

NEWHAVEN PUBLIC IMPROVEMENT DISTRICT  
FINANCING AGREEMENT

BY AND BETWEEN

GREGG LANE DEV, LLC, A TEXAS LIMITED LIABILITY COMPANY

AND

THE CITY OF MANOR, TEXAS

## NEWHAVEN PUBLIC IMPROVEMENT DISTRICT FINANCING AGREEMENT

This Newhaven Public Improvement District Financing Agreement (this “**Agreement**”), dated as of \_\_\_\_\_, 2024 (the “**Effective Date**”), is entered into by and between Gregg Lane Dev, LLC, a Texas limited liability company (including its Designated Successors and Assigns (defined below), the “**Owner**”), and the City of Manor, Texas (the “**City**”), a home-rule municipal corporation of the State of Texas. The Owner and the City are sometimes collectively referred to herein as the “**Parties**”, or, each individually, as the “**Party**”. Unless otherwise defined herein, capitalized terms used herein are set forth in Exhibit “A”, attached hereto, and made a part hereof and in the Service and Assessment Plan.

### Recitals:

WHEREAS, the Owner owns a total of approximately 90.35 acres of land located within the City (the “**Property**”), which Property is more particularly described in Exhibit “B”, attached hereto and made a part hereof;

WHEREAS, the Owner and the City entered into a Development Agreement (Newhaven), effective April 19, 2023, which was amended by that certain First Amendment to Development Agreement (Newhaven), effective July 19, 2023 (collectively and as may be further amended, the “**Development Agreement**”) pertaining to development matters with respect to the Property;

WHEREAS, it is intended that the Property will be developed as a master planned mixed use development with approximately 271 dwelling units and 2.5 acres planned for commercial uses, in accordance with the Development Agreement and the Planned Unit Development Zoning (as may be further amended, the “**PUD**”), adopted by the City Council of the City (the “**City Council**”) pursuant to Ordinance No. 698 on April 19, 2023 and as amended pursuant to Ordinance No. 737 on April 3, 2024 (the “**Project**”);

WHEREAS, on July 19, 2023, the City Council passed and approved Resolution No. 2023-28 (the “**Creation Resolution**”) authorizing the formation of the Newhaven Public Improvement District (the “**District**”), in accordance with Chapter 372 of the Local Government Code (the “**PID Act**”), covering approximately 90.35 contiguous acres within the City’s corporate limits, which land is described in the District’s Creation Resolution;

WHEREAS, contemporaneously herewith, pursuant to a Resolution adopted by the City Council, Owner and the City entered into that certain Newhaven Public Improvement District Reimbursement Agreement, as authorized by Section 372.023(d)(1) of the PID Act (the “**Acquisition and Reimbursement Agreement**”);

WHEREAS, pursuant to the terms of this Agreement, the City has agreed that the Authorized Improvements provide a special benefit to the City;

WHEREAS, the Owner intends to construct or have its Designated Successors and Assigned construct certain Authorized Improvements over time to serve property located in the

District (or portions thereof) and cause ownership of those improvements to vest with the City in accordance with the terms and provisions of this Agreement;

WHEREAS, the City intends to (upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement) levy Special Assessments on all or a portion of the property located within the District and issue bonds in one or more series for payment of costs associated with construction and/or acquisition of the Authorized Improvements included in a service and assessment plan to be approved by the City Council, as such plan may be amended from time to time (the “Service and Assessment Plan”);

WHEREAS, the lesser of \$3.26 or a PID rate of \$0.30 per \$100.00 of assessed value shall be the maximum aggregate Tax Equivalent Assessment Rate of Special Assessments (including the Annual Installment) plus all ad valorem taxes levied by all political subdivisions within the District, and \$10,000,000 is the maximum aggregate par amount of PID Bonds that may be issued to finance, fund or reimburse eligible Authorized Improvements constructed by the Owner;

WHEREAS, the City, subject to the consent and approval of the City Council, the satisfaction of all conditions for the issuance of PID Bonds and Owner’s compliance with the Development Agreement, as applicable to the construction of the Authorized Improvements, and in accordance with the terms of this Agreement and any other legal requirements, will consider: (i) the adoption of a Service and Assessment Plan on all or a portion of the property located within the District; (ii) the adoption of any Assessment Ordinance; and (iii) authorizing the issuance of PID Bonds, in one or more series at the City's sole discretion, for the District for the purpose of financing the costs of the Authorized Improvements within the District and paying associated costs as described herein;

WHEREAS, the City will, upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement, accept the Authorized Improvements, or Segments thereof, provided for in this Agreement and the Owner will be paid or reimbursed for the costs of the Authorized Improvements, or Segments thereof, solely from Special Assessments or from the proceeds of the PID Bonds, for the costs of acquisition, construction and improvement of the Authorized Improvements or Segments thereof that are completed, dedicated to and accepted by the City subject to the terms and limitations set forth herein;

WHEREAS, the City agrees to pay or reimburse the Owner for the Actual Costs of the Authorized Improvements from the proceeds of PID Bonds or Assessment Revenues derived from levy of Special Assessments on property located within the District in accordance with the terms and provisions of this Agreement. Subject to the limitations of the PID Act and the City Charter of the City (the “City Charter”), the City has the authority to issue, from time to time, one or more series of PID Bonds, the proceeds of which will be used to pay the costs of Authorized Improvements, or Segments thereof, including indebtedness to pay capitalized interest and a reserve fund permitted by the PID Act for revenue bonds issued under the PID Act and indebtedness issued to pay the City’s costs of issuance in accordance with this Agreement; and

WHEREAS, the City has determined that it is in its best interests to enter into this Agreement with the Owner for the construction and/or acquisition of the Authorized

Improvements, or Segments thereof, which will result in the efficient and effective implementation of each Service and Assessment Plan.

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

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

### **Section 1.01. Definitions.**

Definitions used herein are set forth in Exhibit "A", attached hereto and made a part hereof.

### **Section 1.02. Overview of Agreement**

This Agreement establishes provisions for the apportionment, levying, and collection of Special Assessments on the Property (Article II), the construction of Authorized Improvements to be acquired by the City (Article III), the payment of Authorized Improvements within the District (Article IV), the issuance of bonds for the financing of the Authorized Improvements (Article V), representations, warranties, and indemnification (Article VI), default and remedies (Article VII), and general provisions (Article VIII).

## **ARTICLE II. APPORTIONMENT, LEVY AND COLLECTION OF SPECIAL ASSESSMENTS**

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

(a) The recitals set forth in the preamble of this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

(b) On July 19, 2023, the City authorized the formation of the District by Resolution No. 2023-28. The District includes all of the Property.

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

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

(e) The Property may also be subject to an Owners Association assessment.

(f) Following preparation of the initial Service and Assessment Plan acceptable in form and substance to the City and to the Owner with respect to the matters therein that require approval by the Owner as provided in this Agreement, the City Council shall, by resolution approve the preliminary Service and Assessment Plan and call a public hearing on the levy of Special

Assessments. After conducting the public hearing, the City Council may consider approval of an Assessment Ordinance relating to the Service and Assessment Plan. If an Assessment Ordinance is adopted, the City shall use reasonable efforts to expeditiously initiate and approve all necessary documents and orders required to effectuate the Service and Assessment Plan and Assessment Ordinance. The City Council, by order, will update, amend and/or restate the Service and Assessment Plan each time Special Assessments are levied.

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

(a) The City shall use its best efforts to initiate and approve all necessary documents and ordinances required to effectuate this Agreement and to levy Special Assessments. The Owner acknowledges and agrees that a Service and Assessment Plan must meet the requirements of Texas Local Government Code § 372.013 and § 372.014 and be presented to the City Council for review and approval prior to a series of PID Bonds being issued. A Service and Assessment Plan will be modified as required to comply with the requirements of the PID Act and the Texas Attorney General’s Office. The annual indebtedness defined by the Service and Assessment Plan shall be consistent with the terms for the issuance of PID Bonds as set forth in this Agreement. The Developer will be provided with the initial draft Service and Assessment Plan and any updates a minimum of four (4) weeks prior to consideration by City Council and be given an opportunity to review and revise said plan or update.

(b) The City shall use its best efforts to levy Special Assessments on the Assessed Parcels in accordance herewith and with each Service and Assessment Plan. It is contemplated that the City will issue multiple series of PID Bonds, to pay or reimburse the Owner for a portion of the Actual Costs of the Authorized Improvements. The Parties anticipate that the Actual Cost to construct the Authorized Improvements will be greater than the net proceeds of the PID Bonds or the Assessment Revenues available for reimbursement of the costs of the Authorized Improvements and the Owner shall fund the difference.

(c) Prior to or in connection with the issuance of PID Bonds, the Owner may submit to the City one or more Special Assessment Levy Requests to finance the costs of Authorized Improvements in accordance with Section 4.02 hereof. Upon the receipt of an Assessment Levy Request, the City Council will consider the adoption of an Assessment Ordinance, which levies Special Assessments on property located in the District in accordance herewith and with the Service and Assessment Plan. The City’s apportionment of the costs of Authorized Improvements and levy of Special Assessments will be made in accordance with the PID Act.

**Section 2.03.** Collection of Special Assessments

(a) So long as the City is obligated to reimburse the Owner for the costs of the Authorized Improvements hereunder or any PID Bonds are outstanding, the City covenants and agrees that it shall, as authorized by the PID Act and other applicable law, continuously collect or cause to be collected Special Assessments levied pursuant to an Assessment Ordinance. The Annual Installment of such Special Assessments will be updated at least annually in a Service and Assessment Plan pursuant to the terms of the PID Act in the manner and to the maximum extent permitted by applicable law. The City will deposit or cause to be deposited the respective Assessment Revenues into a segregated account, or if PID Bonds have been issued, then

transferred to the Trustee and deposited in the funds and accounts in the priority set forth in the respective Indenture.

(b) Further notwithstanding anything to the contrary contained herein, the City covenants to use diligent, good faith efforts to contract with the Travis County Tax Assessor-Collector for the collection of the Special Assessments such that the Special Assessments will be included on the ad valorem tax bill(s) for the Assessed Parcels and will be collected as part of and in the same manner as ad valorem taxes.

(c) Owner will be reimbursed for Actual Costs associated with Authorized Improvements from Special Assessments collected by the City and held by the City pursuant to an applicable Acquisition and Reimbursement Agreement or, if PID Bonds are issued, from the proceeds of PID Bonds, until Owner is fully reimbursed by Special Assessments and/or the proceeds of PID Bonds. The balance of any reimbursement obligation due to Owner under an Acquisition and Reimbursement Agreement will be subordinate to payment of the applicable PID Bonds.

**Section 2.04.** Approval and Recordation of Special Assessments through Landowner Agreement and Recording of the Service and Assessment Plan.

(a) Concurrently with the levy of the Special Assessments for the District, the Owner, any other owners of land within the District, and the City, shall execute a “Landowner Agreement” (herein so called) in which the Owner and other owners, if applicable, (collectively, the “Landowners”) shall ratify, confirm, accept, agree to and approve: (a) the apportionment of assessments in the Service and Assessment Plan and the levy of the Special Assessments for the District by the City; (b) the Home Buyer Disclosure Program; and (c) the creation of the District, the boundaries of the District, and the boundaries of the applicable Assessed Parcels. The Landowner Agreement further shall: (A) evidence the Landowners’ intent that all Special Assessments be covenants running with the land that (i) shall bind any and all current and successor owners of the Property to the Special Assessments, including applicable interest thereon, as and when due and payable thereunder and (ii) provide that subsequent purchasers of such property take their title subject to and expressly assume the terms and provisions of the Special Assessments; and (B) provide that the liens created by the levy of the Special Assessments are a first and prior lien on the Property, subject only to liens for State, municipality, county or school district ad valorem taxes.

(b) After the Landowner Agreement is fully executed, the Owner shall file the Landowner Agreement in the Official Public Records of the County.

(c) Further, in accordance with the PID Act, the City shall file a copy of the Service and Assessment Plan and any updates thereto with the County Clerk, within seven (7) days of approval.

**Section 2.05** Reimbursement of Actual Costs.

(a) Notwithstanding anything to the contrary contained herein, the Parties hereby acknowledge and agree that the Actual Costs expended by the Owner to construct the Authorized Improvements may not be fully reimbursed from the Assessment Revenues or the proceeds of PID Bonds. The Actual Costs expended by the Owner, but not funded by a series of PID Bonds, are

payable solely from available Assessment Revenues pursuant to the applicable Acquisition and Reimbursement Agreement; provided, however that sufficient Assessment Revenues are available to make the payments.

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

### **ARTICLE III. CONSTRUCTION AND ACQUISITION**

#### **Section 3.01. Acquisition of Authorized Improvements**

With respect to those Authorized Improvements to be dedicated and owned by the City, the Owner will dedicate such Authorized Improvements to the City upon completion of the Authorized Improvements, and the City will accept dedication of such Authorized Improvements after confirming that such Authorized Improvements have been completed in accordance with this Agreement. The City's Applicable Regulations shall govern the procedure for inspection, dedication, and acceptance of such Authorized Improvements being conveyed to the City.

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

(a) The City hereby designates the Owner, or its assignees, as the Construction Manager with full responsibility for the design, the designation of easement locations, facilities site designations and acquisitions, supervision of construction, and the bidding and letting of construction contracts for the construction of the Authorized Improvements in accordance with the provisions of this Agreement.

