DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF MONTGOMERY, TEXAS AND
REDBIRD MEADOW DEVELOPMENT, LLC

This DEVELOPMENT AGREEMENT (the "Agreement") is entered into between REDBIRD MEADOW DEVELOPMENT, 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 May 10, 2022 (the "Effective Date").

RECITALS

The Developer owns approximately 388.5 acres of land, as described on the attached **Exhibit A** (defined herein as the "Tract") in Montgomery County, Texas, of which approximately 10.3 acres is within the corporate limits of the City and 378.2 acres is outside the corporate limits of the City. 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 special district 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 the approximately 378.2 acres (the "Annexation Tract") as described on **Exhibit E** into the corporate limits of the City. The City has adopted a resolution consenting to the creation of a special district over the boundaries of the Tract and annexed the Annexation Tract into the corporate limits of the City concurrently with the approval of this Agreement.

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:

Annexation Tract means approximately 378.2 acres of land to be annexed by the City upon petition of the Developer, as described in **Exhibit E**

City means the City of Montgomery, Texas.

District means a municipal utility district to be created over the Tract upon petition to the TCEQ pursuant to Article XVI, Sec. 59, and Article III, Sec. 52, Texas Constitution, Chapters 49 and 54, Texas Water Code and rules of the TCEQ.

Developer means Redbird Meadow Development, LLC, 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 stormwater 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.

Proposed Collector Road means the public road improvement to be constructed described as "Proposed Collector" on **Exhibit D.**

Tract means the approximately 388.5 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.

TCEQ means the Texas Commission on Environmental Quality or its successor agency.

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	Form of Utility Agreement
Exhibit C	Utility Exhibit
Exhibit D	Proposed Major Thoroughfare Plan
Exhibit E	Annexation Tract
Exhibit F	Phasing Plan

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 B**. 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 District 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 in phases with ultimate water requirements of 168,000 gpd to serve approximately 560 connections. Parties agree that the Developer will develop the Tract in accordance with market and development demands, but a proposed phasing plan is attached hereto as **Exhibit F**.

1. *First Phase Improvements.* The first phase of development will consist of approximately 180 ESFCs necessitating 54,000 gpd of water capacity ("First Phase"). The City agrees that it has the capacity in its water treatment system to serve the First Phase; 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 Line**. The City agrees to design and construct, at the Developer's cost, a 12" off-site waterline connecting to the City's existing 8" waterline, which shall be routed generally as shown on **Exhibit C** or such other route as is mutually agreed upon by the Parties ("Water Line"). The Water Line will be constructed in public right of way or easement and to the extent necessary, the City will be responsible for acquiring any necessary public right of way required for the construction of the Water Line. The Water Line will be sized to serve the Tract; to the extent the City requires

the Water Line to be oversized to serve land outside the Tract, the Parties agree to comply with provisions of Section 2.3 below. The Developer will receive Impact Fee credit for funding of the Water Line as described in Section 2.1(d) below.

ii. **Funding**. The City will provide the Developer and the District a cost estimate of the engineering and construction costs of the Water Line, 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 Water Line. The City will be responsible for bidding the Water Line 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. It is anticipated that the construction costs will include costs to bore under the railroad crossing. The Developer and District shall have the right to review all bids received for the construction of the Water Line, approve award of the construction contract for the Water Line, and review and approve all pay estimates and change orders related thereto. The Developer is not responsible for any change orders that exceed twenty-five percent of the construction contract as the maximum allowed by TCEQ rules, and is therefore not eligible for reimbursement by the District of such change order. The City will keep accurate records of Developer deposits and Water Line costs and make such records available for Developer or District inspection upon request. Within 45 days of City acceptance of the Water Line, 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 except for the aggregate of construction change order cost in excess of twenty-five percent of the total construction contract for the Water Line. The City will hold $3,000 in escrow to cover estimated cost for completion of the one year warranty inspection. 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. Developer will get impact fee credit for all funds expended pursuant to this Section 2.1(b)(ii) in accordance with Section 2.1(d) below.

iii. **Timing**. Parties acknowledge that the Water Line is critical to the First Phase of development of the Tract. The City is obligated to begin design of the Water Line upon execution of this Agreement, and begin construction of the Water Line within six months of execution of this Agreement. The Developer and the City understand that there are certain factors outside of both the Developers and City's control including, but not limited to, easement acquisition and approval for the crossing of the railroad that may cause delay. The City agrees to use best efforts to timely acquire any right of way and/or railroad crossings, and will begin procuring such right of way and/or railroad crossings within forty-five days of City approval of this Agreement. The Developer agrees to timely fund such design and construction. In the event that the City does not timely commence design and/or construction of the Water Line in accordance with this Agreement, the City agrees that the Developer and/or District may design and construct the Water Line to meet its development needs and receive Impact Fee credit for such costs as stated in Section 2.1(d) below.

iv. **Ownership**. The City will accept such Water Line 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. *Subsequent Phases.* Parties acknowledge that the City will need to construct additional water supply facilities in order to serve the Tract at full build out, which is estimated to be 560 ESFCs or 168,000 gpd.

i. By the expiration of twenty-four (24) months following the date on which the Developer or District engineer notifies the City in writing that it requires additional capacity to timely serve subsequent phases of the Tract, the City agrees to have completed construction of the expansion of its water supply system to accommodate the Developer's subsequent phases of development. The Developer's obligation to fund expansions to the City's water supply system (other than the Water Line as described in Section 2(b)(1)) is limited to payment of Impact Fees paid in the same amount and same manner as set out in this Agreement.

ii. In the event that, at any phase of development, the City's water supply system does not have sufficient capacity to serve the land within the District as necessitated by development thereof, the Developer may elect to:

1. Advance funds as payment towards Impact Fees that would be due and payable to the City for future development in the District, which funds shall be used by the City solely for funding the costs of constructing additional water supply facilities necessary to serve subsequent phases of development in the District, and the City would thereafter credit the Developer up to an amount equal to the amount advanced by the Developer; and/or

2. Construct, or cause the District to construct, additional water supply facilities based upon demand and usage and sized appropriately to serve development within the Tract in accordance with all regulatory requirements, and the City would thereafter credit the Developer for the Impact Fees related to development on the Tract that would otherwise be due and payable to the City up to an amount equal to the costs of constructing the additional water supply facilities.

c. *Wastewater Treatment Facilities.* The parties acknowledge that the Tract will be developed in phases with ultimate wastewater requirements of 112,000 gpd to serve approximately 560 connections.

