not otherwise, except as to the reservations from and exceptions to conveyance and warranty.

**Reservations from and Exceptions to Conveyance and Warranty:**

This conveyance is subject to the requirement of Texas Local Government Code Section 253.012 that: (1) the EEDC is required to use the property in a manner that primarily promotes a public purpose of the City; and (2) ownership of the property automatically reverts to the City if the EEDC at any time fails to use the property in that manner.

This conveyance and warranty are made expressly subject to the restrictions, covenants, conditions, and terms included in the Restriction Agreement between the City of Everman and Muney Development Partners, LLC, dated September \_\_\_\_, 2022.

Grantor, for itself and its successors and assigns, reserves unto Grantor any right, title, or interest of Grantor in and to adjacent streets, alleys, or right-of-way. Grantor, for itself and its successors and assigns, reserves and excepts all easements of record, all of the oil, gas, and other mineral interests, including any rights to water, in and under the land herein conveyed, all mineral conveyances and severances, mineral leases of record.

The conveyance of the Property is "as-is." EEDC has inspected the Property and accepts it "as-is" and acknowledges that the City makes no warranty or representation that the Property is suitable for EEDC's intended use.

Executed the \_\_\_\_ day of \_\_\_\_\_, 2022.

**City of Everman, Texas Grantor**

BY: \_\_\_\_\_  
Ray Richardson, Mayor



STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, who after being by me first duly sworn, stated that he/she executed this deed for the purposes and consideration stated therein.

\_\_\_\_\_  
Notary Public in and for the State of Texas

\_\_\_\_\_  
Type or Print Notary's Name

My Commission Expires:

**Everman Economic Development Corporation**  
Grantee

BY: \_\_\_\_\_  
Ray Richardson, President

**ACKNOWLEDGMENT AND AFFIDAVIT**

STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, who after being by me first duly sworn, stated that he/she executed this deed for the purposes and

consideration stated therein.

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Notary Public in and for the State of Texas

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Type or Print Notary's Name

My Commission Expires:

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AFTER FILING PLEASE RETURN TO:

Mindi Parks  
City Secretary  
City of Everman  
212 N. Race St.  
Everman, Texas 76140  
817-293-0525  
Fax: 817-551-7549

**Exhibit C – Restriction Agreement between the City of Everman and Muney  
Development Partners, LLC**

**STATE OF TEXAS**

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**RESTRICTION AGREEMENT**

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**COUNTY OF TARRANT**

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This **RESTRICTION AGREEMENT** ("Agreement") is made and entered into as of the Effective Date by and between the City of Everman, a Texas home-rule municipality ("City"), and Muney Development Partners, LLC, ("Developer"), a Texas Limited Liability Corporation, acting by and through their respective authorized officers or agents or partners.

**RECITALS**

**WHEREAS**, as of the Effective Date, pursuant to the Economic Development Performance and 380 Agreement between the City of Everman, the Everman Economic Development Corporation, and Muney Development Partners, LLC ("Performance Agreement"), Developer has purchased the Property from the Everman Economic Development Corporation ("EEDC"); and

**WHEREAS**, prior to or concurrent with the sale of the Property to Developer, EEDC purchased the Property from the City without the City seeking sealed bids or conducting an auction prior to the sale of the Property to EEDC pursuant to the statutory exception to such requirements set forth in Texas Local Government Code § 253.012; and

**WHEREAS**, as a condition of the sale of the Property to EEDC and pursuant to Texas Local Government Code § 253.012, the City requires that EEDC have the Property redeveloped and used for the Required Use (hereinafter defined); and

**WHEREAS**, EEDC has, as a condition of the conveyance of the Property to Developer, restricted the uses of the Property and required Developer to develop the Property with the Improvements in accordance with the terms and conditions set forth herein; and

**WHEREAS**, as a condition to and in consideration of the EEDC's conveyance of the Property to Developer, Developer has agreed to develop the Property in accordance with this Restriction Agreement; and

**WHEREAS**, Developer desires to grant the City an option to repurchase the Property in the event Developer fails to cause Commencement of Construction or Completion of Construction (hereinafter defined) of the Improvements (hereinafter defined) or does not continually operate the business in accordance this Restriction Agreement, subject to the terms and conditions hereafter set forth; and

**WHEREAS**, if the Developer or its successors and assigns, at any time fails to use the Property in a manner that primarily promotes a public purpose of the City, ownership of the City's interest being previously conveyed to the EEDC and subsequently to Developer automatically reverts to the City, subject to the terms, conditions, and limitation of this Agreement, including particularly as detailed in Sections 3.2 and 6.9 hereafter;

**NOW, THEREFORE**, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

**ARTICLE I**  
**PROPERTY SUBJECT TO DECLARATION**

The Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Developer and any subsequent owners (as such term is hereinafter defined for the term specified in Section 5.2), subject to the terms of this Restriction Agreement.

**ARTICLE II**  
**DEFINITIONS**

For purposes of this Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

"City" shall mean the City of Everman, a Texas home rule municipality located in the County of Tarrant, State of Texas.

"City Manager" shall mean the City Manager of City.

"Commencement of Construction" shall mean (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the improvements, (ii) all necessary permits for the construction of the Improvements have been issued by the applicable governmental authorities and (iii) construction of the elements of the building and other elements of the Improvements has commenced.

