

# **A G E N D A**

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas to be held in the Council Chamber at City Hall, 401 S. Rogers on ***Monday, June 7, 2021 at 7:00 p.m.***

Council Members: David Hill, Mayor, Council Member Place 1  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Council Member  
Melissa Olson, Council Member Place 3  
Doug Barnes, Council Member Place 2

1. Call to Order
2. Invocation
3. Pledge of Allegiance and Texas Pledge of Allegiance
4. ***Public Comments:*** Persons may address the City Council on any issues. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code.

5. ***Consent Agenda***

All matters listed under Item 5, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. Approval of the Consent Agenda authorizes the Mayor/City Manager to execute all matters necessary to implement each item. Any item may be removed from the Consent Agenda for separate discussion and consideration by any member of the City Council.

- a. Minutes of the City Council meeting of May 17, 2021
  - b. Minutes of the City Council briefing of May 17, 2021
  - c. Minutes of the City Council Work Session of June 2, 2021
  - d. WCDC Supplemental Appropriation for city hall landscaping
  - e. Fourth of July parade route for the 23<sup>rd</sup> Annual Crape Myrtle Festival
6. ***Consider*** appointment of Municipal Judge and Associate Municipal Judge and Administer Oaths of Office
  7. ***Public Hearing*** on a request by Ross Graves, Triten Real Estate Partners, for a Specific Use Permit (SUP) for Auto Parking Lot, Trucks and Trailers & Outdoor Storage use within a Light Industrial-1 zoning district located at 7240 N I35 (Property ID 186924) - Owner: TPRF V/TREP ISF WAXA, LLC (ZDC-60-2021)
  8. ***Consider*** proposed Ordinance approving ZDC-60-2021
  9. ***Public Hearing*** on a request by Chris Freeman for a Zoning Change from a Planned Development-23-Single Family-1 zoning district to Planned Development-Single Family-1, with Concept Plan, located at 303 Lakeshore Drive (Property ID 171975) - Owner: VIRGINIA K FREEMAN (ZDC-63-2021)

10. **Consider** proposed Ordinance approving ZDC-63-2021
11. **Public Hearing** on a request by Marsha Rowan for a Specific Use Permit (SUP) for Accessory Building (Residential), Greater than or Equal to 700 SF use within a Single-Family Residential-1 zoning district located at 2341 Marshall Rd (Property ID 203836) - Owner: JOHN E & MARSHA L ROWAN (ZDC-65-2021)
12. **Consider** proposed Ordinance approving ZDC-65-2021
13. **Public Hearing** on a request by Lenvill Phipps for a Zoning Change from a Commercial zoning district to Planned Development-Commercial, located at 1604 E. Main Street, (Property ID 195689) - Owner: 6<sup>TH</sup> STREET MIDLOTHIAN, LLC (ZDC-59-2021)
14. **Consider** proposed Ordinance approving ZDC-59-2021
15. **Public Hearing** on a request by Shea Kirkman for a Zoning Change from a Commercial zoning district to Planned Development-Light Industrial, located just North of 1800 W Highway 287 Bypass (Property ID 279123) - Owner: SANDSTONE 93 PARTNERS, LTD (ZDC-58-2021)
16. **Consider** proposed Ordinance approving ZDC-58-2021
17. **Public Hearing** to consider proposed assessments to be levied against property within Phase 3 of the Waxahachie Public Improvement District No. 1 pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended. All written or oral objections on the proposed assessment within the District will be considered at the public hearing
18. **Discuss, consider and act** on approving Ordinance of the City of Waxahachie, Texas accepting and approving a service and assessment plan and assessment roll for Phase 3 of the Waxahachie Public Improvement District No. 1; making a finding of special benefit to the property located within Phase 3 of the Waxahachie Public Improvement District No. 1; levying special assessments against property within Phase 3 of the District and establishing a lien on such property; providing for payment of assessments in accordance with Chapter 372, Texas Local Government Code, as amended; providing for the method of assessment and the payment of the assessments, providing penalties and interest on delinquent assessments, providing for severability, and providing an effective date
19. **Discuss, consider and act** to authorize the Mayor of the City to execute the Waxahachie Public Improvement District Improvement No. 1 Phase 3 Improvements Reimbursement Agreement with 287 Waxahachie L.P.
20. **Discuss, consider and act** to authorize the Mayor of the City to execute the Waxahachie Public Improvement District Improvement No. 1 Phase 3 Improvements Construction, Funding, and Acquisition Agreement with 287 Waxahachie L.P.
21. **Discuss, consider and act** to authorize the Mayor of the City to execute the Landowner Agreement related to Phase 3 of the Waxahachie Public Improvement District No. 1 with 287 Waxahachie L.P.

22. ***Discuss, consider and act*** to authorize the Mayor of the City to execute the Landowner Agreement related to Phase 3 of the Waxahachie Public Improvement District No. 1 with D.R. Horton-Texas, Ltd.
23. ***Discuss, consider and act*** to authorize the Mayor of the City to execute the Waxahachie Public Improvement District Improvement No. 1 Phase 2 Improvements Reimbursement Agreement with 287 Waxahachie L.P.
24. ***Consider*** and take action on a resolution directing publication of notice of intention to issue Certificates of Obligation, Series 2021; directing the preparation of a preliminary official statement and related materials; and providing an effective date
25. ***Public Hearing*** to continue the curfew for minors
26. ***Consider*** proposed Ordinance continuing the curfew for minors
27. ***Consider*** authorizing the City Manager to execute all agreements necessary for the implementation of an Advanced Metering Infrastructure System, and for the replacement of associated water meters
28. ***Consider*** resolution authorizing reimbursement of the Water Fund from the proceeds of future debt for the implementation of an Advanced Metering Infrastructure System, and for the replacement of associated water meters
29. Comments by Mayor, City Council, City Attorney and City Manager
30. Adjourn

**The City Council reserves the right to go into Executive Session on any posted item.** This meeting location is wheelchair-accessible. Parking for mobility-impaired persons is available. Any request for sign interpretive services must be made forty- eight hours ahead of the meeting. To make arrangements, call the City Secretary at 469-309-4005 or (TDD) 1-800-RELAY TX

City Council  
May 17, 2021

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers on Monday, May 17, 2021 at 7:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Council Member  
Melissa Olson, Council Member Place 3  
Doug Barnes, Council Member Place 2

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Tommy Ludwig, Assistant City Manager  
Robert Brown, City Attorney  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Invocation**

**3. Pledge of Allegiance and Texas Pledge of Allegiance**

City Manager Michael Scott gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Public Comments**

Mr. Paul Box, 133 Spring Grove Drive, Waxahachie, thanked the city for their support with the annual Hachie 50 Event.

**5. Consent Agenda**

- a. Minutes of the City Council meeting of May 3, 2021
- b. Minutes of the City Council briefing of May 3, 2021
- c. Minutes of Special City Council meeting of May 11, 2021
- d. Application for Seasonal Vendor Permit at Lake Waxahachie
- e. Receive Fiscal Year 2021 2<sup>nd</sup> Quarter Financial Report
- f. Authorize Supplemental Appropriation funding the runoff election on June 5, 2021

**Action:**

*Council Member Melissa Olson moved to approve items a. through f. on the Consent Agenda. Council Member Chuck Beatty seconded, All Ayes.*

**6. Present Proclamation proclaiming May 2021 as National Preservation Month**

Mayor Hill read a proclamation proclaiming May 2021 as National Preservation Month and presented it to Downtown Development Director Anita Simpson. Ms. Simpson updated Council on the historic preservation program for the city and thanked them for their support.

**7. Present Proclamation proclaiming May 16-22, 2021 as National Public Works Week**

Mayor Hill read a proclamation proclaiming May 16-22, 2021 as National Public Works Week and presented it to Public Works and Engineering Director James Gaertner. Mr. Gaertner reviewed a presentation of his staff's role as first responders during inclement weather and showcased their involvement in the community noting we are all stronger together by working as a team.

**8. Public Hearing on a request by Mikel J. Craig, Waxahachie ISD, for a renewal of Specific Use Permit (SUP) Ordinance 3116 located at 411 N. Gibson (Property ID 193942) - Owner: WAXAHACHIE ISD (ZDC-52-2021)**

Mayor Hill opened the Public Hearing.

Planning Director Shon Brooks reviewed the case noting staff recommended approval with the following staff comment:

- 1. Planning Department staff has informed the applicant that if the Specific Use Permit is approved, the SUP shall expire and the temporary building shall be removed, once WISD leaves the property. Also, if the applicant is still occupying the building after two years, staff recommends that the applicant come back to City Council to renew the Specific Use Permit.