1. *First Phase.* The City agrees that it has permitted capacity in its wastewater treatment system to serve the First Phase of 180 ESFCs.

i. **Force Main**. The City agrees to design and construct an off-site force main to serve the Tract as generally shown on **Exhibit C** (the "Force Main"). The Force Main shall be sized to serve the Tract; if the City requires the Force Main to be oversized to serve land outside the Tract, the Parties agree to comply with provisions of Section 2.3 herein. The City will acquire any necessary right of way for construction of the Force Main.

ii. **Funding**. The City will provide the Developer and the District a cost estimate of the engineering and construction costs of the Force Main, 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 Force Main. The City will be responsible for bidding the Force Main 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. It is anticipated that the

construction costs will include costs to bore under the railroad crossing. The Developer and District shall have the right to review all bids received for the construction of the Force Main, approve award of the construction contract for the Force Main, and review and approve all pay estimates and change orders related thereto. The Developer is not responsible for any change orders that exceed twenty-five percent of the construction contract as the maximum allowed by TCEQ rules, and is therefore not eligible for reimbursement by the District of such change order. The City will keep accurate records of Developer deposits and Force Main costs and make such records available for Developer or District inspection upon request. Within 45 days of City acceptance of the Force Main, 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 except for the aggregate of construction change order cost in excess of twenty-five percent of the total construction contract for the Force Main. The City will hold $3,000 in escrow to cover estimated cost for completion of the one year warranty inspection. 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.

iii. **Timing.** Parties acknowledge that the Force Main is critical to the First Phase of development of the Tract. The City is obligated to begin design of the Force Main upon execution of this Agreement and begin construction of the Force Main within six months of execution of this Agreement. The Developer and the City understand that there are certain factors outside of both the Developers and City's control including, but not limited to, easement acquisition and approval for the crossing of the railroad that may cause delay. The City agrees to use best efforts to timely acquire any right of way and/or railroad crossings, and will begin procuring such right of way and/or railroad crossings within forty-five days of City approval of this Agreement. The Developer agrees to timely fund such design and construction. In the event that the City does not timely commence design and/or construction of the Force Main in accordance with this Agreement, the City agrees that the Developer and/or District may design and construct the Force Main to meet its development needs.

iv. **Ownership**. The City will accept such Force Main 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. *Subsequent Phases.*

i. Parties acknowledge that the City will need to construct additional wastewater treatment facilities in order to serve the Tract at full build out. By the expiration of twenty-four(24) months following the date on which the Developer and/or District engineer notifies the City in writing that the Developer requires such additional capacity to serve subsequent phases of the Tract, the City agrees to have completed construction of the expansion of its wastewater treatment system to accommodate the Developer's subsequent phases of development. The Developer's obligation to fund expansions to the City's wastewater treatment facilities (other than the Force Main as described in Section 2(c)(1)) is limited to payment of Impact Fees paid in the same amount and same manner as set out in this Agreement.

ii. In the event that, at any phase of development, the City's wastewater treatment system does not have sufficient capacity to serve the land within the District as necessitated by development thereof, the Developer may elect to:

1. Advance funds as payment towards Impact Fees that would be due and payable to the City for future development on the Tract, which funds shall be used by the City solely for funding the costs of constructing additional wastewater treatment facilities sufficient to serve subsequent phases of development in the District. The City would thereafter credit the Developer for Impact Fees up to an amount equal to the amount advanced by the Developer; and/or

2. Construct, or cause the District to construct, additional wastewater treatment facilities based upon demand and usage and sized appropriately to serve development within the Tract in accordance with all regulatory requirements, and the City would thereafter credit the Developer for the Impact Fees related to development on the Tract that would otherwise be due and payable to the City up to an amount

equal to the costs of constructing the additional wastewater treatment facilities.

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 based on the number of connections in such plat. The Water Line is a regional facility and is included in the City CIP. The Developer will receive Impact Fee credit for the amount expended and paid to the City for the Water Line. The Developer will receive credit upon final platting until such costs are reimbursed in full.

e. *Drainage Facilities.* The Developer will submit a drainage study to the City prior to approval of construction plans. All drainage and detention facilities must be designed and constructed in accordance with the City Code and any applicable Montgomery County standards. The City agrees to allow culverts and public roads within public road right of way as restrictors or control structures for detention facilities. All onsite storm sewer systems will be designated as public facilities and accepted by the City upon completion. Any detention ponds will not be accepted by the City but owned and maintained by the District and/or a property owners association.

Section 2.2. Road Improvements.

a. *General.* Parties agree to the alignment of all major thoroughfares as shown on **Exhibit D**. Any public road improvements constructed within the Tract, other than the Proposed Collector Road as provided herein, shall be constructed in accordance with the City Code and in accordance with the City's Major Thoroughfare Plan. The Developer will obtain any easements or rights-of-way necessary for construction of public road improvements inside the boundaries of the Tract; however to the extent additional easements or rights-of-way are necessary to construct public road improvements outside the boundaries of the Tract on land not owned by the Developer, the City is responsible for obtaining such easements or rights-of-way at no cost to the Developer. Once constructed, all public road improvements shall be dedicated to and accepted by the City for operation and maintenance.

b. *Proposed Collector Road.* The Parties agree that the Proposed Collector Road (designated as the Proposed Collector on **Exhibit D**) shall be constructed in phases as shown on **Exhibit F**). Developer on behalf of the District agrees to extend the Proposed Collector Road to Spring Branch Road in connection with the development of Phase III as shown on **Exhibit F**.

c. *Non-Standard Road Improvements.* The Developer may place additional features ("Non-Standard Improvements") on certain public roads to enhance the aesthetic appeal of roads in the District, including but not limited to the installation of bricks and pavers or patterned concrete for the purposes of beautification and visual enhancement, as approved by the City engineer. The Developer agrees that the District will be solely responsible for the maintenance of any Non-Standard Improvements that are not accepted by the City for maintenance within the public road rights-of-way, including general upkeep for functional and aesthetic purposes and replacement when necessary to preserve the intended functions of the Non-Standard Improvements. The District shall keep all Non-Standard Improvements in operable condition. The Parties agree that the District may remove the Non-Standard Improvements at any time provided that it repairs and replaces the Non-Standard Improvements with a surface substantially similar to the adjoining roadway, at which time the City will resume maintenance of the public road right-of-way to the same standard as all other City roads.

Section 2.3. Oversizing. If the City requires portions of the Facilities to be constructed to a size larger than would be required pursuant to the City Code to serve the Tract, the City will pay or cause to be paid the incremental costs to construct such excess capacity in accordance with state law. Prior to award of any contract in which oversized Facilities will be built, the Developer will present the City with the bids and bid tabulations, and the City and the Developer (or District in accordance with the Utility Agreement) must agree to the incremental costs based on such bid or the Developer is not required to oversize the Facilities. The City will pay its pro rata share of the oversized facilities upon award of the construction contract for such facilities.

Section 2.4. Parks and Recreational Facilities. The Developer shall design and construct all park and recreational facilities to serve the Tract in accordance with the City Code and any applicable Montgomery County standards. Any park and recreational facilities will not be accepted by the City but owned and maintained by the District and/or a property owners association.

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: a maximum of 47% of the platted single-family residential lots within the District may be a minimum of 60 feet wide and 8,400 square feet. This Agreement constitutes the City's acceptance of the described variance from its City Code.

Section 2.6. Minor Modifications. Minor modifications to the Developer or District's utility plan, thoroughfare plan, phasing plan or variances in development regulations 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 in the alignment of a roadway, adjustment in lot sizes or densities that is less than 15% of such category, 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.
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 IV.
CITY'S CONSENT TO CREATION; VOLUNTARY ANNEXATION; DISTRICT ANNEXATION OF LAND

Section 4.1. Consent to Creation of the District. Concurrently with approval of this Agreement, the City has approved a resolution consenting to creation of the District, and the City agrees that the resolution will be deemed to constitute the City's consent to creation of the District. No further action will be required on the part of the City to evidence its consent; however the City agrees to provide any additional confirmation of its consent that may be required by the Developer or the District if requested to do so.

