

## **DEVELOPMENT AGREEMENT FOR LANZOLA DEVELOPMENT**

This Development Agreement for LanZola Development (the “Agreement”) is made and entered into, effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **City of Manor, Texas**, a Texas home rule municipal corporation (the “City”) and LanZola Reserves, LLC , a Texas limited liability company (the “Owner”). The City and Owner are hereinafter sometimes referred to as a “Party” and collectively as the “Parties.” The Parties agree as follows:

### **RECITALS**

A. Owner owns approximately 137.022 acres of land, more or less, located in Travis County, Texas, being more particularly described in **Exhibit A** attached hereto and incorporated herein for all purposes (the “Property”). The Property is located within the City’s extraterritorial jurisdiction (“ETJ”) and not within the ETJ or corporate limits of any other municipality.

B. Owner will develop the Property as a mixed-use development project consisting of manufactured home park, commercial and community center uses, as provided in this Agreement, and as generally shown on **Exhibit B** attached hereto and incorporated herein for all purposes (the “Project”), which shows the general locations of the proposed uses.

C. The City holds a Certificate of Convenience and Necessity for sewer service issued by the Texas Commission on Environmental Quality (the “TCEQ”) or a predecessor agency, recognizing the City’s right to provide retail sewer service to the Property.

D. The City shall be the exclusive retail provider of wastewater service to the Property.

E. The Property is not currently served by water, wastewater, drainage facilities or roads and although there are roads, water and wastewater abutting the Property, there are no such facilities located upon the Property.

F. The Parties desire to establish the agreed components of the wastewater, streets, drainage and other infrastructure required for the development and use of the Property pursuant to the Applicable Regulations, as defined below, and the agreed process for the construction, conveyance, and financing thereof on the terms and conditions set forth in this Agreement.

G. Owner shall request annexation of the Property into the corporate boundaries of the City as provided in Section 3.01 herein when feasible.

H. The Parties desire to establish certain restrictions and commitments to be imposed and made in connection with the development of the Property; to provide increased certainty to the City and Owner concerning development rights, entitlements, arrangements, and commitments, including the obligations and duties of the Owner and the City, for a period of years; and to identify planned land uses and permitted intensity of development of the Property before and after annexation as provided in this Agreement, which is promulgated under the City Charter of the City (“City Charter”),

and state law, including, but not limited to Section 212.172, Texas Local Government Code (“Section 212.172”). The Parties acknowledge that they are proceeding in reliance upon the purposes, intent, effectiveness and enforceability of this Agreement.

I. This Agreement is entered into pursuant to the provisions of the City Charter and applicable Texas law including, without limitation, Section 212.172.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### **Article I. Incorporation of Recitals**

1.01. Recitals Incorporated. The above and foregoing recitals are incorporated herein and made a part of this Agreement for all purposes.

### **Article II. Purpose, Benefits, Authority, Term and Termination**

2.01. Purpose. The Property is proposed for development as mixed-use manufactured home park, community center and commercial/retail site, with no more than 600 manufactured home units. Developer will subdivide, if applicable, and develop the Property at the Developer’s expense in accordance with this Agreement, the plans and specifications approved by the City, good engineering practices, and the Applicable Regulations, as defined in Section 4.01(b) of this Agreement. The City and Owner further want to provide for the Owner to design and construct a wastewater extension line connecting into the City’s planned wastewater main for wastewater services for use by the Property and other development actions by both Parties.

2.02. General Benefits. Owner will benefit from the certainty and assurance of the development regulations applicable to the development of the Property and by virtue of the services that will be made available to the Property pursuant to the terms of this Agreement. The City will provide wastewater service to the Property on the same terms and conditions as such services are provided to similarly situated properties within the City. Owner has voluntarily elected to enter into and accept the benefits of this Agreement and will benefit from: (a) the certainty and assurance of the development and use of the Property in accordance with this Agreement; (b) the establishment of regulations applicable to the development of the Property; and (c) the wastewater services that will be made available to the Property pursuant to the terms of this Agreement. The City will benefit from this Agreement by virtue of its control over the development standards for the Property and by virtue of extension of its wastewater system, wastewater impact fees, and potential tax revenue. The Parties expressly confirm and agree that development of the Property will be best accomplished through this Agreement and will substantially advance the legitimate interests of the City. The City, by approval

of this Agreement, further finds the execution and implementation of this Agreement is not inconsistent or in conflict with any of the policies, plans, or ordinances of the City.

2.03. Authority. This Agreement is entered into, in part, under the statutory authority of Section 212.172, Texas Local Government Code, which authorizes the City to make written contracts with the owners of land establishing lawful terms and considerations that the parties agree to be reasonable, appropriate, and not unduly restrictive of business activities. The Parties intend that this Agreement authorize certain land uses and development of the Property, provide for the uniform review and approval of plats and development plans for the Property, provide exceptions to certain ordinances; and provide other terms and consideration including the continuation of land uses and zoning after annexation of the Property located in the City's ETJ.

2.04. Term of Agreement; Termination. The term of this Agreement shall be fifteen (15) years from the Effective Date with two (2) automatic renewals of fifteen (15) years each, up to the maximum forty-five year limit set by Texas Local Government Code, Section 212.172(d). Upon the expiration of this Agreement any and all rights pursuant to this Agreement shall expire; provided this Agreement will terminate and expire earlier if: (a) Owner defaults in the performance of this Agreement and the default is not timely cured as provided in this Agreement; (b) Owner defaults in the performance of any other contract or agreement between the Parties regarding or applicable to the development of the Property and the default is not timely cured within the time provided for cure in this Agreement; or (c) the Property is annexed by the City in accordance with Section 3.01 of this Agreement. The Parties further mutually agree that this Agreement shall be in full force and effect from the Effective Date until the termination date, provided that the City may terminate this Agreement in accordance with Article VII.

### **Article III.**

#### **Annexation; Sequence of Events**

3.01. Annexation. Owner consents to voluntarily request that the City approve annexation of the Property prior to the expiration of this Agreement. An annexation petition in a form substantially similar to that set forth in **Exhibit C** voluntarily requesting annexation of the Property will be executed by the Owner and submitted to the City within ten business (10) days prior to the expiration of this Agreement and after the later of: a) the Property becoming contiguous land to the City Limits, and b) the Property obtaining the relevant development permits to commence construction of the Project. The City will process the petition within sixty (60) days of receiving Owner's annexation petition. The Owner accepts and agrees to execute the Agreement Regarding Post-Annexation Provision of Services for Property to be Annexed into the City of Manor attached as **Exhibit D** (the "Services Agreement") as good, sufficient and acceptable services for the Property. The Property will be annexed into the corporate limits of the City in accordance with the provisions of this Agreement, subject to the discretion of the City Council of the City and in compliance with the applicable notice and hearing requirements. If Owner fails to present to the City a petition for the annexation of the Property signed by the landowner of the Property as provided in this section or fails to actively support the annexation the City may terminate this Agreement.