There being no others to speak for or against ZDC-52-2021, Mayor Hill closed the Public Hearing.

**9. Consider proposed Ordinance approving ZDC-52-2021**

**ORDINANCE NO. 3271**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A PORTABLE STORAGE STRUCTURE/TEMPORARY BUILDING USE WITHIN A SINGLE FAMILY-2 (SF-2) ZONING DISTRICT, LOCATED AT 411 N GIBSON STREET, BEING PROPERTY ID 193942, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING ABSTRACT 44-49 FERRIS ADMINISTRATION BUILDING, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Chuck Beatty moved to approve Ordinance No. 3271. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**10. Public Hearing on a request by Nora De Los Santos for a Zoning Change from a Single Family-2 zoning district to Planned Development-Single Family-2, with Concept Plan, located at 211 Cumberland (Property ID 172281) - Owner: NORA DE LOS SANTOS (ZDC-48-2021)**

Mayor Hill opened the Public Hearing.

Mr. Brooks presented the case noting staff recommended approval with the following staff comments:

1. The carport will be allowed and the front yard setback for the proposed carport will be reduced to 10'. Any additional construction or improvement, whether it be to the primary structure, or an accessory use, will be the base SF-2 standard. Any deviation would require approval from City Council.
2. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections department prior to construction of the proposed structure.

There being no others to speak for or against ZDC-48-2021, Mayor Hill closed the Public Hearing.

**11. Consider proposed Ordinance approving ZDC-48-2021**

**ORDINANCE NO. 3272**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM SINGLE FAMILY-2 (SF-2) TO PLANNED DEVELOPMENT-SINGLE FAMILY-2 (PD-SF-2), WITH SITE PLAN LOCATED AT 211 CUMBERLAND ROAD IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.244 ACRES KNOWN AS LOT 22, BLOCK 7 OF THE BELLEVUE ADDITION SUBDIVISION, HAVING PROPERTY ID 172281, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Doug Barnes moved to approve Ordinance No. 3272 with staff comments. Council Member Chuck Beatty seconded, All Ayes.*

**12. Continue Public Hearing on a request by Jose Espinoza, Espinoza Stone, for a Specific Use Permit (SUP) for Outside Storage and Outside Display use within a Light Industrial-1 and Future Development zoning district located at 4725 N Interstate 35 (Property ID 194416) - Owner: ESPINOZA STONE INC (ZDC-44-2021)**

Mayor Hill continued the Public Hearing.

Mr. Brooks presented the case noting staff recommended approval subject to the following comments:

1. All staff recommendations shall be completed prior to the applicant receiving an official Certificate of Occupancy.
2. The front portion of the property shall be concrete.
3. Staff suggests that any pavement added in the future be concrete.
4. 6ft. ornamental fencing with landscaping (per the City of Waxahachie Zoning Ordinance) should be provided along the front and side(s) of the property.
  - a. Landscaping shall be designed by a licensed Registered Landscape Architect and approved by the City.
5. All storage shall be palletized and stored in an orderly fashion.
6. Any outdoor storage/display at the front of the property may only be a single pallet high and shall be limited in amount in front of the current building. Any display located at the front of the property shall be on concrete.
7. Any storage in the rear of the property shall be screened from public view.

Mr. Rex Hamilton, 3505 Ronald Reagan Blvd., Jarrell, Texas, assured the Council all staff comments will be met prior to receiving a Certificate of Occupancy from the city.

There being no others to speak for or against ZDC-44-2021, Mayor Hill closed the Public Hearing.

**13. Consider proposed Ordinance approving ZDC-44-2021**

**ORDINANCE NO. 3273**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT AN OUTDOOR STORAGE/OUTDOOR DISPLAY USE WITHIN A LIGHT INDUSTRIAL-1 (LI1) AND FUTURE DEVELOPMENT (FD) ZONING DISTRICT, PROPERTY ID 194416, BEING ABSTRACT 790 OF THE E C NEWTON SURVEY, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Council Member Chuck Beatty moved to approve Ordinance No. 3273. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**14. Consider Development Agreement for ZDC-44-2021**

**Action:**

*Council Member Chuck Beatty moved to approve a Development Agreement for ZDC-44-2021. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**15. Public Hearing on a request by Sam Anderson, WCA Construction, for a Specific Use Permit (SUP) for Trailer and Heavy Load Vehicle Repair use within a Light Industrial-1 zoning district located at 2270 & 2290 Highway 287 Business (Property ID 180390 & Property ID 180394) - Owner: MYTI PROPERTIES, LLC (ZDC-49-2021)**

Mayor Hill opened the Public Hearing.

Mr. Brooks presented the case noting staff recommended approval subject to the following staff comments:

1. A mutually agreed upon Development Agreement will be required for the property.
2. Any additional pavement added to the site shall be concrete material.
3. The applicant shall provide a sidewalk connection to the adjacent property to the southeast (Parcel ID: 209983).
4. Ingress/egress for 18-wheeler trucks shall only be used along US Business 287 service road.
5. An additional landscape buffer shall be provided in along the front of the property (along US Business 287 service road).
  - a. A detailed Landscape Plan shall be reviewed administratively by staff.
6. Truck traffic exiting the facility shall be restricted to right turn only access onto US 287 Business. Trucks may not have egress from the site onto Ovilla Road. Left turns onto US 287 Business are not permitted for trucks exiting the facility. The property owner will be required to install appropriate signage indicating ingress and egress restriction to and from the site.

(5a)

There being no others to speak for or against ZDC-49-2021, Mayor Hill closed the Public Hearing.

**16. Consider proposed Ordinance approving ZDC-49-2021**

**ORDINANCE NO. 3274**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A TRAILER AND HEAVY LOAD VEHICLE REPAIR USE WITHIN A LIGHT INDUSTRIAL-1 (LI1) ZONING DISTRICT, PROPERTY ID 180390 & 180394, BEING ABSTRACT 101 OF THE E BELLOW SURVEY, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Pro Tem Mary Lou Shipley moved to approve Ordinance No. 3274 with the additional consideration that the caliper of the trees are comparable to those in the diagram presented with no less than 6 inch calipers. Council Member Chuck Beatty seconded, All Ayes.*

**17. Consider Development Agreement for ZDC-49-2021**

**Action:**

*Council Member Chuck Beatty moved to approve a Development Agreement for ZDC-49-2021. Council Member Doug Barnes seconded, All Ayes.*

**18. Continue Public Hearing on a request by George Salvador, Lilian Custom Homes, for a Zoning Change from a Single Family Residential-1 zoning district to Planned Development-Single Family Residential-3, located at 401 Ovilla Road (Property ID 180391) - Owner: WAXAHACHIE ONE DEVELOPMENT (ZDC-35-2021)**

Mayor Hill continued the Public Hearing.

Mr. Brooks presented the case noting staff recommended approval subject to the following staff comments:

1. 60% of the residential development shall consist of four (4) lot types. The lot types and percentage breakdown shall reflect as follows:  
Home Style Percentage: Contemporary 15%; Modern Farm 15%; Traditional 15%; & Tudor 15%.  
The remaining 40% of the residential development shall be determined by the market.
2. No single building elevation shall be duplicated within six (6) lots or tracts either direction on the same blockface.
3. Elevations may not be duplicated on any lot directly across a street or within four (4) lots either direction.
4. 6ft. wrought iron fence shall be provided along the rear (west boundary) of the development.
5. 6ft. wood fence shall be provided along the North and South boundaries of the development.

Mr. Brett Hess, 327 Blue Ribbon Road, Waxahachie, Texas, reviewed the proposed development plan noting more density was requested due to the additional improvements on the site. He explained he and

the owner have been working on this development for a long time and made improvements to the plan per the recommendation of the Planning & Zoning Commission. He explained the owner will sell 50% of the lots to allow for more variations of housing styles, there will be three times the required park space, and walkability within the development.

There being no others to speak for or against ZDC-35-2021, Mayor Hill closed the Public Hearing.

**19. Consider proposed Ordinance approving ZDC-35-2021**

**Action:**

*Council Member Melissa Olson moved to deny ZDC-35-2021. Council Member Doug Barnes seconded, the vote was as follows: Ayes: David Hill, Chuck Beatty, Melissa Olson, and Doug Barnes. Noes: Mary Lou Shipley.*

*The motion carried.*

**20. Consider Development Agreement for ZDC-35-2021**

**Action:**

*Council Member Melissa Olson moved to deny a Development Agreement for ZDC-35-2021. Council Member Chuck Beatty seconded, All Ayes.*

**21. Consider authorization of a year Cooperative Purchasing Agreement, with option to automatic renew yearly, with the City of Hurst**

Mr. Gaertner requested approval of an Interlocal Cooperation Agreement, with option to automatic renew yearly, with the City of Hurst. He explained this will provide an avenue by which each city may purchase goods and services from vendors who are authorized to do business in each city under existing and future contracts. This will allow both municipalities to leverage one another's buying power through the use of their competitively advertised contracts and also provides an option to expedite the overall purchasing process.

