

DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF MONTGOMERY, TEXAS AND
H-E-B, LP

This DEVELOPMENT AGREEMENT (the "Agreement") is entered into between H-E-B, LP, a Texas limited partnership, its successors or assigns ("Developer"), and THE CITY OF MONTGOMERY, TEXAS ("City") to be effective on June __, 2025 (the "Effective Date").

RECITALS

The Developer owns approximately 16.75 acres of land, as described on the attached **Exhibit A** (defined herein as the "Tract") in Montgomery County, Texas, within the corporate limits of the City. The Developer intends to develop the Tract for commercial purposes which may include a grocery store, gas station, and car wash. The City will provide water and sanitary sewer service to the Tract.

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.

Developer means H-E-B, LP, a Texas limited partnership, 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 to serve the Tract, 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 approximately 16.75 acres of land to be developed by Developer, as described in **Exhibit A**. If Developer acquires that certain real property comprising approximately 0.376 acres as more particularly described on **Exhibit A-1** hereto, such property shall be included in the term Tract.

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

Exhibit A (including Exhibit A-1)	Metes and Bounds Description of the Tract
Exhibit B	Water Line, Sanitary Sewer Line and Sanitary Sewer Tap
Exhibit C	Private Driveways
Exhibit D	Assignment of Water and Sanitary Sewer Capacity

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 of the date hereof, unless otherwise agreed to by Developer (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. Following acceptance by the City within fifteen (15) days after construction thereof, the water and sanitary sewer infrastructure will be owned, operated, and maintained by the City per normal practice. The City has agreed to provide the Developer with its requirements for wastewater treatment and water capacity as set forth herein.
- b. **Water Supply Facilities.** The parties acknowledge that the Tract will be developed with ultimate water requirements of 23,000 gpd to serve approximately 77 ESFCs. The City agrees that it has the capacity in its water treatment system to serve the 77 ESFCs and hereby grants the same to Developer in accordance with terms, conditions and provisions set forth in that certain Assignment of Water and Sanitary Sewer Capacity attached hereto as **Exhibit D** and executed as of the date

hereof (the “Capacity Assignment”); however, the Developer is required to fund the construction of certain improvements, noted specifically in this Agreement, to the City’s water supply system in order to provide sufficient supply for the Tract.

- i. **Water Line.** The Developer agrees to design and construct the extension of the City’s existing 12-inch waterline to the eastern portion of the Tract’s northern property line (“Water Line”), as shown on Exhibit B. The Water Line will be constructed in a public right of way or easement and to the extent necessary, the Developer will be responsible for acquiring any necessary public right of way or easement required for the construction of the Water Line with the City’s cooperation.
 - ii. **Funding.** The City will provide the Developer a cost estimate of inspection costs related to the Water Line for review and approval, and upon presentation of such estimate and Developer’s written approval of the same, Developer agrees to deposit with the City the funds due for inspection services of the Water Line. The City will keep accurate records of Developer deposits and Water Line inspection costs and make such records available for Developer or District inspection upon request. Within forty-five (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 escrow account, less the amount required for the one-year maintenance inspection to be conducted by the City Engineer.
 - iii. **Ownership.** The City will accept such Water Lines for ownership and operation subject to a one-year maintenance bond to be enforceable by the City from the contractor once the public waterline has been constructed, inspected and all punchlist items have been addressed as confirmed by the City Engineer. Upon acceptance of the public waterline, the Developer shall provide the City with as-built drawings in both digital and pdf format.
- c. Wastewater Treatment Facilities. The parties acknowledge that the Tract will be developed with ultimate wastewater requirements of 18,400 gpd to serve approximately 92 ESFCs. The City agrees that it has permitted capacity in its wastewater treatment system to serve the 92 ESFCs and hereby grants the same to Developer in accordance with the terms, conditions and provisions set forth in the Capacity Assignment executed as of the date hereof; however, the Developer is required to fund the construction of certain improvements, noted specifically in this Agreement, to the City’s wastewater supply system in order to serve the Tract.
 - i. **Sanitary Sewer Line and Sanitary Sewer Tap.** The Developer agrees to design and construct the extension of an existing 8” gravity sanitary sewer line to the eastern portion of the Tract’s

northern property line (the "Sanitary Sewer Line"), as shown on **Exhibit B**. The Developer also agrees to coordinate with the City's Public Works Department with respect to the installation of a sanitary sewer tap (the "Sanitary Sewer Tap"), as shown on **Exhibit B**. The Sanitary Sewer Line 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 or easement required for the construction of the Sanitary Sewer Line with the City's cooperation.

