

DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF MONTGOMERY, TEXAS AND
MORNING CLOUD INVESTMENTS

This DEVELOPMENT AGREEMENT (the "Agreement") is entered into between MORNING CLOUD INVESTMENTS, LLC, a Texas limited liability company, its successors or assigns ("Developer"), and THE CITY OF MONTGOMERY, TEXAS ("City") to be effective on the date on _____, 2024 (the "Effective Date").

RECITALS

The Developer intends to acquire approximately 86.48 acres (the "Tract"). The Tract will be composed of 45.744 acres of land outside of the corporate limits of the City (the "Tract I") and 40.74 acres of land inside of the corporate limits of the City (the "Tract II"), in Montgomery County, Texas.

The Developer intends to develop the Tract for primarily single-family residential purposes. The Developer represents that the development of the Tract requires the creation of a public improvement district (the "District"), pursuant to and in accordance with the terms, provisions, and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code over the Tract to fund certain public infrastructure, and an agreement with the City will provide for long-term certainty concerning development of the Tract.

The Developer intends to petition the City for voluntary annexation of Tract I into the corporate limits of the City. The City intends to adopt a resolution consenting to the formation of the District over the boundaries of the Tract and also annexing the Tract I into the corporate limits of the City after Developer acquires the Tract I.

The City is a Type A general-law municipality with all powers except those specifically limited by the Constitution and laws of the State of Texas.

The City wishes to provide for the orderly, safe and healthful development of the Tract, and the City and the Developer agree that the development of the Tract can best proceed pursuant to a development agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits contained herein as well as other good and valuable consideration, the sufficiency of which is acknowledged by the parties, the City and Developer agree as follows:

ARTICLE I. DEFINITIONS AND EXHIBITS

1.1 Definitions. Unless the context indicates others, the following words as used in this Agreement shall have the following meanings:

City means the City of Montgomery, Texas.

District means a public improvement district, pursuant to and in accordance with the terms, provisions, and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code.

Developer means Morning Cloud Investments, a Texas limited liability company, its successors or assigns.

ESFC means that amount of water or wastewater, as applicable, set by the City that constitutes an Equivalent Single Family connection, which amount may be changed from time to time. At the time of this Agreement, an ESFC of water means 300 gallons per day and an ESFC of wastewater means 200 gallons per day.

Facilities means the water distribution, sanitary sewer collection, transportation and treatment, and storm water collection, detention and drainage systems, roads and improvements in aid thereof, constructed or acquired or to be constructed or acquired by the District to serve lands within its boundaries, and all improvements, appurtenances, additions, extensions, enlargements or betterments thereto, together with all contract rights, permits, licenses, properties, rights-of-way, easements, sites and other interests related thereto.

Parties means the City and the Developer, collectively.

Tract means the 86.45 acres of land to be developed by Developer, as described in **Exhibit A**, and any additional land that may be annexed into the District as approved by the City.

Tract I means the 45.744 acres of land to be annexed by the City upon petition of the Developer, as described in **Exhibit B**.

Tract II means the 40.741 acres of land inside of the corporate limits of the City, as described in **Exhibit C**.

1.2. **Exhibits**. The following Exhibits attached to this Agreement are a part of the Agreement as though fully incorporated herein:

Exhibit A	Metes and Bounds Description of the Tract
Exhibit B	Metes and Bounds Description of Tract I
Exhibit C	Metes and Bounds Description of Tract II
Exhibit D	Utility Exhibit
Exhibit E	Form of Utility Agreement
Exhibit F	Proposed Thoroughfare - Paving and Traffic Planning

ARTICLE II.
DEVELOPER OBLIGATIONS

Section 2.1. Utilities.

- a. Water, Sanitary Sewer and Drainage Facilities. Developer agrees that all water, sanitary sewer and drainage facilities to serve the Tract, whether on the Tract or off-site, will be constructed in accordance with the applicable City regulations and ordinances, including the City of Montgomery Code of Ordinances, as amended (the "City Code"). The Developer is responsible for the design and construction of all internal water and sanitary sewer lines and associated facilities and drainage facilities to serve the Tract. The City will provide retail water and sanitary sewer service to customers within the Tract, all in accordance with a Utility Agreement, the form of which is attached hereto as **Exhibit E**. Following acceptance by the City, the water and sanitary sewer infrastructure will be owned, operated, and maintained by the City per normal practice and as described in the Utility Agreement. The City agrees to provide the Tract with its ultimate requirements for wastewater treatment and water capacity in accordance with the Utility Agreement and as further described herein.
- b. Water Supply Facilities. The parties acknowledge that the Tract will be developed with ultimate water requirements of 55,350 gpd to serve approximately 235 connections. Parties agree that the Developer will develop the Tract in accordance with this Agreement.
 1. The Tract will consist of approximately 235 ESFCs necessitating 55,350 gpd of water capacity. The City agrees that it will have the capacity in its water treatment system to serve the Tract; however, the Developer is required to fund the construction of certain improvements to the City's water supply system in order to provide sufficient pressure for the Tract.
 - i. **Water Lines and Connections.** The Developer agrees to connect the 12-inch waterline along Old Dobbins Plantersville Road to the 8-inch waterline along Old Plantersville Road upon the development being built out completely. Additionally, the Developer will be responsible for installing an 8-inch waterline terminating at the most northern point of the Proposed Thoroughfare, attached hereto as **Exhibit F**. These Water Lines and Connections will be constructed in public right of way or easement and to the extent necessary, the Developer will be responsible for acquiring any necessary public right of way required for the construction of the Water Lines and Connections. The Water Lines and Connections will be sized to serve the Tract.

- ii. **Funding.** The Developer agrees to cover all costs to design and construct the Water Lines and Connections.
 - iii. **Timing.** The Developer is responsible for providing engineered plans and specifications for the water distribution system interior to the development and the Water Line and Connections to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council and development approvals and permits.
 - iv. **Ownership.** The City will accept such Water Line and Connections for ownership and operation in accordance with the terms of the Utility Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor.
- c. *Wastewater Treatment Facilities.* The parties acknowledge that the Tract will be developed in phases with ultimate wastewater requirements of 36,900 gpd to serve 235 connections. The ultimate alignment of sanitary sewer lines interior to the Tract will depend on the final land plan of the proposed development. Developer agrees to construct an on-site public lift station within the development to serve the Tract, a public force main with multiple feasible routes for ultimate discharge, and a gravity line at a sufficient depth, to be provided by the City Engineer, to serve a portion of the potential development north of the tract to be extended to the northern most point of the proposed thoroughfare. Developers shall place sanitary sewer lines within public utility easements located in public right of way or placed within the public right of way interior to the development and constructed per all applicable City and TCEQ design criteria.
- i. **On-Site Public Lift Station.** City agrees to design and construct an on-site public lift station to serve the Tract, as generally shown on **Exhibit D** (the "Lift Station").
 - ii. **Public Force Main.** City agrees to design and construct a public force main extension (the "Force Main") to serve the Tract along Old Dobbin Plantersville Road and SH 105 discharging at an existing sanitary sewer manhole as shown on **Exhibit D**. The Force Main improvements shall be sized to serve the Tract. The force main running from the lift station to Old Dobbin Plantersville Road is to be designed and constructed by the Developer.
 - iii. **Upsizing the Existing 8-inch Sanitary Sewer Line.** City agrees to design and construct the upsizing of the existing 8-inch sanitary

sewer line that will accept the flow from the proposed Force Main ("Sanitary Sewer Extension") as shown on **Exhibit D**.