(b) Except as otherwise provided herein, inspection of the construction of any Authorized Improvement being conveyed to the City will be by the City's Construction Representative or its designee. Any City inspection of an Authorized Improvement being conveyed to the City will be in accordance with any requirements of the City.

(c) The Owner shall be entitled to a separate Construction Management Fee for the construction of each Authorized Improvement (or Segment thereof), unless Owner contracts with a third party to act as the Construction Manager with respect to construction of the Authorized Improvements. The Construction Management Fee is part of Actual Costs and will be paid to Owner from Assessment Revenues or Bond Proceeds, as applicable.

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

(e) The Owner shall designate the consulting engineers for the Authorized Improvements for the compensation specified by the Owner. Any fees paid to a consulting engineer must be reasonable and customary.

### **Section 3.03. Designation of Construction Manager Subcontractor**

The City acknowledges and agrees that Owner may subcontract out all or some of the duties of Construction Manager to a third party. Owner may designate an individual, company, or partnership or other entity as a subcontractor for construction management services for one or more Authorized Improvements or distinct Segments, provided that such designee has the technical capacity, experience, and expertise to perform such construction management duties or obligations. Owner may make such designation under the same terms as set out in Section 8.03(a) of this Agreement.

### **Section 3.04. Mandatory Owners Association.**

(a) Prior to the sale of any platted lots within the District, the Managing Developer shall create an Owners Association for the Property, and shall establish bylaws, rules, regulations and restrictive covenants (collectively the “**Association Regulations**”) to assure the Owners Association performs and accomplishes the duties and purposes required to be performed and accomplished by the Owners Association pursuant to this Section.

(b) The Owners Association will have a binding, continuing responsibility for the maintenance, repair and operation of the HOA-Maintained Improvements. The Association Regulations shall establish periodic Owners Association dues and assessments, to be charged and paid by the lot owners within the Property, that are and will be sufficient to (i) pay the Owners Association’s Annual Installments of Special Assessments (if any), (ii) maintain the HOA-Maintained Improvements and (iii) to provide funds required for the management and operation of the Owners Association.

(c) The Owners Association dues and assessments that are established, maintained and collected by the Owners Association shall be in addition to, and not in lieu of, any and all other fees, charges and Special Assessments that will be applicable to the Property.

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

Unless otherwise provided for the Owner shall maintain each Authorized Improvement, or Segment thereof, in good and safe condition in accordance with all Applicable Regulations until such Authorized Improvement, or Segment thereof, is accepted by the City. The City’s acceptance of Authorized Improvements, or Segment thereof, shall be in accordance with all Applicable Regulations and procedures for the acceptance of subdivision improvements. Prior to such acceptance, the Owner shall be responsible for performing any required maintenance on such Authorized Improvement, or Segment thereof. On or before the acceptance by the City of an Authorized Improvement, or Segment thereof, the Owner shall assign to the City all of the Owner’s rights in any warranties, guarantees, maintenance obligations or other evidences of contingent obligations of third persons with respect to such Authorized Improvement, or Segment thereof, and shall provide the City with a two year maintenance bond from the date of final acceptance of the Authorized Improvements, or Segment thereof, that guarantee the costs of any repairs which may become necessary to any part of the construction work performed in connection with the Authorized Improvements, or Segment thereof, for each Authorized Improvement to be accepted



by the City. Other than the requirement to provide such maintenance bond, the Owner shall have no further liability to the City for the upkeep, maintenance, operation, or status of the Authorized Improvements once accepted by the City.

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

(a) The Parties understand that, as municipally and publicly owned and acquired properties, all costs of materials, other properties and services used in constructing the Authorized Improvements to be acquired by the City are exempt under the current Tax Code from sales and use taxes levied by the State of Texas, or by any county, city, special district, or other political subdivision of the State, as set forth in Texas Tax Code Section 151.309 and 34 Tex. Admin. Code sec. 3.291.

(b) Upon request of the Owner, and to the extent provided by law, the City will provide such certifications to the Owner and/or to suppliers and contractors as may be required to assure the exemptions claimed herein.

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

**Section 3.07. Regulatory Requirements**

(a) Notwithstanding anything to the contrary contained herein, the Owners shall be responsible for the costs of designing, constructing, and obtaining the City's acceptance of the Authorized Improvements, in accordance with all Applicable Regulations, the City-approved plans and specifications, and "Recognized and Generally Accepted Good Engineering Practices," as such term is defined and interpreted by the Federal Occupational Safety and Health Administration.

(b) With respect to the construction of the Authorized Improvements, it is understood that their construction will be exempt from any public bidding or other purchasing and procurement policies pursuant to the current Texas Local Government Code, Section 252.022(a)(9), which states that an expenditure is exempt from such policies for "paving drainage, street widening, and other public improvements, or related matters, if at least one third of the cost is to be paid by or through Special Assessments levied on Property that will benefit from the improvements." The Owner will request bids from at least three (3) independent, competent contractors for the construction of the Authorized Improvements and provide copies of the bids to the City.

**Section 3.08. Additional Requirements for Authorized Improvements**

(a) The Construction Manager will maintain an ongoing monthly updated accounting of funds disbursed, work progress and remaining funding needed to complete each applicable Authorized Improvement. The Construction Manager will provide such monthly reports to the Owner, the City Construction Representative, the PID Administrator, the Financial Advisor, and the Trustee, as applicable.

(b) After bids and construction contracts have been executed for the applicable Authorized Improvements, all change orders or costs increases for such applicable Authorized Improvements must be approved by the Owner, Construction Manager and the City Construction Representative, to the extent any such change order is in excess of \$100,000.00 for any Segment of such applicable Authorized Improvement. The Construction Manager shall provide copies of all approved change orders to the Financial Advisor and, as applicable, the Trustee, within ten (10) days after approval.

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

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

(a) The City shall not be obligated to provide funds for any Authorized Improvement except from Assessment Revenues or, if PID Bonds are issued, the proceeds of the PID Bonds. The City makes no warranty, either express or implied, that the proceeds of the PID Bonds available for the payment of the Actual Cost of the Authorized Improvements to be constructed for or acquired by the City will be sufficient for the construction or acquisition of all of those particular Authorized Improvements. The Parties anticipate that the Actual Cost to construct the Authorized Improvements may be greater than the proceeds of the PID Bonds available for Authorized Improvements.

(b) Upon written acceptance of an Authorized Improvement, and subject to any applicable maintenance-bond period, the City shall be responsible for all operation and maintenance of such Authorized Improvement, including all costs thereof and relating thereto.

(c) The Parties hereby acknowledge and agree that:

(1) Owner will construct or cause the construction of the applicable Authorized Improvements.

(2) Authorized Improvements are initially intended to be constructed pursuant to one or more Acquisition and Reimbursement Agreements and paid for by the Owner prior to the levy of Special Assessments and the issuance of the PID Bonds intended to fund the Actual Costs of such Authorized Improvements. Such funding of the Authorized Improvements will be governed by the applicable Acquisition and Reimbursement Agreement and Section 4.02 of this Agreement.

(3) Within sixty (60) days of receipt of an Assessment Levy Request, the City will consider the adoption of an Assessment Ordinance that (i) approves a Service and Assessment Plan (or amendment or update thereof) identifying the Special Assessments applicable to the District, (ii) levies said Special Assessments, and (iii) establishes the timeframe for collection of said Special Assessments. The City will levy and collect such Special Assessments in accordance with the approved Service and Assessment Plan, as amended or updated, and the applicable Assessment Ordinance, as further provided in this Agreement.

(4) Upon satisfying the conditions precedent described in Section 5.01 of this Agreement, the City Council intends to consider the issuance of the PID Bonds to refinance any unpaid Reimbursement Obligation Balance under an Acquisition and Reimbursement Agreement and, if applicable, to finance the Actual Costs of any Authorized Improvement not completed at the time of PID Bond issuance. Such funding of the Authorized Improvements will be governed by the Indenture and Section 4.03 of this Agreement.

(5) The maximum aggregate Tax Equivalent Assessment Rate of Special Assessments (including the Annual Installment) plus all ad valorem taxes levied by all political subdivisions within the District shall be the lesser of \$3.26 or a PID rate of \$0.30 per \$100.00 of assessed value, but Owner may voluntarily elect to have the Tax Equivalent Assessment Rate of Special Assessments be less than the lesser of \$3.26 or \$0.30 per \$100.00 of assessed value, and this shall not require approval by City Council.

**Section 4.02. Payments for Authorized Improvements Prior the Issuance of PID Bonds**

(a) Upon the approval of an Assessment Ordinance and prior to the issuance of a series of PID Bonds, the City shall bill the Special Assessments and collect the Assessment Revenues from the Assessed Parcels.

(b) Subject to Section 4.02(a) above, the costs of the Authorized Improvements will be initially funded through the applicable Acquisition and Reimbursement Agreement. Pursuant to the terms of such Acquisition and Reimbursement Agreement, the Owner shall dedicate or convey, and the City or the Owners Association, as applicable, shall accept or acquire, as more particularly described in Article III of this Agreement, the Authorized Improvement, after such Authorized Improvement is completed. The general process for funding the Authorized Improvements before the issuance of PID Bonds is described in this Section 4.02(b), and more specifically described in the Acquisition and Reimbursement Agreement.

(c) Pursuant to an Acquisition and Reimbursement Agreement, the City will reimburse the Owner for Actual Costs incurred in connection with the applicable Authorized Improvements until PID Bonds are issued to reimburse the Owner for the Actual Costs of the Authorizing Improvements benefiting the District, the proceeds of which equal the Reimbursement Obligation (defined in the applicable Acquisition and Reimbursement Agreement), less any amounts required for reserves and any other costs or expenses associated with issuing the PID Bonds, and less any payments made from the Trustee pursuant to the applicable Acquisition and Reimbursement Agreement. The Owner will be reimbursed for only those Actual Costs for which Assessment Revenues or Bond Proceeds are available.

(d) Following receipt of an Assessment Levy Request, the City shall consider the adoption of an Assessment Ordinance for the District. The City will collect the Special Assessments in accordance with a Service and Assessment Plan and the applicable Assessment Ordinance. Upon collection of such Special Assessments, the City will transfer or cause to be transferred the Assessment Revenues such that the Assessment Revenues will be held in a designated account separate from the City's other accounts (referred to herein as the "Operating Account"), such funds to be used to reimburse the Owner for the Actual Costs of the applicable Authorized Improvements pursuant to the terms of the applicable Acquisition and

Reimbursement Agreement, or, if PID Bonds have been issued, then transferred to the Trustee and deposited in the proper funds and accounts in the priority set forth in the applicable Indenture. Assessment Revenues shall only be used to pay Actual Costs of the Authorized Improvements in accordance with this Agreement.

(e) Pursuant to an Acquisition and Reimbursement Agreement, the Owner may submit a Certification for Payment, in the form provided in Exhibit “C”, to the City for payment of the Actual Costs of an Authorized Improvement from funds then available in the appropriate subaccount of the Operating Account held by the City.

#### **Section 4.03. Payments for Authorized Improvements Upon the Issuance of PID Bonds**

(a) As more particularly described in Section 5.01 hereof, upon receipt of a Bond Issuance Request, the City will consider the adoption of a resolution or ordinance consenting to the issuance of PID Bonds to reimburse the Owner for Actual Costs of those Authorized Improvements that are complete at the time of bond issue less any amounts already reimbursed to Owner pursuant to an Acquisition and Reimbursement Agreement.

(b) The proceeds from the issuance of the PID Bonds remaining after payment of amounts under Section 4.02 of this Agreement (if applicable) will be held by the Trustee in various segregated accounts under the Project Fund established pursuant to an Indenture. Those sums held in the various segregated accounts will be advanced to the Owner by the Trustee to fund the Actual Costs (as more particularly specified herein and in a Service and Assessment Plan) upon receipt of a completed Certification for Payment in the form as attached hereto in Exhibit “C.” At least ten (10) calendar days prior to the time of the closing of a series of PID Bonds, the Owner may submit a Closing Disbursement Request substantially in the form attached hereto in Exhibit “D,” executed by the Construction Manager, and if the request pertains to items subject to a seal of the Project Engineer, such request shall be additionally executed by the Project Engineer as to such items, to the City Construction Representative to be reimbursed for those Owner Expended Funds accrued to date of such Closing Disbursement Request and not previously reimbursed. The City Construction Representative shall conduct a review to verify the Owner Expended Funds specified in such Closing Disbursement Request. Prior to disbursement of proceeds, the City Construction Representative will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of a series of PID Bonds, the Owner shall be reimbursed an amount equal to the applicable Owner Expended Funds in accordance with the procedures set forth in this Section 4.03.

(c) Any Authorized Improvements that have not been (i) reimbursed at the closing of the PID Bonds, (ii) completed by Owner, or (iii) accepted by the City by the time the PID Bonds are issued, will be payable periodically as construction progresses. The procedures for such progress payments are contained in this Section 4.03 and the Indenture. Such payments shall be made by the Trustee no more frequently than monthly and within five (5) business days of the Trustee’s receipt of the completed Certification for Payment from the Construction Manager. If the City Construction Representative disapproves any Certification for Payment, the City shall provide a written explanation of the reasons for such disapproval so that if the Certification for Payment is revised in accordance with the City Construction Representative’s comments, the

Certification for Payment can be submitted to the Trustee for payment.