Section 4.2. Consent to Annexation of City. Concurrently with approval of this Agreement, the Developer has submitted to the City its petition for annexation of the Annexation Tract into the corporate limits of the City. Once the annexation process is complete, the City hereby agrees to annex the Annexation Tract into the corporate limits of the City, and the Annexation Tract 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

The City agrees that irrespective of its right and power under existing or subsequently enacted law, it will not dissolve the District until the following conditions have been met:

a. At least 90% of the developable acreage within the District has been developed with water, wastewater, and drainage facilities. Developable acreage means the total acreage in the District less acreage associated with land uses for roads, utility easements, drainage easements, levee easements, lakes, creeks, bayous, and open space; and

b. The Developer has been reimbursed by the District to the maximum extent permitted by the rules of the TCEQ or the City assumes any obligation for such reimbursement of the District under such rules.

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 inabilities 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 Manager

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:

Redbird Meadow Development, LLC
5910 FM 2920, Suite B
Spring, TX. 77388
Attention: Perry Senn

With a copy to:

Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attention: Annette Stephens

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 creation of the District by the TCEQ, Developer shall cause the assignment, execution and adoption by the Board of Directors of the District of the Utility Agreement in the form attached hereto as **Exhibit B** within 90 days after the election confirming creation of the District.

(Signature Pages to Follow)

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

Redbird Meadow Development, LLC, a Texas limited liability company

By: _____
Name: Perry Senn
Title: Member/Owner

STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this 10th day of May, 2022, by PERRY, SENN of Redbird Meadow Development, LLC, a Texas limited liability company, on behalf of said limited liability company.

_____
Notary Public, State of Texas
NICI BROWE

(NOTARY SEAL)

NICOLA BROWE
Notary ID #129822263
My Commission Expires
May 16, 2022

CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

N Browe - Nici Browe.

Title: City Secretary

STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this 10th day of May, 2022, by Sara Countryman, Mayor, City of Montgomery, Texas, on behalf of said City.

Notary Public, State of Texas

(NOTARY SEAL)

NICOLA BROWE
Notary ID #129822263
My Commission Expires
May 16, 2022

EXHIBIT "A"

METES AND BOUNDS

[See attached.]

Michael J. and Judith L. Kammerer
388.5 acres

Zachariah Landrum Survey, Abstract No. 22

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

A **METES & BOUNDS** description of a certain 388.5 acre (16,923,690 square feet) tract of land situated in the Zachariah Landrum Survey, Abstract No. 22, in Montgomery County, Texas, being a portion of the remainder of a called 454.2890 acre tract conveyed to Michael J. Kammerer and spouse, Judith L. Kammerer, by deed recorded in Clerk's File No. 9401426, Montgomery County Official Public Records of Real Property; said 388.5 acre (16,923,690 square feet) tract of land being more particularly described as follows with all bearings being based on the Texas Coordinate System, Central Zone, NAD 83, 2001 Adjustment:

COMMENCING at a 5/8-inch iron rod found on a south line of the remainder of said called 454.2890 acre tract, being the northwest corner of a called 49.956 acre tract conveyed to Scott T. Kammerer and wife, Kimberly K. Kammerer, by deed recorded in Clerk's File No. 2006-111859, Montgomery County Official Public Records of Real Property, also being the northeast corner of a called 251.96 acre tract conveyed to Steven L. Havens by deed recorded in Clerk's File No. 9403259, Montgomery County Official Public Records of Real Property;

THENCE, South 88°19'34" West, along said south line of the remainder of said called 454.2890 acre tract and the north line of said called 251.96 acre tract, a distance of 151.98 feet to a 5/8-inch iron rod (with cap) found, being the **POINT OF BEGINNING** of the herein described tract;

THENCE, South 88°19'34" West, continuing along said south line of the remainder of said called 454.2890 acre tract and the north line of said called 251.96 acre tract, 2,414.45 feet to a fence post found, being the southeast corner of a called 29.510 acre tract conveyed to Eco World Construction LLC by deed recorded in Clerk's File No. 2017075464, Montgomery County Official Public Records;

THENCE, North 01°03'09" West, along the east line of said called 29.510 acre tract, 936.63 feet to a 1/2-inch iron rod (with cap) found, being the northeast corner of said called 29.510 acre tract, also being the southeast corner of a called 18.285 acre tract conveyed to Cullan Morris Cotton and spouse, Angela Carolyn Cotton, by deed recorded in Clerk's File No. 2013123600, Montgomery County Official Public Records;

THENCE, North 01°18'35" West, along the east line of said called 18.285 acre tract, 538.33 feet to a 1/2-inch iron rod (with cap) found;

THENCE, along the north line of said called 18.285 acre tract, the following two (2) courses and distances:

1. South 86°44'07" West, 713.98 feet to a 5/8-inch iron rod (with cap stamped Manhard) set;

2. South 84°52'41" West, 788.26 feet to a mag nail in asphalt set in the approximate centerline of Spring Branch Road;

THENCE, North 07°58'17" West, along said approximate centerline of Spring Branch Road, 60.07 feet to a mag nail in asphalt set for a northwest corner of the remainder of said called 454.2890 acre tract;

THENCE, North 84°52'41" East, along a north line of the remainder of said called 454.2890 acre tract, at a distance of 53.58 feet passing a 5/8-inch iron rod found for the southwest corner of a called 5.74 acre tract conveyed to Ty Russell by deed recorded in Clerk's File No. 2002-029580, Montgomery County Official Public Records of Real Property, in all a distance of 792.22 feet to a 1-inch iron pipe found, being the southeast corner of said called 5.74 acre tract, also being the southwest corner of a called 14.929 acre tract conveyed to Carl M. Wilson, Jr. by deed recorded in Clerk's File No. 2012019241, Montgomery County Official Public Records;

THENCE, North 86°44'07" East, continuing along said north line of the remainder of said called 454.2890 acre tract and along the south line of said called 14.929 acre tract, 717.13 feet to a 1/2-inch iron rod (with cap) found, being the southeast corner of said called 14.929 acre tract;

THENCE, North 07°47'11" West, along a west line of the remainder of said called 454.2890 acre tract, 1,165.08 feet to a 5/8-inch iron rod (with cap stamped Manhard) set, being the southwest corner of a called 44.201 acre tract conveyed to Promocon USA LLC by deed recorded in Clerk's File No. 2019008141, Montgomery County Official Public Records;

THENCE, North 86°39'25" East, along a north line of the remainder of said called 454.2890 acre tract and the south line of said called 44.201 acre tract, 1,710.81 feet to a 1-inch iron pipe found, being the southeast corner of said called 44.201 acre tract;

THENCE, North 03°01'49" West, along a west line of the remainder of said called 454.2890 acre tract and the east line of said called 44.201 acre tract, at a distance of 1,403.16 feet passing a 5/8-inch iron rod found for the northeast corner of said called 44.201 acre tract, in all a distance of 1,436.78 feet to a mag nail in asphalt set in the approximate centerline of Old Dobbin Road;

THENCE, along the approximate centerline of said Old Dobbin Road, the following three (3) courses and distances:

1. North 63°02'56" East, 319.69 feet to a mag nail in asphalt set;

2. North 65°05'57" East, 303.42 feet to a mag nail in asphalt set;

3. North 62°20'23" East, 242.77 feet to a mag nail in asphalt set in the approximate centerline of Old Plantersville Road;

THENCE, along said approximate centerline of Old Plantersville Road, the following five (5) courses and distances:

1. South 50°02'03" East, 484.20 feet to a mag nail in asphalt set;

2. South 49°34'13" East, 603.77 feet to a mag nail in asphalt set;

3. South 49°43'52" East, 594.81 feet to a mag nail in asphalt set;

4. South 49°49'14" East, 503.40 feet to a mag nail in asphalt set, being the beginning of a curve to the left;

5. Along said curve to the left in an easterly direction, with a radius of 1,540.00 feet, a central angle of 70°15'24", an arc length of 1,888.37 feet, and a chord bearing of South 84°56'56" East, 1,772.26 feet to a mag nail in asphalt set;

THENCE, South 03°00'07" East, along the east right-of-way line of Womack Cemetery Road, at a distance of 898.45 feet passing a 5/8-inch iron rod found, being the southwest corner of a called 9.35 acre tract conveyed to Donald Davis and Sharon Davis, by deed recorded in Clerk's File No. 2014059226, Montgomery County Official Public Records, also being the northwest corner of a called 3.000 acre tract (Tract Two) conveyed to Edward R. Lofton and wife, Marian Lofton, by deed recorded in Clerk's File No. 9513228, Montgomery County Official Public Records of Real Property, at a distance of 1,138.56 feet passing a 5/8-inch iron rod found, being the southwest corner of said called 3.000 acre tract (Tract Two), also being the northwest corner of a called 3.000 acre tract conveyed to James Edward Thrower, III and Tanya Thrower, a married couple, by deed recorded in Clerk's File No. 2018030495, Montgomery County Official Public Records, at a distance of 1,398.43 feet passing a 5/8-inch iron rod found, being the southwest corner of a called 7.544 acre tract (Tract One) conveyed to Edward R. Lofton and wife, Marian Lofton, by said deed recorded in Clerk's File No. 9513228, Montgomery County Official Public Records of Real Property, also being the northwest corner of a 20 foot wide (called 0.695 acre) ingress/egress easement (Tract Two) conveyed to David Solomon by deed recorded in Clerk's File No. 2020115162, Montgomery County Official Public Records, in all a distance of 1,913.12 feet to a 1/2-inch iron rod found, being on the west line of a called 10.758 acre tract conveyed to Ford Hal Bazar by deed recorded in Clerk's File No. 2001-040245, Montgomery County Official Public Records of Real Property, also being the northeast corner of a called 18.43 acre tract conveyed to Van Stovall and Jeanne Stovall by deed recorded in Clerk's File No. 99050272, Montgomery County Official Public Records of Real Property, also being on the south right-of-way line of Womack Cemetery Road;

THENCE, along said south right-of-way line of Womack Cemetery Road, the following six (6) courses and distances:

1. South 71°44'11" West, 497.65 feet to a 5/8-inch iron rod (with cap stamped Manhard) set, being the northwest corner of said called 18.43 acre tract, also being the northeast corner of a called 8.0793 acre tract conveyed to Samuel Scheler and Tanya Scheler, husband and wife, by deed recorded in Clerk's File No. 2013100439, Montgomery County Official Public Records;

2. South 71°58'44" West, along the north line of said called 8.0793 acre tract and the north line of a called 9.434 acre tract conveyed to Micah D. Tomlinson and spouse, Diane Tomlinson, by deed recorded in Clerk's File No. 2006-009043, Montgomery County Official Public Records of Real Property, 493.64 feet to a 5/8-inch iron rod (with cap stamped Manhard) set on the north line of said called 9.434 acre tract;

3. South 75°35'39" West, along the north line of said called 9.434 acre tract and the north line of a called 15.1045 acre tract conveyed to Lester W. Gallatin and Cynthia J. Gallatin, husband and wife, by deed recorded in Clerk's File No. 2003-152894, Montgomery County Official Public Records of Real Property, at a distance of 431.76 feet passing a 5/8-inch iron rod found, in all a distance of 604.23 feet to a 1/2-inch iron rod found, being the northwest corner of said called 15.1045 acre tract;

4. South 59°21'52" West, 55.10 feet to a 1/2-inch iron pipe found, being the north corner of a called 2.221 acre tract conveyed to 11845 Womack Cemetery Road Joint Venture by deed recorded in Clerk's File No. 2018057068, Montgomery County Official Public Records;

5. South 35°03'48" West, 625.59 feet to a 1-inch iron pipe found, being the southwest corner of said called 2.221 acre tract, being on the north line of said called 49.956 acre tract;

6. South 87°25'18" West, along the north line of said called 49.956 acre tract, a distance of 512.09 feet to a 5/8-inch iron rod (with cap) found;

THENCE, over and across the remainder of said called 454.2890 acre tract, the following three (3) courses and distances:

1. North 00°05'49" East, 998.33 feet to a 5/8-inch iron rod (with cap) found;

2. South 87°23'22" West, 677.53 feet to a 5/8-inch iron rod (with cap) found;

3. South 12°17'49" West, 1,028.95 feet to the POINT OF BEGINNING, CONTAINING 388.5 acres (16,923,690 square feet) of land in Montgomery County, Texas, filed in the offices of Manhard Consulting, Ltd. in The Woodlands, Texas.

Manhard Consulting, Ltd.
2445 Technology Forest Blvd, Suite #200
The Woodlands, Texas 77381
(832) 823-2200
Texas Board of Professional Engineers & Land Surveyors Firm Reg. No. 10194379

Acting By/Through Joel K. Nalley
Registered Professional Land Surveyor
No. 6525
jnalley@manhard.com

12 December 2020

EXHIBIT "B"

UTILITY AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF MONTGOMERY §

THIS AGREEMENT is made and entered into as of the date herein last specified, by and between the CITY OF MONTGOMERY, TEXAS (the "City"), a Type A general-law municipality located in Montgomery County, Texas, and MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 215, created as a body politic and corporate and a governmental agency of the State of Texas organized under the provisions of Article XVI, Section 59 and Article III, Section 52 of the Texas Constitution, and Chapters 49 and 54, Texas Water Code, as amended (hereinafter, the term "District" (as defined herein)).

WITNESSETH:

WHEREAS, the Texas Commission on Environmental Quality (the "TCEQ") by order dated _____, 202_ has granted the landowner's petition to create the District within the corporate limits of the City, for the purposes of, among other things, providing water distribution, wastewater collection and drainage, road and park facilities (as more fully defined below, the "Facilities") to serve development occurring within the corporate limits of the City situated within the boundaries of the District, by financing and purchasing the Facilities; and

WHEREAS, the City by resolution dated _____, 202_ has consented to the creation of the proposed District (the "City Consent Resolution"); and

WHEREAS, under the authority of Chapter 791, Texas Government Code and Section 552.014, Texas Local Government Code, the City and the District may enter into an agreement under the terms of which the District will acquire for the benefit of, and for ultimate conveyance to, the City, the Facilities needed to provide utility service and roads to lands being developed within the District and the City; and

WHEREAS, the parties understand and agree that this Agreement does not constitute, and shall not be construed as, an "allocation agreement" within the meaning of Texas Water Code Section 54.016(f); and

WHEREAS, the City and the District have determined that they are authorized by

the Constitution and laws of the State of Texas to enter into this Agreement and have further determined that the terms, provisions and conditions hereof are mutually fair and advantageous to each; NOW, THEREFORE;

AGREEMENT

For and in consideration of these premises and of the mutual promises, obligations, covenants and benefits herein contained, the District and the City contract and agree as follows:

ARTICLE I
DEFINITIONS

The capitalized terms and phrases used in this Agreement shall have the meanings as follows:

"Approving Bodies" shall mean the City, the TCEQ, the Attorney General of Texas, the Comptroller of Public Accounts of Texas, the United States Department of Justice and all other federal and state governmental authorities having regulatory jurisdiction and authority over the financing, construction or operation of the Facilities or the subject matter of this Agreement.