- iv. **Funding.** The City will provide the Developer and the District a cost estimate of the engineering and construction costs of the Lift Station, Force Main, and Sanitary Sewer Extension, and upon presentation of such estimate, the Developer agrees to deposit with the City the funds due for design (including preliminary design, design, topographic survey, reimbursable expenses, and bid phase services) of the Lift Station, Force Main and Sanitary Sewer Extension. The City will be responsible for bidding the Lift Station, Force Main, and Sanitary Sewer Extension in accordance with competitive bidding laws. Upon receipt and review of bids, the Developer will deposit the amount of the accepted bid plus 10% contingencies, the estimated cost for construction administration and inspection, construction staking, construction materials testing, and reimbursable expenses with the City. The Developer shall have the right to review all bids received for the construction of the Lift Station, Force Main, and Sanitary Sewer Extension, approve award of the construction contract for the Lift Station, Force Main, and Sanitary Sewer Extension and review and approve all pay estimates and change orders related thereto. The City will keep accurate records of Developer deposits and Lift Station, Force Main, and Sanitary Sewer Extension costs and make such records available for Developer inspection upon request. Within 45 days of City acceptance of the Lift Station, Force Main, and Sanitary Sewer Extension the City shall perform a reconciliation and final accounting and reimburse the Developer any unpaid funds under the construction contract. In the event the City has expended more than the deposit amount, the Developer will reimburse the City for any excess cost. After completion of the one-year warranty and action by City Council to officially end the warranty period, the City shall perform a reconciliation and final accounting within 45 days and reimburse the Developer any unused funds or request additional funds.
- v. **Timing.** The Developer is responsible for providing engineering plans and specifications for the sanitary sewer conveyance system interior to the development to the City Engineer for review and approval prior to commencing construction. The Developer is also responsible for obtaining all Planning and Zoning Commission, City Council, and development approvals and required permits.

- vi. **Ownership.** The City will accept such Lift Station, Force Main, and Sanitary Sewer Extension for ownership and operation in accordance with the terms of the Utility Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor.
- d. Impact Fees. The Developer agrees to pay impact fees for water supply facilities and wastewater treatment facilities ("Impact Fees") in the amount as stated in the City's current adopted Impact Fees, or as may be amended from time to time. The Developer will be assessed and pay Impact Fees at the time of the City's approval of the final plat for each section.
- e. Paving and Traffic. Per the preliminary land plan submitted by the Developer, the streets are proposed to be public and accepted by the City. The Developer is responsible for providing engineered plans and specifications for the roads interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits. Currently, the preliminary land plan provides for two (2) proposed connections to Old Dobbins Plantersville Road and Old Plantersville Road to provide access to the entire 235-home subdivision. The Developer will need to perform a Traffic Impact Analysis to assess the impact on the City's roadway system and coordinate with Montgomery County on the connection to Old Dobbins Plantersville Road. Per the City and Montgomery County's most recently adopted thoroughfare plan, the current land plan considers the planned extension of Westway Drive. Developer is to construct this extension within the limits of the Tract, as shown on **Exhibit F**. The collector will have a 70-foot dedicated ROW with 36-foot-wide concrete pavement. Finally, the Developer must also provide access to the property adjacent to the north (MCAD Property ID: 270662) due to the property being landlocked if no access is given. Based on the preliminary land use plan provided, this requirement is being fulfilled as shown in **Exhibit F**. Any changes to the land use plan must consider and fulfill this requirement.
- f. Drainage Facilities. The onsite storm sewer system will be designated public and accepted by the City upon completion of the development. Any detention ponds will remain the responsibility of the Developer. All drainage and detention improvements must be designed per the City's Code of Ordinances requiring compliance with the City's floodplain regulations and all applicable Montgomery County Drainage Criteria Manual Standards. The Developer also agrees to perform and submit a drainage study showing the development's impact on the drainage downstream of the Tract and on adjacent properties. The drainage study must be submitted to the City for review and approval prior to approval of the construction plans. The Developer is responsible for providing engineering plans and specifications for the drainage and detention system interior to the

development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

Section 2.4. Parks and Open Space Areas. The Developer shall design and construct at least 6 parks and open space areas to total at least 6.8 acres to serve the Tract in accordance with the City Code and any applicable Montgomery County standards. Any park and open space areas will not be accepted by the City but owned and maintained by the District. Developer agrees to design and construct at least 3 detention basins of 8.5 acres with walking trails and park seating. Developer also shall maintain a tree buffer of at least 20 foot width along the railroad for privacy.

Section 2.5. Development Regulations. Developer agrees that the development of the Tract shall be in accordance with the City Code except as to lot size and side yard setback: all platted single-family residential lots within the District may be a minimum of 65 feet wide and 7,800 square feet with a side yard setback of 7.5 feet on adjacent lots on each side of the property line. This Agreement constitutes the City's acceptance of the described variance from its City Code.

ARTICLE III.
DEFAULT AND TERMINATION

Section 3.1. Material Breach of Agreement. It is the intention of the parties to this Agreement that the Tract be developed in accordance with the terms of this Agreement.

a. The parties acknowledge and agree that any substantial deviation by the Developer from the material terms of this Agreement would frustrate the intent of this Agreement, and, therefore, would be a material breach of this Agreement. A material breach of this Agreement by the Developer shall be deemed to have occurred in the event of failure of the Developer to comply with a provision of this Agreement or the City Code provisions applicable to the Tract.

b. The parties acknowledge and agree that any substantial deviation by the City from the material terms of this Agreement would frustrate the intent of this Agreement and, therefore, would be a material breach of this Agreement. A material breach of this Agreement by the City shall be deemed to have occurred in the following instances:

- (i) An attempt by the City to dissolve the District without complying with the terms of this Agreement or in violation of the provisions of the Utility Agreement;
- (ii) An attempt by the City to delay or limit reimbursement to the Developer in violation of the provisions of this Agreement; or

(iii) An attempt by the City to enforce any provisions of the City Code within the Tract that is inconsistent with the terms and conditions of this Agreement.

In the event that a party to this Agreement believes that another party has, by act or omission, committed a material breach of this Agreement, the provisions of this Article III shall provide the remedies for such default.