(d) The general process for funding of Authorized Improvements from funds on deposit in a Project Fund is as follows:

(1) the Owner shall deliver to the City's Construction Representative and the City Engineer the following:

(i) a Certification for Payment substantially in the form attached hereto as Exhibit "C" executed by the Construction Manager and the Project Engineer evidencing the Actual Costs;

(ii) evidence of the acceptance by the City of those Authorized Improvements to be funded by the respective series of PID Bonds and the conveyance to the City (for completed Authorized Improvements only);

(iii) a certification that all bills for work on, or materials provided for, the Authorized Improvements have been paid; and

(iv) evidence that there are no liens for the work on, or materials provided for, the applicable Authorized Improvements, receipts for payment and verification in form acceptable that any subcontractors have been paid.

(2) After the Certification for Payment is submitted to the City Construction Representative, the City shall (i) conduct a review to confirm those Authorized Improvements to be funded by proceeds of a series of PID Bonds were constructed in accordance with the plans therefor (for completed Authorized Improvements only), and (ii) the City will verify the Actual Costs of Authorized Improvements specified in such Certification for Payment. The City agrees to conduct such review and cost verification in a manner consistent with the City's standard operating procedures after the Certification for Payment is submitted to the City, and the Owner agrees to cooperate with the City in conducting each such review and to provide the City with such additional information and documentation as is reasonably necessary for the City to conclude each such review. Upon confirmation by the City Construction Representative that Authorized Improvements to be funded by the PID Bonds have been constructed in accordance with the plans therefor and this Agreement (for completed Authorized Improvements only), and verification and approval by the PID Administrator of the applicable Certification for Payment, the City shall within thirty (30) calendar days after receipt of the applicable Certification for Payment accept those Authorized Improvements not previously accepted by the City Construction Representative, and shall sign the Certification for Payment and forward the executed Certification for Payment to the Trustee for payment. Other than the PID Administrator's approval of the applicable Certification for Payment, City approval is not required for the Owner's application of cost savings in completing any one Authorized Improvement that the City has accepted towards overages in the costs of a different Authorized Improvement.

(e) In addition to the submitted items required in 4.03(d) above, in order to obtain the final progress payment for an Authorized Improvement funded by a series of PID Bonds pursuant

to this Section 4.03, the Owner shall have provided to the City an assignment of the warranties and guaranties, if applicable, and a two-year maintenance bond for such Authorized Improvement. Upon receipt of a Bond Issuance Request, the City will consider the issuance of the PID Bonds, subject to meeting the requirements and conditions stated in the Development Agreement, as applicable, Section 5.01 hereof, and State law, to reimburse the Owner for Actual Costs of those Authorized Improvements that are complete at the time of bond issue and those Authorized Improvements to be completed after bond issue and reimbursed by progress payments. The City will use diligent, reasonable and good faith efforts, subject to meeting the requirements and conditions stated herein and State law, to issue PID Bonds within four (4) to six (6) months after receiving a Bond Issuance Request from Owner.

(f) Once PID Bonds are issued pursuant to Article V hereof, the City shall bill, collect, and deposit into the Pledged Revenue Fund all Assessment Revenues constituting “pledged revenues” as defined in the Indenture. The City shall also deposit the proceeds of the PID Bonds and any other funds authorized by the applicable Indenture into the Project Fund. Funds in the Project Fund shall only be used to pay Actual Costs of the Authorized Improvements in accordance with the Indenture. When PID Bonds are issued, the proceeds of the PID Bonds shall be used to pay or reimburse the Owner for Actual Costs incurred in constructing the Authorized Improvements that are or will be dedicated and transferred to and accepted by the City. The Owner is responsible for Actual Costs of Authorized Improvements not paid from proceeds of the PID Bonds from the Pledged Revenue Fund, and any cost overruns (after applying cost savings). The lack of proceeds of the PID Bonds or the availability of other funds in the Pledged Revenue Fund or the Project Fund shall not diminish the obligation of the Owner to pay the Actual Costs of the Authorized Improvements.

(g) At least thirty (30) calendar days prior to the time of the closing of the PID Bonds, Owner may submit a Closing Disbursement Request (including any supporting documentation requested by the City) substantially in the form attached hereto in Exhibit “E” executed by the Construction Manager and the Project Engineer to the City Construction Representative to be reimbursed for those Owner Expended Funds accrued to date of such Closing Disbursement Request and not previously reimbursed. The City shall conduct a review to verify the Owner Expended Funds specified in such Closing Disbursement Request. Prior to disbursement of proceeds, City Construction Representative will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of the PID Bonds, Owner shall be reimbursed an amount equal to the applicable Owner Expended Funds.

(h) Any Authorized Improvements that have not been completed by Owner by the time the PID Bonds are issued, will be payable periodically as construction progresses. The procedures for such progress payments are contained in this Section 4.03 and the Indenture. Such payments shall be made by Trustee no more frequently than monthly and within five (5) business days of the Trustee’s receipt of the completed Certification for Payment from the City Construction Representative. If the City disapproves any Certification for Payment, the City shall provide a written explanation of the reasons for such disapproval so that if the Certification for Payment is revised in accordance with City’s comments, the Certification for Payment can be approved. Notwithstanding anything to the contrary contained herein, if the Quarterly Accounting provided by the Construction Manager for a particular Authorized Improvement shows there are not enough

funds in the segregated account to fund the remaining design and construction Actual Costs of that Authorized Improvement after taking into consideration any contingencies, the City Construction Representative shall not be obligated to authorize payments of a Certification for Payment until such time as Owner provides evidence satisfactory to the City Construction Representative that Owner has or will provide funds in an amount sufficient to fully fund the remaining design and construction Actual Costs of that Authorized Improvement. Furthermore, notwithstanding anything contained herein to the contrary, in the event a subcontractor supplying labor or materials for the Authorized Improvements claims that the subcontractor has not been paid for such labor or materials, the City Construction Representative shall not be obligated to authorize payment of a Certification for Payment until such claim is resolved.

(i) The general process for funding of Authorized Improvements from funds on deposit in the Project Fund is as follows:

(1) the Owner shall deliver to the City Construction Representative and the City Engineer the following:

(i) a Certification for Payment substantially in the form attached hereto as Exhibit "D" executed by the Construction Manager and the Project Engineer evidencing the Actual Costs,

(ii) evidence of the acceptance by the City of those Authorized Improvements to be funded by the PID Bond in question and the conveyance to the City (for Completed Authorized Improvements only), and

(iii) waivers of liens for the work on the applicable Authorized Improvements through the previous Certification for Payment, receipts for payment and verification in form acceptable that any subcontractors have been paid.

(2) After the Certification for Payment is submitted to the City Construction Representative, the City shall conduct a review to confirm those Authorized Improvements to be funded by proceeds of the PID Bonds were constructed in accordance with the plans therefor (for Completed Authorized Improvements only) and to verify the Actual Costs of Authorized Improvements specified in such Certification for Payment. The City agrees to conduct such review in an expeditious manner after the Certification for Payment is submitted to the City and the Owner agrees to cooperate with the City in conducting each such review and to provide the City with such additional information and documentation as is reasonably necessary for the City to conclude each such review. Upon confirmation by the City that Authorized Improvements to be funded by the PID Bonds have been constructed in accordance with the plans therefor and this Agreement (for Completed Authorized Improvements only), verification and approval of the Actual Costs of those Authorized Improvements, the City shall within thirty (30) calendar days thereafter accept those Authorized Improvements not previously accepted by the City and the City Construction Representative shall sign the Certification for Payment and forward the same to the City Manager. The City Manager shall then have up to ten (10) business days to forward the executed Certification for Payment to the Trustee for payment.

(j) In addition to the submitted items required in 4.03(i) above, in order to obtain the final progress payment for an Authorized Improvement funded by the PID Bonds pursuant to this Section 4.03, the Owner shall have provided to the City an assignment of the warranties and

guaranties, if applicable, and a two-year maintenance bond for such Authorized Improvement.

**Section 4.04.** Assignment of Right to Payment of Unreimbursed Costs

Owner's right, title and interest into the payments of unreimbursed Actual Costs shall be the sole and exclusive property of Owner (or its Transferee (as defined below) and no other third party shall have any claim or right to such funds unless Owner transfers its rights to its unreimbursed Actual Costs to a Transferee in writing and otherwise in accordance with the requirements set forth herein. Owner has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with notice to) the City, all or any portion of Owner's right, title, or interest under this Agreement to receive payment of its unreimbursed Actual Costs, including either Bond Proceeds or Assessment Revenues, (a "Transfer," and the person or entity to whom the transfer is made, a "Transferee"); provided, however, that no such conveyance, transfer, assignment, mortgage, pledge or other encumbrance shall be made without the prior written approval of the City Council if such conveyance, transfer, assignment, mortgage, pledge or other encumbrance would result in the payments hereunder being pledged to the payment of debt service on public securities issued by any other state of the United States or political subdivision thereof. Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City. The City may rely conclusively on any written notice of a Transfer provided by the Owner without any obligation to investigate or confirm the Transfer. A Transferee shall be responsible for all continuing disclosure requirements and obligations as agreed to by the Owner and the City in the Disclosure Agreement of Owner.

**ARTICLE V. PID BONDS**

**Section 5.01.** Issuance of PID Bonds

Subject to the satisfaction of conditions set forth in this Article V, the City may issue PID Bonds solely for the purposes of acquiring or constructing Authorized Improvements. The Owner may request issuance of PID Bonds by filing with the City a list of the Authorized Improvements to be funded with the PID Bonds and the estimated costs of such Authorized Improvements. The issuance of PID Bonds is subject to all of the following conditions.

- (a) The City has evaluated and determined that there will be no negative impact on the City's creditworthiness, bond rating, access to or cost of capital, or potential for liability.
- (b) The City has determined that the PID Bonds assessment level, structure, terms, conditions and timing of the issuance of the PID Bonds are reasonable for the Actual Costs to be financed and that there is sufficient security for the PID Bonds to be creditworthy.
- (c) All costs incurred by the City that are associated with the administration of the District shall be paid out of special assessment revenue levied against property within the District. City administration costs shall include those associated with continuing disclosure, compliance with federal tax law, agent fees, regulatory reporting and legal and financial reporting requirements.



(d) The adoption of a Service and Assessment Plan and an Assessment Ordinance levying Special Assessments on all or any portion of the Property benefitted by such Authorized Improvements in amounts sufficient to pay all costs related to such District.

(e) The City has formed and utilized its own financing team including, but not limited to, Bond Counsel, Financial Advisor, PID Administrator, and underwriters related to the issuance of PID Bonds and bond financing proceedings.

(f) The City has chosen and utilized its own continuing disclosure consultant and arbitrage rebate consultant, if applicable or required. Any and all costs incurred by these activities will be included in City administration costs recouped from Assessment Revenue. The continuing disclosure will be divided into City disclosure and Owner disclosure, and neither Party will be responsible or liable for the other Party's disclosure, but the City's disclosures professional will be used for both disclosures.

(g) The aggregate principal amount of PID Bonds issued and to be issued shall not exceed \$10,000,000.

(h) Each series of PID Bonds shall be in an amount estimated to be sufficient to fund the Authorized Improvements or portions thereof for which such PID Bonds are being issued.

(i) Delivery by the Owner to the City of a certification or other evidence from an independent appraiser acceptable to the City confirming that the special benefits conferred on the properties being assessed for the Authorized Improvements increase the value of the property by an amount at least equal to the amount assessed against such property.

(j) Approval by the Texas Attorney General of the PID Bonds and registration of the PID Bonds by the Comptroller of Public Accounts of the State of Texas.

(k) The Owner is current on all taxes, assessments, fees and obligations to the City including without limitation payment of Special Assessments.

(l) The Owner is not in default under this Agreement or, with respect to the Property, any other agreement to which Owner and the City are parties.

(m) No outstanding PID Bonds are in default and no reserve funds established for outstanding PID Bonds have been drawn upon that have not been replenished.

(n) The PID Administrator has certified that the specified portions of the costs of the Authorized Improvements to be paid from the proceeds of the PID Bonds are eligible to be paid with the proceeds of such PID Bonds.

(o) The Authorized Improvements to be financed by the PID Bonds have been or will be constructed according to the City's required standards for similar developments including without limitation any Applicable Regulations.

(p) The City has determined that the amount of proposed Special Assessments and the structure, terms, conditions and timing of the issuance of the PID Bonds are reasonable for

the project costs to be financed and the degree of development activity within the PID, and that there is sufficient security for the PID Bonds to be creditworthy.

(q) Unless otherwise approved by City Council at the time of issuance of a series of PID Bonds, the maturity for a series of PID Bonds shall not exceed a 30 fiscal year amortization from the date of issuance.

(r) The final maturity for any PID Bonds shall be not later than 30 years from the Effective Date.

(s) The City has determined that the PID Bonds meet all regulatory and legal requirements applicable to the issuance of the PID Bonds.

(t) If the applicable portion of Authorized Improvements has not already been constructed and to the extent proceeds from a series of PID Bonds are insufficient to fund such Actual Costs, Owner shall, at the time of closing of the PID Bonds, provide a completion guarantee or other similar type of credit support in the amount of the difference between the Actual Costs and the Bond Proceeds available to fund such Actual Costs related to the applicable Authorized Improvement, or Segment thereof (without limiting any other provision, in the event Owner does not or cannot provide such funding, the City shall not be required to sell such PID Bonds, and Owner shall reimburse the City for all expenses and liabilities incurred by the City in connection with the proposed issuance of the PID Bonds).