"Completion of Construction" shall mean (i) substantial completion of the Improvements on the Land has occurred, and (ii) a final inspection has been issued for the Improvements for the Required Use by Developer and (ii) sufficient documentation has been provided to the City, at their sole discretion, of the value of the Improvements and (iv) continuous operation has commenced no later than as provided in the Performance Agreement.

"Continuous Operation" shall mean as set forth in Article 3.2.

"Developer" means Muney Development Partners, L.L.C., a Texas limited liability company.

"Effective Date" shall mean the date this Agreement is signed by all parties hereto.

"EEDC" shall mean the Everman Economic Development Corporation, a Texas non-profit corporation.

"Force Majeure" shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, by the order of a court resulting from any litigation brought by a third party to prevent or delay Developer's development, construction, or operation, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the party), pending referendum, fires, explosions or floods, strikes, slowdowns or work stoppages. Such extension shall be for a period equal to the actual length of such delay, together with any time reasonably required by Developer to re-mobilize for construction as a result of such delay.

"Improvements" shall mean the structure, parking facility and new improvements located on the property, inclusive of any materials, equipment, and fixtures incorporated into said structures by Developer as necessary to be able to use and occupy the property for the primary purpose of a retail and condo facilities/development. The total of such improvements shall be valued in an amount of at least Eight Million Two Hundred Thousand Dollars (\$8,200,000.00); and shall include all improvements constructed on the property.

"Option Period" shall mean that period of time set forth under Article 3.2.

"Option Price" shall mean the Purchase Price stated in the Purchase Agreement less all closing costs and expenses paid or incurred by EEDC pursuant to the Purchase and Sale Agreement and pursuant to the exercise of the Option.

"Performance Agreement" shall mean the Economic Development Performance and 380 Agreement between the City of Everman, the Everman Economic Development Corporation, and Muney Development Partners, LLC.

"Property" shall mean property otherwise known as Blk 2, Lot 11R (405 King Street), and Blk 2, Lot 12R (403 King Street), Everman, Texas, as depicted in Exhibit "A", and shall collectively mean the property and any Improvements following construction thereof on the property.

"Purchase Agreement" shall mean that certain Purchase and Sale Agreement, as amended or assigned, by and between EEDC and Developer, effective \_\_\_\_\_, 2022.

"Required Use" shall mean the development and use of the Property that primarily promotes a public purpose of construction of retail and condo facilities and operating a business enterprise that meets the City's economic development goals and is a permitted use under the zoning regulations applicable to the Property.

**ARTICLE III**  
**OPTION**

3.1 **Grant of Option.** In consideration of TEN AND NO/100 DOLLARS (\$10.00), in hand paid by City to Developer and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Developer, Developer hereby grants to City during the Option Period an option to repurchase the Property (the "Option"). The purchase price shall be One Dollar (\$1.00).

3.2 **Time for Exercising Option.** Subject to Section 3.3, below, the Option may be exercised by City in its sole discretion by providing written notice to Developer upon the occurrence of the following:

(a) any time after 6 months after the Effective Date of the Performance Agreement, subject to Force Majeure, if Developer has failed to cause Commencement of Construction of the retail and condo facilities to occur on the Property on or before that date, provided Commencement of Construction has in fact still not occurred on the date of the exercise of the Option; or

(b) any time after 12 months after the Effective Date of the Performance Agreement, subject to Force Majeure, if Commencement of Construction has occurred, but Developer has failed to cause Completion of Construction by that date, provided Completion of Construction has in fact still not occurred on the date of the exercise of the Option.

(c) any time after Opening Date of retail and condo facilities, as defined in the Performance Agreement, for a period of five (5) years in which the Developer fails to continuously operate the retail and condo facilities, i.e., closes or shuts down the business/Property. Said five (5) year continuous operation requirement shall be tolled for any period wherein the facilities are not operating due to fire, damage, or any other reason subject to Force Majeure. Developer agrees to give City thirty (30) days written notice prior to closing of any contemplated or actual sale of the Property.

3.3 **Force Majeure.** In the event of Force Majeure, Developer shall have such additional time to cause Commencement of Construction or Completion of Construction, as the case may be, so long as Developer is diligently and faithfully pursuing the same. The termination of the Option Period shall be extended for the same number days that the performance of Developer with respect to Commencement of Construction or Completion of Construction is extended by Force Majeure.

**ARTICLE IV**  
**TERMS OF SALE UPON EXERCISE OF OPTION**

4.1 **Effect of Exercise of the Option.** Upon any timely exercise of the Option by City in accordance with the foregoing provisions, the conveyance of the Property to be conveyed to City shall be in accordance with the provisions in this Article IV.

4.2 **Title, Survey, and Environmental Reports.**



(a) Not later than the fifteenth (15<sup>th</sup>) business day after the exercise of the Option Developer shall, at Developer's expense, deliver to City:

(i) a current commitment for an Owner's Policy of Title Insurance from the Title Company for the portion of the Property to be conveyed to City, setting forth the state of title to the Property together with any easements or restrictions (existing or created pursuant hereto) benefitting or burdening the Property, together with all exception or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment;

(iii) any environmental studies or reports that Developer may have in its possession with respect to the Property; and,

(iv) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.

(b) Upon any exercise of the Option, City shall have the right, at its sole option, to cause a boundary or "as-built" survey of the Property to be made by a certified land surveyor selected by it. Such survey shall be made at the sole cost and expense of City.