**Action:**

*Council Member Doug Barnes moved to approve a Cooperative Purchasing Agreement, with option to automatic renew yearly, with the City of Hurst. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**22. Consider authorizing award for the pavement preservation of various projects with Andale Construction, as part of the cooperative purchase with the City of Hurst**

Mr. Gaertner requested approval authorizing the award of a service contract to Andale Construction, Inc., associated with the high-density mineral bond seal for asphalt pavement preservation in the amount of \$121,697.63. He explained the seal will extend the life of asphalt roadways.

**Action:**

*Council Member Chuck Beatty moved to approve award for the pavement preservation of various projects with Andale Construction, as part of the cooperative purchase with the City of Hurst in the amount of \$121,697.63. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.*

**23. Consider authorization for professional services with O'Brien Engineering for the continuation of engineering design of erosion control measures along Waxahachie Creek**

Mr. Gaertner requested approval authorizing professional services with O'Brien Engineering, Inc. for the continuation of erosion control measures along Waxahachie Creek in the amount of \$190,120.00. He explained erosion along this section of the creek has scoured soil from bridge abutments, piers, storm drain outfalls, and along the northern bank of the creek.

**Action:**

*Council Member Melissa Olson moved to approve professional services with O'Brien Engineering for the continuation of engineering design of erosion control measures along Waxahachie Creek in the amount of \$190,120.00. Council Member Doug Barnes seconded, All Ayes.*

**24. Convene into Executive Session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of City Secretary and Municipal Court Judge as permitted by Texas Government Code, Section 551.074**

Mayor Hill announced at 7:45 p.m. the City Council would convene into Executive Session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of City Secretary and Municipal Court Judge as permitted by Texas Government Code, Section 551.074.

**25. Reconvene and take any necessary action**

The meeting reconvened at 8:28 p.m.

City Manager Michael Scott announced City Secretary Lori Cartwright retired from the City of Waxahachie after 22 years of service and thanked her for her service. He noted a celebration for Ms. Cartwright is forthcoming as her health allows.

**Action:**

*Mayor David Hill moved to appoint Amber Villarreal as City Secretary and authorize City Manager to set compensation. Council Member Chuck Beatty seconded, All Ayes.*

City Secretary Amber Villarreal thanked City Management, City Staff, and City Council for their support.

**26. Comments by Mayor, City Council, City Attorney and City Manager**

Mayor Hill, City Council, and City Attorney congratulated Ms. Villarreal on her appointment.

Assistant City Manager Tommy Ludwig, Assistant City Manager Albert Lawrence, and Communications and Marketing Director Amy Borders congratulated Ms. Villarreal on her appointment.

City Manager Michael Scott congratulated Ms. Villarreal on her appointment. He commended Mr. Gaertner and his staff for all their hard work. He also thanked Finance Director Chad Tustison for his presentation on the city's financial report during the briefing.

**27. Adjourn**

(5a)

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There being no further business, the meeting adjourned at 8:38 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

(5b)

City Council  
May 17, 2021

A briefing session of the Mayor and City Council of the City of Waxahachie, Texas was held in the City Council Conference Room at City Hall, 401 S. Rogers, Waxahachie, Texas, on Monday, May 17, 2021 at 6:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Council Member  
Melissa Olson, Council Member Place 3  
Doug Barnes, Council Member Place 2

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Tommy Ludwig, Assistant City Manager  
Robert Brown, City Attorney  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Conduct a briefing to discuss items for the 7:00 p.m. regular meeting**

City Manager Michael Scott reviewed the following agenda items:

- 5d. Park Board recommended approval of seasonal vendor permit at Lake Waxahachie for What's Sup & Kayaks.
- 5f. Supplemental appropriation in the amount of \$13,450.00 funding the June 5, 2021 runoff election.
- Item 6. Proclamation for National Preservation Month.
- Item 7. Proclamation for National Public Works Week.
- Item 24. and 25. Executive Session to discuss Municipal Court Judge and City Secretary.

Finance Director Chad Tustison reviewed the 2<sup>nd</sup> quarter financial report noting overall the city is in good financial health and in line with the current budget. He reported the city is on budget with property tax collections, sales tax is healthy and out performing budget projections. He noted there was a 43% increase in sales tax over March 2020. WCDC Fund and Hotel Motel Tax Fund are in alignment with the budgeted forecast. He announced the budget process has begun with departmental meetings.

Planning Director Shon Brooks reviewed the following:

- Items 8 and 9. ZDC-52-2021, staff recommended approval.
- Item 10. and 11. ZDC-48-2021, staff recommended approval as presented.
- Items 12.-14. ZDC-44-2021, staff recommended approval with development agreement. Due to previous case history, staff is requesting the applicant to meet all staff comments before a Certificate of Occupancy is issued.
- Items 15.-17. ZDC-49-2021, staff recommended approval with development agreement.

Mayor Pro Tem Mary Lou Shipley requested increasing the size of the caliper of trees used for screening the bay doors.

- Items 18.-20. ZDC-35-2021, Mr. Brooks explained although staff was initially concerned with the high density and recommended denial at the Planning & Zoning Commission meeting, the applicant agreed to four different architectural styles and the Commission recommended approval with development agreement.

Council Member Melissa Olson expressed concerns with the high density and failure to meet the minimum standards for single-family-3 zoning. She noted she was not in favor of alleys that the city will eventually have to maintain.

Director of Public Works and Engineering James Gaertner reviewed Item 21 explaining an approval of an Interlocal Agreement with the City of Hurst will provide an avenue by which each city may purchase goods and services from vendors who are authorized to do business in each city under existing and future contracts. This will allow both municipalities to leverage one another's buying power through the use of their competitively advertised contracts and also provides an option to expedite the overall purchasing process.

Mr. Gaertner reviewed Item 22 requesting approval of a contract with Andale Construction, Inc., through the City of Hurst Interlocal Agreement, associated with high density mineral bond seal for asphalt pavement preservation in the amount of \$121,697.63.

Mr. Gaertner reviewed Item 23 requesting to authorize professional services with O'Brien Engineering, Inc. for the continuation of erosion control measures along Waxahachie Creek in the amount of \$190,120.00. He explained this phase is a continuation of bank stabilization efforts along Waxahachie Creek, which was initiated in the Spring of 2019, adjacent to Matthews Street Bridge.

Mr. Scott reiterated the request is the next phase in erosion control for creek improvements and is not a result of the amphitheater project.

### **3. Adjourn**

There being no further business, the meeting adjourned at 6:46 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

City Council  
June 2, 2021

A Work Session of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Conference Room at City Hall, 401 S. Rogers, Waxahachie, Texas, on Wednesday, June 2, 2021 at 5:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1  
Mary Lou Shipley, Mayor Pro Tem  
Chuck Beatty, Council Member  
Melissa Olson, Council Member Place 3  
Doug Barnes, Council Member Place 2

Others Present: Michael Scott, City Manager  
Albert Lawrence, Assistant City Manager  
Tommy Ludwig, Assistant City Manager  
Amber Villarreal, City Secretary

**1. Call to Order**

Mayor David Hill called the meeting to order.

**2. Discuss Advanced Metering Infrastructure (AMI) Project**

Assistant City Manager Tommy Ludwig introduced Ira Nicodemus with Performance Services.

Mr. Nicodemus reviewed Performance Services noting it is a vendor neutral company guaranteeing savings contracts and design-build public sector projects. He explained the following items:

- Savings Sources
  - Reduced Non-Revenue Water
  - Operational Savings
- Scope of Work
  - Water Meters (AMI)
- Financing
  - Certificates of Obligation

Mr. Nicodemus explained Advanced Metering Infrastructure (AMI) is a network communication system that allows water meters to gather granular usage data and transmit it to the City and customers in near-real time via a cellular or radio-based network, depending on the manufacturer. He noted cities generally choose to upgrade to solid state, electronic meters while implementing their AMI network. Mr. Nicodemus reviewed the following benefits of AMI: near-real time usage information, graphical city and citizen software, tamper and leak alerts, scalable as city grows, near elimination of manual meter reads, and accurate, consistent billing.

Mr. Nicodemus reviewed the scope of the work including replacement of 4,290 (40%) corroded meter boxes and deteriorated concrete boxes. He also noted staff has been diligently working through the development process of this project since July 2020. He explained the savings and process for manufacturer selection noting Badger Meter, a cellular based system, is their recommendation. Mr. Nicodemus noted the annual cost was slightly higher than the radio system

(5c)

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but the cellular benefits were much greater. He reviewed the system components, coverage study, project cost, and project cash flow.