3.02. Contemplated Sequence of Events. The sequence of events contemplated by this Agreement is as follows:

- (a) Approval of this Agreement by the City and Owner;
- (b) Submission of an annexation petition and zoning application by Owner pursuant to the terms of this Agreement;
- (c) City acceptance of the annexation petition and beginning of public hearings and process to adopt the annexation ordinance; and
- (d) Second and final reading of ordinance annexing the Property, and second and final reading of an ordinance zoning the Property in accordance with Section 4.02.

#### **Article IV. Development of the Property**

##### **4.01. Applicable Regulations.**

(a) Owner shall plan, plat, build-out and complete development and infrastructure on the Property in compliance with the Applicable Regulations, as the term is defined in subsection (b), and this Agreement.

(b) Except as may be modified by this Agreement, the Property will be developed in accordance with all applicable local, state, and federal regulations, including but not limited to the City's ordinances and the zoning regulations applicable to the Property on the date of this Agreement, and such amendments to City ordinances and regulations that may be applied to the Development under Chapter 245, Texas Local Government Code, and good engineering practices (the "Applicable Regulations").

4.02. Zoning. The City agrees to proceed with the zoning of the Property in accordance with the uses provided in Exhibit B. The zoning of the Property shall be subject to the process, notices, hearings and procedures applicable to all other properties within the City, with such process to be commenced upon receipt of the annexation petition described in Section 3.01 and receipt of a zoning application that complies with this Agreement and the Applicable Regulations, provided that the City Council will not take final action on the zoning application until the Property is annexed into the city limits. If the Owner submits a zoning application to zone the Property something other than as provided for in this Section, then Owner shall pay all required fees. The Property will have no more than 600 manufactured home units, approximately 4.7 acres of commercial/retail development and approximately 1 acre for a community center use, including land for the City to use for emergency services.

##### **4.03. Development Standards.**

(a) Development Requirements for Manufactured Home Park. The development standards set forth in the City's Code of Ordinances, Article 3.05, and Sections 14.02.007 ("MH-2 Classification") and 14.02.063 shall apply to the manufactured home structures located on the Property.

(b) Non-Residential Development Requirement.

(1) The Owner agrees to only permit uses listed in the City's zoning ordinance for Neighborhood Business on the non-residential development of the Property.

(2) The exterior wall standards set forth in this section shall apply to the non-residential structures located on the Property, as more particularly shown on **Exhibit B**. At least sixty percent (60%) minimum of the exterior façade of the front elevations, and fifty percent (50%) minimum combined on all elevations, of each non-residential structure shall be constructed of clay brick, natural stone, cultured stone, cast stone, stucco or natural stone panels or similar material approved by the Development Services Director, exclusive of roofs, eaves, soffits, windows, balconies, gables, doors, and trim work.

(c) Architectural Requirement. The architectural standards set forth in the City's Code of Ordinances, Section 14.02.065(b) shall apply to the non-residential structures located on the Property. The architectural standards set forth in the City's Code of Ordinances, Section 14.02.063 shall apply to the manufactured home structures located on the Property.

(d) Outdoor Lighting Requirement. The outdoor lighting standards set forth in the City's Code of Ordinances, Article 15.05 shall apply to all non-residential development on the Property.

(e) Landscaping Requirement. The landscaping standards set forth in the City's Code of Ordinances, Section 15.03.005 shall apply to manufactured home park and non-residential development on the Property. In addition, Owner agrees to the following landscape requirements for the Property: one (1) tree per manufactured home unit; and two (2) trees per corner manufactured home unit.

(f) Building Permits. Owner acknowledges and agrees that compliance with Section 4.03(a) will be a condition of issuance of building permits and certificates of occupancy. Owner further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 4.03(a) above, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must be in compliance with this Agreement, as well as the Applicable Regulations, as herein defined, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this Agreement must accompany a building permit application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.

4.04. Vesting. Any claim of vested rights under this Agreement shall be limited to the period of time beginning on the Effective Date and no vested rights exist with respect to any claim, event plans or matters that occurred prior to the Effective Date. Any vested rights of the Owner under this Agreement shall apply and begin only on the Effective Date and vesting shall expire (1) on the fifth

anniversary from the date a concept plan is filed with the City if no progress has been made towards the completion of the Project; or (2) will terminate if this Agreement is terminated by reason of Owner's default beyond any applicable notice and cure periods (the "Vested Rights"). Progress toward completion of the Project shall be defined as set forth in Section 245.005(c), Texas Local Government Code. To the extent any such standards or other criteria specified in this Agreement are in direct conflict with any other current or future provisions of the City Code or any other City ordinances, policies or requirements, this Agreement shall govern. A vested right under this Agreement shall not apply to regulations mandated by state or federal law, or that are necessary to prevent imminent harm to human safety or property, which may be modified and made applicable to the Project after the Effective Date. The Parties acknowledge and agree that this paragraph shall not apply to fees imposed in conjunction with development permits.

4.05. **Owner's Rights to Continue Development.** In consideration of Developer's agreements, the City agrees that it will not, during the term of this Agreement, impose or attempt to impose: (a) any moratorium on building or development within the Property or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting subdivision plats, site development permits or other necessary approvals, within the Project except for moratoria imposed pursuant to Texas Local Government Code Subchapter E, Section 212.131 et. seq. This Agreement on the part of the City will not apply to temporary moratoriums uniformly imposed throughout the City due to an emergency constituting an imminent threat to the public health or safety, provided that the temporary moratorium continues only during the duration of the emergency.

4.06. **Private Open Space.** Owner has agreed to use approximately 5.8 acres as private open space for recreation and enjoyment of the residents on the Property, which will contain community amenities, as generally shown in **Exhibit B**.

4.07. **Community Facilities.** Owner has agreed to dedicate approximately 1 acre for use as a community facility by a not for profit organization or public entity to provide public services to residents on the Property; and for use by emergency services, as generally shown in **Exhibit B**.

4.07. **Design and Construction.** Owner will finance (if applicable), design, construct and install all required water facilities, wastewater facilities, streets, drainage facilities and other improvements within the Property described in Exhibit B and the Project Facilities described in Article V. below required to serve the Property (collectively the "Subdivision Improvements") at Owner's sole cost and expense. Developer shall design and construct and install the Subdivision Improvements in compliance with the Applicable Regulations, the plans and specifications approved by the City, and good engineering practices.

4.08. **Timing of Platting.** The Owner agrees to waive the submission requirements of the City's ordinances and subdivision regulations and the City agrees to allow concurrent review of concept plan(s), preliminary plat(s), construction plan(s) and final plat(s). Upon each submittal, the City shall have thirty (30) days to respond to the Developer and/or its authorized representative with comments citing the deficiencies of the plats and plans. After the City has determined the plats and plans meet the minimum requirements of the City's ordinances and subdivision regulations, the plats and plans will be heard before the applicable governing body for approval. Reviews of the plats and plans may

occur concurrently, but approvals with the applicable governing body must follow the sequence set forth in the Applicable Regulations.