(u) No information regarding the City, including without limitation financial information, shall be included in any offering document relating to PID Bonds without the consent of the City.

(v) The Owner agrees to provide periodic information and notices of material events regarding the Owner and the Owner's development within the District in accordance with Securities and Exchange Commission Rule 15c2-12 and any continuing disclosure agreements executed by the Owner in connection with the issuance of PID Bonds.

(w) The Owner is not in default under any Continuing Disclosure Agreement related to an issuance of PID Bonds to which it is a party.

(x) Bonds issued for the purpose of refunding any outstanding PID Bonds shall be issued in a principal amount less than or equal to the outstanding Special Assessments levied as security for the PID Bonds being refunded thereby.

(y) The maximum aggregate Tax Equivalent Assessment Rate of Special Assessments (including the Annual Installment) plus all ad valorem taxes levied by all political subdivisions within the District shall be the lesser of a combined tax rate of \$3.26 or a PID rate of \$0.30 per \$100.00 of taxable assessed valuation. Notwithstanding the foregoing, (i) Owner may voluntarily elect to have the Tax Equivalent Assessment Rate of Special Assessments be less than the lesser of \$3.26 or \$0.30 per \$100.00, and this shall not require approval by City Council; and (ii) the Tax Equivalent Assessment Rate of Special Assessments may exceed the lesser of a combined tax rate of \$3.26 or a PID rate of \$0.30 per \$100.00 taxable assessed valuation if approved by the City Council.

(z) Owner has completed and the City has accepted the Authorized Improvements, or Segment thereof, for any previous phase of the Property.

(aa) The value to lien shall be at least 3:1 for PID Bonds, unless otherwise agreed to by the City and in accordance with an Indenture.

(bb) The Owner and the City shall have entered into an Acquisition and Reimbursement Agreement that provides for the Owner's construction of certain Authorized Improvements, or Segments thereof, and the City's reimbursement to the Owner of certain Actual Costs.

(cc) The applicable requirements of any Indenture for bonds previously issued for the District are satisfied.

### **Section 5.02. Disclosure Information**

Prior to the issuance of PID Bonds by the City, the Owner agrees to provide all relevant information, including financial information, that is reasonably necessary in order to provide potential bond investors with a true and accurate offering document for any PID Bonds. The Owner agrees, represents, and warrants that any information provided by the Owner for inclusion in a disclosure document for an issue of PID Bonds will not, to the Owner's actual knowledge, contain any untrue statement of a material fact or omit any statement of material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading, and the Owner further agrees that it will provide a certification to such effect as of the date of the closing of any PID Bonds.

### **Section 5.03. Qualified Tax-Exempt Status**

(a) Generally, in any calendar year in which PID Bonds are issued, the Owner agrees to pay the City its actual additional costs ("Additional Costs") the City may incur in the issuance of its own public securities or obligations on its own taxing power of municipal revenues (the "City Obligations"), as described in this section, if the City Obligations are deemed not to qualify for the designation of qualified tax-exempt obligations ("QTEO"), as defined in section 265(b)(3) of the Internal Revenue Code ("IRC") as amended, as a result of the issuance of PID Bonds by the City in any given year. The City agrees to deposit all funds for the payment of such Additional Costs received under this section into a segregated account of the City, and such funds shall remain separate and apart from all other funds and accounts of the City until December 31 of the calendar year in which the PID Bonds are issued, at which time the City is authorized to utilize such funds for any purpose permitted by law. On or before January 15th of the following calendar year, the final Additional Costs shall be calculated. By January 31st of such year, any funds in excess of the final Additional Costs that remain in such segregated account on December 31st of the preceding calendar year shall be refunded to the Owner and any deficiencies in the estimated Additional Costs paid to the City by the Owner shall be remitted to the City by the Owner.

(b) Issuance of PID Bonds prior to City Obligations. In the event the City issues PID Bonds prior to the issuance of City Obligations, the City, with assistance from its Financial Advisor, shall estimate the Additional Costs based on the market conditions as they exist approximately thirty (30) days prior to the date of the pricing of the PID Bonds (the "Estimated

Costs”). The Estimated Costs are an estimate of the increased cost to the City to issue its City Obligations as non QTEO. Promptly following the determination of the Estimated Costs, the City shall provide a written invoice to the Owner in an amount less than or equal to the Estimated Costs. The Owner, in turn, shall remunerate to the City the amount shown on said invoice on or before the earlier of: (i) fifteen (15) business days after the date of said invoice, or (ii) five (5) business days prior to pricing the PID Bonds. The City shall not be required to price or sell any series of PID Bonds until the Owner has paid the invoice of Estimated Costs related to the PID Bonds then being issued.

(c) Upon the City’s approval of the City Obligations, the Financial Advisor shall calculate the Additional Costs to the City of issuing its City Obligations as non QTEO. The City will, within five (5) business days of the issuance of the City Obligations, provide written notice to the Owner of the amount of the Additional Costs. In the event the Additional Costs are less than the Estimated Costs, the City will refund to the Owner the difference between the Additional Costs and the Estimated Costs within fifteen (15) business days of the date of the City’s notice to the Owner required under this paragraph. If the Additional Costs are more than the Estimated Costs, the Owner will pay to the City the difference between the Additional Costs and the Estimated Costs within fifteen (15) business days of the date of the City’s notice required under this paragraph. If the Owner does not pay the City the difference between the Additional Costs and the Estimated Costs within fifteen (15) business days of the date of the City’s notice required under this paragraph, the Owner shall not be paid any reimbursement amounts under any PID reimbursement agreement related to the Property until such payment of Additional Costs is made in full.

(d) Issuance of City Obligations prior to PID Bonds.

(1) In the event the City issues City Obligations prior to the issuance of PID Bonds, the City, with assistance from the Financial Advisor, shall calculate the Estimated Costs based on the market conditions as they exist twenty (20) days prior to the date of the pricing of the City Obligations. Promptly following the determination of the Estimated Costs, the City shall provide a written invoice to the Owner: (1) in an amount less than or equal to the Estimated Costs, and (2) that includes the pricing date for such City Obligations. The Owner, in turn, shall remunerate to the City the amount shown on said invoice at least fifteen (15) days prior to the pricing date indicated on the invoice. If the Owner fails to pay the Estimated Costs as required under this paragraph, the City, at its option, may elect to designate the City Obligations as QTEO, and the City shall not be required to issue any PID Bonds in such calendar year.

(2) Upon the City’s approval of the City Obligations, the Financial Advisor shall calculate the Additional Costs to the City of issuing non QTEO City Obligations. The City will, within five (5) business days of the issuance of the City Obligations, provide written notice to the Owner of the Additional Costs. In the event the Additional Costs are less than the Estimated Costs, the City will refund to the Owner the difference between the Additional Costs and the Estimated Costs within fifteen (15) business days of the date of the City’s notice to the Owner. If the Additional Costs are more than the Estimated Costs, the Owner will pay to the City the difference between the Additional Costs and the Estimated Costs within fifteen (15) business days of the date of the City’s notice. If the

Owner does not pay to the City the difference between the Additional Costs and the Estimated Costs as required under this paragraph, then the Owner shall not be paid any reimbursement amounts under any Acquisition and Reimbursement Agreement related to the Property until such payment of Additional Costs is made in full.

(e) To the extent any Owner(s) or property owner(s) (including the Owner, as applicable) has (have) paid Additional Costs for any particular calendar year, any such Additional Costs paid subsequently by a developer or property owner (including the Owner, as applicable) to the City applicable to the same calendar year shall be reimbursed by the City to the developer(s) or property owner(s) (including the Owner, as applicable) as necessary so as to put all developers and property owners (including the Owner, if applicable) so paying for the same calendar year in the proportion set forth in subsection (f), below, said reimbursement to be made by the City within fifteen (15) business days after its receipt of such subsequent payments of such Additional Costs.

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

#### **Section 5.04. Tax Certificate**

If in connection with the issuance of PID Bonds, the City is required to deliver a certificate as to tax exemption (a "Tax Certificate") to satisfy requirements of the Internal Revenue Code, the Owner agrees to provide, or cause to be provided, such facts and estimates as the City reasonably considers necessary to enable it to execute and deliver its Tax Certificate. The Owner represents that such facts and estimates will be based on its reasonable expectations on the date of issuance of the PID Bonds and will be, to the best of the knowledge of the officers of the Owner providing such facts and estimates, true, correct and complete as of such date. To the extent that it exercises control or direction over the use or investment of the Bond Proceeds (including, but not limited to, the use of the Authorized Improvements), the Owner further agrees that it will not knowingly make, or permit to be made, any use or investment of such funds that would cause any of the covenants or agreements of the City contained in a Tax Certificate to be violated or that would otherwise have an adverse effect on the tax-exempt status of the interest payable on the PID Bonds for federal income tax purposes.

#### **Section 5.05. Special Obligations**

**THE PID BONDS ARE SPECIAL OBLIGATIONS OF THE CITY SECURED SOLELY BY PLEDGED REVENUES (AS DEFINED IN AN INDENTURE) AND ANY OTHER FUNDS HELD UNDER AN INDENTURE, AS AND TO THE EXTENT PROVIDED IN SUCH INDENTURE. THE PID BONDS DO NOT GIVE RISE TO A**

**CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY AND ARE NOT SECURED EXCEPT AS PROVIDED IN AN INDENTURE. THE OWNERS OF PID BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND ANY OTHER FUNDS HELD UNDER AN INDENTURE, AS AND TO THE EXTENT PROVIDED IN SUCH INDENTURE. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO THE OWNERS OF PID BONDS TO PAY THE BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES. NONE OF THE CITY, NOR ANY OF ITS ELECTED OR APPOINTED OFFICIALS NOR ANY OF ITS OFFICERS, EMPLOYEES, CONSULTANTS OR REPRESENTATIVES SHALL INCUR ANY LIABILITY HEREUNDER TO THE OWNER OR ANY OTHER PARTY IN THEIR INDIVIDUAL CAPACITIES BY REASON OF THIS AGREEMENT OR THEIR ACTS OR OMISSIONS UNDER THIS AGREEMENT.**

**Section 5.06. Project Fund**

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

**Section 5.07. Denomination, Maturity, Interest, and Security for Bonds**

(a) Each series of PID Bonds shall be finally authorized by the City Council and shall be issued in the denominations, shall mature and be prepaid, shall bear interest, and shall be secured by and payable solely from the PID Bond Security, all to be as described and provided in the PID Bond Ordinance or Indenture, as applicable.

(b) The final and adopted versions of the PID Bond Ordinance and the Indenture (and all documents incorporated or approved therein) shall contain provisions relating to the withdrawal, application, and uses of the proceeds of the PID Bonds when and as issued and delivered and otherwise contain such terms and provisions as are mutually approved by the City and the Owner.

**Section 5.08. Sale of PID Bonds**

The PID Bonds, if issued by the City, shall be marketed and sold through a negotiated sale to an underwriter selected by the City with the cooperation and assistance of the Owner in all respects, with respect to the preparation of marketing documents, such as preliminary and final official statements or in such other marketing and/or sales method mutually agreed upon by the City and the Owner. The Owner agrees to fully cooperate with City with respect to the preparation of the offering document.

## **ARTICLE VI. REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION**

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

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

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

(b) The City will not unreasonably condition, delay, or withhold consideration, documentation, and approval of an Assessment Levy Request or Bond Issuance Request.

(c) The City will not unreasonably condition, delay, or withhold final acceptance of any of the Authorized Improvements.

(d) The City will maintain proper books of record and account for all costs incurred by the City that are associated with the administration of the District, including, but not limited to, those costs associated with continuing disclosure, compliance with federal tax law, agent fees, consultant fees, regulatory reporting and legal and financial reporting requirements. The City covenants that such accounting books will be maintained in accordance with generally accepted accounting practices and will be available for inspection by the Owner or its agent at any reasonable time during regular business hours upon at least 72 hours' notice.

(e) The City will deliver a Tax Certificate as a condition of the issuance of each series of PID Bonds.

(f) The City will not unreasonably condition, delay, or withhold execution a Certification for Payment once the conditions outlined in Section 4.03(d)(2)(i)-(ii) have been met.

### **Section 6.02. Covenants, Representation, and Warranties of Owner**

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

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

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

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

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

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

(f) The Owner represents and warrants that (i) it will not request payment from the City for the acquisition or financing of any Authorized Improvements that are not part of the Project, and (ii) it will diligently follow all procedures set forth in this Agreement, including each Certification for Payment.

(g) For a period of four (4) years after (i) the final Acceptance Date of each applicable Authorized Improvement, or (ii) claims filed upon completion, whichever is later, the Owner covenants to maintain proper books of record and account for the Authorized Improvements and all costs related thereto. The Owner covenants that such accounting books will be maintained in accordance with sound accounting practices. The Owner shall provide copies (including electronic copies in a form acceptable to the City if electronic copies are requested) of such records to the City upon written request to the Owner, and those copies shall be provided no later than ten (10) business days after receipt of a written request from the City at a cost that is no more than the rates applicable to copies provided pursuant to the Texas Public Information Act.

(h) The Owner agrees to provide the information required pursuant to an Owner Continuing Disclosure Agreement executed by the Owner in connection with the PID Bonds.