City Council discussed lessening the burden on citizens and Mr. Nicodemus strongly recommended communication with the citizens on the project so they are aware of the process.

Mr. Ludwig requested council direction on whether to move forward with the project and whether to include with the 2021 Certificates of Obligation. He explained if Council would like to move forward with the project there will be formal action taken at the June 7<sup>th</sup> City Council meeting to authorize City Manager to enter into contracts on behalf of this project.

It was the consensus of the City Council to move forward with the project and Council Member Melissa Olson expressed hesitation with including the funding in Certificates of Obligation.

### **3. Adjourn**

There being no further business, the meeting adjourned at 6:05 p.m.

Respectfully submitted,

Amber Villarreal  
City Secretary

(5d)



## Memorandum

To: Honorable Mayor and City Council

From: Michael Scott, City Manager

Thru:

Date: June 1, 2021

Re: City Hall Landscaping

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At their monthly meeting of May 11<sup>th</sup>, the WCDC Board unanimously authorized the expenditure of up to \$30,000 for the renovation of the City Hall landscaping. These funds will be used to remove the current decomposed granite and stone edge along the west and north sides of City Hall and replace with mulch, updated stone edging and new plant materials. The project also includes renovation of the irrigation system and heads to better to serve the new plant design.

Staff is respectfully requesting City Council to approve this project recommendation and associated budget amendment from the WCDC unallocated reserves.

(5e)



May 18, 2021

Ms. Amber Villarreal  
City Secretary  
City of Waxahachie  
P.O. Box 757  
Waxahachie, TX 75168

**SUBJECT: PARADE ROUTE REQUEST**

Dear Amber:

The Waxahachie Chamber of Commerce, Waxahachie Convention & Visitors Bureau, and the Grape Myrtle Festival Committee are making plans for the 23rd Annual July 4<sup>th</sup> parade.

We are requesting permission to host the parade on Saturday, July 3, 2021, 10 a.m., along the following route:

Line up at the 300 block of North College, proceed north on College Street, west on Marvin Street, north on Brown Street, ending at Lumpkins Stadium.

We are also requesting approval of this route from Mr. Juan Paredes of the Texas Department of Transportation.

Sincerely,

Laurie Mosley  
Director Convention & Visitors Bureau  
City of Waxahachie

cc: Mr. Juan Paredes, Texas Dept. of Transportation  
Mr. Michael Scott, City Manager, City of Waxahachie  
Joe Wisner, Asst. Police Chief, City of Waxahachie

Waxahachie Convention & Visitors Bureau  
2000 Civic Center Lane, Waxahachie, TX 75165 • 469-309-4045

(7+8)



## Memorandum

To: Honorable Mayor and City Council  
From: Shon Brooks, Director of Planning  
Thru: Michael Scott, City Manager  
Date: June 1, 2021  
Re: ZDC-60-2021 – Truck Depot and Outdoor Storage

---

On May 28, 2021, the applicant requested to continue case number ZDC-60-2021 from the May 25, 2021 Planning and Zoning Commission meeting agenda and the June 7, 2021 City Council meeting agenda to the July 13, 2021 Planning and Zoning Commission meeting agenda, and the July 19, 2021 City Council meeting agenda.

# Planning & Zoning Department

## Zoning Staff Report



**Case: ZDC-63-2021**

**MEETING DATE(S)**

*Planning & Zoning Commission:* May 25, 2021

*City Council:* June 7, 2021

**ACTION SINCE INITIAL STAFF REPORT**

At the Planning & Zoning Commission meeting, held May 25, 2021, the Commission voted 6-0 to recommend approval of zoning change ZDC-63-2021, subject to staff comments. It should be noted that this request is for a Planned Development (PD) Concept Plan. The second part of the PD process is the Detailed Site Plan. If the Concept Plan ordinance is adopted, then the applicant's Detailed Site Plan will be administratively reviewed and can be approved in accordance with the Concept Plan.

**CAPTION**

Request by Chris Freeman for a Zoning Change from a Planned Development-23-Single Family-1 zoning district to Planned Development-Single Family-1, with Concept Plan, located at 303 Lakeshore Drive (Property ID 171975) - Owner: VIRGINIA K FREEMAN (ZDC-63-2021)

**APPLICANT REQUEST**

The applicant is requesting to rezone the subject property from Planned Development – 23 – Single Family – 1 (PD-23-SF-1) to Planned Development – Single Family – 1 (PD-SF-1) to adjust the front yard building setback requirement to allow for the construction of a carport on the property.

**CASE INFORMATION**

<i>Applicant:</i>	Chris Freeman
<i>Property Owner(s):</i>	Virginia K Freeman
<i>Site Acreage:</i>	0.672 acres
<i>Current Zoning:</i>	PD-23-SF-1
<i>Requested Zoning:</i>	PD-SF-1

**SUBJECT PROPERTY**

<i>General Location:</i>	303 Lakeshore Dr.
<i>Parcel ID Number(s):</i>	171975
<i>Existing Use:</i>	Single Family Residence
<i>Development History:</i>	The subject property is located in the Akin Addition.

*Adjoining Zoning & Uses:*

Direction	Zoning	Current Use
North	PD-23-SF-1	Single Family Residence
East	PD-23-SF-1	Single Family Residence
South	PD-23-SF-1	Single Family Residence
West	PD-23-SF-1	Single Family Residence

*Future Land Use Plan:*

Estate Residential

*Comprehensive Plan:*

This use is representative of traditional, single-family detached dwellings on large lots that are over one acre in size. This type of land is envisioned to primarily be located in the southern portion of the City and in the ETJ area south and west of Waxahachie.

*Thoroughfare Plan:*

This property is accessible via Lakeshore Dr.

*Site Image:*



**PLANNING ANALYSIS**

**Purpose of Request:**

The applicant is requesting to rezone the subject property from Planned Development – 23 – Single Family – 1 (PD-23-SF-1) to Planned Development – Single Family – 1 (PD-SF-1) to allow for the construction of a carport that would encroach into the front yard building setback. Per Sec. 5.07 of the City of Waxahachie Zoning Ordinance, accessory structures shall not be located closer to the front property line than the main building or the front yard setback requirement for the zoning district, whichever is greater.

Proposed Use:

In this instance, the proposed carport will be located closer to the front property line than the main structure. However, the carport will still be approximately 80' from the front property line and approximately 130' from the edge of Lakeshore Dr. The proposed structure will be 22' long by 12' wide (264 sq. feet), and the height proposed structure will be 8'. The applicant is proposing to construct the carport out of wood. The proposed location of the carport is already accessible by the driveway and has been constructed out of concrete.

**PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 9 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

**PON RESPONSES**

Staff has received three (3) responses in support of the proposed zoning change.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial
- Approval, as presented.
- Approval, per the following comments:**
  1. The applicant will need to obtain a building permit form the City of Waxahachie Building Inspections department prior to construction of the proposed structure.

**ATTACHED EXHIBITS**

1. Ordinance
2. PON Responses
3. Exhibit A – Location Map
4. Exhibit B – Concept Plan
5. Exhibit C - Elevation Plan

**APPLICANT REQUIREMENTS**

1. If approved by City Council, within 30 days the applicant shall provide the Planning Department one revised electronic plan set that incorporates all comments.
2. Once the revised plans are provided, staff will verify all outstanding comments were satisfied.
  - a. If comments were not satisfied, then applicant will be notified to make corrections.
  - b. If all comments satisfied, applicant shall provide a set of drawings that incorporate all comments.