## **Article V. Wastewater Service**

5.01. Wastewater Extension Line Project. The Wastewater Extension Line Project consists of an extension of a wastewater line (the “Wastewater Extension Line”) from a proposed wastewater main line, along a route generally shown on **Exhibit E** and all the appurtenant facilities and equipment reasonably required to operate the Wastewater Extension Line (the “Wastewater Extension Line Project”). The construction of the Wastewater Extension Line Project will comply with the Applicable Regulations, plans and specifications approved by the City, this Agreement, and good engineering practices.

5.02. Timely Construction of Wastewater Extension Line Project. Owner shall design, construct, install and obtain City acceptance of the Wastewater Extension Line in accordance with the terms and conditions of this Agreement. No final plat of the Property will be recorded until the Wastewater Extension Line Project is completed by the Owner. However, the City will accept the construction of the Project to occur concurrently with the construction of the Wastewater Extension Line Project.

5.03. Wastewater Service.

(a) Service Connections. Upon completion of the Wastewater Extension Line Project, the City will provide wastewater service to the Property, and will approve direct connections for each commercial unit or structure to the City’s wastewater system upon a Certificate of Occupancy being issued for the unit or structure and provide wastewater service for the commercial unit or structure on the same terms and conditions as provided to all other areas of the City; provided that all infrastructure required to serve the Property has been constructed. As used in this Agreement, “direct connection” means a wastewater service line that is directly connected to a wastewater main that ties into a manhole on the Wastewater Extension Line Project.

(b) Wastewater Service Construction Obligations. Unless otherwise provided in this Agreement, Owner shall be responsible for the engineering and construction of all wastewater lines, infrastructure and facilities necessary to serve the Property.

(c) Payment of Wastewater Impact Fees. Owner shall be responsible for payment of all Wastewater Impact Fees. Wastewater Impact Fees shall be payable with respect to a lot, tract, parcel, or building site at the time the building permit for each building or structure is applied for or, if no building permit is required, then upon the first to occur of the following: (a) the date construction of the building or structure is first commenced, (b) or the date water service is requested for the lot, tract or parcel of land.

(d) Easements. During the design phase of the Wastewater Extension Line Project, the City shall identify any wastewater easements on Owner’s property required to be conveyed to the City. Owner shall convey to the City at no cost to the City the easements reasonably required and to

the extent possible, free and clear of all liens and encumbrances, within thirty (30) days of written request by the City, using forms acceptable to the City.

5.04 City and Owner agree that as a requirement to the Wastewater Extension Line Project, the City will build a wastewater main on a neighboring property to the south of the Project that will connect to the Owner's Wastewater Extension Line Project. The Owner will use its best efforts to negotiate and acquire any easements to provide connectivity to the City's wastewater main. The easements are necessary and required by the City for the City to provide wastewater service to the Property and for the Developer to comply with the City's Applicable Regulations and obtain approval for the development of the Property. The City agrees to cooperate and support the Developer's acquisition of the necessary easements from the grantors, at no cost to the City. To the extent possible, the easements shall be free and clear of all liens and encumbrances using forms acceptable to the City. If the Developer is unable to obtain any of the easements from the grantors, the Developer shall notify the City within thirty (30) days that the easement(s) was not obtained and the City will determine whether to use condemnation proceedings to obtain the necessary easements needed. If the City proceeds with condemnation proceedings to obtain the easement(s) needed, the Owner shall be responsible for all costs associated with the easement acquisition.

#### **Article VI.**

##### **Engineer for the Property and Wastewater Line Project**

6.01. Project Engineer. The Owner shall select a project engineer that will act as engineer for the Property ("the Project Engineer") and shall provide written notice to the City of such designation. The Project Engineer will prepare the design, construction plans and specifications, and supporting documentation for the development of the Property. The Project Engineer will work and coordinate with the City Engineer to obtain the review and approval by Owner, the City Engineer and the Director of Development Services of such design, plans and specifications and supporting documentation. The Owner may, from time to time and at any time, replace the Project Engineer in the Developer's sole and absolute discretion. In the event Owner elects to replace the Project Engineer, the Owner will provide written notice to the City of the replacement engineer.

6.02. Wastewater Extension Line Project Engineer. The Project Engineer will act as the engineer for the Wastewater Extension Line Project. The Project Engineer will prepare the design, construction plans and specifications, and supporting documentation for the Wastewater Extension Line Project to be constructed and installed by Owner in accordance with good engineering practices, the design and construction standards of the Applicable Regulations and this Agreement.

#### **Article VII.**

##### **Additional Agreements and Performance**

7.01. Additional City Agreements. The City hereby agrees: to reasonably cooperate with Owner and use its best efforts, in good faith, to complete City staff review and schedule for approval of the concept plan, site plan, preliminary plat, construction plans, final plat and any other required approval document for the Project, subject to the Owner timely submitting applications and responding to comments.



7.02. Additional Owner Agreements. The Owner hereby agrees:

(a) use its best efforts, in good faith, to submit concept plan, site plan, preliminary plat, final plat and construction plan applications, as may be required, to the City and respond to City comments, subject to the City timely commenting on such applications; and

(b) pay to the City the reasonable costs and expenses incurred by the City for legal services in connection with the negotiation and implementation of this Agreement.

### **Article VIII.**

#### **Assignment of Commitments and Obligations**

8.01. Owner Assignment of Agreement. Owner's rights and obligations under this Agreement may be assigned by Owner to one (1) or more purchasers of all or part of the Property; provided, the City Council of the City must first approve and consent to any such assignment by the Owner of this Agreement including the assignment of any right or duty of the Owner pursuant to this Agreement, which consent shall not be unreasonably withheld, conditioned or delayed.

8.02. Binding Obligations. This Agreement constitutes a covenant that runs with the Property and is binding on future owners of the Property. The Owner and the City acknowledge and agree that this Agreement is binding upon and inure to the benefit of the parties, their successors, and assigns the City and the Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

### **Article IX.**

#### **Default; Reservation of Rights; Attorney's Fees; Waiver**

9.01. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party of notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days.

9.02. Legal or Equitable Remedies.

(a) In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable legal remedy not inconsistent with this Agreement, except as provided in this Section 9.02(a). Owner agrees that notwithstanding the provision of Texas Local Government Code 212.172(j) or any other applicable law, Owner agrees that (i) their sole remedy under this Agreement shall be the equitable remedies of mandamus and specific performance; (ii) that in the event Owner is awarded any monetary damages or attorneys' fees related to the recovery of monetary damages against the City that the Owner shall not seek to enforce such award against the City; provided that if such monetary damages or attorneys' fees are

actually paid by the City, the Owner shall promptly pay to the City an amount equal to the monetary damages or attorneys' fees paid to it by the City, but in no event no later than thirty (30) days after its receipt of the payment of such damages; and (iii) that Owner acknowledges that, but for Owner's waiver of their rights to seek monetary damages herein, the City would not enter into this Agreement. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provisions. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy. Notwithstanding any other term or provision of this Agreement, the City may terminate this Agreement if the Owner fails to cure a default within the period required by this Article.