Section 3.2. Notice of Developer's Default.

a. The City shall notify Developer in writing of an alleged failure by the Developer to comply with a provision of this Agreement, describing the alleged failure with reasonable particularity. Developer shall, within thirty (30) days after receipt of the notice or a longer period of time as the City may specify in the notice, either cure the alleged failure or, in a written response to the City, either present facts and arguments in refutation or excuse of the alleged failure or state that the alleged failure will be cured and set forth the method and time schedule for accomplishing the cure.

b. The City shall determine: (i) whether a failure to comply with a provision has occurred; (ii) whether the failure is excusable; and (iii) whether the failure has been cured or will be cured by Developer. The alleged defaulting party shall make available to the City, if requested, any records, documents or other information necessary to make the determination, except to the extent that such information is protected by attorney/client privilege.

c. If the City determines that the failure has not occurred, or that the failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the City, or that the failure is excusable, the determination shall conclude the investigation.

d. If the City determines that a failure to comply with a provision has occurred and that the failure is not excusable and has not been or will not be cured by Developer in a manner and in accordance with a schedule reasonably satisfactory to the City, then the City may pursue any and all remedies it has at law or equity.

Section 3.3. Notice of City's Default.

a. Developer shall notify the City in writing specifying any alleged failure by the City to comply with a provision of this Agreement, describing the alleged failure with reasonable particularity. The City shall, within thirty (30) days after receipt of the notice or the longer period of time as Developer may specify in the notice, either cure the alleged failure or, in a written response to Developer, either present facts and arguments in refutation or excuse of the alleged failure or state that the alleged failure will be cured and set forth the method and time schedule for accomplishing the cure.

b. Developer shall determine: (i) whether a failure to comply with a provision has occurred; (ii) whether the failure is excusable; and (iii) whether the failure has been cured

or will be cured by the City. The City shall make available to the Developer, if requested, any records, documents or other information necessary to make the determination that are subject to the Public Information Act, Chapter 551, Texas Government Code.

c. If Developer determines that the failure has not occurred, or that the failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to Developer, or that the failure is excusable, the determination shall conclude the investigation.

d. If Developer determines a failure to comply with a provision has occurred and that the failure is not excusable and has not been or will not be cured by the City in a manner and in accordance with a schedule reasonably satisfactory to Developer, then Developer may pursue any and all remedies it has at law or equity.

Section 3.4. Remedies. In addition to all the rights and remedies provided under the laws of the State of Texas, because of the peculiar damage each party hereto might suffer by virtue of a default by another party, each party shall be entitled to the equitable remedy of specific performance or mandamus, as well as all other legal and equitable remedies available.

ARTICLE VI.
CITY'S CONSENT TO CREATION; VOLUNTARY ANNEXATION;
DISTRICT ANNEXATION OF LAND

Section 4.1. (a) Petition for the Establishment of the District. Within ten (10) days of the closing date of Tract I and Tract II, Developer shall submit to the City its petition to establish the District in accordance with Chapter 372.004 and 372.005 of the Texas Local Government Code. The City hereby approves the formation of the District over the Tract. If the Developer fails to submit a petition to the City within thirty (30) days of the closing date of Tract I and Tract II, this Agreement shall terminate and the City shall be released from all obligations under the Agreement.

(b) Following Developer's closing on the Tract and the creation of the District, Developer and the City shall enter into a reimbursement agreement pursuant to which Developer shall develop the Tract and the City shall reimburse Developer for the public water, sewer and drainage facilities and public roads ("Authorized Improvements") to the maximum extent allowed by law ("Reimbursement Agreement").

(c) The reimbursement agreement shall provide that Developer shall be reimbursed solely from assessments levied on the lots developed within the Tract, which assessments shall be levied on a developed lot for a term of 30 years.

(d) The assessment levied on each lot shall be \$2,000 per year, including both principal and interest.

(e) Interest in the monies advanced by Developer for the Authorized Improvements shall be equal to the maximum amount allowed under Texas Local Government Code, Section 372.023 (e) 2.

(f) The City acknowledges that the Developer may assign the Reimbursement Agreement to an out of state public facility authority ("PFA"), which may issue its bonds secured by the proceeds from the Reimbursement Agreement. The City consents to such assignment as long as the PFA acknowledges that the PFA is solely allowed to receive the monies otherwise due to Developer pursuant to the Reimbursement Agreement.

Section 4.2. Consent to Annexation of City. Developer shall submit to the City its petition for annexation of Tract I into the corporate limits of the City within ten (10) days of Council approval of the formation of the District. The City hereby annexes Tract I into the corporate limits of the City, and Tract I shall be entitled to all the rights and privileges and bound by all regulations of the City.

Section 4.3. Annexation of Land by District. The District may not annex additional land into the boundaries of the District or serve property outside the boundaries of the District without the consent of the City. In the event land is annexed into the boundaries of the District with the City's consent, the terms of this Agreement shall apply to the annexed land.

ARTICLE V. DISSOLUTION

Section 5.1. The City and the Developer agree that this Agreement constitutes Developer's petition to dissolve the District under Section 372.011, Texas Local Government Code, and the City is hereby authorized to dissolve the District, in the event that: the Developer does not acquire the Property on or before December 31, 2024. Developer will not oppose the City's dissolution of the District undertaken in accordance with this Agreement, and will cooperate with the City to cause the District to be dissolved.

ARTICLE VI. MISCELLANEOUS

Section 6.1. Sale of Tract; Assignability. Any agreement by Developer to sell the entirety or any portion of the Tract to a person intending to develop the tract or such portion thereof (a "Successor Developer," whether one or more) and any instrument of conveyance for the entirety or any portion of the Tract to such Successor Developer shall recite and incorporate this Agreement and provide that this Agreement be binding on such Successor Developer. This Agreement is not intended to be, and shall not be, binding on the ultimate purchasers of parcels out of the Tract. This Agreement is assignable upon written notice to the City; such notice of assignment shall be given within 30 days of an assignment and such notice shall include evidence that the assignee has assumed the obligations under this Agreement.

Section 6.2. Force Majeure. In the event a party is rendered unable, wholly or in part, by force majeure, to carry out any of its obligations under this Agreement, it is agreed that on such party's giving notice and full particulars of such force majeure in writing to the other parties as soon as possible after the occurrence of the cause relied upon, then the obligations of the party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided, but for no longer period. Such cause shall as far as possible be remedied with all reasonable dispatch.

The term "force majeure" as used herein shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy or of terrorism, war, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, suspension of issuance of permits by environmental agencies outside the control of any party, explosions, breakage or damage to machinery or pipelines and any other incapacities of any party, whether similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which by the exercise of due diligence and care such party could not have avoided.

Section 6.3. Law Governing. This Agreement shall be governed by the laws of the State of Texas, and no lawsuit shall be prosecuted on this Agreement except in a federal or state court of competent jurisdiction.

Section 6.4. No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

Section 6.5. Addresses and Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advise (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to another (except bills), must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three (3) days after it is deposited. Notice given in any such other manner shall be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

City of Montgomery, Texas

101 Old Plantersville Road
Montgomery, TX 77535
Attention: City Administrator

With a copy to City attorney:

Johnson Petrov LLP
2929 Allen Parkway, Suite 3150
Houston, TX 77019
Attention: Alan P. Petrov

If to the Developer, to:

Morning Cloud Investments, LLC
Attention: Marjorie Cox, Member
P.O. BOX 8262
Spring, Texas 77387-8262

With a copy to:
Coats Rose, P.C.
Attn: Tim G. Green
9 Greenway Plaza, Ste. 1000
Houston, Texas 77046

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify any other address by at least fifteen (15) days' written notice to the other parties.