**STAFF CONTACT INFORMATION**

*Prepared by:*  
Chris Webb  
Planner  
[cwebb@waxahachie.com](mailto:cwebb@waxahachie.com)

*Reviewed by:*  
Shon Brooks, AICP  
Director of Planning  
[sbrooks@waxahachie.com](mailto:sbrooks@waxahachie.com)

(9)

PropertyID	Owner's Name	Acreage	Legal Description	Owner's Address	Owner's City	Owner's State	Owner's ZIP	Physical Address
171998	NOLTE HAROLD E JR & LYNN L	0.518	LOT 8B AKIN .518 AC	2028 WINDSOR WAY	WAXAHACHIE	TX	75165	300 LAKE SHORE DR WAXAHACHIE TX 75165
171975	FREEMAN ROY D & VIRGINIA K L/E JOHN C FREEMAN	0.672	LOT 8B & 8C AKIN .672 AC	303 LAKESHORE DR	WAXAHACHIE	TX	75165	303 LAKE SHORE DR WAXAHACHIE TX 75165
171978	THOMPSON KIMBERLY S	0.459	LOT 7A AKIN .459 AC	301 LAKESHORE DR	WAXAHACHIE	TX	75165	301 LAKE SHORE DR WAXAHACHIE TX 75165
171978	LINDOP BRIAN A & KECIA R	0.48	LOT 9A AKIN .48 AC	307 LAKESHORE DR	WAXAHACHIE	TX	75165	307 LAKE SHORE DR WAXAHACHIE TX 75165
171982	CRADDOCK DAN L & MINX PATRICIA	0.726	LOT PT 6 AKIN .726 AC	225 LAKESHORE DR	WAXAHACHIE	TX	75165	225 LAKE SHORE DR WAXAHACHIE TX 75165
171989	MERRILL PATRICK HENRY	0.95	LOT 7 AKIN .95 AC	227 LAKESHORE DR	WAXAHACHIE	TX	75165	227 LAKE SHORE DR WAXAHACHIE TX 75165
174601	WILSON CHARLEY JR	0.769	LOT 1R BLK 1 LAKEBREEZE EST .769 AC	300 LAKESHORE DR	WAXAHACHIE	TX	75165	300 LAKE SHORE DR WAXAHACHIE TX 75165
174602	TAYLOR MICHAEL L & THERESA K	0.803	LOT 2R BLK 1 LAKEBREEZE EST .803 AC	302 LAKESHORE DR	WAXAHACHIE	TX	75165	302 LAKE SHORE DR WAXAHACHIE TX 75165
174603	MARCHBANKS JOHN ROY JR	0.574	3 1 LAKEBREEZE EST 0.574 ACRES	PO BOX 472	WAXAHACHIE	TX	75168	304 LAKE SHORE DR WAXAHACHIE TX 75165

(9)



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: **ZDC-63-2021**

RECEIVED MAY 12 2021

**THOMPSON KIMBERLY S  
301 LAKESHORE DR  
WAXAHACHIE, TX 75165**

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, May 25, 2021 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, June 7, 2021 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Chris Freeman for a Zoning Change from a Planned Development-23-Single Family-1 zoning district to Planned Development-Single Family-1, with Concept Plan, located at 303 Lakeshore Drive (Property ID 171975) - Owner: VIRGINIA K FREEMAN (ZDC-63-2021)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: **ZDC-63-2021**

City Reference: 171976

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Tuesday, May 18, 2021** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

SUPPORT

OPPOSE

Comments:

Kimberly S Thompson  
Signature

5-9-21  
Date

Kimberly S Thompson  
Printed Name and Title

301 Lakeshore Dr.  
Address  
Waxahachie, TX  
75165

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

(9)



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: ZDC-63-2021

RECEIVED MAY 12 2021

MERRILL PATRICK HENRY  
227 LAKESHORE DR  
WAXAHACHIE, TX 75165

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, May 25, 2021 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, June 7, 2021 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Chris Freeman for a Zoning Change from a Planned Development-23-Single Family-1 zoning district to Planned Development-Single Family-1, with Concept Plan, located at 303 Lakeshore Drive (Property ID 171975) - Owner: VIRGINIA K FREEMAN (ZDC-63-2021)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-63-2021

City Reference: 171983

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Tuesday, May 18, 2021** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

SUPPORT

OPPOSE

Comments:

I STRONGLY SUPPORT MR FREEMAN'S REQUEST.  
HE AND FAMILY ALWAYS TAKE PRIDE IN THEIR BEAUTIFUL YARD

Pat Merrill  
Signature

5/10/21  
Date

PAT MERRILL  
Printed Name and Title

227 LAKESHORE DR  
WAXAH  
Address

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*



(9)

City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: ZDC-63-2021

**NOLTE HAROLD E JR & LYNN L**  
2008 WINDSONG WAY  
DODGE CITY, KS 67801

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, May 25, 2021 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, June 7, 2021 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Chris Freeman for a Zoning Change from a Planned Development-23-Single Family-1 zoning district to Planned Development-Single Family-1, with Concept Plan, located at 303 Lakeshore Drive (Property ID 171975) - Owner: VIRGINIA K FREEMAN (ZDC-63-2021)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-63-2021

City Reference: 171969

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on *Tuesday, May 18, 2021* to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

SUPPORT

OPPOSE

Comments:

\_\_\_\_\_

Lynn Nolte  
Signature

5/8/21  
Date

Lynn Nolte  
Printed Name and Title

309 Lakeshore Dr. Waxahachie  
Address  
TX 75165

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM PLANNED DEVELOPMENT-23-SINGLE FAMILY-1 (PD-23-SF-1) TO PLANNED DEVELOPMENT-SINGLE FAMILY-1 (PD-SF-1), WITH CONCEPT PLAN LOCATED AT 303 LAKESHORE DRIVE IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.672 ACRES KNOWN AS A PORTION OF PROPERTY ID 171975 OF THE AKIN SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, a proper application for a PD, with Concept Plan has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-63-2021. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change approval of the subject property from PD-23-SF-1 to PD-SF-1, with Concept Plan; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said zoning amendment;

**NOW, THEREFORE**, this property is rezoned from PD-23-SF-1 to PD-SF-1, with Concept Plan in order to facilitate development of the subject property in a manner that allows a carport to be constructed in front of the house on the following property: a portion of Property ID 171975 of the Akin subdivision, which is shown on Exhibit A, in accordance with the Concept Plan provisions attached as Exhibit B and the conceptual elevation plan attached as Exhibit C.

**PLANNED DEVELOPMENT**

**Purpose and Intent**

The purpose of this planned development is to rezone the subject property from Planned Development-23-Single Family-1 (PD-23-SF-1) to Planned Development-Single Family-1 (PD-SF-1), to allow for the construction of a carport that would be constructed in front of the front building plane of the existing primary structure. Per Section 5.07, Accessory Structures and Accessory Uses, accessory structures shall not be located closer to the front property line than the main building or the front yard setback requirement for that zoning district, whichever is greater. Per this ordinance, a carport will be allowed to be constructed closer to the front property line than the primary structure. However, this allowance will only be for the

construction of one additional carport. Any proposed vertical construction in addition to the carport will require the necessary City approval. All other regulations specified within PD-23-SF-1 shall remain as part of this Planned Development. Anything not specified within this PD ordinance or PD-23-SF-1 shall regulated by standard SF-1 requirements.

Development Standards

All development on land located within the boundaries of this Planned Development District shall adhere to the rules and regulations set forth in this ordinance. The locations of the carport shall substantially conform to the locations shown on the approved Site Plan packet (Exhibit B).

Development Regulations

1. The carport will be allowed to be constructed in front of the primary structure's front building plane. Any additional construction or improvement, in front of the primary structure shall require City Council approval.
2. All requirements specified within PD-23-SF-1 shall remain in place.
3. Any requirements not specified within PD-23-SF-1 or this PD shall be regulated by the base SF-1 zoning.
4. The applicant will need to obtain a building permit form the City of Waxahachie Building Inspections department prior to construction of the proposed structure.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED, AND ADOPTED** on this 7th day of June, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary



