

EASEMENT ACQUISITION REIMBURSEMENT AGREEMENT

This REIMBURSEMENT AGREEMENT (the “Agreement”) is by and between URBANIST, INC, a Delaware corporation (the “Developer”), and the CITY OF FAIR OAKS RANCH, a Texas municipal corporation (the “City”), and is effective upon the execution of this Agreement by the Developer and the City (the “Effective Date”).

WHEREAS, the Developer proposes to develop certain real property located in the City of Fair Oaks Ranch, Bexar County, Texas(the “Property”);

WHEREAS, the Developer seeks to develop the Property and such development requires the extension and construction of certain public utility improvements: and

WHEREAS, the public utilities to be extended lie within and adjacent development and the public utility easement ends short of the property line between the Property and adjacent property; and,

WHEREAS, the offsite water and sewer extensions are needed to provide adequate sewer service to the Property; and

WHEREAS, the Developer has requested and the City agrees that the City’s acquisition of the necessary public utility easement to make the necessary utility extensions and connections serves the public interest and protects the health and welfare of the citizens and future citizens by enabling the extension and connection of said utilities; and

WHEREAS, the Developer has made reasonable and good faith attempts to acquire the easement without the participation of the City; and

WHEREAS, the City finds that it is in the best interest of the City to enter into the Agreement with the Developer for acquisition of the easement necessary for the construction of Public Improvement in order to provide the infrastructure to serve the Property.

NOW THEREFORE, in consideration of the agreements set forth herein and for other reciprocal good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and stipulated by the Parties, the Developer and the City agree as follows:

1. Acquisition of Easements; Covenants. The Developer and the City covenant and agree to the following:
 - a) The Developer is obligated by the City’s Unified Development Code to construct, or cause to be constructed, public utility improvements.
 - b) Construction of the required public utility improvements requires acquisition of offsite easements, and the Developer is required to bear the cost of easement acquisition. The Developer has not been able to acquire all of the necessary easements and has sought the City’s assistance in

Exhibit A

acquiring the remaining easements see Exhibit "A1". The Developer agrees to reimburse the City for all costs associated with acquiring the easements, including but not limited to the acquisition price and attorney's fees. The acquisition costs may include the costs of surveys, appraisals, attorney's fees and court costs incurred by the use of eminent domain. The Developer shall pay the City the amount of the total costs required to acquire the easements in advance of the City closing on the acquisition.

- c) After the City Council authorizing the use of eminent domain to acquire the subject easements, Developer shall escrow with the City an initial deposit of \$25,000.00 to be applied to the authorized costs in acquiring the subject easements. The Developer agrees to deposit additional funds within three days upon the request of the City, at such time the escrowed funds fall below \$5,000.00.
- d) The City agrees to acquire the Easement and to initiate and execute any and all actions required to lawfully acquire the Easement in order to facilitate the Developer's construction and connection of the Improvements. Such actions may include, but is not limited to, the City exercising its eminent domain authority, pursuant to Texas Property Code 21 and Local Government Code Section 251.001. The City will use best efforts to finalize the acquisition of the Easement within 180 days of the effective date of this Agreement (the "Acquisition Date," as may be extended). The Acquisition Date may be extended by mutual written agreement and administratively approved by the City Manager.
- e) Notwithstanding any provision herein to the contrary, the City acknowledges that, if the Easement is not acquired by the City, the Developer is under no further obligation to pay/reimburse any costs associated with the attempted acquisition.
- f) Within sixty (60) days after the Effective Date of the Agreement, City shall provide the approximate date of full and effective acquisition, as well as the type(s), location, and size of Easement. Once the City has begun condemnation proceedings for the Easement acquisition and has provided written notice to Developer of such (including approximate date such condemnation proceedings may be complete), Developer may not terminate the Agreement pursuant to this section. For purposes of this Agreement, City Council authorization to use eminent domain to acquire the Easement shall constitute the beginning of condemnation proceedings due to the necessity to expend funds by the City. City shall provide timely written notice to Developer upon any cause that may delay, restrict, and/or prohibit City acquisition of Easement.