(c) City shall, not later than twenty (20) days after City's receipt of the last Survey and Title Commitment, notify Developer and Title Company of any objections to the Survey and Title Commitment. If there are objections by City, Developer shall in good faith attempt to satisfy them prior to Closing. If Developer's receipt of City's objections that Developer is unable to satisfy such objection, City may either waive such objections and accept title as Developer is able to convey or terminate the exercise of the Right by written notice to Developer and the Title Company.

#### 4.3 **Closing.**

(a) The closing of the sale of the Property identified in the notice exercising the Option shall occur not later than sixty (60) calendar days following the date of exercise of the Option unless otherwise extended by written agreement of Developer and City.

(b) At the closing, Developer shall deliver to City:

(i) a Special Warranty Deed, in a form and substance substantially similar to the form used to convey the Property to Developer pursuant to the Purchase Agreement, conveying good and indefeasible title to the Property describe in the notice exercising the Option and/or the survey contained by City (whichever is the most accurate description) to City, fee and clear of any and all encumbrances except the Permitted Exceptions, save and except such oil, gas, and other minerals as may have been reserved by prior grantors;

(ii) an owner's policy of title insurance (or equivalent) in the amount of the Purchase Price, insuring such title to City; and

(iii) possession of the Property, free of parties in possession.

(c) At closing, City shall pay in cash or by certified or cashier's check the Option Price described in Article II, less all Closing Costs and other costs and expenses to be paid by

Developer pursuant to this Article.

4.4 **Taxes.** Ad valorem taxes assessments, and any other charges against the Property and/or improvements conveyed to City pursuant to this Article IV shall be prorated as of the Closing Date for the current year, such that Developer will be responsible for all such items which accrue prior to the Closing Date, and City will be responsible for all such items which accrue on and after the Closing Date. Taxes and assessments for all prior years shall be paid by Developer.

4.5 **Closing Costs.**

(A) Developer will pay and be responsible for the following closing cost:

(i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Land;

(ii) all fees and premiums for Basic Owner's Title Policy, and any endorsements to the Basic Owner's Title Policy;

(iii) all of the Title Company's escrow fees;

(iv) all recording fees;

(v) all costs and expenses incurred by or on behalf of Developer, including Developer's attorney's fees;

(vi) all costs related to obtaining any releases of liens on the portion of the Property conveyed relating to any loans secured by a deed of trust lien on said Property;

(vii) all fees and premiums for the survey; and,

(viii) such other incidental costs and fees customarily paid by sellers of real property in Tarrant County, Texas, for transactions of a similar nature to the transaction contemplated herein.

(b) City hereby agrees to pay and be responsible for the following closing cost:

(i) no fees and premiums for the survey;

(ii) none of the Title Company's escrow fees;

(iii) all costs and expenses incurred by or on behalf of City, including City's attorneys' fees; and

(iv) such other incidental costs and fees customarily paid by purchasers of property in Tarrant County, Texas, for transactions of a similar nature to the transaction contemplated herein.

4.6 **Permitted Exceptions.** City acknowledges and agrees that the Property and improvements conveyed pursuant to the Article IV will be conveyed by Developer at closing subject only to such easements, conditions and restrictions as have been approved or deemed approved by City,

including; (i) utility easements granted by subdivision plat of instrument subsequent to the purchase of the Property by Developer; and (ii) such other matters as City may waive.

4.7 **Conveyance As Is.** City acknowledges and agrees that the Property and/or improvements conveyed pursuant to this Article IV will be conveyed "AS IS" with all faults and defects, whether patent or latent, existing as of the Closing. Except with respect to the quality of the title being conveyed by Developer as set forth in the Special Warranty Deed, City acknowledges and agrees that Developer will be making no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property or improvements conveyed, their condition, or any other matters whatsoever, made to or furnished to City by Developer or any employee or agent of Developer, except as specifically set forth in this Restriction Agreement.

## **ARTICLE V** **RESTRICTIONS**

5.1 **Use or Sale or Lack of Continuous Operation of Business Property; Buildings.** No portion of the Property shall be utilized for any use other than the Required Use. No building shall be constructed, reconstructed, erected, altered, or placed on any portion of the Property other than the Improvements or other structures that will be used in conformance with the Required Use.

If Developer sells the Property within five (5) years of Opening Date, as defined in the Performance Agreement, Developer agrees to pay City \$60,000.00 of the sales proceeds as compensation for the Property, less any property taxes and sales taxes paid to the City for the time period between Completion of Construction to the sale date.

Developer agrees to give City thirty (30) days written notice prior to closing of any contemplated or actual sale of the property.

5.2 **Terms of Restrictions.** The restrictions set forth in Section 5.1, above, shall be deemed to have commenced on Completion of Construction.