Section 6.6. Merger and Modification. This Agreement, including the exhibits that are attached hereto and incorporated herein for all purposes, embodies the entire agreement between the parties relative to the subject hereof. This Agreement shall be subject to change or modification only with the mutual written consent of all the parties.

Section 6.7. Severability. The provisions of this Agreement are severable, and if any part of this Agreement or the application thereof to any person or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 6.8. Benefits of Agreement. This Agreement is for the benefit of the City and Developer, and shall not be construed to confer any benefit on any other person except as expressly provided for herein.

Section 6.9. Recordation. The City shall record this Agreement and any amendments thereof in the deed records of Montgomery County. In addition, any assignments of this Agreement shall be recorded in the deed records of Montgomery County. This Agreement, when recorded, shall be a covenant running with the land and binding upon the Tract, the parties and their assignees during the term of this Agreement. However, this Agreement shall not be binding upon and shall not constitute any encumbrance to title as to any purchaser of a tract or lot within the Tract who does not intend to resell, subdivide or develop the tract or lot in the ordinary course of business.

Section 6.10. Term. This Agreement shall be in force and effect from the Effective Date and continue for a term of thirty (30) years unless otherwise previously terminated pursuant to some term or condition of this Agreement or by express written agreement by the City and Developer. Upon expiration of thirty (30) years from the Effective Date of this Agreement, this Agreement may be extended upon mutual consent of the Developer and the City.

Section 6.11. Authority for Execution. The City hereby certifies, represents and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the City Code. The Developer hereby certifies, represents and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreement of such entity.

Section 6.12. Execution of Agreement by District. After approval of the formation of the District, Developer shall cause the assignment, execution and adoption of the Utility Agreement in the form attached hereto as **Exhibit D** within 30 days after formation of the District.

(Signature Pages to Follow)

Executed by the Developer and the City to be effective on the Effective Date.

MORNING CLOUD INVESTMENTS, LLC,
a Texas limited liability company

By: _____
Name: Marjorie Cox
Title: Member

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this _____ day of _____, 2024, by Marjorie Cox, Member of Morning Cloud Investments, LLC, a Texas limited liability company.

Notary Public, State of Texas

(NOTARY SEAL)

CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

Deputy City Secretary

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this _____ day of _____, 2024, by Sara Countryman, Mayor, City of Montgomery, Texas, on behalf of said City.

Notary Public, State of Texas

(NOTARY SEAL)

Exhibit A - Metes and Bounds Description of the Tract

(Collectively, Exhibit B and Exhibit C)

Exhibit B - Metes and Bounds of Tract I

Legal description of land:

Being a description of a 45.744 acre (1,992,589 Sq. Ft.) tract of land situated in the Zacharias Landrum Survey, A-22, Montgomery County, Texas. Said 45.744-acre tract being out of a called 55.389 acre tract of land conveyed to Agnes R. Stanley, Trustee, under the Stanley family living trust dated February 10, 1997, as amended Montgomery County Clerk's File (M.C.C.F.) No. 2011092960 Official Public Records of Montgomery County (O.P.R.M.C.), Texas being more particularly described by metes and bounds as follows (With bearing basis being the State Plane Coordinate System, Central Zone no. 4203, NAD 83. The coordinates shown hereon are Grid Coordinates and may be brought to the surface by multiplying the combined scale factor of 1.000069595. All distances are surface distances):

BEGINNING N= 10,133,702.65, E= 3,750,438.47 at a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set at the intersection of the northeast line of a tract of land conveyed to G.C. & S.F. Railroad Company, by deed recorded in Volume 6, Page 530 of the Montgomery County Deed Records (M.C.D.R.) and the south right-of-way line of Old Dobbin Plantersville Road (60' wide) as recorded under M.C.C.F. No. 9401426 of the O.P.R.M.C., Texas, from which a found fence corner post bears North 83 Deg. 45 Min. 25 Sec. West, a distance of 2.38 feet;

THENCE North 51 Deg. 03 Min. 16 Sec. East, with the southeast right-of-way line of said Old Dobbin Plantersville Road, with a northwest line of said 55.389- acre tract and with a northwest line of said tract herein described, a distance of 609.10 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an angle point;

THENCE North 65 Deg. 32 Min. 16 Sec. East, with the southeast right-of-way line of Old Dobbin Plantersville Road, with the northwest line of said 55.389- acre tract and with a northwest line of said tract herein described, a distance of 153.21 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for the most westerly northwest corner of said tract herein described;

THENCE South 43 Deg. 36 Min. 11 Sec. East, over and across said 55.389- acre tract and with the northeast line of said tract herein described; a distance of 1,125.26 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set in the west line of a called 8.81 acre tract of land conveyed to Billy G. Giles by deed recorded in volume 896, page 821, of the Montgomery County Deed Records and for an angle point in an easterly line of said tract herein described;

THENCE South 02 Deg. 35 Min. 44 Sec. East, with the west line of said 8.81- acre tract with an east line of said 55.389 acre tract and with an east line of said tract herein described, a distance of 75.04 feet to a 5/8 inch iron rod with cap stamped "WEISSER ENG HOUSTON, TX" set for an interior angle point said tract herein described;

THENCE North 70 Deg. 34 Min. 16 Sec. East, with the southeast line of said 8.81- acre tract, with the southeast line of a called 13.05-acre tract conveyed to Billy G. Giles, by deed recorded in Volume 896, Page 825, of the Montgomery County Deed Records, with the south line of a called 34.831-acre tract of land conveyed to Alan Mann, by deed recorded in Montgomery County Clerk's File No. 2006-118991, Film Code No. 194-11-2542, with a northwest line of said 55.389-acre. tract and with a northwest line of said tract herein described, a distance of 860.50 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG. HOUSTON, TX" set for the north corner of herein described tract, said point being the west corner of a called 9.992 -acre tract of land conveyed to Edward Lopez and Wife, Sonja Lopez by deed recorded in Montgomery County Clerk's File No. 2012107577 of the Official Public Records of Montgomery County, Texas, being the north corner of said 55.389-acre tract, from which a found 2-inch iron pipe bears South 43 Deg. 04 Min. 42 Sec. East, a distance of 0.85 feet;

THENCE South 02 Deg. 45 Min. 17 Sec. East, with the west line of said 9.992- acre tract, with the west line of a called 20.019-acre tract conveyed to C.A. Stowe, by deed recorded in Montgomery County Clerk's File No. 9612142, Film Code No. 136-00-0930 of the Official Public Records of Montgomery County, Texas, with the east line of said 55.389-acre tract and with the east line of said tract herein described, a distance of 1,497.73 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG.