(b) OWNER COVENANTS AND AGREE TO FULLY INDEMNIFY AND HOLD HARMLESS, THE CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE BROUGHT BY THE SELLER, OR ITS RESPECTIVE SUCCESSORS AND ASSIGNS, FOR THE PURPOSE OF RECOVERING MONETARY DAMAGES OR ATTORNEYS' FEES UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THOSE MONETARY DAMAGES DESCRIBED IN SECTION 212.172, TEXAS LOCAL GOVERNMENT CODE, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. OWNER SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT OWNER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING OWNER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

(c) IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITIES PROVIDED TO THE CITY SHALL SURVIVE THE TERMINATION AND OR EXPIRATION OF THIS AGREEMENT AND SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND / OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND ELECTED OFFICIALS PERMITTED BY LAW.

(d) No employee of the City, nor any council member or agent of the City, shall be personally responsible for any liability arising under or growing out of this Agreement. Any financial obligations of the City hereunder shall be paid solely from lawfully available funds that have been appropriated by the City. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision.

(e) The City shall not be liable for consequential damages, specifically lost profits, and any damages claimed against the City shall be limited to amounts recoverable under §271.153 of

the Texas Local Government Code, to the extent damages may be recoverable under applicable law.

9.03. **Reservation of Rights.** To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws, and neither Party waives any legal right or defense available under law or in equity. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the City or its officers and employees, and neither the City, nor its officers and employees waive, modify or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

9.04. **Attorney's Fees.** A Party shall not be liable to the other Party for attorney fees or costs incurred in connection with any litigation between the parties, in which a Party seeks to obtain a remedy from the other party, including appeals and post judgment awards.

9.05. **Waiver.** Any failure by a Party to insist upon strict performance by the other Party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that Party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a Party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

## **Article X. Force Majeure**

10.01. **Definition.** The term "force majeure" as employed herein shall mean and refer to acts of God (which includes natural disasters); strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; pandemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the Party claiming such inability.

10.02. **Notice of Default.** If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such Party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the Party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the Party shall endeavor to remove or overcome such inability with all reasonable dispatch.

10.03. **Settlements and Strikes.** It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require that the

settlement be unfavorable in the judgment of the Party having the difficulty.

## **Article XI**

### **Notices**

11.01. Method of Notice. Any notice to be given hereunder by a Party to another Party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the addresses set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Manor  
Attn: City Manager  
105 E. Eggleston Street  
Manor, Texas 78653

with copy to:

The Knight Law Firm, LLP  
Attn: Paige H. Saenz  
223 West Anderson Lane, Suite A105  
Austin, Texas 78752

Any notice mailed to the Owner shall be addressed:

LanZola Reserves LLC  
Attn: Jose Angel Santos  
11215 Conroy Ln, Unit 1  
Manchaca, Texas 78652

With copy to:

Patrick W. Christensen, Attorney at Law  
31 S. St. Mary's Street, Suite 2700  
San Antonio, Texas 78205

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

## **Article XII.**

### **Waiver and Release**

12.01. Waiver of Alternative Benefits. The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. The Parties further acknowledge the City and Owner voluntarily elected the benefits and obligations of this Agreement, as opposed to the benefits available were Owner to have elected to develop the Property without the benefits and obligations of this Agreement, pursuant to and in

compliance with the applicable City ordinances. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement, Owner hereby waives any and all claims or causes of action against the City Owner may have for or with respect to any duty or obligation undertaken by Owner pursuant to this Agreement, including any benefits that may have been otherwise available to Owner but for this Agreement.

### **Article XIII. Entire Agreement**

13.01. Agreement and Amendment. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between the Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

### **Article XIV. General Provisions**

14.01. No Joint Venture. The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City and its ETJ pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

14.02. No Third Party Beneficiaries. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

14.03. Severability. Should any court of competent jurisdiction declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

14.04. Effective Date. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

14.05. Texas Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Travis County, Texas. Venue shall lie exclusively in Travis County, Texas.

14.06. Interpretation; Terms and Dates. References made in the singular shall be deemed to include the plural and the masculine shall be deemed to include the feminine or neuter. If any date for performance of an obligation or exercise of a right set forth in this Agreement falls on a Saturday, Sunday or State of Texas holiday, such date shall be automatically extended to the next day which is not a Saturday, Sunday or State of Texas holiday.

14.07. Signatory Warranty. The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the organization for which such signatory has executed this Agreement.

14.08. Counterparts. This Agreement may be executed in multiple counterparts, including by facsimile, and each such counterpart shall be deemed an original and all such counterparts shall be deemed one and the same instrument.

14.09. Anti-Boycott Verification. To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, the Owner represents that neither the Owner nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Owner (i) boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms "boycotts Israel" and "boycott Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

14.10. Iran, Sudan and Foreign Terrorist Organizations. To the extent this Agreement constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Owner represents that Owner nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Owner is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

14.11. Anti-Boycott Verification – Energy Companies. The Owner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, and to the extent such Section is not inconsistent with a governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds. As used in the foregoing verification, "boycott energy company" means, 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 the preceding statement in (A).

14.12. Anti-Discrimination Verification – Firearm Entities and Firearm Trade Associations. The Owner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” means: (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; but does not include (a) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; or (b) 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 to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or 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.

14.13. Timely Performance. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

14.14. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

**Exhibit A** – Property Description

**Exhibit B** – Project

**Exhibit C** – Annexation Petition

**Exhibit D** – Services Agreement

**Exhibit E** – Wastewater Line Project Route

*[signature pages follow]*

EXECUTED this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CITY:**

**City of Manor, Texas**

a Texas home-rule municipal corporation

Attest:

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

Name: Lluvia T. Almaraz

Title: City Secretary

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

Name: Dr. Christopher Harvey

Title: Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Veronica Rivera, Assistant City Attorney

**THE STATE OF TEXAS           §**  
**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Dr. Christopher Harvey, Mayor of the City of Manor, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

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



**OWNER:**

Lanzola Reserves, LLC,  
a Limited Liability Company (Texas)

By: [Signature]  
Name: Jose Angel Santos  
Title: Manager

THE STATE OF TEXAS       §  
COUNTY OF Travis       §

This instrument was acknowledged before me on this 13<sup>th</sup> day of February, 2023, by  
JOSE Angel Santos, Manager of Lanzola Reserves, LLC, a Limited Liability Company  
on behalf of said Company. (Texas)

(SEAL)



[Signature]  
Notary Public, State of Texas

AFTER RECORDING, PLEASE RETURN TO:

City of Manor  
Attn: City Secretary  
105 E. Eggleston Street  
Manor, Texas 78653