- ii. **Funding.** The City will provide the Developer a cost estimate of inspection costs related to the Sanitary Sewer Line for review and approval, and upon presentation of such estimate and Developer's written approval of the same, the Developer agrees to deposit with the City the funds due for the inspection services of the Sanitary Sewer Line. The City will keep accurate records of Developer deposits and Sanitary Sewer Line inspection costs and make such records available for Developer inspection upon request. Within forty-five (45) days of City acceptance of the Sanitary Sewer Line, the City shall perform a reconciliation and final accounting and reimburse the Developer any unpaid funds under the escrow account, less the amount required for the one-year maintenance inspection to be conducted by the City Engineer..
 - iii. **Ownership.** The City will accept such Sanitary Sewer Line or ownership and operation subject to a one-year maintenance bond to be enforceable by the City from the contractor once the public sanitary sewer line has been constructed, inspected and all punchlist items have been addressed as confirmed by the City Engineer. Upon acceptance of the public sanitary sewer line, the Developer shall provide the City with as-built drawings in both digital and pdf format.
- 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 final platting and prior to receiving water and sanitary sewer taps.
 - e. **Drainage Facilities.** The Developer agrees to submit and receive approval for a drainage study from the City and TxDOT. Any revisions to the drainage study must be submitted to the City for review and approval. All drainage and detention facilities must be designed and constructed in accordance with the City Code and any applicable Montgomery County and TxDOT standards. All onsite storm sewer systems and detention will remain private.

- f. Historical Landmark. If Developer constructs a grocery store on the Tract (the “Store”), Developer agrees to include a mural in the Store, in a location and as designed by Developer in its sole discretion, recognizing Charles B. Stewart and the birthplace of the Texas flag. Developer shall also use good faith efforts to determine within ninety (90) days following the date hereof the feasibility of dedicating a location on the Tract (including the parameters and guidelines applicable thereto) for the City to construct and maintain, at City’s cost, a historical landmark (the “Landmark”) on such designated location. Developer shall update City periodically on the status and include City feedback in its efforts to determine the feasibility of the Landmark. If Developer is able to accommodate the Landmark as set forth above, Developer shall at its election, either grant an easement or dedication of the Landmark to City for such purposes in a form prepared by and acceptable to Developer.

Section 2.2. Private Driveways. Private driveways shall be constructed in accordance with the City Code. Developer agrees to install one (1) connection to State Highway 105 and two (2) connections to FM 2854 to provide access to the two (2) adjacent property owners as shown on Exhibit C.

Section 2.3. Governmental Approvals. All of Developer’s obligations hereunder are subject to Developer obtaining all governmental permits and approvals therefor.

ARTICLE III.

DEFAULT AND TERMINATION

Section 3.1. Material Breach of Agreement. 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.

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, provided that such time schedule may be extended as necessary under the circumstances.

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.

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's sole remedy shall be to revoke the utility capacity granted to Developer hereunder. Notwithstanding the foregoing, in no event shall the foregoing preclude or waive the City's right to enforce compliance by Developer with applicable City Code requirements.

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 to enforce City's agreements and obligations set forth in Article II above and any other agreements or obligations of City hereunder pertaining thereto.

ARTICLE IV.

MISCELLANEOUS

Section 4.1. 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. However, this Agreement shall not be binding upon 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. 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 4.2. 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 4.3. Law Governing and Immunity. This Agreement shall be governed by the laws of the State of Texas without considering its choice of law provisions and no lawsuit shall be prosecuted on this Agreement except in a federal or state court of competent jurisdiction. The City hereby unconditionally and irrevocably waives all claims of sovereign and governmental immunity which it may have (including, but not limited to, immunity from suit and immunity to liability) to the extent permitted by applicable laws of the State of Texas.