HOUSTON, TX" set in the northerly line of said G.C. & S.F. Railroad Company Tract, for the south corner of said 20.019 acre and the south corner of said tract herein described;

THENCE North 75 Deg. 51 Min. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract, with a southwest line of said 55.389- acre tract and with a southwest line of said tract herein described, a distance of 304.50 feet to a set 5/8-inch iron rod with cap stamped ("WEISSER ENG., HOUSTON, TX") for an angle point in said tract the herein described;

THENCE North 63 Deg. 06 MM. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract, with a southwest line of said 55.389 acre tract and with a southwest line of said tract herein described, a distance of 271.40 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG. HOUSTON, TX" set for an angle point;

THENCE North 52 Deg. 53 MM. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract, with a southwest line of said 55.389- acre tract and with a southwest line of said tract herein described, a distance of 244.60 feet to a 5/8-inch iron rod with cap stamped "WEISSER ENG. HOUSTON, TX" set for an angle point;

THENCE North 49 Deg. 42 Min. 44 Sec. West, with a northeast line of said G.C. & S.F. Railroad tract, with a southwest line of said 55.389- acre tract and with a southwest line of said tract herein described, a distance of 2,023.70 feet to the POINT OF BEGINNING and containing 45.744 acres (1,992,589 square feet) of land.

Exhibit C - Metes and Bounds of Tract II

BEING 40.741 ACRES OF LAND SITUATED IN THE ZACHARIAH LANDRUM SURVEY, ABSTRACT NUMBER 22 IN MONTGOMERY COUNTY, TEXAS, AND BEING ALL OF THAT CALLED 11.709 ACRE TRACT (SAVE & EXCEPT 1.000 ACRES) CONVEYED IN DEED TO C.A. STOWE RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9764002 OF THE REAL PROPERTY RECORDS OF MONTGOMERY COUNTY, TEXAS, AND BEING ALL OF THAT CALLED 20.019 ACRE TRACT CONVEYED IN DEED TO C.A. STOWE RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9612142 OF THE REAL PROPERTY RECORDS OF MONTGOMERY COUNTY, TEXAS, AND BEING ALL OF THAT CALLED 10.005 ACRE TRACT CONVEYED IN DEED TO CHARLES A. STOWE & WIFE, FRANCES E. STOWE RECORDED UNDER COUNTY CLERK'S FILE NUMBER 9764002 OF THE REAL PROPERTY RECORDS OF MONTGOMERY COUNTY, TEXAS; SAID 40.741 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS AND COORDINATES REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE NAD 83 (ALL DISTANCE SHOWN ARE GROUND):

BEGINNING at a 1/2 inch iron rod, found for the Northwest corner of said 20.019 acre tract, being the Southwest corner of a called 9.992 acre tract conveyed in deed to Edward Lopez & wife Sonja Lopez recorded under County Clerk's File Number 2012-107577 of the Real Property Records of Montgomery County, Texas, and being in the apparent East line of a called 45.744 acre tract conveyed in deed to Nestor S. Sales & Spouse, Remedios M. Sales recorded under County Clerk's File Number 2016-059780 of the Real Property Records of Montgomery County, Texas, and being the lower Northwest corner of the herein described tract;

THENCE North 68°49'20" East, along the North line of said 20.019 acre tract and South line of said 9.992 acre tract, passing at 426.39 feet and 0.30 feet South a 1 inch iron pipe, found for the apparent Southeast corner of said 9.992 acre tract, being the apparent Southwest corner of a called 10.005 acre tract conveyed in deed to Brian Auld & wife Sonja Auld recorded under County Clerk's File Number 9714597 of the Real Property Records of Montgomery County, Texas, continuing a total distance of 850.78 feet to a 1/2 inch iron rod, found for the Southeast corner of said Auld 10.005 acre tract, being the Southwest corner of said Stowe 10.005 acre tract, and being an interior corner for the herein described tract;

THENCE North 10°40'39" West, along the West line of said Stowe 10.005 acre tract and East line of said Auld 10.005 acre tract a distance of 1,148.51 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for the Northwest corner of said Stowe 10.005 acre tract, being the Northeast corner of said Auld 10.005 acre tract, being in the apparent South line of a called 34.831 acre tract conveyed in deed to Alan Mann recorded under County Clerk's File Number 2006-118991 of the Real Property Records of Montgomery County, Texas, and being the Northwest corner of the herein described tract;

THENCE North 70°43'15" East, along the North line of said Stowe 10.005 acre tract and apparent South line of said 34.831 acre tract a distance of 300.00 feet to a 1/2 inch iron rod, found for the Northeast corner of said Stowe 10.005 acre tract, being the Northwest corner of a called 10.005 acre tract conveyed in deed to Jerry D. McHam recorded under County Clerk's File Number 9749498 of the Real Property Records of Montgomery County, Texas, and being the Northeast corner of the herein described tract;

THENCE South 20°26'06" East, along the East line of said Stowe 10.005 acre tract and West line of said McHam 10.005 acre tract a distance of 1,061.37 feet to a 1/2 inch iron rod, found for the Southeast corner of said Stowe 10.005 acre tract, being the Southwest corner of said McHam 10.005 acre tract, being in the North line of said Stowe 20.019 acre tract, and being an interior corner for the herein described tract;

THENCE North 59°04'37" East, along the North line of said Stowe 20.019 acre tract and South line of said McHam 10.005 acre tract passing at 439.98 feet a bent 3/8 inch iron rod, found for the apparent Southeast corner of said McHam 10.005 acre tract, being the apparent Southwest corner of called 7.6417 acre tract conveyed in deed to Carl W. Kiser recorded under County Clerk's File Number 2007-102941 of the Real Property Records of Montgomery County, Texas, continuing a total distance of 658.38 feet to a 1/2 inch iron rod, found for the Northeast corner of said Stowe 20.019 acre tract, being the Southeast corner

of said Kiser 7.6417 acre tract, also being an angle point for a called 12.108 acre tract conveyed in deed to Lonestar Cowboy Church recorded under County Clerk's File Number 2008-057191 of the Real Property Records of Montgomery County, Texas, and being the lower Northeast corner of the herein described tract;

THENCE South 30°55'01" East, along the East line of said Stowe 20.019 acre tract and the Southwest line of said 12.108 acre tract a distance of 435.76 feet to a 1/2 inch iron rod inside a 3/4 inch iron pipe, found for the Southeast corner of said Stowe 20.019 acre tract, being the South corner of said 12.108 acre tract, also being in the North line of said Stowe 11.709 acre tract, and being an interior Corner for the herein described tract;

THENCE North 59°24'55" East, along the Southeast line of said 12.108 acre tract and the Northwest line of said Stowe 11.709 acre tract a distance of 600.56 feet to a 5/8 inch iron rod with cap stamped "Glezman", found for the West corner of a called 1.000 acre tract conveyed in deed to Christopher C. Stowe recorded under County Clerk's File Number 2014-084857 of the Real Property Records of Montgomery County, Texas, and being the Southernmost Northeast corner of the herein described tract;

THENCE South 30°34'15" East, along the West line of said 1.000 acre tract a distance of 199.94 feet to a 5/8 inch iron rod with cap stamped "Glezman", found for the South corner of said 1.000 acre tract, and being an interior corner for the herein described tract;

THENCE North 59°23'12" East, along the South line of said 1.000 acre tract a distance of 216.90 feet to a 5/8 inch iron rod with cap stamped "Glezman", found for the beginning of a curve to the right, being the Southeast corner of said 1.000 acre tract, being in the West Right-of-Way line of Old Plantersville Road (Undetermined right-of-way width), also being in the East line of said Stowe 11.709 acre tract, and being the East corner of the herein described tract;