(i) The Owner covenants to provide, or cause to be provided, such facts and estimates as the City reasonably considers necessary to enable it to execute and deliver its Tax Certificate. The Owner further covenants that (i) such facts and estimates will be based on its reasonable expectations on the date of issuance of the PID Bonds and will be, to the best of the knowledge of the officers of the Owner providing such facts and estimates, true, correct, and complete as of that date, and (ii) the Owner will make reasonable inquiries to ensure such truth, correctness, and completeness. The Owner covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use or investment of the Bond Proceeds that would cause any of the covenants or agreements of the City contained in the Tax Certificate to be violated or that would otherwise have an adverse effect on the tax-exempt status of the interest payable on the PID Bonds for federal income tax purposes.

(j) The Owner agrees not to take any action or actions to reduce the total amount of such Special Assessments to be levied as of the Effective Date.



**Section 6.03. Buyer Disclosures**

The Owner shall comply with Chapter 5 of the Property Code, as amended, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the City) any party who purchases any Parcel owned by the Owner, or any portion thereof, to comply with the notice requirements set forth in Chapter 5 of the Property Code regarding any subsequent sale or conveyance of the Parcel. The Owner's compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if and when there is a sale of a Lot to a purchaser.

**Section 6.04. Indemnification and Hold Harmless by Owner**

(a) THE OWNER WILL (WITHOUT USING ANY ASSESSMENT REVENUES OR BOND PROCEEDS) DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES, AND AGENTS (INDIVIDUALLY, AN "INDEMNIFIED PARTY," AND COLLECTIVELY, THE "INDEMNIFIED PARTIES") AGAINST AND FROM, AND WILL PAY TO THE INDEMNIFIED PARTIES, ALL WITHOUT WAIVING ANY SOVEREIGN OR GOVERNMENTAL IMMUNITY AVAILABLE TO ANY INDEMNIFIED PARTY UNDER TEXAS OR FEDERAL LAW, AND WITHOUT WAIVING ANY DEFENSES OR REMEDIES UNDER TEXAS OR FEDERAL LAW, THE AMOUNT OF, ALL ACTIONS, DAMAGES, CLAIMS, LOSSES, FEES, FINES, PENALTIES, OR EXPENSE OF ANY TYPE, WHETHER OR NOT INVOLVING A THIRD-PARTY CLAIM (COLLECTIVELY, "DAMAGES"), ARISING DIRECTLY OR INDIRECTLY, FROM:

(1) THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE OWNER;

(2) THE NEGLIGENT DESIGN, ENGINEERING, OR CONSTRUCTION BY THE OWNER OF ANY AUTHORIZED IMPROVEMENT;

(3) THE OWNER'S NONPAYMENT UNDER CONTRACTS WITH THE GENERAL CONTRACTOR OR SUBCONTRACTORS FOR ANY AUTHORIZED IMPROVEMENT UNDER THIS AGREEMENT;

(4) ANY CLAIMS AGAINST ONE OR MORE OF THE INDEMNIFIED PARTIES RELATING TO ANY AUTHORIZED IMPROVEMENT ACQUIRED UNDER THIS AGREEMENT; AND

(5) ANY THIRD-PARTY CLAIMS RELATING TO ANY AUTHORIZED IMPROVEMENT ACQUIRED UNDER THIS AGREEMENT.

(b) THE OWNER WILL DEFEND THE INDEMNIFIED PARTIES AGAINST ALL CLAIMS DESCRIBED IN THIS SECTION, AND THE INDEMNIFIED PARTIES WILL REASONABLY COOPERATE AND ASSIST IN PROVIDING SUCH DEFENSE.

(c) THE INDEMNIFIED PARTIES WILL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY THE OWNER IN FULFILLING ITS

OBLIGATIONS HEREUNDER.

(d) THE INDEMNIFIED PARTIES RESERVE THE RIGHT, BUT ARE NOT REQUIRED, TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE AT THEIR OWN EXPENSE.

(e) THE OWNER SHALL RETAIN INDEMNIFIED PARTY-APPROVED DEFENSE COUNSEL WITHIN 10 BUSINESS DAYS OF WRITTEN NOTICE THAT THE CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION, AND IF THE OWNER DOES NOT DO SO, THE INDEMNIFIED PARTY MAY RETAIN ITS OWN DEFENSE COUNSEL AND THE OWNER WILL BE LIABLE FOR ALL SUCH COSTS.

**ARTICLE VII. THIS SECTION SURVIVES THE TERMINATION OF THIS AGREEMENT INDEFINITELY, SUBJECT TO APPROPRIATE STATUTES OF LIMITATIONS, AS THEY MAY BE TOLLED OR EXTENDED BY AGREEMENT OR OPERATION OF LAW. DEFAULT AND REMEDIES**

**Section 7.01. Default**

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

**Section 7.02. Breach**

Before any failure of any Party to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such failure shall notify, in writing, the Party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within thirty (30) days of the receipt of such notice (or five (5) days in the case of a monetary default), subject, however, in the case of non-monetary default, to the terms and provisions of Section 7.03 below. Upon a breach of this Agreement, the non-defaulting Party in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained (and/or an action for mandamus as and if appropriate). Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Article VII or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any Party at law or in equity. Each of the Parties shall have the affirmative obligation to mitigate its damages in the event of a default by the other Party. Notwithstanding any provision contained herein to the contrary, the Owner shall not be required to construct any portion of the Authorized Improvements (or take any other action related to or in furtherance of same) while the City is in default under this Agreement.

**Section 7.03. Force Majeure**

Notwithstanding any provision in this Agreement to the contrary, if the performance of any



223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

If to Owner: Greg Lane Dev, LLC  
101 Parklane Blvd., Suite 102  
Sugar Land, Texas 77478

With a copy to: Metcalfe Wolff Stuart & Williams, LLP  
Attn: Talley Williams  
221 W. 6th, Suite 1300  
Austin, Texas 78701

**Section 8.02. Fee Arrangement /Administration of District**

(a) The Owner agrees that it will pay all reasonable City costs and expenses (including the City's third-party advisors and consultants) related to the creation and administration of the District, including this Agreement, as well as costs and expenses relating to the development and review of the Service and Assessment Plan, including any applicable Acquisition and Reimbursement Agreement (including legal fees and financial advisory fees) ("**City PID Costs**"). To the extent that City PID Costs have not previously been paid by the Owner, prior to closing of any PID Bonds, the City shall (i) submit to the Owner and the Trustee invoices and other supporting documentation evidencing the City PID Costs and (ii) direct the Trustee to pay these fees, as applicable, to the City or on behalf of the City from proceeds of the applicable PID Bonds.

(b) In addition to any City PID Costs pursuant to the preceding sentences, all fees of legal counsel related to the issuance of the applicable PID Bonds, including fees for the review of the District creation and District administration documentation, the preparation of customary bond documents and the obtaining of Attorney General approval for the applicable PID Bonds, will be paid at closing from proceeds of the applicable PID Bonds.

(c) Notwithstanding the foregoing, Owner and the City have entered into that certain Professional Services Agreement, dated June 7, 2023 (as amended, the "**Deposit Agreement**") where Owner agreed to pay the City PID Costs. All City PID Costs paid by the Owner pursuant to the Deposit Agreement prior to the closing of the applicable PID Bonds shall be included in invoices paid at closing from proceeds of the PID Bonds.

(d) The Owner shall be solely responsible for the costs associated with the issuance of any Parity Bonds. The terms of subparagraph (a) above shall apply to the Owner in the event that any Parity Bonds are issued.

(e) The City may hire an Administrator of its choosing, and the Administrator's duties shall include general administration of the PID. The City hereby agrees to include the following terms in the agreement for services entered into with the Administrator:

(1) The City will work with the Administrator to use good faith efforts to maintain reasonable Annual Collection Costs, as such term will defined in the Service and Assessment Plan. Any increase to such fee shall be for additional services provided, and in no case

shall increase by more than 2% annually.

(2) The Administrator shall be responsible for preparation of the Service and Assessment Plan and any annual updates or amendments thereto. The Administrator shall be required by the City to provide all final copies of the Service and Assessment Plan, including amendments and annual updates thereto, to the Owner, at the same time such copies are provided to the City Council.

### **Section 8.03. Assignment**

(a) Subject to the preceding Section 4.04 of this Agreement and to subsection (b) below, Owner may, in its sole and absolute discretion, transfer or assign its rights or obligations under this Agreement with respect to all or part of the Project from time to time to an Affiliate without the consent of the City. Prior to the issuance of the initial PID Bonds, however, Owner shall not transfer or assign its rights or obligations under this Agreement with respect to all or part of the Project to a non-affiliated entity without the prior consent of the City Council, not to be unreasonably withheld conditioned or delayed. After the issuance of the initial PID Bonds, the Owner may not transfer or assign its rights or obligations under this Agreement to any party without the City Council's consent, not to be unreasonably withheld conditioned or delayed. Owner shall provide the City thirty (30) days prior written notice of any such assignment. Upon consent by City Council of such assignment or partial assignment, Owner shall be fully released from any and all future obligations under this Agreement and shall have no liability for such obligations with respect to this Agreement for the part of the Project so assigned. Notwithstanding the above, City's execution of this Agreement shall constitute the City's consent to the Owner's assignment of this Agreement, in whole or in part, to a regional or national homebuilder.

(b) The City hereby acknowledges and agrees that Owner shall have the right to make a collateral assignment of any reimbursements and/or proceeds under this Agreement to any lender on the Project and the City shall execute any documentation reasonably requested by such lender evidencing such fact.

(c) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a sale or assignment to a Designated Successor or Assign unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.

(d) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a Transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed to be a Transfer.

### **Section 8.04. Term of Agreement**

This Agreement shall terminate on the date on which the City and Owner discharge all of their obligations hereunder. In the case of any termination of this Agreement and/or dissolution of the District, the obligation of any Party to pay any Actual Costs expended prior to the termination of this Agreement and/or dissolution of the District and remaining unpaid will survive such termination and/or dissolution; provided however, that any payment obligation of the City shall be

payable solely from Assessment Revenues or, if PID Bonds are issued, the proceeds of such bonds.

**Section 8.05. Construction of Certain Terms**

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

- (a) Words importing a gender include any gender.
- (b) Words importing the singular include the plural and vice versa.
- (c) A reference to a document includes an amendment, supplement, or addition to, or replacement, substitution, or novation of, that document but, if applicable, only if such amendment, supplement, addition, replacement, substitution, or novation is permitted by and in accordance with that applicable document.
- (d) Any term defined herein by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.
- (e) A reference to any Party includes, with respect to Owner, its Designated Successors and Assigns, and reference to any Party in a particular capacity excludes such Party in any other capacity or individually.
- (f) All references in this Agreement to designated "Articles," "Sections," and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Agreement. All references in this Agreement to "Exhibits" are to the designated Exhibits to this Agreement.
- (g) The words "herein," "hereof," "hereto," "hereby," "hereunder," and other words of similar import refer to this Agreement as a whole and not to the specific Section or provision where such word appears.
- (h) The words "including" and "includes," and words of similar import, are deemed to be followed by the phrase "without limitation."
- (i) Unless the context otherwise requires, a reference to the "Property," the "Authorized Improvements," or the "District" is deemed to be followed by the phrase "or a portion thereof."
- (j) Every "request," "order," "demand," "direction," "application," "appointment," "notice," "statement," "certificate," "consent," "approval," "waiver," "identification," or similar action under this Agreement by any Party shall, unless the form of such instrument is specifically provided, be in writing duly signed by a duly authorized representative of such Party.
- (k) The Parties hereto acknowledge that each such party and their respective counsel have participated in the drafting and revision of this Agreement. Accordingly, the Parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Agreement.

**Section 8.06.** Table of Contents; Titles and Headings

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

**Section 8.07.** Amendments

This Agreement may be amended, modified, revised or changed by written instrument executed by the Parties. The Owner acknowledges that no officer, agent, employee, or representative of the City has any authority to change the terms of this Agreement unless expressly granted that authority by the City Council.

**Section 8.08.** Time

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

**Section 8.09.** Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. Signatures transmitted electronically by email in a “PDF” format shall have the same force and effect as original signatures in this Agreement.

**Section 8.10.** Entire Agreement

This Agreement contains the entire agreement of the Parties.

**Section 8.11.** Severability; Waiver

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

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

**Section 8.12.** Owner as Independent Contractor

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

### **Section 8.13. Supplemental Agreements**

Other agreements and details concerning the obligations of the Parties under and with respect to this Agreement are/or will be included in the Service and Assessment Plan, the Assessment Ordinance, PID Bond Ordinance and/or Indenture. The Owner will provide any continuing disclosures required under the Indenture and will execute a separate agreement outlining Owner's continuing disclosure obligations, if required.

### **Section 8.14. City's Acceptance of Authorized Improvements**

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

### **Section 8.15. Audit**

The City Construction Representative, City Manager, Director of Finance of the City, or any other City official or employee duly designated by the City Manager, shall have the right, during normal business hours and upon the giving of three (3) business days' prior written notice to an Owner, to review all books and records of the Owner pertaining to costs and expenses incurred by the Owner with respect to any of the Authorized Improvements and any bids taken or received for the construction thereof or materials therefor.

### **Section 8.16. Venue**

This Agreement shall be construed under and in accordance with the laws of the State of Texas. All obligations of the parties created hereunder are performable in Travis County, Texas, and venue for any action arising hereunder shall be in Travis County, Texas.

### **Section 8.17. Verifications of Statutory Representations and Covenants.**

The Owner makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Owner within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

(a) Not a Sanctioned Company. The Owner represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Owner and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a



foreign terrorist organization.