Section 4.4. 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 4.5. 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 (i)

depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified at the address set forth below, or at the last address for notice that the sending party has for the receiving party at the time of mailing, and with all charges prepaid; (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery," addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement; or (iv) by electronic mail (i.e., e-mail), with confirming copy sent by one of the other described methods for notice set forth in this sentence. Notice deposited in the United States 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:

H-E-B, LP
425 Sawdust Road, Suite B
Spring, Texas 77380
Attention: Shaun Smith

With a copy to:

Golden Steves & Gordon LLP
200 E. Basse Road, Suite 200
San Antonio, Texas 78209
Attention: Ami E. Gordon

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 4.6. 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 4.7. 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 4.8. 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 4.9. 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 4.10. 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 4.11. 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.

(Signature Pages to Follow)

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

H-E-B. LP,
a Texas limited partnership

By: _____
Name: Benjamin R. Scott
Title: Group Vice President of Real Estate
and Shopping Center Development

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this _____ day of _____, 2025, by Benjamin R. Scott, Group Vice President of Real Estate and Shopping Center Development of H-E-B, LP, a Texas limited partnership, on behalf of said limited partnership.

Notary Public, State of Texas

(NOTARY SEAL)

CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

Title:_____

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this _____ day of _____,
2025, by Sara Countryman, Mayor, City of Montgomery, Texas, on behalf of said City.

Notary Public, State of Texas

(NOTARY SEAL)

EXHIBIT "A"

Legal Description of Tract

BEING a 16.75 acre (729,609 square feet) tract of land situated in the J. Corner Survey, Abstract No. 8 of Montgomery County, Texas, being a portion of a called 21.245 acre tract of land as described in a Special Warranty Deed to Texas Land Fund No. 6, L.P. recorded under Montgomery County Clerk's File Number (M.C.C.F. No.) 2008-092439 and a called 10.799 acre tract of land as described in a Special Warranty Deed to Texas Land Fund No. 6, L.P. recorded under M.C.C.F. No. 2008-092441, said 16.75 acre tract of land described by metes and bounds as follows:

COMMENCING at a 1/2-inch iron pipe with a cap stamped "Brown & Gay" found for the southeasterly corner of the intersection of F.M. 2854 (a.k.a. Keenan Road) (width varies) as recorded under Volume 204, Page 186 and Volume 1087, Page 123 both of the Montgomery County Deed Records and S.H. 105, (width varies) as recorded under M.C.C.F. No. 9228466, same being the northwest corner of said 10.799 acre tract;

THENCE, S 81°59'51" E, a distance of 154.80 feet along the southerly right-of-way line of said S.H. 105, and the northerly line of said 10.799 acre tract to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the most northerly northwest corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, S 81°59'51" E, a distance of 283.34 feet continuing along the southerly right-of-way line of said S.H. 105, and the northerly line of said 10.799 acre tract to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the most northerly northeast corner of the herein described tract, from which a TxDOT Aluminum Monument found for an angle point of said right-of-way bears S 81°59'51" E, 207.24 feet;

THENCE, over and across said 10.799 acre tract and said 21.245 acre tract the following courses and distances:

South, a distance of 169.39 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the beginning of a curve to the left;

In a southeasterly direction, along said curve to the left, a distance of 15.71 feet, having a radius of 10.00 feet, a central angle of 90°00'00" and a chord which bears S 45°00'00" E, 14.14 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for a point of tangency;

East, a distance of 16.09 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the beginning of a curve to the right;

In an easterly direction, along said curve to the right, a distance of 68.65 feet, having a radius of 217.00 feet, a central angle of 18°07'30" and a chord which bears S 80°56'15" E, 68.36 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for an interior corner of the herein described tract;

South, a distance of 713.45 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the southeast corner of the herein described tract, lying on the north line of Lot 9, Block 1 of HAVENSHIRE A SUBDIVISION OF 28.69 ACRES recorded under Cabinet H, Sheet 167B of the Montgomery County Map Records, same being the south line of said 21.245 acre tract;