THENCE with the West Right-of-Way line of Old Plantersville Road and East line of said Stowe 11.709 acre tract, with said curve to the right, having a radius of 388.18 feet, an arc length of 218.94 feet, a delta angle of 32°18'57", a chord bearing of South 02°38'46" East, and chord distance of 216.05 feet to a 5/8 inch iron rod, found for a point of tangency for the said Stowe 11.709 acre tract and for the herein described tract;

THENCE South 36°00'06" West, continuing along the above mentioned line a distance of 371.91 feet to a 1/2 inch iron rod, found for the beginning of a curve to the right for said Stowe 11.709 acre tract and for the herein described tract;

THENCE continuing along the above mentioned line with said curve to the right having a radius of 165.93 feet, an arc length of 70.30 feet, a delta angle of 24°16'31", a chord bearing of South 48°07'03" West, and a chord distance of 69.78 feet to a 1/2 inch iron rod, found for a point of tangency for said 11.709 acre tract and for the herein described tract;

THENCE South 60°16'46" West, continuing along the above mentioned line a distance of 92.79 feet to a 5/8 inch iron rod, found for the beginning of a curve to the left for said Stowe 11.709 acre tract and for the herein described tract;

THENCE continuing along the above mentioned line with said curve to the left having a radius of 226.55 feet, an arc length of 58.83 feet, a delta angle of 14°52'42", a chord bearing of South 52°47'24" West, and a chord distance of 58.66 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for the South corner of said Stowe 11.709 acre tract, being in the North line of the residual of Burlington Northern & Santa Fe Railroad conveyed in Volume 3, Page 135 & Volume 6, Page 530 of the Deed Records of Montgomery County, Texas, and being the Southeast corner of the herein described tract;

THENCE along the South line of said Stowe 11.709 acre tract and North line of the residual of Burlington Northern & Santa Fe Railroad with a curve to the left, having a radius of 1,496.19 feet, an arc length of 1,231.91 feet, a delta angle of 47°10'32", a chord bearing of South 86°45'22" West, and a chord

distance of 1,197.41 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for a point of compound curvature for said Stowe 11.709 acre tract and the herein described tract;

THENCE continuing along the above mentioned line with said compound curve to the left, having a radius of 2,073.58 feet, an arc length of 73.25 feet, a delta angle of $02^{\circ}01'27''$, a chord bearing of South $62^{\circ}09'21''$ West, and a chord distance of 73.25 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for the point of termination for said compound curve and for the West corner of said Stowe 11.709 acre tract, being in the South line of said Stowe 20.019 acre tract, and being a corner of the herein described tract;

THENCE with the South line of said Stowe 20.019 acre tract and North line of the residual of the Burlington Northern & Santa Fe Railroad the following courses and distances:

1. South $57^{\circ}03'00''$ West, a distance of 18.84 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
2. North $32^{\circ}31'58''$ West, a distance of 50.20 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
3. South $60^{\circ}19'44''$ West, a distance of 400.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
4. South $70^{\circ}48'44''$ West, a distance of 300.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
5. South $81^{\circ}23'44''$ West, a distance of 200.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for an angle point for said Stowe 20.019 acre tract and the herein described tract;
6. North $88^{\circ}31'30''$ West, a distance of 295.00 feet to a 5/8 inch iron rod with cap stamped "Jeff Moon R.P.L.S. 4639", set for the Southwest corner for said Stowe 20.019 acre tract, being the Southeast corner of said Sales 45.744 acre tract, and for the Southeast corner of the herein described tract;

THENCE North $02^{\circ}46'49''$ East, along the West line of said Stowe 20.019 acre tract and the East line of said Sales 45.744 acre tract, a distance of 285.10 feet, back to the **POINT OF BEGINNING** and containing 40.741 acres of land, based on the survey and plat prepared by Jeffrey Moon and Associates, Inc., dated September 19, 2024.

Exhibit D - Utility Exhibit



Legend

- Jurisdictional Boundary
- Parcel Boundary
- Montgomery ETJ
- Montgomery City Limits
- Subject Tract
- Water Infrastructure
 - wMain
 - wWater
 - wControlValve
 - wFittings
 - wHydrant
- Sanitary Sewer Infrastructure
 - Lift Station
 - Treatment Plant
 - sgGravityMain
 - smManhole
 - spPressurizedMain

**EXHIBIT D
Utility Exhibit**

City of Montgomery
Proposed Development



Disclaimer: This exhibit is intended for planning purposes only and does not constitute a final engineering or surveying document. The information shown on this exhibit represents the approximate location of property, easements, boundaries, or facilities.



Exhibit E - Form of Utility Agreement

company, as may be amended from time to time.

"District" means a public improvement district, pursuant to and in accordance with the terms, provisions, and requirements of the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code.

"ESFC" means that amount of water or wastewater, as applicable, set by the City that constitutes an Equivalent Single Family connection, which amount may be changed from time to time. At the time of this Agreement, an ESFC of water means 300 gallons per day and an ESFC of wastewater means 200 gallons per day.

"Facilities" means the water distribution, transportation and treatment, and storm water collection, detention and drainage systems, roads and improvements in aid thereof, constructed or acquired or to be constructed or acquired by the District to serve lands within its boundaries, and all improvements, appurtenances, additions, extensions, enlargements or betterments thereto, together with all contract rights, permits, licenses, properties, rights-of-way, easements, sites and other interests related thereto.

"Parties" shall mean the City and the Developer, collectively.

ARTICLE II DESCRIPTION, DESIGN, FINANCING AND CONSTRUCTION OF THE FACILITIES

2.01. Facilities. The Facilities shall be designed and constructed in compliance with all applicable requirements and criteria of City regulations and ordinances. All plans and specifications for the Facilities shall be submitted to the City for approval prior to construction and advertising for bids. The plans and specifications shall be prepared in accordance with the applicable provision of the City Code, as they may be amended from time to time.

2.02. Water Distribution and Supply Facilities. The City shall provide the District with its ultimate requirements for water production supply of 55,350 gpd to serve approximately 235 ESFCs. The Developer agrees to connect the 12-inch waterline along Old Dobbins Plantersville Road to the 8-inch waterline along Old Plantersville Road upon the development being built out completely (the "Water Line and Connections"). Additionally, the Developer will be responsible for installing an 8-inch waterline terminating at the most northern point of the Proposed Thoroughfare. The Water Line and Connections will be constructed in public right of way or easement and to the extent necessary, the Developer will be responsible for acquiring any necessary public right of way required for the construction of the Facilities. The Water Line and Connections will be sized to serve the Tract. The Developer agrees to cover all costs to design and construct the Water Line and Connections. The Developer is responsible for providing engineered plans and specifications for the water distribution system interior to the development and the Water Line and Connections to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council and development approvals and permits. The City will accept such Facilities for ownership and

operation in accordance with the terms of the Utility Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor.