**Exhibit A - Location Map**

0 150 300 600 900 1,200 Feet

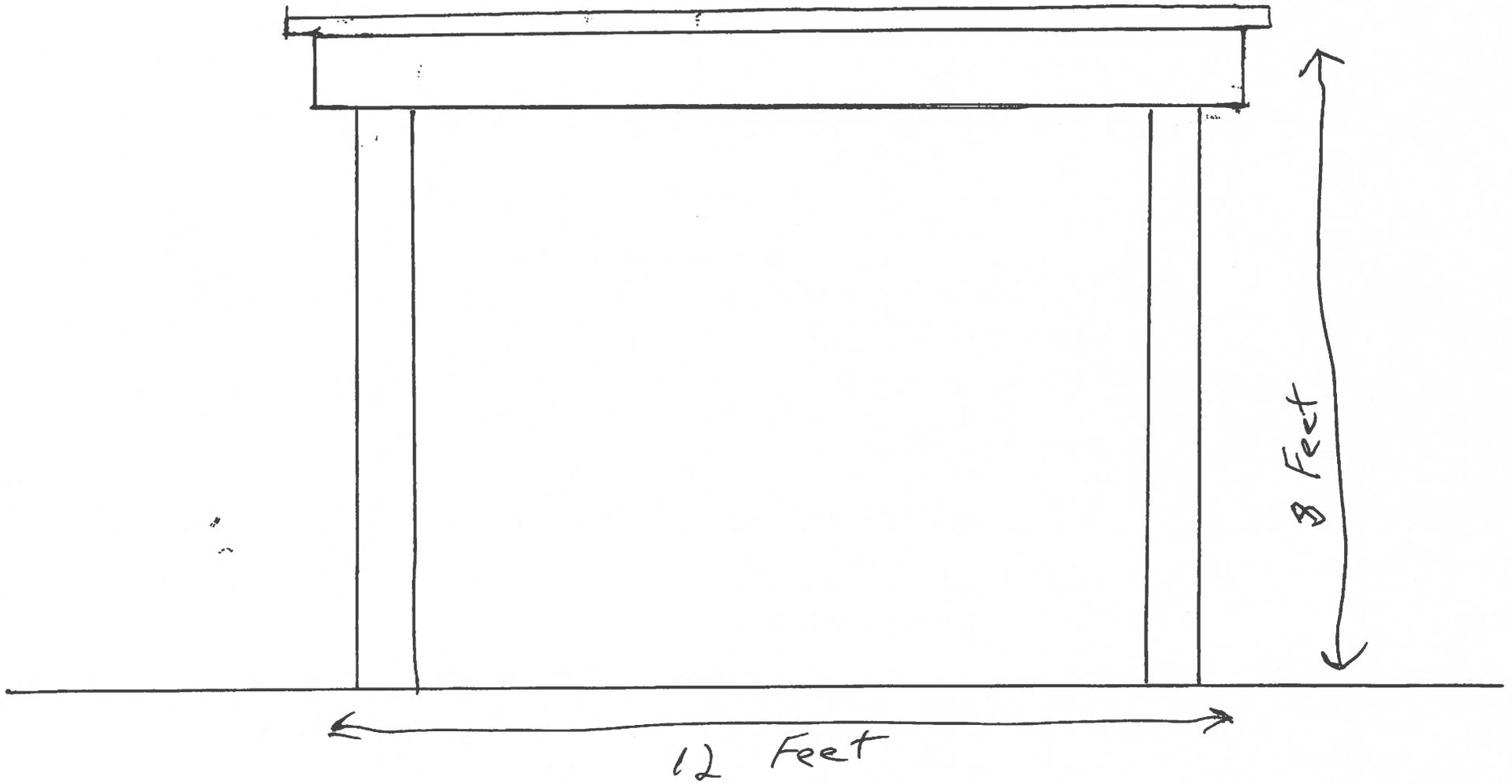
ZDC-63-2021 (PD)  
City Limits



**Exhibit B - Concept Plan**



Front View



(01)

Exhibit C - Elevation Plan

Side View

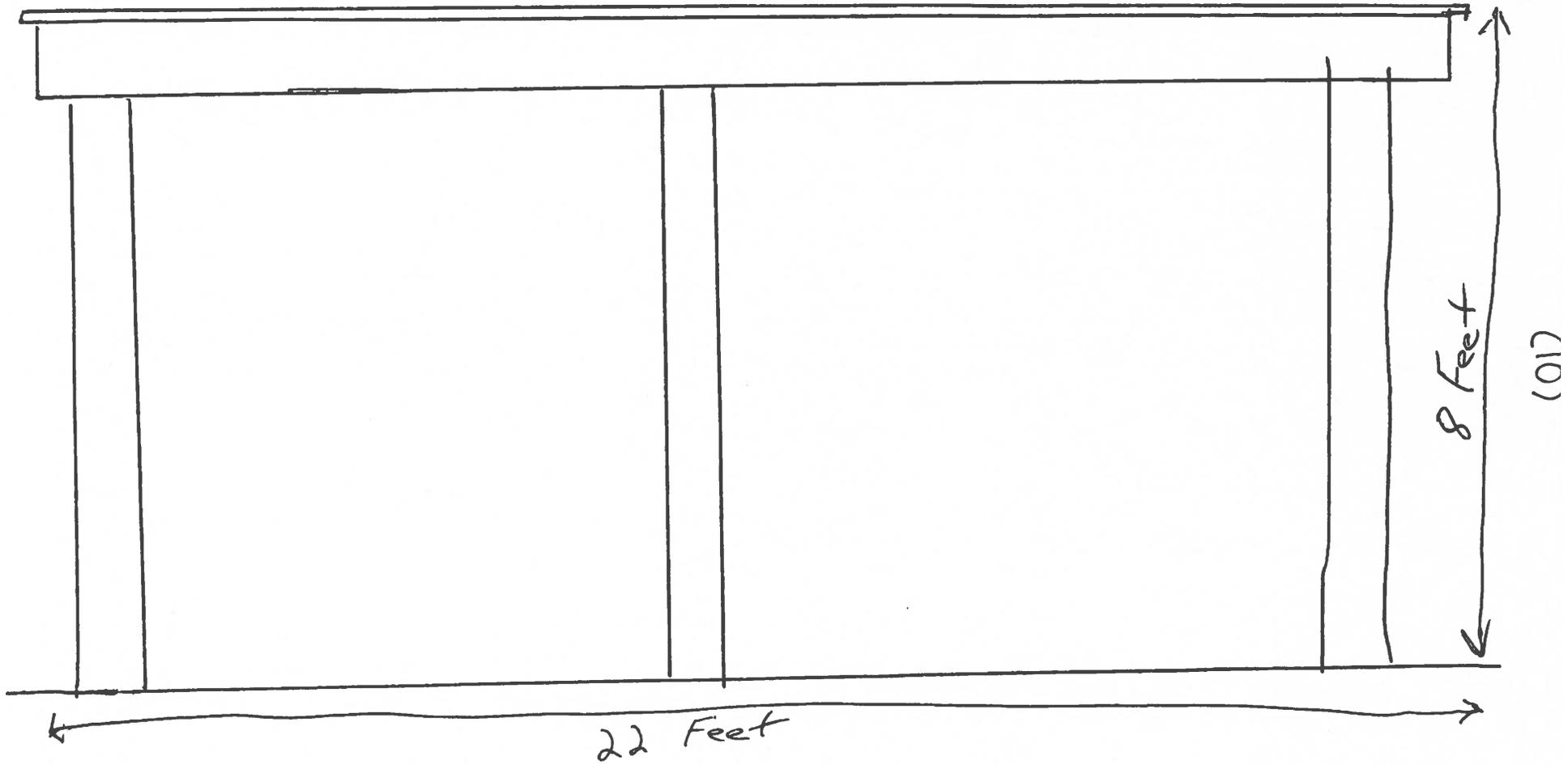


Exhibit C - Elevation Plan

# Planning & Zoning Department

## Zoning Staff Report



**Case: ZDC-65-2021**

**MEETING DATE(S)**

*Planning & Zoning Commission:* May 25, 2021

*City Council:* June 7, 2021

**ACTION SINCE INITIAL STAFF REPORT**

At the Planning & Zoning Commission meeting, held May 25, 2021, the Commission voted 6-0 to recommend approval of zoning change ZDC-65-2021, subject to staff comments.

**CAPTION**

Request by Marsha Rowan for a Specific Use Permit (SUP) for **Accessory Building (Residential), Greater than or Equal to 700 SF** use within a Single-Family Residential-1 zoning district located at 2341 Marshall Rd (Property ID 203836) - Owner: JOHN E & MARSHA L ROWAN (ZDC-65-2021)

**APPLICANT REQUEST**

The applicant is requesting a Specific Use Permit (SUP) to allow for the construction of an accessory building greater than 700 sq. feet on their property.

**CASE INFORMATION**

*Applicant:* John Rowan  
*Property Owner(s):* John and Marsha Rowan  
*Site Acreage:* 7.244 acres  
*Current Zoning:* Single Family – 1 (SF-1)  
*Requested Zoning:* SF-1 with SUP

**SUBJECT PROPERTY**

*General Location:* 2341 Marshall Rd  
*Parcel ID Number(s):* 203836  
*Existing Use:* Single Family Residence  
*Development History:* The subject property was platted as part of Marshall Road Estates.

*Adjoining Zoning & Uses:*

Direction	Zoning	Current Use
North	SF-1	Undeveloped
East	SF-1	Single Family Residence
South	SF-1	Single Family Residence
West	SF-1	Single Family Residence

*Future Land Use Plan:*

Low Density Residential

*Comprehensive Plan:*

This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie's current development is of a similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

*Thoroughfare Plan:*

This property is accessible via Marshall Rd.

*Site Image:*



**PLANNING ANALYSIS**

**Purpose of Request:**

The applicant is requesting to construct an accessory structure in excess of 700 sq. feet (720 sq. feet) to in the side yard of a single family property located at 2341 Marshall Rd. Per ECAD, the primary structure located on the subject property is 1,368 sq. feet in area. Per the City of Waxahachie Zoning Ordinance, an accessory structure that is equal to or greater than 700 sq. feet requires a SUP to be approved by City Council.