THENCE, S 84°21'19" W, along the northerly lines of Lot 1 and Lot 5 thru Lot 9, Block 1 of said HAVENSHIRE A SUBDIVISION OF 28.69 ACRES, same being the southerly line of said 21.245 acre tract at a distance of 33.76 feet pass a 5/8-inch iron rod (Bent) found for the common north corner of said Lot 8 and said Lot 9, continuing at a distance of 637.80 feet pass a 5/8-inch iron rod found for the common north corner of said Lot 1 and said Lot 5, in all a total distance of 987.88 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" found for the northwest corner of said Lot 1, same being the southwest corner of said 21.245 acre tract and the herein described tract, lying on the easterly right-of-way line of said F.M. 2854;

THENCE, along the easterly right-of-way of said F.M. 2854, the westerly lines of said 21.245 acre tract and the westerly line of said 10.799 acre tract the following courses and distances:

N 07°20'41" E, a distance of 160.56 feet to a point from which a found concrete Monument bears N 12°25' E, 0.38 feet and being the beginning of a non-tangent curve to the right having a radial bearing of S 77°35'35" E, 2,794.79 feet;

In a Northerly direction, along said curve to the right, a distance of 465.48 feet, having a radius of 2,794.79 feet, a central angle of 09°32'34" and a chord which bears N 17°10'42" E, 464.94 feet to a concrete Monument found for the beginning of a non-tangent compound curve to the right having a radial bearing of S 58°34'12" E, 1,597.02 feet;

In a Northeasterly direction, along said curve to the right, a distance of 77.70 feet, having a radius of 1,597.02 feet, a central angle of 02°47'16" and a chord which bears N 32°49'25" E, 77.70 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the end of a non-tangent curve;

N 33°02'31" E, at a distance of 114.60 feet pass a 5/8-inch iron rod found for the northwest corner of said 21.245 acre tract and the southwest corner of said 10.799 acre tract, in all a total distance of 228.52 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the lower northwest corner of the herein described tract;

THENCE, over and across said 10.799 acre tract the following courses and distances:

S 64°51'30" E, a distance of 80.53 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the beginning of a curve to the left;

In an easterly direction, along said curve to the left, a distance of 19.63 feet, having a radius of 45.00 feet, a central angle of 25°00'00" and a chord which bears S 77°21'30" E, 19.48 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for a point of tangency;

S 89°51'30" E, a distance of 181.89 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for the beginning of a curve to the left;

In a northeasterly direction, along said curve to the left, a distance of 15.71 feet, having a radius of 10.00 feet, a central angle of $90^{\circ}00'00''$ and a chord which bears $N 45^{\circ}08'30'' E$, 14.14 feet to a 1/2-inch iron pipe with a cap stamped "Brown & Gay" set for a point of tangency;

$N 00^{\circ}08'30'' E$, a distance of 208.87 feet to the **POINT OF BEGINNING** and containing 16.75 acres (729,609 square feet) of land.

EXHIBIT "A-1"

BEING a 0.376 acre tract of land situated in the J. Corner Survey, Abstract No. 8, City of Montgomery, Montgomery County, Texas, and being a part of the 12.74 acre tract of land described in Tract 1, conveyed to SR 105, LLC by deed of record in Document No. 2014103574 of the Official Public Records of Montgomery County, Texas; said 0.376 acre tract being more particularly described as follows:

BEGINNING at a 1" iron pipe found for corner in the south right-of-way line of Highway 105 W., a variable width right-of-way, at a northeast corner of a 16.75 acre tract of land described in Tract 1, conveyed to HEB Grocery Company, LP, by deed of record in Document No. 201403529, of said Official Public Records and being at the northwest corner of said 12.74 acre tract;

THENCE South 82 degrees 00 minutes 08 seconds East, along the said south line of Highway 105 W and along the north line of said 12.74 acre tract, a distance of 94.51 feet to a 1/2" iron rod with a yellow plastic cap stamped "WESTWOOD PS" set for corner;