(b) No Boycott of Israel. The Owner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, “boycott Israel” has the meaning provided in Section 2271.001, Government Code.

(c) No Discrimination Against Firearm Entities. 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 discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” has the meaning provided in Section 2274.001(3), Government Code.

(d) No Boycott of 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. As used in the foregoing verification, “boycott energy companies” has the meaning provided in Section 2276.001(1), Government Code.

(e) Submitted herewith is a completed Form 1295 in connection with the Owner’s participation in the execution of this Agreement generated by the Texas Ethics Commission’s (the “TEC”) electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the “Form 1295”). The City hereby confirms receipt of the Form 1295 from the Owner. The Owner and the City understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by the Owner; and, neither the City nor its consultants have verified such information.

#### **Section 8.18. Notification**

If any Party receives notice or becomes aware of any claim or other action, including proceedings before an administrative agency, which is made or brought by any person, firm, corporation, or other entity against a Party in relation to this Agreement, the Party receiving such notice must give written notice to the other Parties of the claim or other action within three business days after being notified of it or the threat of it; the name and address of the person, firm, corporation or other entity that made or threatened to make a claim or that instituted or threatened to institute any type of action or proceeding; the basis of the claim, action, or proceeding; the court or administrative tribunal, if any, where the claim, action, or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice must be given in the manner provided in this Agreement. Except as otherwise directed, the notifying Party must furnish to the other Parties copies of all pertinent papers received by that Party with respect to these claims or actions.

**Section 8.19. Texas Public Information Act**

The Parties agree that this Agreement, all performance under this Agreement, and all information obtained by City in connection with this Agreement is subject to applicable provisions of the Texas Public Information Act, Texas Government Code Chapter 552, and all legal authorities relating to the Texas Public Information Act, including decisions and letter rulings issued by the Texas Attorney General’s Office; and the Owner agrees to provide City, citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Agreement subject to and in accordance with the Texas Public Information Act. Notwithstanding any provision to the contrary, nothing in this Agreement requires a Party to waive any applicable exceptions to disclosure under the Texas Public Information Act.

**Section 8.20. Correction of Technical Errors**

If, by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Agreement in the legal descriptions or the references thereto or within any exhibit with respect to the legal descriptions, in the boundaries of any parcel in any map or drawing which is an exhibit, or in the typing of this Agreement or any of its exhibits or any other similar matters, the Parties by mutual agreement may correct such error by memorandum executed by them without the necessity of amendment of this Agreement.

**Section 8.21. No Third-Party Beneficiary**

This Agreement is solely for the benefit of the Parties, and neither the City nor the Owner intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than the City and the Owner.

**Section 8.22. Exhibits**

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

- Exhibit A - Definitions
- Exhibit B - Property Description
- Exhibit C - Proposed Authorized Improvements
- Exhibit D - Form of Certification for Payment
- Exhibit E - Form of Closing Disbursement Request
- Exhibit F - Home Buyer Disclosure Program

*[Signature Pages Follow]*

**CITY:**

**CITY OF MANOR, TEXAS**

By:

\_\_\_\_\_  
Dr. Christopher Harvey, Mayor  
CITY OF MANOR

ATTEST:

\_\_\_\_\_  
Lluvia T. Almaraz, City Secretary  
CITY OF MANOR

[CITY SEAL]

**OWNER:**

**GREGG LANE DEV, LLC,**  
a Texas limited liability company

By: Gregg Lane Manager, LLC,  
a Texas limited liability company,  
its Manager

By: SVAG Asset Management LLC,  
A Texas limited liability company,  
its Manager

By: \_\_\_\_\_  
Name: Sudharshan Vembutty  
Title: Manager

**Exhibit “A”**  
**DEFINITIONS**

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

“**Acceptance Date**” means, with respect to an Authorized Improvement or Segment, the date that the Actual Cost thereof is paid to the Owner pursuant to the terms hereof.

“**Acquisition and Reimbursement Agreement**” means that certain [Newhaven Public Improvement District Reimbursement Agreement] entered into on [\_\_\_\_\_] , 2024, by and between the Owner and the City.

“**Actual Cost(s)**” means, with respect to the Authorized Improvements, the Owner’s demonstrated, reasonable, allocable, and allowable costs of constructing such Authorized Improvement, as specified in a payment request in a form that has been reviewed and approved by the City and in an amount not to exceed the amount for each Authorized Improvements as set forth in the Service and Assessment Plan (subject to cost overruns). Actual Costs may include (a) the costs incurred by or on behalf of the Owner (either directly or through affiliates) for the design, planning, financing, administration/management, acquisition, installation, construction and/or implementation of such Authorized Improvements, (b) the fees paid for obtaining permits, licenses or other governmental approvals for such Authorized Improvements, (c) Construction Management Fee, (d) the costs incurred by or on behalf of the Owner for external professional costs, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, (e) all labor, bonds and materials, including equipment and fixtures, by contractors, builders and materialmen in connection with the acquisition, construction or implementation of the Authorized Improvements, (f) all related permitting and public approval expenses, architectural, engineering, and consulting fees, financing charges, taxes, governmental fees and charges, insurance premiums, and all payments for Annual Collection Costs after the date of a resolution authorizing such reimbursement, plus Interest, if any, at the lower of (x) the maximum interest rate permitted by the PID Act or (y) the interest rate of the Bonds calculated from the respective dates of the expenditures until the date of reimbursement therefore. “**Actual Cost(s)**” with respect to the Wastewater Facilities constructed by the City means Owner's share of the cost thereof, to the extent and at the time required to be paid by the Owner to the City.

“**Administrator**” or “**PID Administrator**” shall mean P3Works, LLC, or any subsequent person or entity designated by the City.

“**Affiliate**” means an entity which is controlled by, controls, or is under common control with Owner.

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

“**Annual Collection Costs**” means the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization,

maintenance and operation of the District, including, but not limited to, the costs of (i) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, (ii) creating and organizing the District and preparing the assessment roll, (iii) computing, levying, collecting and transmitting the Special Assessments or the installments thereof, (iv) maintaining the record of installments, payments and reallocations and/or cancellations of the Assessments, (v) issuing, paying and redeeming the PID Bonds, (vi) investing or depositing the Special Assessments, (vii) complying with the PID Act with respect to the PID Bonds, (viii) paying the paying agent/registrars' and trustee's fees and expenses (including the fees and expenses of its legal counsel), and (ix) administering the construction of the Authorized Improvements, in accordance with the terms of this Agreement.

**“Annual Installment”** shall have the meaning given in the Service and Assessment Plan.

**“Applicable Rules”** shall mean the City's ordinances, rules and regulations, the City Charter, and other local, state, and federal laws and regulations that apply to the Property and the development thereof, as they exist on the Effective Date.

**“Appraisal”** means each appraisal of the Property (or applicable component thereof, as required by Section 2.01(j) hereof.

**“Assessed Property”** shall have the meaning given in the Service and Assessment Plan.

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

**“Assessment Revenues”** means money collected by or on behalf of the City from any one or more of the following: (i) an Assessment levied against an assessed parcel, or Annual Installment payment thereof, including any interest on such Assessment or Annual Installment thereof during any period of delinquency, (ii) a Prepayment, (iii) Delinquent Collection Costs (as defined in the Indenture), and (iv) Foreclosure Proceeds (as defined in the Indenture).

**“Association Regulations** is defined in Section 3.04 of this Agreement.

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

**“Authorized Improvements”** means the improvements authorized by Section 372.003 of the PID Act, as further described in the Service and Assessment Plan. The Authorized Improvements contemplated for this Project are listed on Exhibit “C” attached hereto.

**“Bond Counsel”** means Bickerstaff Heath Delgado Acosta LLP.

**“Bond Issuance Costs”** means costs relating to the authorization, sale and issuance of the PID Bonds including, printing costs, costs of reproducing and binding documents, closing costs, filing and recording fees, initial fees, expenses and charges of the Trustee, including its first annual administration fee, expenses incurred by the City or Owners in connection with the issuance of the PID Bonds (provided such expenses are defined as “issuance costs” under the Tax Code), the SAP Consultant's fees, bond (underwriter's) discount or underwriting fee, legal fees and charges,

including Bond Counsel, charges for execution, transportation and safekeeping of the PID Bonds and other costs, charges and fees in connection with the issuance of the PID Bonds.

“**Bond Issuance Request**” means written request made by Owner to the City in good faith as evidenced by Owner’s expenditure of necessary amounts for market studies, financial analysis, legal counsel, and other professional services and due diligence necessary to support the request.

“**Bond Proceeds**” shall have the meaning given in Section 5.01(g) hereof.

“**Certification for Payment**” means the certificate (whether one or more) in substantially the same form as Exhibit “D” attached hereto.

“**City**” means the City of Manor, Texas.

“City Charter” shall have the meaning given in the recitals of this Agreement.

“**City Construction Representative**” means the City Engineer or such other person selected by the City to oversee the construction of the Authorized Improvements on behalf of the City.

“**City Council**” means the City Council of the City of Manor, Texas.

“**City Engineer**” means the City Engineer of the City of Manor, Texas.

“**City Manager**” means the City Manager of the City of Manor, Texas.

“**City PID Costs**” shall have the meaning given in Section 8.02(a) of this Agreement.

“**Closing Disbursement Request**” means the request (whether one or more) in substantially the same form as Exhibit “E” attached hereto.

“**Completed Authorized Improvements**” means any Authorized Improvement that has been 100% completed, dedicated and conveyed by the Owner and accepted by the City.

“**Construction Management Fee**” means 4% of the costs incurred by or on behalf of Owner for the construction of each Segment. The Construction Management Fee is part of the Actual Costs.

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

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

“**Delinquent Collection Costs**” means interest, penalties and expenses incurred or imposed with respect to any delinquent installment of an Assessment, or an Annual Installment

thereof, in accordance with the PID Act which includes the Actual Costs related to pursuing collection of such delinquent Assessment, or an Annual Installment thereof, and the Actual Costs related to foreclosing the lien against the Assessed Property, including attorney's fees to the extent permitted under State law.

**“Deposit Agreement”** shall have the meaning given in Section 8.02(b) of this Agreement.

**“Designated Successors and Assigns”** shall mean (i) an entity to which Owner assigns (in writing) its rights and obligations contained in this Agreement pursuant to Section 8.03 related to all or a portion of the Property, (ii) any entity which is the successor by merger or otherwise to all or substantially all of Owner's assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of Owner.

**“Development Agreement”** has the meaning given in the recitals of this Agreement.

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

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

**“End User”** means any owner of a fully developed and improved lot.

**“Financial Advisor”** shall mean initially Belen Peña.

**“Force Majeure”** shall mean delays due to strikes, acts of God, inability to obtain labor or materials, litigation, enemy action, civil commotion, fire, rain or windstorm, governmental action or inaction, or similar causes, provided such similar causes are beyond the reasonable control of the party whose obligations are affected by such acts.

**“HOA-Maintained Improvements”** means the Authorized Improvements to be maintained by the Owners Association in accordance with this Agreement.

**“Home Buyer Disclosure Program”** means the disclosure program, administered by the Administrator as set forth in a document in substantially the same form as Exhibit “F” attached hereto, that establishes a mechanism to disclose to each End User the terms and conditions under which their lot is burdened by the District.

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

**“Interest”** shall mean the interest rate charged for the PID Bonds or such other interest rate as may be required by applicable law.

**“Landowner”** shall mean the owner(s) of the Property, which is currently the Owner.

**“Landowner Agreement”** shall have the meaning given in Section 2.04 hereof.



**“Lot”** means (i) for any portion of the Property for which a subdivision plat has been recorded in the official public records of the County, a tract of land described as a “lot” in such subdivision plat, and (ii) for any portion of the Property for which a subdivision plat has not been recorded in the official public records of the County, a tract of land anticipated to be described as a “lot” in a final recorded subdivision plat.

**“Maximum Assessment”** shall have the meaning given in the Service and Assessment Plan.

**“Maximum Equivalent Tax Rate”** means, for each lot classification identified in the Service and Assessment Plan, \$0.30 per \$100 of estimated buildout value. The estimated buildout value for a lot classification shall be determined by the Administrator and confirmed by the City Council by considering such factors as density, lot size, proximity to amenities, view premiums, location, market conditions, historical sales, builder contracts, discussions with homebuilders, reports from third party consultants, information provided by the Owner, or any other information that may help determine buildout value.

**“Operating Account”** shall have the meaning given in the Acquisition and Reimbursement Agreement.

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

**“Owner Continuing Disclosure Agreement”** shall have the meaning given in the Indenture or any purchase agreement relating to the sale of the PID Bonds.

**“Owner Expended Funds”** means Actual Costs expended by the Owner for the establishment, administration, and operation of the District.

**“Owners Association”** means a homeowner’s association or property owner’s association.

**“Parity Bonds”** means any PID Bonds issued subsequent to the initial PID Bonds and secured on a parity basis therewith.

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

**“PID Act”** means Chapter 372, Local Government Code.

**“PID Bond Ordinance”** means and refers to the order(s) or ordinances of the City Council that will authorize and approve the issuance and sale of the PID Bonds and provide for their security and payment, either under the terms of the bond order or a trust indenture related to the PID Bonds.