Proposed Use:

The applicant is requesting approval to construct a 30' x 24' x 12' tall accessory structure. The applicant is proposing to construct the structure out of metal, and intends to use it as a shed for storage. During site visits, staff noticed that there are other accessory structures in the area.

Subject to the approval of this application, an approved building permit will be required prior to the commencement of construction. As part of the building permit review process, the Building Inspections department will ensure construction complies with all regulations.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial
- Approval, as presented.
- Approval, per the following comments:**
  1. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections department prior to construction of the proposed structure.
  2. The structure shall not be used as a dwelling.

ATTACHED EXHIBITS

1. Ordinance
2. Exhibit A – Location Exhibit
3. Exhibit B – Site Plan Exhibit

APPLICANT REQUIREMENTS

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

STAFF CONTACT INFORMATION

*Prepared by:*  
Chris Webb  
Planner  
[cwebb@waxahachie.com](mailto:cwebb@waxahachie.com)

*Reviewed by:*  
Shon Brooks, AICP  
Director of Planning  
[sbrooks@waxahachie.com](mailto:sbrooks@waxahachie.com)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A +700 SQUARE FOOT ACCESSORY STRUCTURE USE WITHIN A SINGLE FAMILY-1 (SF-1) ZONING DISTRICT, LOCATED AT 2341 MARSHALL RD, BEING PROPERTY ID 203836, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 6 IN THE MARSHALL ROAD ESTATES SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, the described property is classified in said ordinance and any amendments thereto as SF-1; and

**WHEREAS**, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-65-2021. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

**NOW, THEREFORE**, this property is rezoned from SF-1 to SF-1, with an SUP in order to permit an accessory structure exceeding 700 square feet on the following property: Lot 6 of the Marshall Road Estates subdivision, which is shown on Exhibit A, in accordance with the Site Layout Plan attached as Exhibit B.

**SPECIFIC USE PERMIT**

**Purpose and Intent**

The purpose of this Ordinance is to provide the appropriate restrictions and development controls that ensure this Specific Use Permit is compatible with the surrounding development and zoning and to also ensure that the development complies with the City’s Comprehensive Plan and Zoning Ordinance.

1. The site plan shall conform as approved by the City Council under case number ZDC-12-2021.
2. The development shall adhere to the City Council approved in Exhibit A- Location Exhibit,

Exhibit B – Site Layout Plan, and Exhibit C – Elevation/Façade Rendering.

3. The applicant will need to obtain a building permit from the City of Waxahachie Building Inspections department prior to construction of the proposed structure.
4. The accessory structure shall not be used as a dwelling.
5. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.
6. City Council reserves the right to review the Specific Use Permit at any point in the future, if needed.

Compliance

1. It shall be unlawful for the owner, manager, or any person in charge of a business or other establishment to violate the conditions imposed by the City Council when a Specific Use Permit is granted, and the violation of those conditions could result in a citation being issued by the appropriate enforcement officers of the City of Waxahachie.
2. Furthermore, by this Ordinance, if the premises covered by this Specific Use Permit is vacated and/or ceases to operate for a period exceeding six months (6 months), a new Specific Use Permit shall be required to reestablish the use.
3. The Certificate of Occupancy shall note the existence of this Specific Use Permit by its number and title.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED AND ADOPTED** on this 7<sup>th</sup> day of June, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary



**Exhibit A - Location Map**

0 300 600 1,200 1,800 2,400 Feet

ZDC-65-2021 (SUP)  
City Limits

(127)

**GENERAL NOTES**

THE STRUCTURE UNDER THIS CONTRACT HAS BEEN DESIGNED AND DETAILED FOR THE LOADS AND CONDITIONS STIPULATED IN THE CONTRACT AND SHOWN ON THESE DRAWINGS. ANY ALTERATIONS TO THE STRUCTURAL SYSTEM, REMOVAL OF ANY COMPONENT PARTS OR THE ADDITION OF OTHER CONSTRUCTION MATERIALS OR LOADS MUST BE DONE UNDER THE ADVICE AND DIRECTION OF A REGISTERED ARCHITECT, CIVIL OR STRUCTURAL ENGINEER. THE BUILDING MANUFACTURER WILL ASSUME NO RESPONSIBILITY FOR ANY LOADS NOT INDICATED.

THIS METAL BUILDING IS DESIGNED WITH THE BUILDING MANUFACTURER'S STANDARD PRACTICES WHICH ARE BASED ON PERTINENT PROCEDURES AND RECOMMENDATIONS OF THE FOLLOWING ORGANIZATIONS AND CODES AS APPLICABLE.

1. AMERICAN INSTITUTE OF STEEL CONSTRUCTION, SPECIFICATION FOR THE DESIGN, FABRICATION AND ERECTION OF STRUCTURAL STEEL FOR BUILDINGS
2. AMERICAN IRON AND STEEL INSTITUTE, SPECIFICATION FOR THE DESIGN OF COLD FORMED STEEL STRUCTURAL MEMBERS
3. AMERICAN WELDING SOCIETY, STRUCTURAL WELDING CODE: AWS D11
4. METAL BUILDING MANUFACTURER'S ASSOCIATION, LOW RISE BUILDING SYSTEMS MANUAL
5. INTERNATIONAL CODE COUNCIL, INTERNATIONAL BUILDING CODE

ALL WELDING ELECTRODES SHALL BE AZ33 CLASS E-70 SERIES, MINIMUM WELDS ON PRIMARY STRUCTURAL MEMBERS SHALL BE 3/16 FILLET WELDS UNLESS SHOWN OTHERWISE ON SHOP FABRICATION DRAWINGS.

ALL STRUCTURAL STEEL SHALL BE SHOP FABRICATED UNLESS NOTED.

MATERIAL PROPERTIES OF STEEL PLATE AND SHEET USED IN THE FABRICATION OF PRIMARY RIGID FRAMES AND ALL PRIMARY STRUCTURAL FRAMING MEMBERS (OTHER THAN COLD-FORMED SECTIONS) CONFORM TO THE CHEMISTRY REQUIREMENTS OF ASTM-A36 WITH MINIMUM YIELD POINT OF 50,000 P.S.I. OR 36,000 P.S.I. AS REQUIRED BY DESIGN.

MATERIAL PROPERTIES OF COLD FORMED LIGHT GAGE STEEL MEMBERS CONFORM TO THE REQUIREMENTS OF A.S.T.M. A-570, GRADE 55, WITH A MINIMUM YIELD POINT OF 57,000 P.S.I.

ALL PIPE SHALL BE MINIMUM SCHEDULE 40 AND 36,000 P.S.I. UNLESS OTHERWISE NOTED.

CABLE BRACING TO BE "BRACE GRIP" SYSTEM AS MANUFACTURED BY FLORIDA WIRE AND CABLE COMPANY, EHS CABLE OR EQUAL, BRACING IN FLUSH GIRT SIDEWALL / ENDWALL BAYS MAY REQUIRE THE FIELD CUTTING OF SLOTS SO THAT CABLE IS INSTALLED WITHIN GIRTS.

STRUCTURAL JOINTS WITH A.S.T.M. A-325 HIGH STRENGTH BOLTS, WHERE INDICATED ON THE DRAWINGS, SHALL BE ASSEMBLED AND THE FASTENERS TIGHTENED IN ACCORDANCE WITH "SNUG-TIGHT" METHOD AS DESCRIBED IN THE SPECIFICATION FOR STRUCTURAL JOINTS USING A.S.T.M. A-325 OR A-490 BOLTS (JUNE 30, 2004 EDITION), UNLESS OTHERWISE NOTED. ALL JOINTS WILL BE ASSEMBLED WITHOUT WASHERS UNLESS OTHERWISE NOTED.

ALL STEEL MEMBERS EXCEPT BOLTS AND FASTENERS SHALL RECEIVE ONE SHOP COAT OF IRON OXIDE CORROSION INHIBITIVE PRIMER.

SHOP AND FIELD INSPECTIONS AND ASSOCIATED FEES ARE THE RESPONSIBILITY OF THE CONTRACTOR.

UNLESS OTHERWISE NOTED, ALL SCREWED-DOWN ROOF AND WALL PANELS ARE TO BE INSTALLED USING A MINIMUM OF ONE SCREW PER FOOT AT EACH PURLIN / GIRT AND ONE STITCH SCREW EVERY 24 INCH ALONG THE PANEL LAPS AND ENDS AS DESCRIBED IN THE INSTALLATION MANUAL. SINCE BEARING FRAME ENDWALLS DEPEND ON DIAPHRAGM STRENGTH TO PROVIDE LATERAL SUPPORT, THE NUMBER AND SIZE OF FIELD INSTALLED OPENINGS IN THESE WALLS MAY BE LIMITED. SEE THE APPLICABLE WALL DRAWING OR CONTACT YOUR SALES REPRESENTATIVE FOR MORE INFORMATION.