## **ARTICLE VI** **MISCELLANEOUS**

6.1 **Enforcement.** City shall have the right, but not the obligation, to enforce the Restriction Agreement and any covenants and restrictions contained herein, as the same may be amended as herein provided. Subject to the limitation set forth in Section 5.1, above, enforcement of the provisions set forth in Section 5.1 contained herein may be exercised after failure of any person or persons violating or attempting to violate any covenants or restrictions to cure such violation or breach within a ten (10) day notice period after receipt of written notice thereof, by proceeding at law or in equity, against any person or persons violating or attempting to violate any covenants or restrictions, to restrain violation or to recover damages, and failure to enforce any covenant, restriction or condition shall not be deemed a waiver of the right of enforcement either with respect to the violation in question or any other violation. This Restriction Agreement is not intended to restrict the rights of the City Council of the City of Everman to exercise its legislative duties and powers insofar as the Property is concerned. For further

remedy, Developer, for itself, its successors, and assigns agrees that the City may withhold building permits, development approvals, certificates of occupancy and/or final inspection necessary for the lawful use of any portion of the Property not then in compliance with this Agreement. The City's right to repurchase the Property pursuant to the exercise of the Option as set forth in Articles III and IV of this Restriction Agreement constitutes the City's sole and exclusive remedy for any failure by Developer to Commence Construction or Complete Construction of the Improvements on the Property, SAVE AND EXCEPT automatic reversion of the property to the City pursuant to Texas Loc. Govt. Code, Section 253.012. The rights of City under this Restriction Agreement may not be waived or released except pursuant to an amendment or termination approved in accordance with the provisions hereof, except by expiration of the Term including any tolling period(s).

6.2 **Amendment.** No amendment or any termination of this Restriction Agreement shall be effective unless and until approved by Developer and the City (as evidenced by an ordinance or resolution of the City Council executed by the Mayor and recorded in the Official Public Records in the office of the Tarrant County Clerk); provided, however, the City may, without the consent of Developer, terminate and release the restrictions set forth in Section 5.1. In the event Developer, or subsequent owner of the Property desires to change, amend or alter the covenants, conditions or restrictions as set forth herein, Developer, or subsequent owner, as the case may be, shall file a written application for such change or amendment with City, which shall approve or deny such application in whole or in part within thirty (30) days after receipt of such application. Any change or amendment approved by the City shall not be effective unless and until an instrument executed by the Mayor is recorded in the Official Public Records in the office of the Tarrant County Clerk in accordance with this Section.

6.3 **Notices.** All notices, requests, demands or other communications required or permitted hereunder shall be in writing and shall be deemed to have been fully and completely made when given by hand, by confirmed facsimile transmission by overnight delivery by Federal Express or other reliable courier or the mailing of such by registered or certified mail, addressed as follows:

If intended for City, to:

With a copy to:

City of Everman  
Attn: City Manager  
212 North Race Street  
Everman, TX 76140

If intended for Developer:

Muney Development Partners,  
LLC  
520 W. Kellis St.  
Fort Worth, TX 76115-  
1323

Any party may at any time and from time to time by notice in writing to the other party hereto change the name or address of the person to who notice is to be given as hereinbefore provided.

6.4 **Successors and Assigns.** This Restriction Agreement shall bind, and inure to the benefit of, the parties and their respective successors and assigns.

6.5 **Governing Law.** This Restriction Agreement is entered into and is intended to be performed in the State of Texas, and the validity, enforceability, interpretation and construction hereof shall be determined and governed by the laws (other than conflict of laws provisions) of the State of Texas. Venue for any action shall be in the state District Court of Tarrant County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

6.6 **Recording.** The parties agree that City may record the Restriction Agreement in the Official Public Records in the office of the Tarrant County Clerk.

6.7 **Covenants Run with the Property.** This Restriction Agreement and the restrictions, covenants, and conditions set forth herein are for the purpose of protecting the value and desirability of the Property as well as to carry compliance with Tex. Loc. Govt. Code § 253.012, as amended, and, consequently, shall run with the Property and be binding on the Developer and all parties having all right, title, or interest in the Property, in whole or in part, and their heirs, successors and assigns. These covenants, conditions and restrictions shall be for the benefit of the City of Everman, Texas. This Restriction Agreement is binding upon Developer and each and every subsequent owner, tenant, subtenant, licensee, manager, and occupant of all or any portion of the Property, but only during the term of such party's ownership, tenancy, license, management or occupancy of the Property, for which such party shall remain liable and shall be binding upon and inure to the benefit of the City and its successors and assigns. It is expressly understood and agreed that acceptance of title to all or a portion of the Property shall automatically, and without further acknowledgement or confirmation from the owner, constitute such owner's assumption of the obligations of Developer hereunder.

6.8 **Severability.** Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions, and all other provisions shall remain in full force and effect.

6.9 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to this subject matter hereof, and no statement, promise, representation or modification hereof by any person, if any, and whether oral or written, shall be binding upon any party.

6.10 **Counterparts.** This Agreement may be executed by the parties hereto in separate counterparts; each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

**AGREED**

**CITY OF EVERMAN, TEXAS**

\_\_\_\_\_

By: Craig W. Spencer

Its: City Manager

**MUNEY DEVELOPMENT PARTNERS, LLC**

\_\_\_\_\_

By:

Its:







**Exhibit D – Economic Development Performance and 380 Agreement between the City of Everman, the Everman Economic Development Corporation, and Muney Development Partners, LLC**

**ECONOMIC DEVELOPMENT PERFORMANCE AND 380 AGREEMENT BETWEEN  
THE CITY OF EVERMAN, THE EVERMAN ECONOMIC DEVELOPMENT  
CORPORATION, AND MUNEY DEVELOPMENT PARTNERS, LLC**