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

**JAMES E. GARON  
& ASSOCIATES, INC.**

PROFESSIONAL LAND SURVEYORS  
& CIVIL ENGINEERS

185 McAllister Road  
Bastrop, Texas 78602  
512-303-4185  
Survey Firm #10058400  
Engineering Firm #F-20368  
jgaron@austin.rr.com

November 25, 2020

**LEGAL DESCRIPTION:** BEING A 137.022 ACRE TRACT OF LAND LYING IN AND BEING SITUATED OUT OF THE GREENBERRY GATES SURVEY, ABSTRACT 315 IN TRAVIS COUNTY, TEXAS AND BEING ALL OF THAT CERTAIN 136 2/3 ACRE TRACT OF LAND CONVEYED TO JAMES A. SPARKS BY EXECUTOR'S DEED RECORDED IN VOLUME 13164, PAGE 146 REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS; SAID 137.022 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER THE SUPERVISION OF JAMES E. GARON & ASSOCIATES IN NOVEMBER, 2020:

**BEGINNING** at a fence corner post found in the southerly margin of Sparks Road for the northwest corner hereof and the northeast corner of that certain 10.13 acre tract of land conveyed to Elsa Sorenson and Alan Sorenson by deed recorded in Volume 11950, Page 120 of said real property records;

THENCE S 62°34'18" E a distance of 2331.36 feet along Sparks Road to a 1/2" iron rod found at fence corner for the northeast corner hereof and the northwest corner of that certain 11.056 acre tract of land conveyed to Charles D. Selman by instrument #2003278955 of said real property records;

THENCE S 27°09'54" W a distance of 1542.55 feet to a 1/2" iron rod found for angle point and S 25°53'40" W a distance of 84.89 feet to a 1/2" iron rod found for the southwest corner of said Selman 11.056 acre tract and the northwest corner of that certain 13.69 acre tract of land conveyed to Nicolas Carbajal and Mary Yolanda Carbajal by instrument #2012122081 of said real property records;

THENCE S 26°00'23" W a distance of 527.62 feet to a 1/2" iron rod found for angle point and S 26°11'52" W a distance of 394.09 feet to a 3" iron pipe found for the southeast corner hereof and the northeast corner of Lot 17, Block "A", Kimbro Creek Estates Section Two as recorded by plat in document #200200073 of said real property records;

THENCE N 62°25'24" W a distance of 741.41 feet to a 1/2" iron rod with cap stamped "Carson Bush" found for the common corner of Lots 17 & 18, Block "A", Kimbro Creek Estates Section Two and N 62°25'41" W a distance of 742.18 feet to a 1/2" iron rod found for the northwest corner of Lot 18 and the northeast corner of that certain 19.874 acre tract of land conveyed to Bulmero Almanza and Esperanza Alonso by instrument #2018172431 of said real property records;

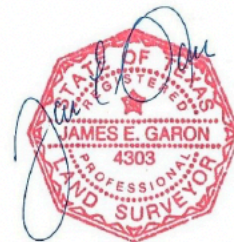
THENCE N 62°29'15" W a distance of 879.09 feet to a 5/8" iron rod found for the southwest corner hereof and the southeast corner of that certain 3.15 acre tract of land conveyed to Bulmero Almanza and Esperanza Alonso by instrument #2014036870 of said real property records;

THENCE with the west line hereof the following nine (9) calls:

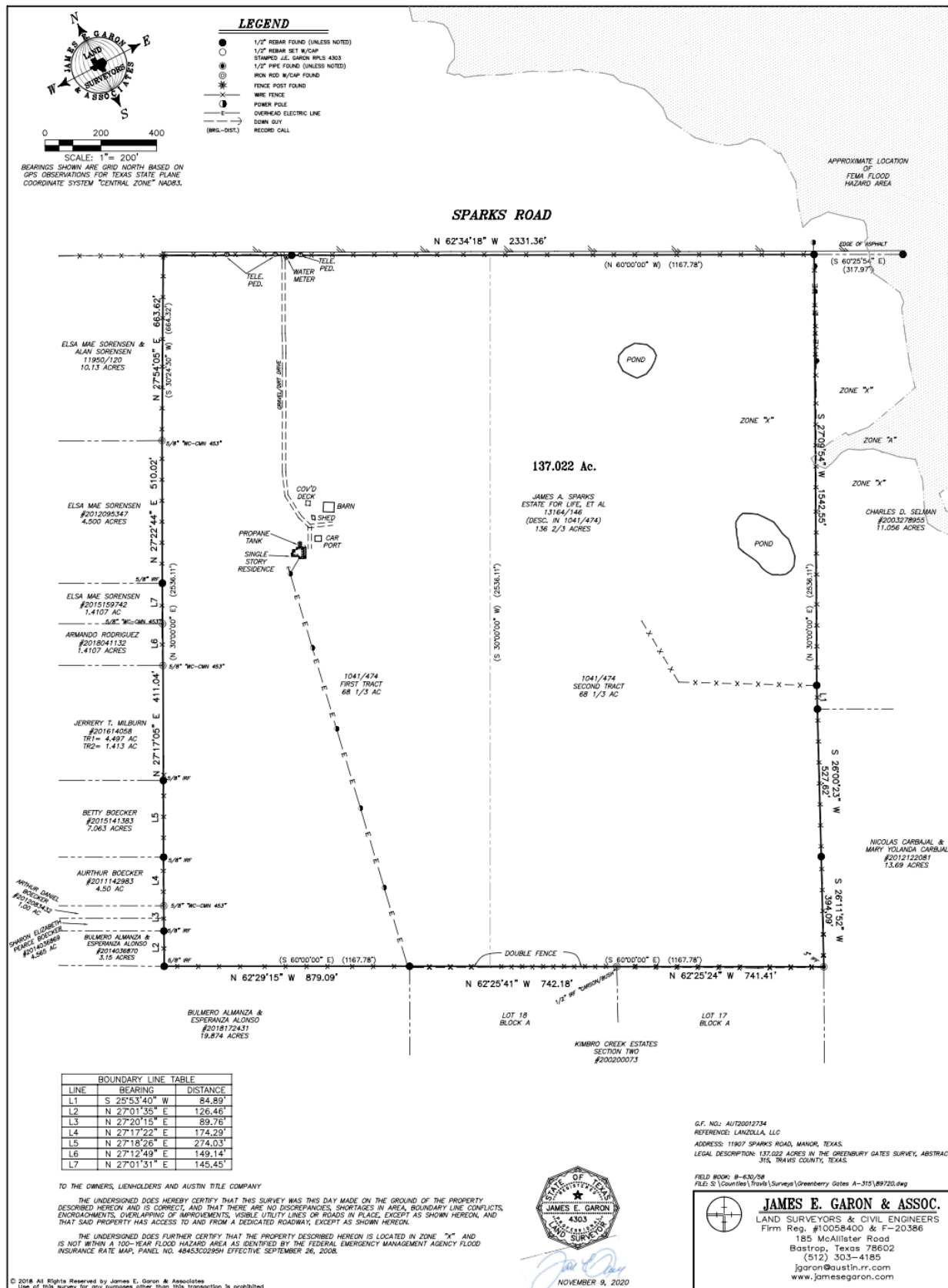
1. N 27°01'35" E a distance of 126.46 feet to a 5/8" iron rod found for the southeast corner of that certain 4.565 acre tract of land conveyed to Sharon Elizabeth Pearce Boecker by instrument #2014036869 of said real property records;
2. N 27°20'15" E a distance of 89.76 feet to a 5/8" iron rod with cap stamped "WC-CMN 4453" found for the southeast corner of that certain 4.50 acre tract of land conveyed to Arthur Daniel Boecker by instrument #201114983 of said real property records;
3. N 27°17'22" E a distance of 174.29 feet to a 5/8" iron rod found for the southeast corner of that certain 7.063 acre tract of land conveyed to Betty Boecker by instrument #2015141383 of said real property records;
4. N 27°18'26" E a distance of 274.03 feet to a 5/8" iron rod found for the southeast corner of that certain tract of land conveyed to J.T. Milburn by instrument #201614058 of said real property records;
5. N 27°17'05" E a distance of 411.04 feet to a 5/8" iron rod with cap stamped "WC-CMN 4453" found for the southeast corner of that certain 1.4107 acre tract of land conveyed to Armando Rodriguez by instrument #2018041132 of said real property records;
6. N 27°12'49" E a distance of 149.14 feet to a 5/8" iron rod with cap stamped "WC-CMN 4453" found for the southeast corner of that certain 1.4107 acre tract of land conveyed to Elsa Mae Sorensen by instrument #2015159742 of said real property records;
7. N 27°01'31" E a distance of 145.45 feet to a 5/8" iron rod found for the southeast corner of that certain 4.500 acre tract of land conveyed to Elsa Mae Sorensen by instrument #2012095347 of said real property records;
8. N 27°22'44" E a distance of 510.02 feet to a 5/8" iron rod with cap stamped "WC-CMN 4453" found for the southeast corner of said Sorensen 10.13 acre tract;
9. N 27°54'05" E a distance of 663.62 feet to the **POINT OF BEGINNING**, containing 137.022 acres of land, more or less and as shown on map of survey prepared herewith.