THENCE South 00 degrees 00 minutes 17 seconds East, departing the said south line of the Highway 105 W and the said north line of the 12.74 acre tract, over and across said 12.74 acre tract, a distance of 177.00 feet to a 5/8" capped iron rod "BROWN & GAY" found at a northeast corner of said 16.75 acre tract and a re-entrant corner of said 12.74 acre tract, said point being at the beginning of a non- tangent curve to the left;

THENCE along the common line between said 12.74 acre tract and the said 16.75 acre tract, the following courses and distances:

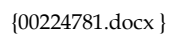
Along said non-tangent curve to the left having a central angle of 18 degrees 07 minutes 30 seconds, a radius of 216.99 feet, and an arc length of 68.64 feet (chord bears North 80 degrees 56 minutes 32 seconds West, 68.36 feet) to a 5/8" capped iron rod "BROWN & GAY" found at the end of said curve;

South 89 degrees 59 minutes 43 seconds West, a distance of 16.09 feet to a 5/8" capped iron rod "BROWN & GAY" found at the beginning of a tangent curve to the right;

Along said tangent curve to the right having a central angle of 90 degrees 00 minutes 33 seconds, a radius of 10.00 feet, and an arc length of 15.71 feet (chord bears North 45 degrees 00 minutes 32 seconds West, 14.14 feet) to a 5/8" capped iron rod "BROWN & GAY" found at the end of said curve;

North 00 degrees 00 minutes 17 seconds West, a distance of 169.39 feet to the **POINT-OF- BEGINNING**, containing **16,392 square feet or 0.376 acres of land.**