This Economic Development Performance and 380 Agreement (the “Agreement”) is entered into as of September \_\_, 2022 (the “Effective Date”) by and among: the City of Everman, (“City”), Texas a home rule municipality, by and through its City Manager; the Everman Economic Development Corporation, a Texas municipal development corporation located in the City, County of Tarrant, State of Texas (“EEDC”), by and through its President, and Muney Development Partners, LLC (“Muney”) by and through its Owners. In consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

- 1.01 The terms “Agreement,” “Effective Date,” “City,” “Muney,” and “EEDC,” shall have the meanings provided above.
- 1.02 “Capital Investment” means and shall include all costs incurred relating to the acquisition and the improvement of the Property, including the actual construction costs and other costs of all buildings, structures, infrastructure, fixed machinery and equipment, utilities, landscaping and other onsite and offsite improvements, including without limitation all labor and materials, engineering costs, surveying costs, fees of consultants, designers and other professionals, landscape design, platting fees, permit fees, geotechnical investigation, construction material testing, and inspection fees. It shall not include costs for financing the construction or marketing of the Improvements.
- 1.03 “Closing Date” means the date the City conveys title to the Property to Muney.
- 1.04 “Development” means the construction of the retail and condo facilities/development(s) valued upon completion at no less than \$8,200,000.00 located on the Property.
- 1.05 “Facilities” means the retail and condo facilities/development(s) to be constructed on the Property.
- 1.06 “Opening Date” means that date on which Muney obtains a certificate of occupancy and/or occupancies and fully opens the Facilities and commences full operations.
- 1.07 “Project” means incentives offered by the EEDC to encourage Muney to locate the Development in Everman.
- 1.08 “Property” means property otherwise known as Blk 3, Lot 3R (404 King), Blk 2, Lot 11R (405 King Street), Blk 3, Lot 2R (406 King), Blk 3, Lot 1R (408 King), Blk 2, Lot 12R (403 King Street), Blk 2, Lot 6R (406 N. Race), Blk 2, Lot 7R (408 N. Race), Blk 2,

Lot 8R (410 N. Race), Blk 2, Lot 9R (412 N. Race), Blk 3, Lot 4R (502 N. Race), and Blk 2, Lot 10R (414 N. Race), Everman, Texas, as depicted in Exhibit “A”.

**ARTICLE 2**  
**RECITALS**

- 2.01 Muney seeks to acquire the Property and Muney proposes to construct and operate the Development on the Property.
- 2.02 The EEDC has determined and found that the Project and Development, as defined herein, will create the potential for future jobs as defined by the Development Corporation Act of 1979, codified as Chapters 501-506 of the Texas Local Government Code (the “Act”), and that the expenditures of the EEDC set forth in this Agreement are suitable or required for the development of a new industrial enterprise, and fall within the definition of a “project” as defined in Section 501.158 of the Act.
- 2.03 The City and the EEDC, have determined that substantial economic benefit and the creation of new opportunities of employment and housing will accrue to City as a result of the development being located in the City, and desire to have Muney construct the Development and operate these Facilities in the City.
- 2.04 The Development will increase the taxable value in the City and will directly and indirectly result in the creation of additional jobs throughout the City and the value of the benefits of the Development is anticipated to outweigh the amount of expenditures required of the EEDC by the Project under this Agreement.
- 2.05 The City desires to provide, pursuant to Texas Local Government Code Chapter 380, (“Chapter 380”), an incentive to Muney for the location of the Development in the City. The City has the authority under Chapter 380 to make grants of public funds and assets for the purposes of promoting economic development and stimulation of business in the City.
- 2.06 The City and the EEDC, to encourage the Development on the Property, desire to provide incentives as set forth herein which is necessary in order for Muney to locate the Development in the City and operate as hereinafter set forth, to aid and promote economic development in the City.
- 2.07 The City and the EEDC have found that the Development will contribute to an increase in economic development in the City.

**ARTICLE 3**  
**AUTHORIZATION**

- 3.01 The EEDC finds and determines that this Agreement is authorized and governed by the Act and the City finds that its obligations under this Agreement are authorized and governed by Chapter 380.

**ARTICLE 4**  
**TERM**

- 4.01 The term of this Agreement shall commence on the Effective Date and will terminate twelve (12) months after the Effective Date of this Agreement, unless the Opening Date of the Development is delayed beyond twelve (12) months due to Force Majeure, in which event this Agreement shall terminate on the Opening Date.

**ARTICLE 5**  
**COVENANTS OF MUNEY DEVELOPMENT PARTNERS, LLC**

- 5.01 Covenants Regarding Development and Operations. In consideration of EEDC agreeing to make the Project contributions in accordance with the terms, provisions, and conditions of this Agreement and the EEDC's agreement to convey the Property, Muney agrees that it will do all of the following, which are duties that must be fulfilled in order to receive the City and the EEDC Incentives:
- (A) Obtain a building permit and commence construction of the Development within ninety (90) days of the Closing Date;
  - (B) Design and construct all phases of the Development in conformance with the criteria and development standards set forth in the ordinances of the City, as well as applicable state and federal laws, resulting in a Capital Investment by Muney in an amount equal to at least EIGHT MILLION TWO HUNDRED THOUSAND AND 00/100 including construction costs of the Development;
  - (C) Provide certification to the EEDC of the Capital Investment with documentation satisfactory to the Economic Development Director;
  - (D) Complete the foundation(s) for the Development and submit a letter to EEDC verifying the completion of the foundation(s) within sixty (60) days of obtaining a building permit;
  - (E) Subject to Force Majeure, the Opening Date for the Facility shall be no later than twelve (12) months after the Effective Date of this Agreement;
  - (F) Be responsible for the construction and maintenance of all on-site improvements for the Property and Development;
  - (G) Register all Capital Improvements and equipment with the Tarrant County Appraisal District and list the City as the taxable situs of all its personal property located on the site, and remain current and paid on all property taxes, subject to appeal rights in accordance with law and subject to a right to cure any delinquency;
  - (H) Erect a fence/barrier on both sides and in the rear of the properties for this Development in accordance with the City's Fencing and Screening requirements as shown on an approved site plan;