Surveyed by:

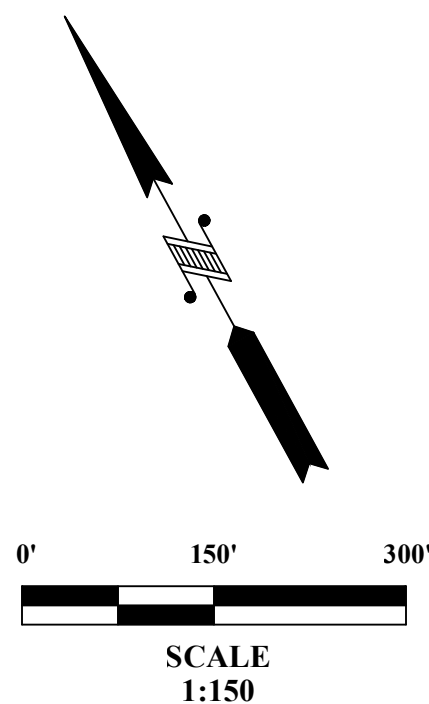
James E. Garon  
Registered Professional Land Surveyor  
c:\Travis\surveys\Greenberry Gates  
A315\76319







**EXHIBIT B**  
**PROJECT**

[illegible]

**EXHIBIT C**  
**ANNEXATION PETITION FORM**



## ANNEXATION PETITION

STATE OF TEXAS                   §  
   §  
COUNTY OF TRAVIS           §

### REQUEST & PETITION TO THE CITY COUNCIL OF THE CITY OF MANOR FOR VOLUNTARY ANNEXATION OF PROPERTY

**WHEREAS**, the undersigned is the owner of a certain tract of property located within Travis County, Texas, such property more particularly described hereinafter by true and correct legal description (referred to herein as the "Subject Property");

**WHEREAS**, the undersigned has sought the voluntary annexation of the Subject Property by the City of Manor, Texas (hereinafter sometimes referred to as "City"), to obtain the benefits of City services to the Subject Property by the City;

**WHEREAS**, the Subject Property is contiguous and adjacent to the corporate limits of the City;

**WHEREAS**, the City, pursuant to §43.021, *Tex. Loc. Gov't. Code* and the voluntary request of the property owner, is authorized to annex the Subject Property; and

**WHEREAS**, the undersigned agrees and consents to the voluntary annexation of the Subject Property by the City and further agrees to be bound by all acts, ordinances, and all other legal action now in force and effect within the corporate limits of the City and all those which may be hereafter adopted.

**NOW, THEREFORE**, the undersigned by this Request and Petition:

**SECTION ONE:** Requests the City Council of the City to commence voluntary annexation proceedings and to annex into the corporate limits of the City of Manor, Texas, of all portions of the Subject Property, including the abutting streets, roadways, and rights-of-way, not previously annexed into the City and further described as follows:

All that certain tract or parcel of land, located in Travis County, Texas, being \_\_\_\_\_ acres, more or less, and more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes.

**SECTION TWO:** Requests that after annexation the City provide such services as are legally permissible and provided by the City, including sanitation, water and general governmental services as set forth in the Agreement Regarding Post-Annexation

Provision of Services for Property to be Annexed Into the City of Manor (the "Services Agreement").

**SECTION THREE:** Acknowledges and represents having received, read and understood the attached "draft" Services Agreement, attached hereto as Exhibit "B," (proposed to be applicable to and adopted for the subject property) and that such "draft" Services Agreement is wholly adequate and acceptable to the undersigned who hereby request the City Council to proceed with the voluntary annexation and preparation of a final Services Agreement and publish notice and hold the requisite public hearings thereon, in accordance with the applicable laws of the State of Texas.

**SECTION FOUR:** Acknowledges that the undersigned understands and agrees that all city services to the Subject Property will be provided by the City on the same terms and conditions as provided to other similarly situated areas of the City and as provided in the Services Agreement.

**SECTION FIVE:** Agrees that a copy of this Request and Petition may be filed of record in the offices of the City of Manor and in the real property records of Travis County, Texas, and shall be notice to and binding upon all persons or entities now or hereafter having any interest in the subject property.

**FILED**, this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, with the City Secretary of the City of Manor, Travis County, Texas.