2.03. Impact Fees. The Developer agrees to pay impact fees for water supply facilities and wastewater treatment facilities ("Impact Fees") in the amount as stated in the City's current adopted Impact Fees, or as may be amended from time to time. The Developer will be assessed and pay Impact Fees at the time of the City's approval of the final plat for each section based on the number of connections in such plat.

2.04. Paving and Traffic. Per the preliminary land plan submitted by the Developer, the streets are proposed to be public and accepted by the City. The Developer is responsible for providing engineered plans and specifications for the roads interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits. Currently, the preliminary land plan provides for two (2) proposed connections to Old Dobbins Plantersville Road and Old Plantersville Road to provide access to the entire 235-home subdivision. The Developer will need to perform a Traffic Impact Analysis to assess the impact on the City's roadway system and coordinate with Montgomery County on the connection to Old Dobbins Plantersville Road. Per the City and Montgomery County's most recently adopted thoroughfare plan, the current land plan considers the planned extension of Westway Drive. Developer is to construct this extension within the limits of the Tract as defined in Exhibit F of the Development Agreement. The collector will have a 70-foot dedicated ROW with 36-foot-wide concrete pavement. Finally, the Developer must also provide access to the property adjacent to the north (MCAD Property ID: 270662) due to the property being landlocked if no access is given. Based on the preliminary land use plan provided, this requirement is being fulfilled. Any changes to the land use plan must consider and fulfill this requirement. The streets will be conveyed to the City upon final completion and subject to final acceptance by the City.

2.05 Drainage Facilities. The onsite storm sewer system will be designated public and accepted by the City upon completion of the development. Any detention ponds will remain the responsibility of the Developer. All drainage and detention improvements must be designed per the City's Code of Ordinances requiring compliance with the City's floodplain regulations and all applicable Montgomery County Drainage Criteria Manual Standards. The Developer also agrees to perform and submit a drainage study showing the development's impact on the drainage downstream of the Tract and on adjacent properties. The drainage study must be submitted to the City for review and approval prior to approval of the construction plans. The Developer is responsible for providing engineering plans and specifications for the drainage and detention system interior to the development to the City Engineer for review and approval prior to commencing construction, and to obtain all required Planning and Zoning Commission, City Council, and development approvals and permits.

2.06 Parks and Recreational Facilities. The Developer shall design and construct at least 6 parks and open space areas to total at least 6.8 acres to serve the Tract in accordance with the City Code and any applicable Montgomery County standards. Any park and open space areas will not be accepted by the City but owned and maintained by the District. Developer agrees to design and construct at least 3 detention basins of 8.5 acres with walking trails and park seating. Developer

also shall install a tree buffer of at least 20-foot width along the railroad for privacy.

2.07 Minor Modifications. Minor modifications to the District's utility plan are authorized under this Agreement upon review and approval of the City Administrator, or its designee, and no amendment to this Agreement is required. A minor modification would include, but is not limited to, an adjustment or relocation of public utility infrastructure if approved by the City Administrator or its designee; or any modification that is an elaboration, refinement or clarification of this Agreement and deemed to be a minor modification by the City Administrator.

ARTICLE III OWNERSHIP, OPERATION AND MAINTENANCE OF FACILITIES

3.01. Ownership by the City. As the Facilities are completed and become operational, the District shall convey the same to the City, free and clear of all encumbrances.

3.02. Operation by the City. As the Facilities are completed, representatives of the City shall inspect the same and, if the City finds that the same has been completed in accordance with the approved plans and specifications, the City will accept the same, whereupon such portion of the Facilities shall be operated and maintained by the City at its sole expense as provided herein. In the event that the Facilities have not been completed in accordance with the approved plans and specifications the City will immediately advise the Developer in what manner the infrastructure does not comply, and the District shall immediately correct the same; whereupon the City shall again inspect the Facilities and accept the same if the defects have been corrected. During the term of this Agreement, the City will operate the Facilities and provide retail water and sanitary sewer service to all users within the District without discrimination. The City shall at all times maintain the Facilities or cause the same to be maintained, in good condition and working order and will operate the same, or cause the same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles in operating and maintaining the Facilities, and the City will comply with all contractual provisions and agreements entered into by it and with all valid rules, regulations, directions or orders by any governmental administrative or judicial body promulgating the same.

3.03. Rates and Meters. The City shall bill and collect fees from District customers of the water and wastewater system and shall from time to time fix such rates and charges for such customers of the system as the City, in its sole discretion, determines are necessary; provided that the rates and charges for services afforded by the system will be equal and uniform to those charged other similar classifications of users in the City. All water and wastewater revenues from the District customers shall belong exclusively to the City. The City shall be responsible for providing and installing any necessary meters for the individual customers.

3.04. Tap Fees / Connection Charges. Notwithstanding anything in the City Code to the contrary, the City will impose a charge for tap fees or connections to the water and wastewater system at a rate to be determined from time to time by the City, provided the charge is equal to the sums charged other City users for comparable connections, and the connection charges shall belong exclusively to the City.

ARTICLE IV
REMEDIES IN EVENT OF DEFAULT

The parties hereto expressly recognize and acknowledge that a breach of this Agreement by either party may cause damage to the non-breaching party for which there will not be an adequate remedy at law. Accordingly, in addition to all the rights and remedies provided by the laws of the State of Texas, in the event of a breach hereof by either party, the other party shall be entitled but not limited to the equitable remedy of specific performance or a writ of mandamus to compel any necessary action by the breaching party. In the event that a party seeks a remedy as provided in this Article or any monetary damages as otherwise provided in this Agreement, the breaching party shall be required to pay for the non-breaching party's attorneys fees and court costs.

ARTICLE V
MISCELLANEOUS PROVISIONS

5.01. Force Majeure. In the event either party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, then the obligations of such party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused, to the extent provided, but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and the full particulars of such force majeure to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence.

5.02. Approvals and Consents. Approvals or consents required or permitted to be given under this Agreement shall be evidenced by an ordinance, resolution or order adopted by the governing body of the appropriate party or by a certificate executed by a person, firm or entity previously authorized to give such approval or consent on behalf of the party. Approvals and consents shall be effective without regard to whether given before or after the time required for giving such approvals or consents.

5.03. Address and Notice. Unless otherwise provided in this Agreement, any notice to be given under this Agreement shall be given in writing and may be given either by depositing the notice in the United States mail postpaid, registered or certified mail, with return receipt requested; delivering the notice to an officer of such party; or sending the notice by prepaid telegram, when appropriate. Notice deposited by mail in the foregoing manner shall be effective the day after the day on which it is deposited. Notice given in any other manner shall be effective only when received by the party to be notified. For the purposes of notice, the addresses of the parties shall be as follows:

If to the City, to:

City of Montgomery, Texas
101 Old Plantersville Road
Montgomery, TX 77535
Attention: City Manager

With a copy to City attorney:

Johnson Petrov LLP
2929 Allen Parkway, Suite 3150
Houston, TX 77019
Attn: Alan P. Petrov

If to the Developer, to:

Morning Cloud Investments, LLC
Attention: Marjorie Cox, Member
P.O. BOX 8262
Spring, Texas 77387-8262

With a copy to:

Coats Rose, P.C.
Attn: Tim G. Green
9 Greenway Plaza, Ste. 1000
Houston, Texas 77046

The parties shall have the right from time to time to change their respective addresses by giving at least fifteen (15) days' written notice of such change to the other party.