- (I) Have all of the proposed properties replatted into one property for this development; and
- (J) Warrant to the EEDC and the City that Muney has or will obtain all necessary rights, licenses, and authority to commence a business and that there are no bankruptcy proceedings.

**ARTICLE 6**  
**CONVEYANCE OF THE PROPERTY**

- 6.01 The EEDC hereby agrees to convey the Property by special warranty deed to Muney according to the terms of this Article.
- 6.02 The conveyance of the Property excludes any right, title, or interest of EEDC in and to adjacent streets, alleys, or right-of-way. The conveyance of the Property excludes any interest in the mineral estate, which will be retained by the EEDC.
- 6.03 It is agreed that the value of the Property is Three Hundred Thirty Thousand Dollars and No Cents (\$330,000.00).
- 6.04 No earnest money will be required from Muney.
- 6.05 Muney may obtain at its option a survey of the Property. The EEDC shall cooperate with the surveyor by permitting access to the Property and providing copies of previous surveys and related documents, but provision of such documents shall in no way constitute a warranty, representation, or contractual commitment by EEDC.
- 6.06 Within thirty (30) days after the date of the Effective Date of this Agreement Muney may obtain a title commitment at its expense.
- 6.07 The conveyance of the Property is “as-is.” Muney has inspected the Property and accepts it “as-is” and acknowledges that the EEDC makes no warranty or representation regarding the Property or its condition, except as otherwise provided in this Agreement. EEDC makes no warranty or representation that the Property is suitable for Muney’s intended use.

**ARTICLE 7**  
**INCENTIVES PROVIDED BY THE CITY TO MUNEY**

- 7.01 Subject to and contingent upon Muney complying with its duties and obligations under this Agreement, the City agrees that, subject to the terms and conditions contained herein, the City shall provide the incentives and benefits according to the schedule set forth in this Article.
- 7.02 The City will authorize permitting and plan review services by the Development to be conducted on a “fast track” basis and direct staff to assist during the platting and permitting process.
- 7.03 The City will provide access to water and sewer to Property.
- 7.04 The City will close and abandon King Street from Race Street to the rear property line of said properties. This portion of King Street will be conveyed free of charge to Muney for development.

**ARTICLE 8**  
**INCENTIVES PROVIDED BY THE EEDC TO MUNEY**

- 8.01 The EEDC agrees to convey the Property to Muney at no cost, subject to Article 10 of this Agreement.
- 8.02 Subject to and contingent upon Muney complying with its duties and obligations under this Agreement, the EEDC will provide the incentives and benefits according to this Article.
- 8.03 The EEDC will pay the closing costs associated with the conveyance of the Property by the EEDC to Muney and one-half of the escrow fee.

**ARTICLE 9**  
**AUTHORITY; COMPLIANCE WITH LAW**

- 9.01 Muney hereby represents and warrants to the City that it has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement and that the execution and delivery of this Agreement has been duly authorized by all necessary action by Muney and this Agreement constitutes the legal, valid and binding obligation of Muney , and is enforceable in accordance with its terms and provisions.
- 9.02 Notwithstanding any other provision of this Agreement, Muney shall comply with all federal, state, and local laws.
- 9.03 During the term of this Agreement, Muney agrees not to knowingly employ any undocumented workers at the Development, and if convicted of a violation under 8

U.S.C. Section 1324a(f), Muney shall repay the amount of the Incentives received by Muney as of the date of such violation within one hundred twenty (120) business days after the date Muney is notified by the City of such violation, plus interest at the rate the City is paying on the most recent issuance of bonded indebtedness prior to Muney's violation of this section.

**ARTICLE 10**  
**DEFAULT AND REMEDIES**

10.01 Default by Muney or an Affiliate.

- (A) In the event: (i) Muney fails to fulfill its obligations of this Agreement; (ii) Muney has delinquent ad valorem or sales taxes owed to the City, provided that Muney retains the right to timely and properly protest and/or contest any such taxes; or (iii) Muney materially breaches any of the material terms and conditions of this Agreement; then Muney shall be in breach or default of this Agreement. In the event of such a breach or default, the City shall give Muney written notice of such breach and/or default, and if Muney has not cured such breach or default within ninety (90) days after receipt of such notice, the City and the EEDC may terminate this Agreement by written notice to Muney, and the City and the EEDC shall have no further obligation to Muney under this Agreement.
- (B) In the event Muney fails to complete the foundation(s) for the Development and submit a letter to the City verifying the completion of the foundation(s) as required by Section 5.01(D) of this Agreement, then Muney shall reconvey the Property to the EEDC by Special Warranty Deed.

10.02 No waiver or any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement. Any waiver of any term or condition of this Agreement must be in writing and approved by the City, the EEDC, and Muney.