2. Approval of Agreement. The City has approved the execution and delivery of this Agreement and the Developer represents and warrants that it has taken all necessary action to authorize its execution and delivery of this Agreement.

Exhibit A

3. Governmental Immunity. The City does not waive or relinquish any immunity or defense on behalf of itself, its officers, employees, Councilmembers, and agents because of the execution of this Agreement and the performance of the covenants and actions contained herein.
4. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, representatives, successors, and assigns, and the terms hereof shall run with the Property.
5. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts shall be construed together and shall constitute one and the same Agreement.
6. Integration. This Agreement is the complete agreement between the parties as to the subject matter hereof and cannot be varied except by the written agreement of the Developer and the City. The Developer and the City each agrees that there are no oral agreements, understandings, representations or warranties which are not expressly set forth herein.
7. Notices. Any notice or communication required or permitted hereunder shall be deemed to be delivered three (3) days after such notice is deposited in the United States mail, postage fully prepaid, registered or certified mail return receipt requested, and addressed to the intended recipient at the address shown herein. Any address for notice may be changed by written notice delivered as provided herein. All notices hereunder shall be in writing and served as follows:

If to the Developer:

URBANIST, INC.
1309 Coffeen Avenue, Suite 1200
Sheridan, Wyoming 82801
Attention: Jon Bursey, Managing Director

With copy to:

Killen, Griffin & Farrimond, PLLC
10101 Reunion Place, Suite 250
San Antonio, Texas 78216
Attention: Rob Killen

If to the City:

CITY OF FAIR OAKS RANCH
7286 Dietz Elkhorn Rd
Fair Oaks Ranch, Texas 78015
Attention: Tobin E. Maples, City Manager

With copy to:

Denton Navarro Rocha Bernal & Zech, P.C.
2517 N. Main Avenue
San Antonio, Texas 7 78212
Attention: T. Daniel Santee

8. Legal Construction. If any provision in this Agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, such unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of this Agreement. Whenever the context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
9. Recitals; Exhibits. Any recitals in this Agreement are represented by the parties hereto to be accurate, constitute a part of the parties' substantive agreement, and are fully incorporated herein as matters of contract and not mere recitals. Further, any exhibits to this Agreement are incorporated herein as matters of contract and not mere exhibits.
10. No Joint Venture. 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.
11. Choice of Law. This Agreement will be construed under the laws of the State of Texas without regard to choice-of-law rules of any jurisdiction. Venue shall be in the State District Courts of Kendall County, Texas with respect to any lawsuit arising out of or construing the terms and provisions of this Agreement. No provision of this Agreement shall constitute consent by suit by any party.

[Signatures and acknowledgments on the following pages]

Signature Page to
Reimbursement Agreement

This Reimbursement Agreement has been executed by the parties as of the dates of the Acknowledgments to be effective as of the Effective Date.

Developer:

URBANIST, INC

By: _____

Name: _____

Title: _____

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2023 by _____, the _____ of Urbanist, INC on behalf of said corporation.

(SEAL)

Notary Public in and for
The State of Texas

My Commission Expires: _____

Signature Page to
Reimbursement Agreement

This Reimbursement Agreement has been executed by the parties as of the dates of the Acknowledgments to be effective as of the Effective Date.

City:

CITY OF FAIR OAKS RANCH,
a Texas municipal corporation

By: _____

Name: Tobin E. Maples, City Manager

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the ____ day of _____, 2023 by Tobin Maples, City Manager of the City of Fair Oaks Ranch, a Texas municipal corporation, on behalf of said City.

(SEAL)

Notary Public in and for
The State of Texas

My Commission Expires:_____

EXHIBIT "A1"

The Easement

[See attached]