Water Line, Sanitary Sewer Line and Sanitary Sewer Tap



Private Driveways

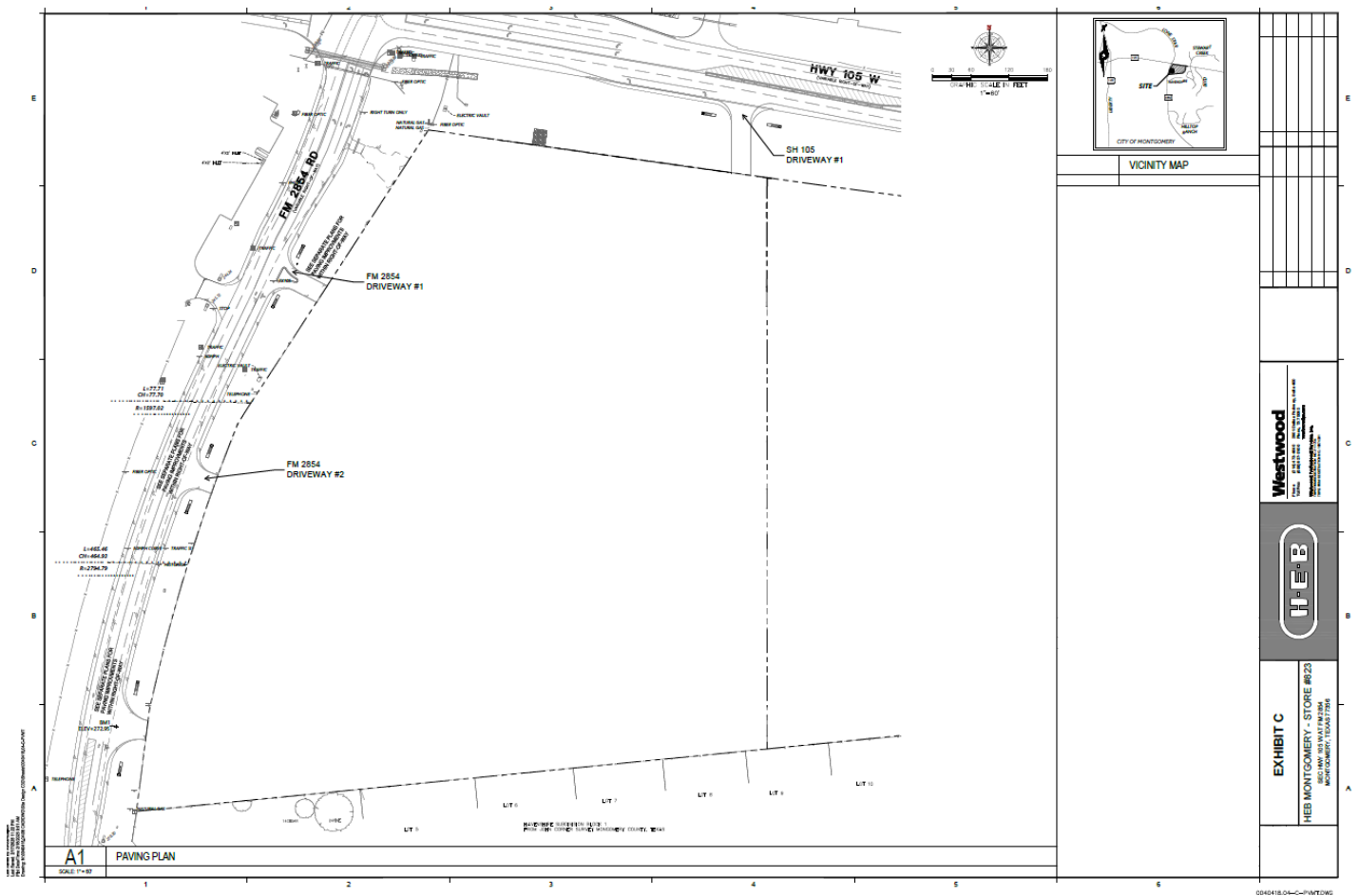


EXHIBIT “D”

Assignment of Water and Sanitary Sewer Capacity

ASSIGNMENT OF WATER AND SANITARY SEWER CAPACITY

This **Assignment of Water and Sanitary Sewer Capacity** (this “**Assignment**”) is entered into this ____ day of _____, 2025, by and between **THE CITY OF MONTGOMERY, TEXAS**, (“**Assignor**”) and **H-E-B, LP**, a Texas limited partnership (“**Assignee**”).

RECITALS:

1. Assignee is the owner of certain real property in Montgomery County, Texas (the “**Assignee Parcel**”), more particularly described in Exhibit “A” attached hereto.
2. Assignor is the owner of seventy-seven (77) Equivalent Single-Family Connection units (“**ESFCs**”) of water capacity and ninety-two (92) ESFCs of wastewater capacity (collectively, the “**Utility Capacity**”) relating to the Assignee Parcel.
3. Assignor desires to assign the Utility Capacity and Assignee desires to assume the Utility Capacity as described herein.

NOW, THEREFORE, for and in consideration of the mutual promises of the respective parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment of Utility Capacity. Assignor hereby ASSIGNS, TRANSFERS and CONVEYS to Assignee all of Assignor’s right, title and interest in the Utility Capacity. Assignor hereby represents that Assignor has full power and authority to execute and deliver this assignment of Utility Capacity.
2. Assumption by Assignee. Assignee hereby accepts this assignment of the Utility Capacity.
3. Binding Upon Successors. This Assignment shall be binding upon the parties hereto and shall inure to the benefit of Assignee and Assignor and their respective representatives, successors and assigns.
4. Further Assurances. Assignor agrees to execute such additional documents as may be required to carry out the purposes of this Assignment.

(Signature Pages to Follow)

Executed on the ____ day of _____, 2025.

ASSIGNOR:

CITY OF MONTGOMERY, TEXAS

By: _____
Name: Sara Countryman
Title: Mayor

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

The foregoing instrument was acknowledged before me this ____ day of _____, 2025, by Sara Countryman, Mayor, City of Montgomery, Texas, on behalf of said City.

Notary Public in and for
The State of Texas

ASSIGNEE:

H-E-B, LP,
a Texas limited partnership

By: _____
Name: Benjamin R. Scott
Title: Group Vice President of Real Estate
and Shopping Center Development

THE STATE OF TEXAS §
 §
COUNTY OF BEXAR §

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by Benjamin R. Scott, Group Vice President of Real Estate and Shopping Center Development of H-E-B, LP, a Texas limited partnership, on behalf of said limited partnership.

Notary Public in and for
The State of Texas

Exhibit A to Assignment of Water and Sanitary Sewer Capacity

[to be attached]