**ARTICLE 11**  
**VENUE AND GOVERNING LAW**

11.01 This Agreement is fully performable in Tarrant County, Texas, and venue of any action arising out of this Agreement shall be exclusively in Tarrant County, Texas. To the extent permitted by law, the substantive laws of the State of Texas shall apply without regard to applicable principles of conflicts of law, and the parties submit to the jurisdiction of the state courts in Tarrant County, Texas.

**ARTICLE 12**  
**FORCE MAJEURE**

12.01 Performance of Muney's obligations under this Agreement shall be subject to extension

due to delay by reason of events of force majeure, and Muney's obligations shall be abated during any period of force majeure. Force majeure shall include, without limitation, damage or destruction by fire or other casualty, condemnation, strike, lockout, civil disorder, war, inability to obtain, any permit and/or legal authorization (including engineering approvals by any governmental entity), inability to obtain, governmental approvals and permits, shortage or delay in shipment of materials or fuel occasioned by any event referenced herein, acts of God, unusually adverse weather or wet soil conditions or other causes beyond the parties' reasonable control, including but not limited to, any court or judgment resulting from any litigation affecting the Property or this Agreement.

**ARTICLE 13**  
**GIFT TO PUBLIC SERVANT**

- 13.01 No Benefit. Each party hereto represents to the other that it has not offered, conferred, or agreed to confer and that it will not offer, confer or agree to confer in the future any benefit upon an employee or official of the other party. For purposes of this Section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- 13.02 Right of Reimbursement. Notwithstanding any other legal remedies, the EEDC may obtain reimbursement for any expenditure made to Muney as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

**ARTICLE 14**  
**ASSIGNMENT**

- 14.01 Muney may not assign any part of this Agreement without written consent or approval by the City and the EEDC.



**ARTICLE 15**  
**INDEMNIFICATION**

15.01 **MUNEY DEVELOPMENT PARTNERS LLC EXPRESSLY AGREES TO FULLY AND COMPLETELY DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, THE EEDC, AND ITS PAST, PRESENT, AND FUTURE OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES, AGAINST ANY AND ALL SUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, ATTORNEY'S FEES AND ANY AND ALL OTHER COSTS OR FEES (WHETHER GROUNDED IN CONSTITUTIONAL LAW, TORT, CONTRACT, OR PROPERTY LAW, OR RAISED PURSUANT TO LOCAL, STATE OR FEDERAL STATUTORY PROVISION), ARISING OUT OF THE PERFORMANCE OF THE AGREEMENT AND/OR ARISING OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF MUNEY, ITS OFFICERS, AGENTS, AND EMPLOYEES. IT IS UNDERSTOOD AND AGREED THAT MUNEY AND ANY EMPLOYEE OR SUBCONTRACTOR OF MUNEY SHALL NOT BE CONSIDERED AN EMPLOYEE OF THE CITY OR THE EEDC. MUNEY SHALL NOT BE WITHIN PROTECTION OR COVERAGE OF THE CITY'S WORKERS' COMPENSATION INSURANCE, HEALTH INSURANCE, LIABILITY INSURANCE OR ANY OTHER INSURANCE THAT THE CITY FROM TIME TO TIME MAY HAVE IN FORCE AND EFFECT. THE CITY SPECIFICALLY RESERVES THE RIGHT TO REJECT ANY AND ALL OF MUNEY'S EMPLOYEES, REPRESENTATIVES OR SUBCONTRACTORS AND/OR THEIR EMPLOYEES FOR ANY CAUSE, SHOULD THE PRESENCE OF ANY SUCH PERSON ON CITY OR EEDC PROPERTY OR THEIR INTERACTION WITH CITY OR EEDC EMPLOYEES BE FOUND NOT IN THE BEST INTEREST OF THE CITY OR IS FOUND TO INTERFERE WITH THE EFFECTIVE AND EFFICIENT OPERATION OF THE CITY'S WORKPLACE.**

This provision is solely for the benefit of the City, the EEDC, and the officers and employees of each, and is not intended to create or grant any rights, contractual or otherwise, in or to any other person. This Section shall survive termination of this Agreement.

15.02 Nothing in this Agreement shall be construed as waiving any governmental immunity available to the City under state law.

15.03 It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. The City (including its past, present and future officers, elected officials, directors, employees and agents of the City) does not assume any responsibility to any third party in connection with Muney's construction of the Development.

**ARTICLE 16**  
**MISCELLANEOUS MATTERS**

- 16.01 Time is of Essence. Time is of the essence in this Agreement. The parties hereto will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.
- 16.02 Agreement Subject to Applicable Law. This Agreement is made subject in accordance with the Everman Home Rule Charter and ordinances of City, as amended, and all applicable State and federal laws, violation of which shall constitute a default of this Agreement.
- 16.03 Interpretation. Each of the Parties have been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any Party based on draftsmanship.
- 16.04 Counterparts Deemed Original. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- 16.05 Captions. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
- 16.06 Complete Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in the Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached and made a part of this Agreement.
- 16.07 Notice. Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by a nationally recognized overnight courier service; or (iii) delivered by United States certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the respective party at its address set forth below, and shall be effective (a) upon receipt or refusal if delivered personally; (b) one business day after depositing, with such an overnight courier service or (c) two business days after deposit in the United States mails, if mailed. Any party hereto may change its address for receipt of notices by service of a notice of such change in accordance with this subsection.