5.04. Assignability. This Agreement may not be assigned by either except upon written consent of the other party

5.05. No Additional Waiver Implied. The failure of either party to insist upon performance of any provision of this Agreement shall not be construed as a waiver of the future performance of such provision by the other party.

5.06. Reservation of Rights. All rights, powers, privileges and authority of the parties hereto not restricted or affected by the express terms and provisions hereof are reserved by the parties and, from time to time, may be exercised and enforced by the parties.

5.07. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the parties hereto and shall not be construed to confer any rights upon any third parties.

5.08. Merger. This Agreement embodies the entire understanding between the parties and there are no representations, warranties or agreements between the parties covering the subject matter of this Agreement other than the Consent Resolution between the City and the District. If any provisions of the Consent Resolution appear to be inconsistent or in conflict with the provisions of this Agreement, then the provisions contained in this Agreement shall be interpreted in a way which is consistent with the Consent Resolution.

5.09. Captions. The captions of each section of this Agreement are inserted solely for convenience and shall never be given effect in construing the duties, obligations or liabilities of the parties hereto or any provisions hereof, or in ascertaining the intent of either party, with respect to the provisions hereof.

5.10. Interpretations. This Agreement and the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Agreement.

5.11. Severability. If any provision of this Agreement or the application thereof to any person or circumstances is ever judicially declared invalid, such provision shall be deemed severed from this Agreement and the remaining portions of this Agreement shall remain in effect.

5.12. Term and Effect. This Agreement shall remain in effect until the earlier to occur of (i) the dissolution of the District by the City or (ii) the expiration of thirty (30) years from the date hereof.

[EXECUTION PAGES FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, on this ____ day of _____ 2024.

THE CITY OF MONTGOMERY, TEXAS

Mayor

ATTEST/SEAL:

City Secretary

**MORNING CLOUD INVESTMENTS, LLC, a
Texas limited liability company**

By: _____

Name: Marjorie Cox

Title: Member

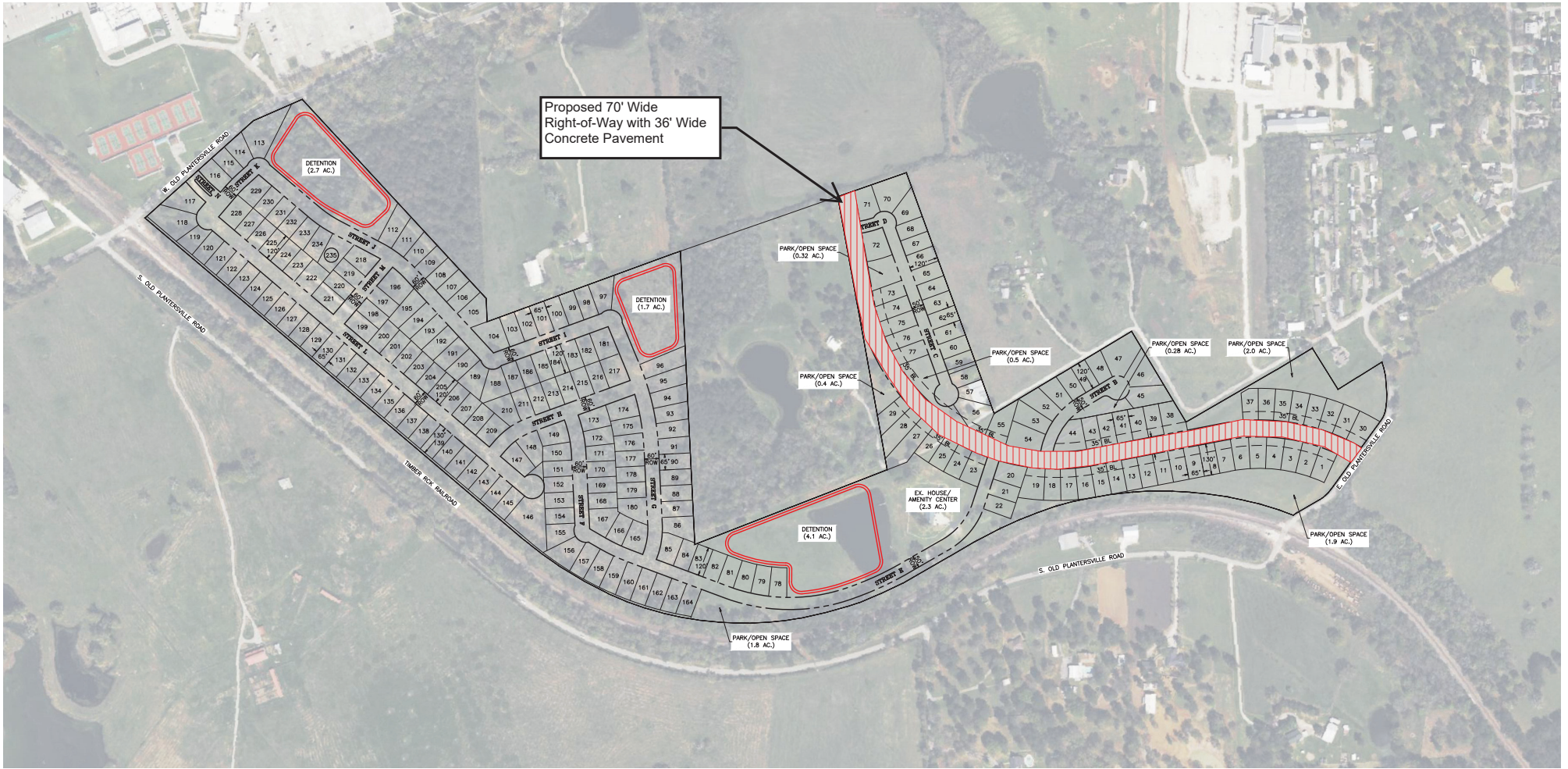
STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this _____ day of _____, 2024,
by Marjorie Cox, Member of Morning Cloud Investments, LLC, a Texas limited liability company.

Notary Public, State of Texas

(NOTARY SEAL)

Exhibit F - Proposed Thoroughfare - Paving and Traffic Planning



Proposed 70' Wide
 Right-of-Way with 36' Wide
 Concrete Pavement

SITE DATA TABLE	
LOT COUNT	235 LOTS
TYP. LOT DIMENSION	65' x 120'
TYPE. COLLECTOR LOT DIMENSION	65' x 130'
MIN. LOT DIMENSION	65' x 110'

	PROJECT NAME:	STONE & SALES 06-ACR2
	PROJECT NUMBER:	13341
	PREPARED FOR:	DATE: JUNE 04, 2024

PRELIMINARY LANDPLAN

	BLEYL ENGINEERING
	TEXAS FIRM REGISTRATION NO. F 678
	100 NUGENT STREET, CONROE TEXAS 77301
	PHONE 936-441-7833 FAX 936-760-9833 WWW.BLEYLENGINEERING.COM