"Bonds" shall mean the District's bonds, notes or other evidences of indebtedness issued from time to time for the purpose of financing the costs of acquiring, constructing, purchasing, operating, repairing, improving or extending the Facilities, whether payable from ad valorem taxes, the proceeds of one or more future bond issues or otherwise, and including any bonds, notes or similar obligations issued to refund such bonds.

"City Code" shall mean the Code of Ordinances adopted by the City, as amended from time to time.

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

"Development Agreement" shall mean that certain Development Agreement, dated _____, 2022, between the City and Redbird Meadow Development, LLC, a Texas limited liability company, as may be amended from time to time.

"District" shall mean Montgomery County Municipal Utility District No. 215, a body politic and corporate and a governmental agency of the State of Texas organized under the provisions of Article XVI, Section 59 and Article III, Section 52 of the Texas Constitution, and Chapters 49 and 54 Texas Water Code, as amended, and which includes within its boundaries approximately 388.5 acres of land described on **Exhibit "A"**

attached hereto, and any land that is annexed to the District with the consent of the City.

"District Assets" shall mean (i) all rights, title and interests of the District in and to the Facilities, (ii) any Bonds of the District which are authorized but have not been issued by the District, (iii) all rights and powers of the District under any agreements or commitments with any persons or entities pertaining to the financing, construction or operation of all or any portion of the Facilities and/or the operations of the District, and (iv) all books, records, files, documents, permits, funds and other materials or property of the District.

"District's Obligations" shall mean (i) all outstanding Bonds of the District, (ii) all other debts, liabilities and obligations of the District to or for the benefit of any persons or entities relating to the financing, construction or operation of all or any portion of the Facilities or the operations of the District, and (iii) all functions performed and services rendered by the District, for and to the owners of property within the District and the customers of the Facilities.

"Engineers" shall mean LJA Engineering, consulting engineers, or its replacement, successor or assignee.

"Engineering Reports" shall mean and refer to that certain Preliminary Engineering Report prepared by the Engineers relating to the creation of the District and describing the initial scope and extent of the Facilities and any additional engineering reports prepared by the Engineers from time to time relating to the issuance of Bonds by the District, copies of which shall be on file in the offices of the District.

"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" shall mean and include the water distribution, sanitary sewer collection, transportation and treatment, and stormwater collection, detention and drainage systems, roads and improvements in aid thereof, park and recreational facilities constructed or acquired or to be constructed or acquired by the District to serve lands within and adjacent to 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, all as more fully described in the Engineering Reports.

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

"TCEQ" shall mean the Texas Commission on Environmental Quality or its successor agency of the State of Texas having jurisdiction over the District.

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

2.01. Facilities. The Facilities, as described in the Engineering Reports, shall be designed and constructed in compliance with all applicable requirements and criteria of the applicable Approving Bodies. 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. The District shall not be required to design and construct the Facilities to requirements more stringent than the City's requirements and criteria applicable to all design and construction within the City's jurisdiction, unless required by State or Federal regulation or code. The District shall design, construct or extend the Facilities to serve the District in such phases or stages as the District, in its sole discretion, from time to time may determine to be economically feasible.

2.02. Water Distribution and Supply Facilities. The City shall provide the District with its ultimate requirements for water production supply of 168,000 gpd to serve approximately 560 ESFCs. The City shall design and construct, at the District's cost, a 12" off-site waterline connecting to the City's existing 8" waterline, which shall be routed generally as shown on **Exhibit "B"** attached hereto or such other route as is mutually agreed upon by the Parties ("Water Line"). The Water Line will be constructed in public right of way or easement and to the extent necessary, the City will be responsible for acquiring any necessary public right of way required for the construction of the Water Line. The Water Line will be sized to serve the District; to the extent the City requires the Water Line to be oversized to serve land outside the District, the Parties agree to comply with provisions of Section 2.07 below. The District shall have the right to review all bids received for the construction of the Water Line, approve award of the construction contract for the Water Line, and review and approve all pay estimates and change orders related thereto. Funding of the Water Line by the District shall be in accordance with the terms of the Development Agreement. The District will receive Impact Fee credit for funding of the Water Line as described in Section 2.04 below. Timing of design and construction of the Water Line by the City shall be in accordance with the terms of the Development Agreement. In the event that the City does not timely commence design and/or construction of the Water Line in accordance with the Development Agreement, the City agrees that the District may design and construct the Water Line to meet its development needs and receive Impact Fee credit for such costs as stated in Section 2.04

below. The City will accept the Water Line for ownership and operation in accordance with the terms of this Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor.

The Parties acknowledge that the City will need to construct additional water supply facilities in order to serve the District at full build out, which is estimated to be 560 ESFCs or 168,000 gpd. By the expiration of twenty-four (24) months following the date on which the District engineer notifies the City in writing that it requires additional capacity to timely serve subsequent phases of the District, the City agrees to have completed construction of the expansion of its water supply system to accommodate the District's subsequent phases of development. The District's obligation to fund expansions to the City's water supply system (other than the Water Line as described in this Section 2.02) is limited to payment of Impact Fees paid in the same amount and same manner as set out in this Agreement.

In the event that, at any time during the term of this Agreement, the City's water supply system does not have sufficient capacity to serve the land within the District as necessitated by development thereof, the District may elect to:

a. Advance funds as payment towards Impact Fees that would be due and payable to the City for future development in the District, which funds shall be used by the City solely for funding the costs of constructing additional water supply facilities necessary to serve subsequent phases of development in the District, and the City would thereafter credit the District up to an amount equal to the amount advanced by the District; and/or

b. Construct additional water supply facilities based upon demand and usage and sized appropriately to serve development within the District in accordance with all regulatory requirements, and the City would thereafter credit the District for the Impact Fees related to development in the District that would otherwise be due and payable to the City up to an amount equal to the costs of constructing the additional water supply facilities.

2.03. Wastewater Treatment Plant Facilities. The City shall provide the District with its ultimate wastewater requirements of 112,000 gpd to serve approximately 560 connections. The City agrees to design and construct an off-site force main to serve the District as generally shown on **Exhibit "B"** attached hereto (the "Force Main"). The Force Main shall be sized to serve the District; if the City requires the Force Main to be oversized to serve land outside the District, the Parties agree to comply with provisions of Section 2.07 below. The City will acquire any necessary right of way for construction of the Force

Main. The City will be responsible for bidding the Force Main in accordance with competitive bidding laws. The District shall have the right to review all bids received for the construction of the Force Main, approve award of the construction contract for the Force Main, and review and approve all pay estimates and change orders related thereto. Funding of the Force Main by the District shall be in accordance with the terms of the Development Agreement. Timing of design and construction of the Force Main by the City shall be in accordance with the terms of the Development Agreement. In the event that the City does not timely commence design and/or construction of the Force Main in accordance with the Development Agreement, the City agrees that the District may design and construct the Force Main to meet its development needs. The City will accept the Force Main for ownership and operation in accordance with the terms of this Agreement subject to a one-year maintenance bond to be enforceable by the City from the contractor.