**“PID Bond Security”** means the funds that are to be pledged in or pursuant to the PID Bond Ordinance or the Indenture to the payment of the debt service requirements on the PID Bonds, consisting of the Special Assessments, including earnings and income derived from the investment or deposit of Special Assessments in the special funds or accounts created and

established for the payment and security of the PID Bonds, unless such earnings are required to be deposited into a rebate fund for payment to the federal government.

**“PID Bonds”** means the special assessment revenue bonds to be issued by the City, in one or more series, to finance the Authorized Improvements that confer special benefit on the land within the District, which may include funds for any required reserves and amounts necessary to pay the Bond Issuance Costs, and to be secured by the revenues and funds pledged under an Indenture, consisting primarily of the Special Assessments, pursuant to the authority granted in the PID Act, and as described by this Agreement for the purposes of (i) financing the costs of Authorized Improvements and related costs and (ii) reimbursing the Owner for Actual Costs paid prior to the issuance of the PID Bonds. This term is used to collectively refer the initial PID Bonds as well as any Parity Bonds throughout this Agreement.

**“Pledged Revenue Fund”** means the separate and unique fund established by the City under such name pursuant to the Indenture wherein the Assessment Revenues are deposited.

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

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

**“Project Engineer”** means the civil engineer or firm of civil engineers selected by the Owner to perform the duties set forth herein, which is currently Kimley-Horn. Owner reserves the right to replace the Project Engineer at any time in Owner’s sole discretion.

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

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

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

**“Regulatory Requirements”** means the requirements and provisions of the City over the Authorized Improvements, as adjusted by the PUD and Development Agreement.

**“Reimbursement Obligation Balance”** has the meaning given to such term in the applicable Acquisition and Reimbursement Agreement.

**“SAP Consultant”** means Development Planning & Financing Group, Inc.

**“Segment” or “Segments”** means the discrete portions of the Authorized Improvements identified as such.

**“Service and Assessment Plan”** means the Newhaven Public Improvement District Service and Assessment Plan (as such plan is amended, supplemented, and updated from time to time), to be initially adopted by the City Council in the initial Assessment Ordinance for the

purpose of assessing allocated costs against property located within the boundaries of the District having terms, provisions and findings approved and agreed to by the Owner, as required by Article II of this Agreement.

“**Special Assessment(s)**” means the assessments levied against properties in the District, as provided for in an Assessment Ordinance, including any supplemental assessments or reallocation of assessments levied in accordance with Sections 372.019 and 372.020 of the PID Act.

“**State**” means the State of Texas.

“**Tax Certificate**” shall have the meaning given in Section 5.01(g) hereof.

“**Tax Code**” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“**Transfer**” shall have the meaning given in Section 2.05 hereof.

“**Transferee**” shall have the meaning given in Section 2.05 hereof.

“**Trustee**” means the trustee under the Indenture, and any successor thereto permitted under such Indenture and any other Trustee under a future Indenture.

“**Underwriter**” means FMSbonds, Inc., or its successor.

**Exhibit "B"**

PROPERTY DESCRIPTION

**EXHIBIT B**  
**PROPERTY DESCRIPTION**



Professional Land Surveying, Inc.  
Surveying and Mapping

Office: 512-443-1724  
Fax: 512-389-0943

3500 McCall Lane  
Austin, Texas 78744

**30.580 ACRES**  
**SUMNER BACON SURVEY No. 62, ABSTRACT No. 63**  
**TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 30.580 ACRES OUT OF THE SUMNER BACON SURVEY NO. 62, ABSTRACT NO. 63, IN TRAVIS COUNTY, TEXAS, BEING A WESTERN PORTION OF THAT CERTAIN CALLED 39.4 ACRE TRACT DESCRIBED IN DEED RECORDED IN DOCUMENT NO. 2004009801 OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS; SAID 30.580 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES & BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" rebar with 'CHAPARRAL' cap set in the north line of a 60.292 acre tract described in Document No. 2013001967 of the Official Public Records of Travis County, Texas, same being the south line of said 39.4 acre tract, from which a 1/2" rebar found for the northernmost northeast corner of the 60.292, same being an angle point in the south line of the 39.4 acre tract, bears South 61°38'05" East a distance of 575.95 feet;

**THENCE** North 61°37'58" West with the south line of the 39.4 acre tract, same being the north line of the 60.292 acre tract, passing a 1/2" rebar found at a distance of 648.82 feet, and continuing 20.62 feet, for total distance of 669.44 feet to a calculated point in the approximate centerline of Wilbarger Creek, also being the west line of the 39.4 acres and the being also the east line of an 85.769 acre tract described Document No. 2008118667 of the Official Public Records of Travis County, Texas;

**THENCE** with the approximate centerline of Wilbarger Creek, being the west line of the 39.4 acre tract and the east line of 85.796 acres described in Document No. 2008118667 of the Official Public Records of Travis County, Texas, the following forty (40) courses:

1. North 00°28'28" East, a distance of 9.07 feet to a to a calculated point;
2. North 05°17'24" West, a distance of 31.85 feet to a to a calculated point;
3. North 01°00'43" West, a distance of 39.99 feet to a to a calculated point;
4. North 13°37'54" West, a distance of 36.17 feet to a to a calculated point;
5. North 03°30'27" West, a distance of 43.17 feet to a to a calculated point;
6. North 10°14'35" West, a distance of 42.68 feet to a to a calculated point;

7. North 22°31'57" West, a distance of 57.70 feet to a to a calculated point;
8. North 44°39'48" West, a distance of 45.77 feet to a to a calculated point;
9. North 54°56'29" West, a distance of 58.93 feet to a to a calculated point;
10. North 82°53'28" West, a distance of 51.24 feet to a to a calculated point;
11. South 71°16'10" West, a distance of 39.96 feet to a to a calculated point;
12. South 66°38'21" West, a distance of 51.94 feet to a to a calculated point;
13. North 89°22'53" West, a distance of 39.25 feet to a to a calculated point;
14. North 83°41'50" West, a distance of 51.08 feet to a to a calculated point;
15. North 89°13'01" West, a distance of 53.52 feet to a to a calculated point;
16. North 76°23'07" West, a distance of 54.75 feet to a to a calculated point;
17. North 76°02'03" West, a distance of 65.60 feet to a to a calculated point;
18. North 78°19'56" West, a distance of 54.07 feet to a to a calculated point;
19. South 73°52'38" West, a distance of 52.35 feet to a to a calculated point;
20. North 82°54'47" West, a distance of 58.96 feet to a to a calculated point;
21. North 48°39'03" West, a distance of 54.65 feet to a to a calculated point;
22. North 21°40'43" West, a distance of 61.82 feet to a to a calculated point;
23. North 00°14'42" East, a distance of 52.83 feet to a to a calculated point;
24. North 08°20'31" East, a distance of 53.76 feet to a to a calculated point;
25. North 08°21'04" East, a distance of 38.04 feet to a to a calculated point;
26. North 12°10'56" West, a distance of 48.92 feet to a to a calculated point;
27. North 26°26'40" West, a distance of 51.72 feet to a to a calculated point;
28. North 09°59'30" West, a distance of 51.78 feet to a to a calculated point;
29. North 09°26'58" West, a distance of 65.60 feet to a to a calculated point;

30. North 23°17'46" East, a distance of 51.71 feet to a to a calculated point;
31. North 34°54'31" East, a distance of 42.87 feet to a to a calculated point;
32. North 48°43'04" East, a distance of 60.00 feet to a to a calculated point;
33. South 79°51'17" East, a distance of 39.39 feet to a to a calculated point;
34. South 58°38'03" East, a distance of 48.87 feet to a to a calculated point;
35. North 59°05'59" East, a distance of 54.70 feet to a to a calculated point;
36. North 00°19'10" East, a distance of 38.05 feet to a to a calculated point;
37. North 15°36'04" West, a distance of 56.41 feet to a to a calculated point;
38. North 06°24'18" East, a distance of 49.34 feet to a to a calculated point;
39. North 34°41'25" East, a distance of 55.35 feet to a to a calculated point;
40. North 08°45'25" West, a distance of 12.36 feet to a to a calculated point;

**THENCE** South 70°46'58" East, a distance of 13.00, to a 1/2" rebar found for an angle point in the west line of the 39.4 acres, same being the east line of the 85.796 acres;

**THENCE** North 22°06'01" East, a distance of 137.89 feet to a 1/2" rebar with 'CHAPARRAL' cap found for the northwest corner of the 39.4 acre tract, same being an interior corner of the 85.796 acre tract;

**THENCE** South 62°49'58" East, with the north line of the 39.4 acre tract, same being a south line of the 85.796 acre tract, a distance of 155.36 feet to a 1/2" rebar found for an angle point on the north line of the 39.4 acre tract, also being the southernmost northeast corner of the 85.796 acre tract, also being the southwest corner of a 170 acre tract described in Volume 8293, Page 104 of the Deed Records of Travis County, Texas;

**THENCE** South 62°31'16" East, continuing with the north line of the 39.4 acre tract, same being the south line of said 170 acre tract, being the south line of a 57.215 acre tract described in Document No. 2002251950 of the Official Public Records of Travis County, Texas; also being the south line of 39.00 acres described in Volume 8947, Page 802 of the Real Property Records of Travis County, Texas; a distance of 1513.14 feet to a 1/2" iron pipe found in the south line of the 39.00 acre tract, for the most northernmost corner of the 39.4 acre tract, same being the northwest corner of a 3.56 acre tract described in Document No. 2009010572 of the Official Public Records of Travis County, Texas;

**THENCE** South 27°51'31" West, with an east line of the 39.4 acre tract, same being the west line of said 3.56 acre tract, also being the west line of a 75.37 acre tract described in Document No. 2008031946 of the Official Public Records of Travis County, Texas, passing a 1/2" iron pipe found for the most westerly southwest corner of said 75.37 acre tract at a distance of 548.40 feet and continuing 321.78 feet, for a total distance of 870.18 feet to the **POINT OF BEGINNING**, containing 30.580 acres of land, more or less.

Surveyed on the ground on August 3, 2020.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS solutions from the National Geodetic Survey (NGS) On-line Positioning User Service (OPUS).

Attachments: Drawing 1662-001-30.580ac

*Paul J. Flugel* 1-6-2021  
Paul J. Flugel  
Registered Professional Land Surveyor  
State of Texas No. 5096  
TBPLS Firm No. 10124500







Professional Land Surveying, Inc.  
Surveying and Mapping

Office: 512-443-1724  
Fax: 512-389-0943

3500 McCall Lane  
Austin, Texas 78744

**59.765 ACRES**  
**SUMNER BACON SURVEY No. 62, ABSTRACT No. 63**  
**TRAVIS COUNTY, TEXAS**

A DESCRIPTION OF 59.765 ACRES, BEING A PORTION OF THAT CERTAIN TRACT OF LAND STATED TO CONTAIN 60.292 ACRES, MORE OR LESS, OUT OF THE SUMNER BACON SURVEY NO. 62, ABSTRACT NO. 63, IN TRAVIS COUNTY, TEXAS AS DESCRIBED IN DISTRIBUTION DEED RECORDED IN DOCUMENT NO. 2020120760 OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, AND BEING THE SAME LAND CONVEYED TO THE CARRILLO FAMILY PARTNERSHIP IN DOCUMENT NO. 2013001967, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS; SAID 59.765 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES & BOUNDS AS FOLLOWS:

**BEGINNING** at a 1/2" rebar found in the north right-of-way of Gregg Lane (variable width right-of-way), being the southeast corner of said 60.292 acre tract, and also the southwest corner of a 15.74 acre tract described in Document No. 2016051094 of the Official Public Records of Travis County, Texas, from which a TxDot Type II disk found in the north right-of-way of Gregg Lane, for the southeast corner of a 36.14 acre tract described in Document No. 2014113251 of the Official Public Records of Travis County, Texas bears South 62°01'41" East a distance of 1995.25 feet;

**THENCE** North 62°17'26" West, with the south line of the 60.292 acre tract, same being the north right-of-way line of Gregg Lane, a distance of 2133.10 feet to a calculated point in the approximate centerline of Wilbarger Creek;

**THENCE** with the approximate centerline of Wilbarger Creek, being the west line of said 60.292 acre tract, and the east line of an 85.796 acre tract described Document No. 2008118667 of the Official Public records of Travis County, Texas, the following thirty-two (32) courses:

1. North 73°18'55" East, a distance of 46.89 feet to a to a calculated point;
2. North 65°28'25" East, a distance of 50.67 feet to a to a calculated point;
3. North 51°10'42" East, a distance of 48.58 feet to a to a calculated point;
4. North 48°30'24" East, a distance of 46.23 feet to a to a calculated point;
5. North 49°14'49" East, a distance of 52.77 feet to a to a calculated point;