**MUNEY DEVELOPMENT PARTNERS LLC:**

MUNEY DEVELOPMENT PARTNERS, LLC  
520 W. Kellis St.  
Fort Worth, TX 76115-1323  
817-881-8937

**CITY:** City of Everman  
Attn: Craig W. Spencer, City Manager  
212 North Race Street  
Everman, Texas 76140  
Telephone: (817) 293-0525

**EEDC:** Everman Economic Development Corporation  
Attn: Michael Nicoletti, Director  
212 North Race Street  
Everman, Texas 76140  
Telephone: (817) 293-0525

With a copy to: Mindi Parks  
City Secretary  
212 N. Race Street  
Everman, Texas 76140  
Telephone: (817) 293-0525

- 16.08 Amendment. This Agreement may only be amended by the mutual written agreement of the parties.
- 16.09 Severability. In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word herein is held invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In the event there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal and enforceable.
- 16.10 Certificate of Interested Parties (TEC Form 1295). For contracts that require City Council approval or that is for services that would require a person to register as a lobbyist under Chapter 305 of the Government Code, the City may not accept or enter into a contract until it has received from Muney a completed Texas Ethics Commission (TEC) Form 1295 complete with a certificate number assigned by the (TEC), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. Muney understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Agreement.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor

undertake responsibility for advising any potential vendor with respect to the proper completion of the TEC Form 1295.

- 16.11 Anti-Boycott Israel Verification. In accordance with Chapter 2270, Texas Government Code, the City may not enter into a contract with a company, excluding a sole proprietorship, with 10 or more full-time employees for goods or services valued at \$100,000 or more unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.

The signatory executing the Agreement on behalf of Muney verifies that Muney and its parent company, wholly-owned subsidiaries, majority-owned subsidiaries and other affiliates, if any, do not boycott Israel and, to the extent the Agreement is a contract for goods or services, will not boycott Israel during the term of the Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in Israeli-controlled territory, but does not include an action made for ordinary business purposes. The signatory understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the signatory and exists to make a profit. This section does not apply to a vendor which is a sole proprietorship and/or which has less than 10 full-time employees. This section does not apply to a contract valued at less than \$100,000.

- 16.12 Iran, Sudan, and Foreign Terrorist Organizations. The signatory executing the Agreement on behalf of Muney represents that neither Muney nor any of its parent company, wholly-owned subsidiaries, majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website:

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

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

- 16.13 Disclosure of Business Relationships/Affiliations; Conflict of Interest Questionnaire. Muney represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code.
- 16.14 Verification Regarding Energy Company Boycotts. To the extent the Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, Muney hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any, do not boycott energy companies and, will not boycott energy companies during the term of the 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 have the meaning assigned to the term “boycott energy company” in Section 809.001, Texas Government Code. The Muney understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with Muney and exists to make a profit.
- 16.15 Verification Regarding Discrimination Against Firearm Entity or Trade Association. To the extent the Agreement constitutes a contract for the purchase of goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, “SB 19”), as amended, Muney hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any,

- (1) do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of the 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” shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). Muney understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with Muney and exists to make a profit.

*[Signature pages to follow]*

EXECUTED on the respective dates of acknowledgement, to be effective as of the date first set forth above.

**EVERMAN ECONOMIC DEVELOPMENT  
CORPORATION,  
a Texas municipal development corporation**

By: \_\_\_\_\_  
Ray Richardson, EDC President

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

**CITY OF EVERMAN**

By: \_\_\_\_\_  
Craig Spencer, City Manager

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

STATE OF TEXAS           §  
COUNTY OF TARRANT   §

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by \_\_\_\_\_, known personally by me to be the \_\_\_\_\_ of Everman Economic Development Corporation, on behalf of said corporation.

[Notary Seal]

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

STATE OF TEXAS           §  
COUNTY OF TARRANT   §

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by \_\_\_\_\_, known personally by me to be the \_\_\_\_\_ of the City of Everman, on behalf of said City.

[Notary Seal]

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

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Legal Counsel

**Muney Development Partners, LLC**

By: \_\_\_\_\_  
Alvaro Munoz  
Owner

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

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by Muney Development Partners, LLC, known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_(description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and on behalf of Muney Development Partners, LLC.

[Notary Seal]

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

By: \_\_\_\_\_  
Fernando Urcelay  
Owner

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

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by Muney Development Partners, LLC, known to me (or proved to me on the oath of \_\_\_\_\_ or



through \_\_\_\_\_(description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and on behalf of Muney Development Partners, LLC.

[Notary Seal]

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

By: \_\_\_\_\_  
Juan Enrique Munoz  
Owner

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_, 2022 by Muney Development Partners, LLC, known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_(description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and on behalf of Muney Development Partners, LLC.

[Notary Seal]

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

**Exhibit A**  
**Legal Description of Land**

Blk 3, Lot 3R (404 King), Blk 2, Lot 11R (405 King Street), Blk 3, Lot 2R (406 King), Blk 3, Lot 1R (408 King), Blk 2, Lot 12R (403 King Street), Blk 2, Lot 6R (406 N. Race), Blk 2, Lot 7R (408 N. Race), Blk 2, Lot 8R (410 N. Race), Blk 2, Lot 9R (412 N. Race), Blk 3, Lot 4R (502 N. Race), and Blk 2, Lot 10R (414 N. Race)