The Parties acknowledge that the City will need to construct additional wastewater treatment facilities in order to serve the District at full build out. By the expiration of twenty-four (24) months following the date on which the District engineer notifies the City in writing that the District requires such additional capacity to serve subsequent phases of the District, the City agrees to have completed construction of the expansion of its wastewater treatment system to accommodate the District's subsequent phases of development. The District's obligation to fund expansions to the City's wastewater treatment facilities (other than the Force Main as described in this Section 2.03) is limited to payment of Impact Fees paid in the same amount and same manner as set out in this Agreement.

In the event that, at any time during the term of this Agreement, the City's wastewater treatment system does not have sufficient capacity to serve the land within the District as necessitated by development thereof, the District may elect to:

a. Advance funds as payment towards Impact Fees that would be due and payable to the City for future development in the District, which funds shall be used by the City solely for funding the costs of constructing additional wastewater treatment facilities sufficient to serve subsequent phases of development in the District. The City would thereafter credit the District for Impact Fees up to an amount equal to the amount advanced by the District; and/or

b. Construct additional wastewater treatment facilities based upon demand and usage and sized appropriately to serve development within the District in accordance with all regulatory requirements, and the City would thereafter credit the District for the Impact Fees related to development in the District that would otherwise be due and payable to the City up to an amount equal to the costs of

constructing the additional wastewater treatment facilities.

2.04. Impact Fees. The District 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 District 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. The Water Line is a regional facility and is included in the City CIP. The District will receive Impact Fee credit for the amount expended and paid to the City for the Water Line. The District will receive credit upon final platting until such costs are reimbursed in full.

2.05. Letter of Assurance and Issuance of Assignments of Capacity by the District. The City agrees that, from time to time, the City shall, upon reasonable request, issue a letter of assurance to the District upon reasonable request of the District that the City has capacity in its wastewater treatment plant and/or has sufficient water supply to serve the District.

2.06. Road Facilities. The District shall be authorized to construct such roads as are authorized by applicable law and approved by the City in accordance with this Agreement. The public road Facilities will be conveyed to the City upon final completion and subject to final acceptance by the City.

2.07. Oversizing. If the City requires portions of the Facilities to be constructed to a size larger than would be required pursuant to the City Code to serve the District, the City will pay or cause to be paid the incremental costs to construct such excess capacity in accordance with state law. Prior to award of any contract in which over-sized facilities will be built, the District will present the City with the bids and bid tabulations, and the City and the District must agree to the incremental costs based on such bid or the District is not required to oversize the Facilities. The City will pay its pro rata share of the oversized facilities upon award of the construction contract for such facilities.

2.08 Drainage Facilities. The District will submit a drainage study to the City prior to approval of construction plans. All drainage and detention Facilities must be designed and constructed in accordance with the City Code and any applicable Montgomery County standards. The City agrees to allow culverts along public roads to serve as detention facilities. All onsite storm sewer systems will be designated as public facilities and accepted by the City upon completion. Any detention ponds will not be accepted by the City but owned and maintained by the District and/or a property owners association.

2.09 Parks and Recreational Facilities. The District shall design and construct all park and recreational facilities to serve the District in accordance with the City Code and

any applicable Montgomery County standards. Any park and recreational facilities will not be accepted by the City but owned and maintained by the District and/or a property owners association.

2.10 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 construction of each phase of the Facilities is completed and becomes operational, the District shall convey the same to the City, free and clear of all encumbrances.

3.02. Operation by the City. As construction of each phase of the Facilities is 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 District 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
FINANCING OF FACILITIES

4.01 Authority of District to Issue Bonds. The District shall have the authority to issue, sell and deliver Bonds from time to time, as deemed necessary and appropriate by the Board of Directors of the District, for the purposes, in such form and manner and as permitted or provided by federal law and the general laws of the State of Texas.

At least thirty (30) days before the issuance of bonds, except refunding bonds, the District's financial advisor shall certify in writing that bonds are being issued within the existing economic feasibility guidelines established by the TCEQ (if applicable) and whether or not the District bonds have been approved by the TCEQ, if applicable. The report, provided to the City Manager, should also state the following:

- The amount of bonds being proposed for issuance,
- The projects to be funded by such bonds,
- The proposed debt service tax rate after issuance of the bonds.

Within thirty (30) days after the District closes the sale of a series of bonds, the District shall deliver to the City Manager a copy of the final official statement for such series of bonds as well as any additional information requested by the City and provide the City with a complete transcript of bond proceedings within sixty (60) days after the date the bonds are delivered.

4.02 Purpose for Bonds and Use of Bond Proceeds. The District will issue Bonds only for the purpose of purchasing and constructing or otherwise acquiring Facilities or parts thereof, and to make any and all necessary purchases, construction, improvements, extensions, additions, and repairs thereto, and purchase or acquire all necessary land, right-of-way, easements, sites, equipment, buildings, plants, structures, and facilities therefor within or without the boundaries of the District, and providing for developer

interest and for any necessary capitalized interest and costs of issuance.

4.03 Bond Provisions. The District's Bonds shall expressly provide that the District reserves the right to redeem the Bonds on any interest-payment date subsequent to the tenth anniversary of the date of issuance without premium and will be sold only after the taking of public bid therefore. None of such Bonds, other than refunding Bonds, will be sold for less than 95% of par; provided that the net effective interest rate on Bonds so sold, taking into account any discount or premium as well as the interest rate borne by such Bonds, will not exceed two percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such Bonds is given, and that bids for the Bonds will be received not more than forty-five days after notice of sale of the Bonds is given. The Bonds shall not have a maturity of more than twenty-five years and shall not provide for more than twenty-four months of capitalized interest.

4.04. Bonds as Obligation of District. Unless and until the City shall dissolve the District and assume the properties, assets, obligations and liabilities of the District, the Bonds of the District, as to both principal and interest, shall be and remain obligations solely of the District and shall never be deemed or construed to be obligations or indebtedness of the City; the Bonds shall not contain a pledge of any revenues of the Facilities.

4.05. Construction by Third Parties. From time to time, the District may enter into one or more agreements, (hereinafter, "Development Financing Agreement") with landowners or developers of property located within or in the vicinity of the District whereby such landowners or developers will undertake, on behalf of the District, to pre-finance and pre-construct, in one or more phases, all or any portion of the Facilities. Under the terms of each Development Financing Agreement, the landowners or developers will be obligated to finance and construct the Facilities in the manner which would be required by law if such work were being performed by the District. Each Development Financing Agreement will provide for the purchase of the Facilities from the landowners or developers using the proceeds of one or more issues of Bonds, as otherwise permitted by law and the applicable rules, regulations and guidelines of the applicable Approving Bodies.

ARTICLE V
DISSOLUTION OF THE DISTRICT

5.01. Dissolution of District Prior to Retirement of Bonded Indebtedness. The City and the District recognize that, as provided in the laws of the State of Texas, the City has the right to dissolve the District and to acquire the District's Assets and assume the

District's Obligations. Notwithstanding the foregoing, the City agrees that it will not dissolve the District until the following conditions have been met:

1. At least 90% of the Facilities to serve all the developable acreage at full development has been constructed. Developable acreage means the total acreage in the District less acreage associated with land uses for roads, utility easements, drainage easements, levee easements, lakes, creeks, rivers, fire facilities, and open space; and

2. The developer of the District has been reimbursed by the District to the maximum extent permitted by the rules of the TCEQ or the City assumes any obligation for such reimbursement of the District under such rules.