**Petitioner:** \_\_\_\_\_

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

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

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

**STATE OF TEXAS** §

§

**COUNTY OF** \_\_\_\_\_ §

**BEFORE ME**, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, and Petitioner herein, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that they had authority to bind the entity and that they executed the same for the purposes therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** on this the \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

(SEAL)

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Notary Public-State of Texas

**EXHIBIT D**  
**SERVICES AGREEMENT FORM**

**AGREEMENT REGARDING POST-ANNEXATION PROVISION OF SERVICES  
FOR PROPERTY TO BE ANNEXED INTO THE CITY OF MANOR**

This Agreement Regarding Post-Annexation Provision of Services for Property to be Annexed into the City of Manor (the “Agreement”) is entered into by and between the City of Manor, Texas, a municipal corporation (“City”), and \_\_\_\_\_, (“Landowner”), both of which may be referred to herein singularly as “Party” or collectively as the “Parties.”

**RECITALS**

**WHEREAS**, upon the request of the Landowner, the City intends to institute annexation proceedings for an area of land described more fully hereinafter and attached hereto (the “Subject Property”);

**WHEREAS**, Section 43.0672, Loc. Gov't. Code, requires the Parties to enter into a written agreement identifying a list of public services to be provided to the Subject Property and a schedule for the provision of those services that are not otherwise provided on the effective date of the annexation;

**WHEREAS**, this Agreement is being entered into by and between the Parties to comply with Texas Local Government Code, Chapter 43, Sub-Chapter C-3, Section 43.0672, prior to the City’s consideration of an ordinance annexing the Subject Property, it being understood, acknowledged and agreed by the Parties that annexation of the Subject Property is a condition precedent to this Agreement becoming effective;

**WHEREAS**, this Agreement shall be deemed effective on the effective date of an ordinance approved by the City annexing the Subject Property (the “Effective Date”).

**WHEREAS**, the Subject Property is not included in the municipal annexation plan and is exempt from the requirements thereof;

**WHEREAS**, infrastructure provided for herein and that existing are sufficient to service the Subject Property on the same terms and conditions as other similarly situated properties currently within the City limits and no capital improvements are required to offer municipal services on the same terms and conditions as other similarly situated properties within the City;

**WHEREAS**, the City and the Landowner agree each will benefit from the City’s development restrictions and zoning requirements, as well as other municipal services provided by the City which are good and valuable consideration for the Landowner to request annexation and for the Parties to enter into this Agreement for the City to provide the listed services upon annexation and in accordance with this Agreement; and

**WHEREAS**, it is found that all statutory requirements have been satisfied and the City is authorized by the City Charter and Chapter 43, Loc. Gov't. Code, to annex the Subject Property into the City;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**Section 1. Property Description.** The legal description of the Subject Property is as set forth in the Annexation Ordinance and exhibits attached to the Annexation Ordinance to which this Agreement is attached and as described in **Exhibit A** attached hereto and incorporated herein.

**Section 2. Services.** The following services and schedule represent the provision of services agreed to between the Landowner of the Subject Property and the City establishing a program under which the City will provide municipal services to the Subject Property, as required by section 43.0672 of the Texas Local Government Code. The services detailed herein will be provided at a level consistent with service levels provided to other similarly situated areas within the City.

The following services will be provided for the Subject Property on the Effective Date of annexation:

(a) **General Municipal Services.** Pursuant to the requests of the Landowner and this Agreement, the following services shall be provided immediately from the effective date of the annexation:

(1) Police protection as follows:

Routine patrols of areas, radio response to calls for police service and all other police services now being offered to the citizens of the City. Upon annexation, police protection will be provided to the Subject Property at a level consistent with the service to other areas of the City with similar population density and characteristics. The City's police services include neighborhood patrols, criminal investigations, crime prevention, community services and school programs.

(2) Fire protection and Emergency Medical Services as follows:

Fire protection by agreement between the City and the ESD's present personnel and equipment of the ESD fire fighting force and the volunteer fire fighting force with the limitations of water available. Radio response for Emergency Medical Services with the present contract personnel and equipment of the ESD.

(3) Solid waste collection services as follows:

Solid waste collection and services as now being offered to the citizens of the City. The City provides residential solid waste collection services within the City limits for a fee under a contract between the City and private refuse collection operator. The residential solid waste collection services include garbage collection, recycling, bulky item collection and yard waste collection. Commercial solid waste collection services are also available. This service will be provided for a fee to any person within the Subject Property requesting the service after the Effective Date of annexation, provided that a privately owned solid waste management service provider is unavailable. If the Subject Property is already receiving service, the City

may not prohibit solid waste collection by the privately owned solid waste management service provider, nor may the City offer solid waste collection services for a period of two (2) years following the Effective Date of the annexation unless a privately owned solid waste management service provider is or becomes unavailable, as established by Texas Local Government Code section 43.0661. If a landowner uses the services of a privately owned solid waste management service provider or services are available from a privately owned solid waste management service provider during the two (2) years following annexation, the City will not provide solid waste collection services to that landowner.

(4) Animal control as follows:

Service by present personnel, equipment and facilities, or by contract with a third party, as provided within the City.

(5) Maintenance of City-owned parks and playgrounds within the City.

(6) Inspection services in conjunction with building permits and routine City code enforcement services by present personnel, equipment and facilities. Municipal Court and General Administration services will also be available to property owners and residents in the Subject Property on the same basis those facilities are available to current City property owners and residents.

(7) Maintenance of other City facilities, buildings and service.

(8) Land use regulation as follows:

On the effective date of annexation, the zoning jurisdiction of the City shall be extended to include the annexed area, and the use of all property therein shall be grandfathered; and shall be temporarily zoned "Agricultural District "A'" with the intent to rezone the Subject Property upon request of the Landowner or staff. The Planning & Zoning Commission and the City Council will consider rezoning the Subject Property at future times in response to requests submitted by the Landowner(s) or authorized city staff. The City will impose and enforce its adopted ordinances, including but not limited to, zoning, subdivision development, site development and building code regulations within the Subject Property upon the Effective Date of the annexation. Enforcement will be in accordance with City ordinances. Development plans and plats for projects within the Subject Property will be reviewed for compliance with City standards.

(b) **Scheduled Municipal Services.** Due to the size and vacancy of the Subject Property, the plans and schedule for the development of the Subject Property, the following municipal services will be provided on a schedule and at increasing levels of service as provided herein:

(1) Water service and maintenance of water facilities as follows:

(A) Inspection of water distribution lines as provided by statutes of the State of Texas.

(B) In accordance with the applicable rules and regulations for the provision of water service, water service will be provided to the Subject Property, or applicable portions thereof, by the utility holding a water certificate of convenience and necessity (“CCN”) for the Subject Property, or portions thereof as applicable, or absent a water CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of water service. If connected to the City’s water utility system, the Subject Property’s Landowner shall construct the internal water lines and pay the costs of line extension and construction of such facilities necessary to provide water service to the Subject Property as required in City ordinances. Upon acceptance of the water lines within the Subject Property and any off-site improvements, water service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City; subject to all the ordinances, regulations and policies of the City in effect from time to time. The system will be accepted and maintained by the City in accordance with its usual acceptance and maintenance policies. New water line extensions will be installed and extended upon request under the same costs and terms as with other similarly situated customers of the City. The ordinances of the City in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a water well that is in use on the Effective Date of the annexation and is in compliance with applicable rules and regulations shall be permitted and such use may continue until the Subject Property’s Landowner requests and is able to connect to the City’s water utility system.