6. North 45°14'55" East, a distance of 55.96 feet to a to a calculated point;
7. North 43°43'26" East, a distance of 52.86 feet to a to a calculated point;
8. North 41°05'22" East, a distance of 48.00 feet to a to a calculated point;
9. North 32°42'55" East, a distance of 42.39 feet to a to a calculated point;
10. North 36°20'34" East, a distance of 43.28 feet to a to a calculated point;
11. North 24°58'46" East, a distance of 45.09 feet to a to a calculated point;
12. North 20°50'58" East, a distance of 58.26 feet to a to a calculated point;
13. North 11°43'28" East, a distance of 55.36 feet to a to a calculated point;
14. North 12°03'40" East, a distance of 59.87 feet to a to a calculated point;
15. North 11°44'50" East, a distance of 49.40 feet to a to a calculated point;
16. North 20°31'26" East, a distance of 49.47 feet to a to a calculated point;
17. North 26°12'00" East, a distance of 48.98 feet to a to a calculated point;
18. North 19°47'54" East, a distance of 56.22 feet to a to a calculated point;
19. North 08°36'09" East, a distance of 45.62 feet to a to a calculated point;
20. North 32°55'35" East, a distance of 52.23 feet to a to a calculated point;
21. North 47°27'44" East, a distance of 55.81 feet to a to a calculated point;
22. North 45°04'59" East, a distance of 51.38 feet to a to a calculated point;
23. North 43°53'12" East, a distance of 32.75 feet to a to a calculated point;
24. North 08°50'46" East, a distance of 41.41 feet to a to a calculated point;
25. North 05°45'16" West, a distance of 32.84 feet to a to a calculated point;
26. North 01°15'08" East, a distance of 35.86 feet to a to a calculated point;
27. North 14°04'03" East, a distance of 26.74 feet to a to a calculated point;
28. North 34°11'10" East, a distance of 54.41 feet to a to a calculated point;

29. North 26°59'21" East, a distance of 41.68 feet to a to a calculated point;
30. North 36°09'53" East, a distance of 43.97 feet to a to a calculated point;
31. North 25°00'27" East, a distance of 44.74 feet to a to a calculated point;
32. North 00°27'57" East, a distance of 24.90 feet to a to a calculated point for the northwest corner of the 60.292 acre tract, being the southwest corner of a 39.4 acre tract described in Document No. 2004009801 of the Official Public Records of Travis County, Texas ;

**THENCE** South 61°38'01" East with the south line of said 39.4 acre tract, same being the north line of the 60.292 acre tract, passing a 1/2" rebar at 20.62 feet, and continuing for a total distance of 1100.33 feet to a 1/2 " rebar with 'Chaparral' cap set;

**THENCE** South 00°41'52" East, crossing the 60.292 acre tract a distance of 308.96 feet to a 1/2" rebar found for an interior corner of the 60.292 acre tract, same being the southernmost southwest corner of the 39.4 acre tract;

**THENCE** South 62°04'50" East with the north line of the 60.292 acre tract, same being the south line of the 39.4 acre tract, a distance of 551.18 feet to a 1/2" rebar found with plastic cap for the southeast corner of the 39.4 acre tract;

**THENCE** South 61°50'55" East, continuing with the north line of the 60.292 acre tract, a distance of 250.39 feet to a 2" iron pipe found in for the northeast corner of the 60.292 acre tract, same being the northwest corner of said 15.74 acre tract;

**THENCE** South 27°32'42" West, with the east line of the 60.292 acre tract, same being the west line of said 15.74 acre tract, a distance of 1131.13 feet to the **POINT OF BEGINNING**; containing 59.765 acres of land, more or less;

Surveyed on the ground on August 3, 2020.

Bearing Basis: The Texas Coordinate System of 1983 (NAD83), Central Zone, based on GPS solutions from the National Geodetic Survey (NGS) On-line Positioning User Service (OPUS).

Attachments: Drawing 1662-001-59.765ac

*Paul J. Flugel* 1-18-2021

Paul J. Flugel  
Registered Professional Land Surveyor  
State of Texas No. 5096  
TBPLS Firm No. 10124500



## **Exhibit “C”**

### **PROPOSED AUTHORIZED IMPROVEMENTS**

- Landscaping
- Drainage
- Paving
- Earthwork and Demolition

**Exhibit “D”**  
**FORM OF CERTIFICATION FOR PAYMENT**  
**(Design – Newhaven)**

\_\_\_\_\_ (“Construction Manager”) hereby requests payment for the percentage of design costs completed (the “Design Costs”) described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Newhaven Public Improvement District Financing and Reimbursement Agreement between Gregg Lane Dev, LLC, a Texas limited liability company, and the City of Manor (the “City”), dated as of \_\_\_\_\_ (the “Finance Agreement”). In connection with this Certification for Payment, the undersigned, in his or her capacity as the \_\_\_\_\_ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

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

2. The design work described in Attachment A has been completed in the percentages stated therein.

3. The true and correct Design Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted request for payment.

4. Attached hereto as Attachment B is a true and correct copy of a bills-paid affidavit evidencing that any contractor or subcontractor having performed design work described in Attachment A has been paid in full for all work completed through the previous Certification for Payment.

5. Attached hereto as Attachment C are invoices, receipts, worksheets, and other evidence of costs which are in sufficient detail to allow the City to verify the Design Costs for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO  
FORM OF CERTIFICATION FOR PAYMENT

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

[Construction Manager Signature Block to be  
added]

APPROVAL BY THE CITY

The Design described in Attachment A has been reviewed, verified, and approved by the City Construction Representative. Payment of the Design Costs is hereby approved.

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

**CITY OF MANOR, TEXAS**

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

# ATTACHMENT A TO CERTIFICATION OF PAYMENT (DESIGN)

Jurisdiction Name: Travis County  
 Bella Fortuna Public Improvement District  
 Certification of Payment #:  
 Date:

Reimbursement Detail						Required Documents (Completed By Administrator)			Allocation to Project Accounts		
Vendor	Description of Work	Invoice Number	Check Number	Date Paid	Amount	Invoice	Cancelled Check	Liab Release or All Bills Paid Affidavit	Project Category #1	Project Category #2	Project Ca
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ATTACHMENT B TO CERTIFICATION OF PAYMENT (DESIGN)

[attached – bills paid affidavit]

ATTACHMENT C TO CERTIFICATION OF PAYMENT (DESIGN)

[attached – receipts]

FORM OF CERTIFICATION FOR PAYMENT  
(Construction – Newhaven)

\_\_\_\_\_ (“Construction Manager”) hereby requests payment of the Actual Cost of the work described in Attachment A attached hereto (the “Draw Actual Costs”). Capitalized undefined terms shall have the meanings ascribed thereto in the Newhaven Public Improvement District Financing and Reimbursement Agreement between Gregg Lane Dev, LLC, a Texas limited liability company, and the City of Manor (the “City”) dated as of \_\_\_\_\_. In connection with this Certification for Payment, the undersigned, in his or her capacity as the \_\_\_\_\_ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

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

2. The true and correct Draw Actual Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted request for payment.

3. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed work on a Segment described in Attachment A has been paid in full for all work completed through the previous Certification for Payment.

4. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Draw Actual Costs of each Segment for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO  
FORM OF CERTIFICATION FOR PAYMENT

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

[Construction Manager Signature Block to  
Be inserted]

## JOINDER OF PROJECT ENGINEER

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

---

Project Engineer

APPROVAL BY THE CITY

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

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

**CITY OF MANOR, TEXAS**

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



ATTACHMENT B TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

[bills paid affidavit – attached]



ATTACHMENT C TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

[receipts – attached]

**Exhibit “E”**

**FORM OF CLOSING DISBURSEMENT REQUEST**

The undersigned is a lawfully authorized representative for Gregg Lane Dev, LLC, a Texas limited liability company, (the “Owner”) and requests payment from the [ ] Costs of Issuance Account of the Project Fund (as defined in the Newhaven Public Improvement District Financing and Reimbursement Agreement between Owner and the City of Manor, Texas (the “City”)) from \_\_\_\_\_ (the “Trustee”) in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) to be transferred from the [ \_\_\_\_\_ Costs of Issuance Account of the Project Fund] upon the delivery of the [ \_\_\_\_\_ Bonds] for costs incurred in the establishment, administration, and operation of the Newhaven Public Improvement District (the “District”), as follows.

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

1. The undersigned is a duly authorized officer of the Owner, is qualified to execute this Closing Disbursement Request on behalf of the Owner, and is knowledgeable as to the matters set forth herein.

2. The payment requested for the below referenced establishment, administration, and operation of the District at the time of the delivery of the Bonds has not been the subject of any prior payment request submitted to the City.

3. The amount listed for the below itemized costs is a true and accurate representation of the Actual Costs incurred by Owner with the establishment of the District at the time of the delivery of the Bonds, and such costs are in compliance with the Service and Assessment Plan. The itemized costs are as follows:

*[insert itemized list of costs here]*

TOTAL REQUESTED: \$ \_\_\_\_\_

4. The Owner is in compliance with the terms and provisions of the Newhaven Public Improvement District Financing and Reimbursement Agreement, the Indenture, and the Service and Assessment Plan.

5. All conditions set forth in the Indenture and [the Acquisition and Reimbursement Agreement for \_\_\_\_\_] for the payment hereby requested have been satisfied.

6. The Owner agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete its review.

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

[Information regarding Payee, amount, and deposit instructions]

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

**[GREGG LANE DEV, LLC,**  
a Texas limited liability company

By: Gregg Lane Manager, LLC,  
a Texas limited liability company,  
its Manager

By: SVAG Asset Management LLC,  
A Texas limited liability company,  
its Manager

By: \_\_\_\_\_  
Name: Sudharshan Vembutty  
Title: Manager]

**APPROVAL OF REQUEST BY CITY**

The City is in receipt of the attached Closing Disbursement Request. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request and shall include said payments in the City Certificate submitted to the Trustee directing payments to be made from the [\_\_\_\_] Costs of Issuance Account upon delivery of the Bonds.

**CITY OF MANOR, TEXAS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **Exhibit “F”**

### **HOME BUYER DISCLOSURE PROGRAM**

1. A Builder<sup>1</sup> for an Assessed Property shall provide each residential homebuyer with the “Notice of Obligation to Pay Public Improvement District Assessment to the City”, the form of which is attached hereto.
2. A Builder for an Assessed Property shall provide evidence of compliance with 1 above, signed by such residential homebuyer, to the City upon receipt of written request by the City or the Builder which sets forth the County’s mailing address and other contact information.
3. A Builder for an Assessed Property shall prominently display signage provided by the Owner or the Administrator in the Builder’s model homes, if any, located within the Property.
4. If prepared and provided by the City and approved by Owner (such approval not to be unreasonably withheld), a Builder for an Assessed Property shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.
5. A Builder shall include Special Assessments in estimated property taxes, if such Builder estimates monthly ownership Actual Costs for prospective homebuyers for an Assessed Property.
6. The Owner must post signage along the main entry/exits located at the boundaries of the District that identifies the area as a public improvement district. All signage shall be clearly visible to all motorists entering and exiting the District.

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<sup>1</sup> Builder” means a commercial builder who is in the business of constructing and/or selling residences to individual home buyers.

**NEWHAVEN PID – LOT TYPE [ \_\_\_ ]: HOMEBUYER DISCLOSURE**

**NOTICE OF OBLIGATION TO PAY  
PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS  
TO THE CITY OF MANOR, TEXAS**

**CONCERNING THE PROPERTY AT:**

---

**STREET ADDRESS**

**OUTSTANDING PRINCIPAL OF ASSESSMENT FOR AUTHORIZED  
IMPROVEMENT: \$[\_\_\_\_\_]**

As the purchaser of the real property located at the street address set forth above, you are obligated to pay assessments to Travis County, Texas, for the Actual Costs of a portion of Authorized Improvements (the “**Authorized Improvements**”), undertaken for the benefit of the property within the “Newhaven Public Improvement District” (the “**District**”), also known as “Newhaven”, created under Subchapter A, Chapter 372, Local Government Code, as amended.

**THE OUTSTANDING PRINCIPAL OF THE ASSESSMENT AGAINST YOUR PROPERTY FOR THE AUTHORIZED IMPROVEMENTS IS \$ \_\_\_\_\_, WHICH MAY BE PAID IN FULL AT ANY TIME; HOWEVER, IF NOT PAID IN FULL, IT WILL BE DUE AND PAYABLE IN ANNUAL INSTALLMENTS WHICH MAY VARY FROM YEAR TO YEAR DEPENDING ON THE AMOUNT OF INTEREST PAID, COLLECTION ACTUAL COSTS, ADMINISTRATIVE ACTUAL COSTS, AND DELINQUENCY ACTUAL COSTS.**

An estimate of the annual installments is attached; **however, it is only an estimate and is subject to change**. The exact amount of the annual installments, including the annual installments thereof, will be approved each year by the City Council of the City of Manor, Texas in the Annual Service Plan Update for the District. More information about the assessments, including the amounts and due dates, may be obtained from the City of Manor, Texas.

You may ask your mortgage company to include the Annual Installments in your monthly escrow payment.

Your failure to pay any assessment, or any annual installment thereof, may result in penalties and interest being added to what you owe and could result in a lien on and the foreclosure of your property.

The undersigned purchaser acknowledges receipt of the foregoing notice prior to the effective date of a binding contract for the purchase of the real property at the street address set forth above.

IN WITNESS WHEREOF, I have signed this certificate on the date specified below my signature.

**PURCHASER:**

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

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

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

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

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

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

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

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

STATE OF TEXAS §

§

TRAVIS COUNTY §

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

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

STATE OF TEXAS §

§

TRAVIS COUNTY §

§

The foregoing instrument was acknowledged before me by \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purposes therein expressed, in the capacity stated and as the act and deed of the above-referenced entities as an authorized signatory of said entities.

Given under my hand and seal of office on this \_\_\_\_\_, 20\_\_.

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

**PROJECTED ANNUAL INSTALLMENTS – LOT TYPE [\_\_]**

[WILL INSERT SCHEDULE OF PROJECTED ANNUAL INSTALLMENTS ONCE  
FINALIZED]