Upon dissolution of the District, the City shall acquire the District's Assets and shall assume the District's Obligations. If requested by the District, the City shall afford the District the opportunity to discharge any remaining District's Obligations pursuant to any existing Development Financing Agreements of the District, by either (i) authorizing the District to sell its Bonds before or during a transition period prior to the effective date of dissolution as established by the City, or (ii) pursuant to Local Government Code Section 43.080, as amended, issuing and selling bonds of the City in at least the amount necessary to discharge the District's Obligations, including those under any Development Financing Agreements.

5.02. Transition upon Dissolution. In the event all required findings and procedures for the annexation and dissolution of the District have been duly, properly and finally made and satisfied by the City, and unless otherwise mutually agreed by the City and the District pursuant to then existing law, the District agrees that its officers, agents and representatives shall be directed to cooperate with the City in any and all respects reasonably necessary to facilitate the dissolution of the District and the transfer of the District's Assets to, and the assumption of the District's Obligations by, the City.

ARTICLE VI
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 nonbreaching 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 VII
MISCELLANEOUS PROVISIONS

7.01. 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.

7.02. 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.

7.03. 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 District, to:

Montgomery County Municipal Utility District No. 215
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: Annette Stephens

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.

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

7.05. 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.

7.06. 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.

7.07. 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.

7.08. 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.

7.09. 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.

7.10 . 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.

7.11. 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.

7.12. 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 10th day of May 2022.

THE CITY OF MONTGOMERY, TEXAS

Mayor

ATTEST/SEAL:

City Secretary

CITY OF MONTGOMERY, TEXAS FOUNDED 1837

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 215

By:_____
President, Board of Directors

ATTEST:

By:_____
Secretary, Board of Directors

(SEAL)

EXHIBIT "C"

UTILITY EXHIBIT

[See attached.]

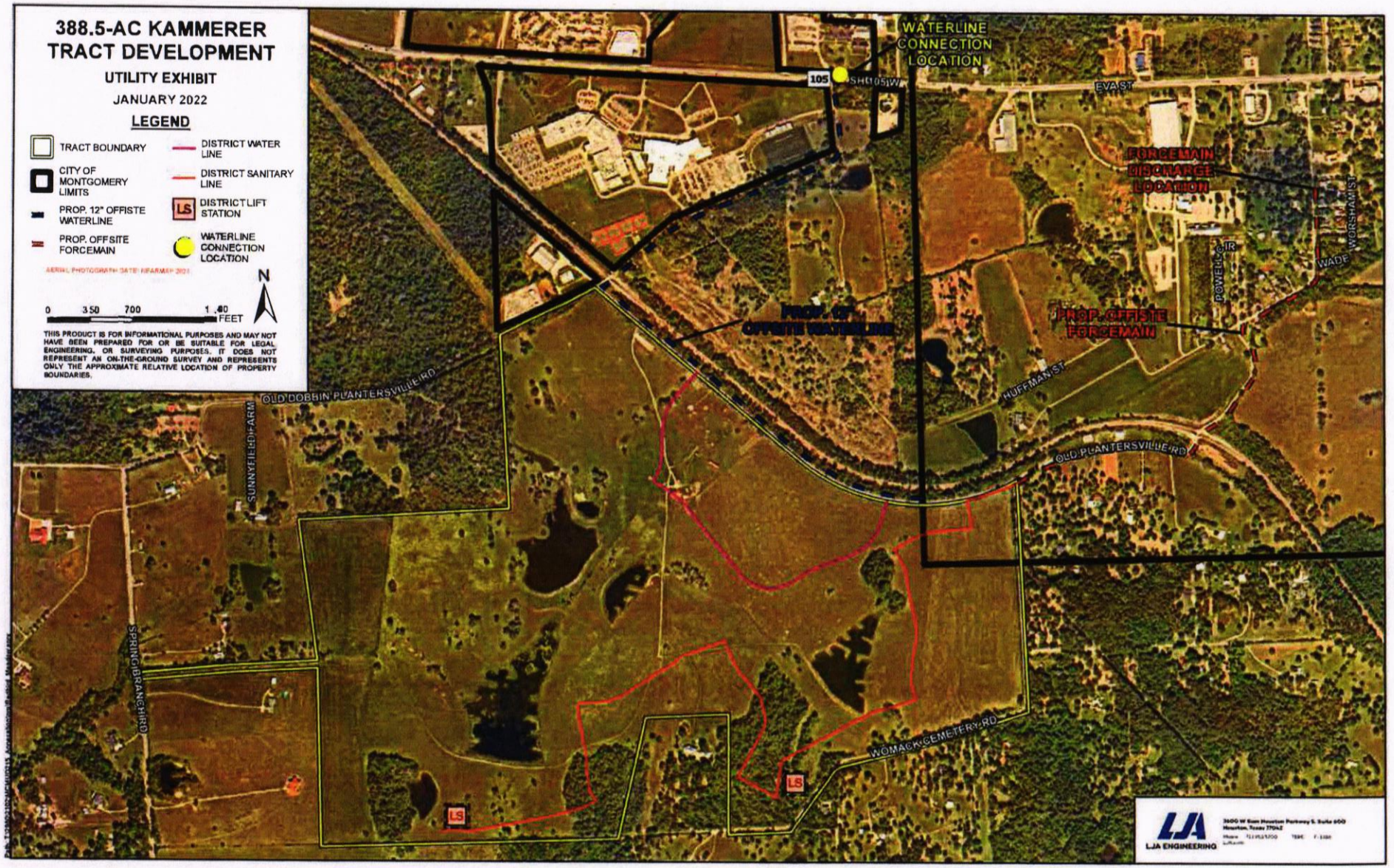
388.5-AC KAMMERER
TRACT DEVELOPMENT
UTILITY EXHIBIT
JANUARY 2022
LEGEND
TRACT BOUNDARY
CITY OF MONTGOMERY LIMITS
PROP. 12" OFFSITE WATERLINE
PROP. OFFSITE FORCEMAIN
DISTRICT WATER LINE
DISTRICT SANITARY LINE
DISTRICT LIFT STATION
WATERLINE CONNECTION LOCATION
AERIAL PHOTOGRAPH DATE: NAIP MAP 2021
N
0 350 700 1,400 FEET
THIS PRODUCT IS FOR INFORMATIONAL PURPOSES AND MAY NOT HAVE BEEN PREPARED FOR OR BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEYING PURPOSES. IT DOES NOT REPRESENT AN ON-THE-GROUND SURVEY AND REPRESENTS ONLY THE APPROXIMATE RELATIVE LOCATION OF PROPERTY BOUNDARIES.
WATERLINE CONNECTION LOCATION
105
SH 105 W
EVA ST
FORCEMAIN DISCHARGE LOCATION
POWELL CIR
WORSHAM ST
WADE
PROP. OFFSITE WATERLINE
PROP. OFFSITE FORCEMAIN
HUFFMAN ST
OLD PLANTERSVILLE RD
OLD DOBBIN PLANTERSVILLE RD
SUNNYFIELD FARM
SPRING BRANCH RD
WOMACK CEMETERY RD
LS
LS
LJA ENGINEERING

EXHIBIT "D"

PROPOSED MAJOR THOROUGHFARE PLAN

[See attached.]