(2) Wastewater service and maintenance of wastewater service as follows:

(A) Inspection of sewer lines as provided by statutes of the State of Texas.

(B) In accordance with the applicable rules and regulations for the provision of wastewater service, wastewater service will be provided to the Subject Property, or applicable portions thereof, by the utility holding a wastewater CCN for the Subject Property, or portions thereof as applicable, or absent a wastewater CCN, by the utility in whose jurisdiction the Subject Property, or portions thereof as applicable, is located, or by agreement entered into with the municipality whose ETJ the Subject Property is located in and in accordance with all the ordinances, regulations, and policies of the City in effect from time to time for the extension of wastewater service including Section 49 of the City’s subdivision ordinance. If connected to the City’s wastewater utility system, the Subject Property’s Landowner shall construct the internal wastewater lines and pay the costs of line extension and construction of facilities necessary to provide wastewater service to the Subject Property as required in City ordinances. Upon acceptance of the wastewater lines within the Subject Property and any off-site improvements, wastewater service will be provided by the City utility department on the same terms, conditions and requirements as are applied to all similarly situated areas and customers of the City, subject to all the ordinances, regulations and policies of the City in effect from time to time. The wastewater system will be accepted and maintained by the City in accordance with its usual policies. Requests for new wastewater line extensions will be installed and extended upon request under the same costs and terms as with other similarly



situated customers of the City. The ordinances in effect at the time a request for service is submitted shall govern the costs and request for service. The continued use of a septic system that is in use on the Effective Date of the annexation and is in compliance with all applicable rules and regulations shall be permitted and such use may continue until the Subject Property's Landowner requests and is able to connect to the City's wastewater utility system.

(3) Maintenance of streets and rights-of-way as appropriate as follows:

(A) Provide maintenance services on existing public streets within the Subject Property and other streets that are hereafter constructed and finally accepted by the City. The maintenance of the streets and roads will be limited as follows:

(i) Emergency maintenance of streets, repair of hazardous potholes, measures necessary for traffic flow, etc.; and

(ii) Routine maintenance as presently performed by the City.

(B) The City will maintain existing public streets within the Subject Property, and following installation and acceptance of new roadways by the City as provided by City ordinance, including any required traffic signals, traffic signs, street markings, other traffic control devices and street lighting, the City will maintain such newly constructed public streets, roadways and rights-of-way within the boundaries of the Subject Property, as follows:

(i) As provided in (3)(A)(i)&(ii) above;

(ii) Reconstruction and resurfacing of streets, installation of drainage facilities, construction of curbs, gutters and other such major improvements as the need therefore is determined by the governing body under City policies;

(iii) Installation and maintenance of traffic signals, traffic signs, street markings and other traffic control devices as the need therefore is established by appropriate study and traffic standards; and

(iv) Installation and maintenance of street lighting in accordance with established policies of the City;

(C) The outer boundaries of the Subject Property abut existing roadways. The Landowner agrees that no improvements are required by the City on such roadways to service the Subject Property.

(c) **Capital Improvements.** Construction of the following capital improvements shall be initiated after the Effective Date of the annexation: None. Upon development of the Subject Property or redevelopment, the Landowner will be responsible for the development costs the same as a developer in a similarly situated area under the ordinances in effect at the time of development or

redevelopment. No additional capital improvements are necessary at this time to service the Subject Property the same as similarly situated properties. When deemed necessary, capital improvement acquisition or construction will occur in accordance with applicable ordinances and regulations and the adopted capital improvement plans of the City, as applicable and amended, which are incorporated herein by reference.

**Section 3. Term.** The term of this Agreement is ten (10) years from the Effective Date.

**Section 4. Vested Rights Claims.** This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code.

**Section 5. Authorization.** All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.

**Section 6. Binding Effect/Authority.** This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns. Each Party further warrants that each signatory to this Agreement is legally authorized to bind the respective individual or entity for the purposes established herein.

**Section 7. Legal Construction.** If any provision in this Agreement is for any reason found to be unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the 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 the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. 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.

**Section 8. Choice of Law.** This Agreement will be construed under and in accordance with the laws of the State of Texas. Venue for any dispute shall lie exclusively in Travis County, Texas.

**Section 9. Governmental Immunity; Defenses.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either the City or Landowner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

**Section 10. Enforcement; Waiver.** This Agreement may be enforced by Landowner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

**Section 11. Effect of Future Laws.** No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.

**Section 12. 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 will be construed together and will constitute one and the same instrument.

**Section 13. Effective Date.** This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the Parties.

**Section 14. Entire Agreement.** This Agreement contains the entire Agreement between the Parties relating to the rights herein granted and the obligations herein assumed and cannot be varied except by written agreement of the Parties. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the Party to be charged.

*[signature pages follow]*

**EXECUTED and AGREED to by the Parties this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.**

**ATTEST:**

**THE CITY OF MANOR, TEXAS**

\_\_\_\_\_  
Lluvia T. Almaraz, City Secretary

\_\_\_\_\_  
Dr. Christopher Harvey, Mayor

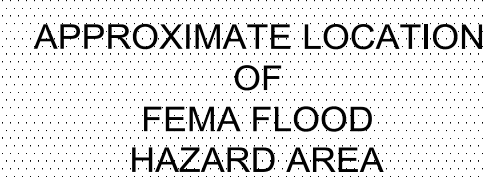
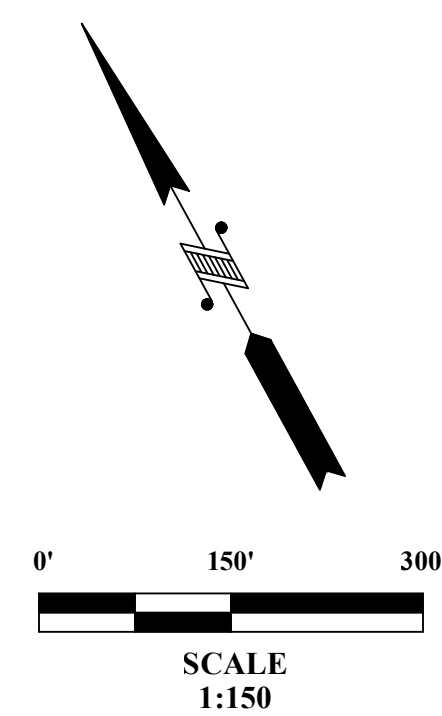
**LANDOWNER(S):**

\_\_\_\_\_  
**By:** \_\_\_\_\_  
**Name (print):** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**LANDOWNER(S):**

\_\_\_\_\_  
**By:** \_\_\_\_\_  
**Name (print):** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**EXHIBIT E**  
**WASTEWATER EXTENSION LINE PROJECT ROUTE**

[illegible]