388.5-AC KAMMERER
TRACT DEVELOPMENT
PROPOSED MTP EXHIBIT
JANUARY 2022
LEGEND
TRACT BOUNDARY
EXISTING COLLECTOR
EXISTING THOROUGHFARE
PROPOSED COLLECTOR
PROPOSED THOROUGHFARE
BASEMAP PHOTOGRAPH DATE: NEARMAP 2021
N
0 500 1,000 2,000 FEET
THIS PRODUCT IS FOR INFORMATIONAL PURPOSES AND MAY NOT HAVE BEEN PREPARED FOR OR BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEYING PURPOSES. IT DOES NOT REPRESENT AN ON-THE-GROUND SURVEY AND REPRESENTS ONLY THE APPROXIMATE RELATIVE LOCATION OF PROPERTY BOUNDARIES.
105
MTP - SH 105
SH 105 W
MTP - SH 105 E
MTP - LONE STAR PARKWAY
BROCK ST
MTP - NR 212
WESTWAY DR
KINGS LN
JENNY LN
COLLEGE
JUNE ST
CAROL ST
POWELL ST
MTP - NR 211
HUFFMAN ST
LIBERTY ST
MTP - DOBBIN RD
MTP - OLD PLANTERSVILLE RD
OLD PLANTERSVILLE RD
OLD DOBBIN PLANTERSVILLE RD
SPRING BRANCH RD
MTP - ROAD
MTP - WESTWAY DRIVE
LAKEVIEW WAY
WOMACK CEMETERY RD
SHANNON GIR
MTP - NR 210
PERFECTION DR
CISSYS LN
LJA ENGINEERING

EXHIBIT "E"

ANNEXATION TRACT

[See attached.]

CITY OF MONTGOMERY ANNEXATION (378.2115 AC)

DECEMBER 2021

ANNEXATION INSIDE ETJ (279.30 ACRES)

ANNEXATION OUTSIDE ETJ (98.9115 ACRES)

*THIS DOCUMENT WAS PREPARED UNDER 22 TAC §138.95, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

N
W E
S

0 350 700 1,400
FEET

AERIAL PHOTOGRAPH DATE: NEARMAP 2021

THIS PRODUCT IS FOR INFORMATIONAL PURPOSES AND MAY NOT HAVE BEEN PREPARED FOR OR BE SUITABLE FOR LEGAL, ENGINEERING, OR SURVEYING PURPOSES. IT DOES NOT REPRESENT AN ON-THE-GROUND SURVEY AND REPRESENTS ONLY THE APPROXIMATE RELATIVE LOCATION OF PROPERTY BOUNDARIES.

LJA ENGINEERING
3600 W Sam Houston Parkway S. Suite 600
Houston, Texas 77042

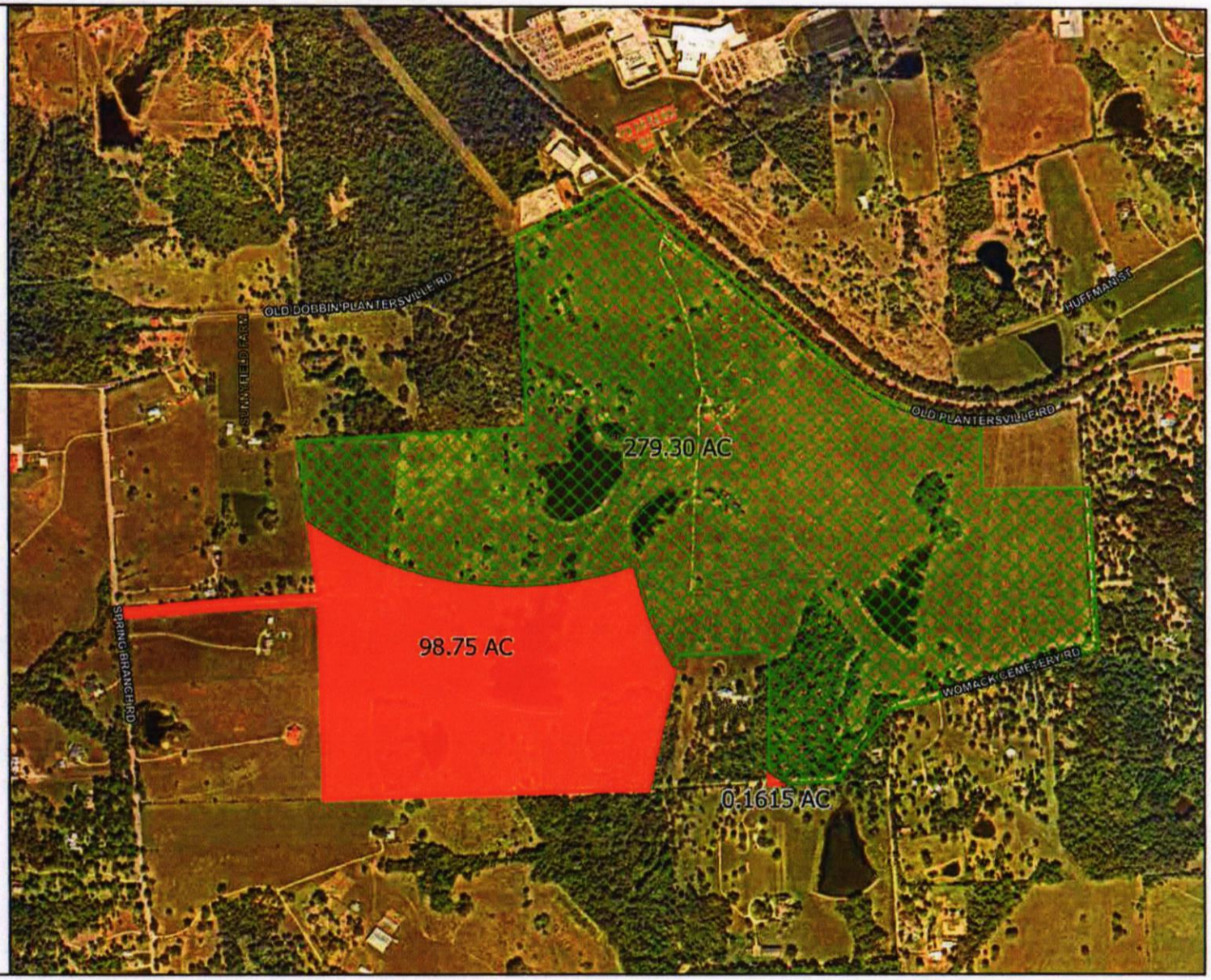

EXHIBIT "F"

PHASING PLAN

[See attached.]

PHASE 1
CONNECTIONS/186

PHASE 2
CONNECTIONS/125

PHASE 3
CONNECTIONS/244

TOTAL 555 CONNECTIONS

Conceptual Development Plan

REDBIRD MEADOW

Montgomery County, Texas

REDBIRD DEVELOPMENT, LLC

60'X140' - 263 DU 85.5 Ac		LAKES \ DETENTION 36.3 Ac.	
85'X170' - 174 DU 98.5 Ac		PIPE LINES, MAJOR ROAD ROW, DETENTION, WETLANDS, PARKS, OPEN SPACE, DRAINAGE 80 Ac	
110'X200' - 118 DU 88.2 Ac			
RESIDENTIAL TOTAL	271.7 Ac - 555 DU	GRAND TOTAL	388.5