**BUILDING DESCRIPTION**

BLDG	WIDTH	LENGTH	HEIGHT		ROOF PITCH	
			BACK	FRONT	BACK	FRONT
1	24'-0"	30'-0"	12'-0"	12'-0"	3.00:12	3.00:12

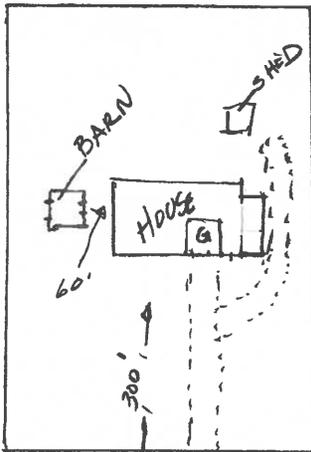
**INSTALLATION NOTE**

For videos and manuals to help you with the erection of your building, visit our website: [www.muellerinc.com](http://www.muellerinc.com)

Go to the "Downloads" tab near the top of the page and click on "Videos" or "Manuals". These will help you with topics from site planning and safety through erection and installation of accessories.

**WARRANTY NOTE**

ENGINEERING CALCULATIONS AND DESIGN ARE BASED ON PRE-FABRICATED METAL BUILDINGS AS SHOWN IN THESE DRAWINGS AND SUPPLIED BY MUELLER, INC. AND ANY FIELD FABRICATION AND/OR MODIFICATION OF SAID BUILDINGS IS THE SOLE RESPONSIBILITY OF THE CUSTOMER AND MAY VOID ALL ENGINEERING AND WARRANTY.



**Exhibit B - Site Plan**

**Legend**

PART MARK = ◁ Part001

**PRODUCT CERTIFICATIONS**

THIS IS TO CERTIFY THE ABOVE REFERENCED BUILDING HAS BEEN DESIGNED IN ACCORDANCE WITH A.I.S.C. AND A.I.S.I. DESIGN PROCEDURES AND GOOD ENGINEERING PRACTICE AND FOR THE FOLLOWING LOADS. ALL WELDING IS PER THE A.W.S. D11 & D13 CODES. LOADS ARE APPLIED IN ACCORDANCE WITH THE M.B.M.A. LOW RISE BUILDING SYSTEMS MANUAL AND THE DESIGN SATISFIES THE REQUIREMENTS OF IBC'15.

DEAD LOAD: METAL BLDG STRUCTURE ONLY AS FURNISHED BY MUELLER, INC.

LIVE LOAD (ROOF): 20.0 (psf) GROUND SNOW LOAD:  $P_g =$  5.0 (psf)

LIVE LOAD REDUCED PER CODE? YES ROOF SNOW LOAD (Flat):  $P_f =$  5.0 (psf)

WIND EXPOSURE: C  $C_e =$  1.0  $I_s =$  1.0

RISK CATEGORY: II - Normal WIND LOAD:  $V_{ULT} =$  115.0 MPH

$V_{ASD} =$  90.0 MPH

**SEISMIC LOADS**

$I_e =$  1.0 SEISMIC DESIGN CATEGORY: B

$S_s =$  0.085  $S_{1s} =$  0.091 SITE CLASS: D

$S_1 =$  0.048  $S_{11} =$  0.077 ANALYSIS PROCEDURE: Equivalent Lateral Force Method

**BUILDING-SPECIFIC LOADING INFORMATION**

BLDG	Collateral Load (psf)	C <sub>1</sub>	SNOW C <sub>s</sub>	Roof (Sloped) P <sub>s</sub> (psf)	WIND Enclosure	GC <sub>f</sub>	R	SEISMIC		
								C <sub>s</sub>	V	C <sub>2</sub>
1	1.0	1.0	1.0	5.00	Partially Enclosed	±0.55	3.25	0.028	0.15	

THIS LETTER OF CERTIFICATION APPLIES SOLELY TO THIS BUILDING AND ITS COMPONENT PARTS AS FURNISHED AND/OR FABRICATED BY MUELLER, INC. AND SPECIFICALLY EXCLUDES FOUNDATION, MASONRY OR GENERAL CONTRACT WORK INCLUDING ERECTION CERTIFICATION. THE DESIGN AND CERTIFICATION FOR THIS PROJECT IS IN ACCORDANCE WITH THE PROVISIONS AND LOADS SPECIFIED ON THE CONTRACT DOCUMENTS. THE CUSTOMER IS TO INSURE ALL LOADS ARE IN COMPLIANCE WITH LOCAL REGULATORY AUTHORITIES. ALL COMPONENTS AND PARTS MUST WITHSTAND THE WIND LOAD AND DESIGN SPECIFICATIONS MENTIONED ABOVE.

**PANEL ACCESSORY INFORMATION**

	PANEL TYPE	PANEL COLOR	TRIM COLOR
WALL SHEETS	126_R	LGR Lt Gray	CHR Charcoal Gray
ROOF SHEETS	126_PBR	GP Galvalume Plus	CHR Charcoal Gray

WARNING: IN NO CASE SHOULD GALVALUME STEEL PANELS BE USED IN CONJUNCTION WITH LEAD OR COPPER. BOTH LEAD AND COPPER HAVE HARMFUL CORROSION EFFECTS ON THE ALUMINUM ZINC ALLOY COATING WHEN THEY ARE USED IN CONTACT WITH GALVALUME STEEL PANELS. EVEN RUN-OFF FROM COPPER FLASHING, WIRING OR TUBING ONTO GALVALUME SHOULD BE AVOIDED.

**DEFLECTION LIMIT TABLE**

EW Column	L / 110
EW Rafter (Live)	L / 180
EW Rafter (Wind)	L / 180
Wall Girt	L / 90
Roof Purlin (Live)	L / 150
Roof Purlin (Wind)	L / 150
Rigid Frame (Hertz)	H / 80
Rigid Frame (Vert)	L / 180
Wind Framing	H / 60

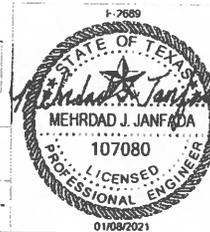
**DRAWING INDEX**

PAGE	DESCRIPTION
C1	COVERSHEET
AB1	ANCHOR BOLT PLAN
AB2	ANCHOR BOLT DETAILS
AB3	REACTIONS
E1	ROOF PLAN
E2	WALL ELEVATION AT GRID E
E3	WALL ELEVATION AT GRID A
E4	WALL ELEVATION AT GRID 1
E5	WALL ELEVATION AT GRID 3
E6	FRAME ELEVATION ON GRID 1
E7	FRAME ELEVATION ON GRID 2
E8	FRAME ELEVATION ON GRID 3
E101	ERECTION DETAILS
E102	ERECTION DETAILS
E103	ERECTION DETAILS
S101	SHEETING DETAILS
T101	TRIM DETAILS
T102	TRIM DETAILS

**FOR CONSTRUCTION**

For help with installation of your building, please visit our website: [www.muellerinc.com/downloads/download-manuals](http://www.muellerinc.com/downloads/download-manuals)

NOTE: THE UNDERSIGNED ENGINEER IS NOT THE REGISTERED DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE NOR "ENGINEER OF RECORD" FOR THE OVERALL PROJECT.



0	01/08/2021	For Construction
REV	DATE	DESCRIPTION
<b>MUELLER, INC.</b> STEEL BUILDING SYSTEMS & COMPONENTS 1913 Hutchins Ave. Bullinger, TX 76821 (800) 827-1067		
DRAWING DESCRIPTION: <b>COVERSHEET</b>		
SALESMAN: Clayton Major	BUILDING DESCRIPTION: 24' W X 30'-0" X 12'-0"	ROOF BEIGH: 3.00:12
CUSTOMER NAME: John Rowan	ADDRESS: Waxahachie, TX 75185	SCALE: NONE
DATE: 01/08/2021	REV: 0	DWG # 6025092
01/08/2021		C1

# Planning & Zoning Department

## Zoning Staff Report

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**Case: ZDC-59-2021**

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### MEETING DATE(S)

*Planning & Zoning Commission:* May 25, 2021

*City Council:* June 7, 2021

### ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held May 25, 2021, the Commission voted 6-0 to recommend denial of case number ZDC-59-2021.

- The Planning and Zoning Commission voted to deny the applicant's request based on the applicant not wanting to provide a sidewalk for the property. As noted in the "Applicant Request" section of this report, the applicant is now requesting to propose a 4ft. sidewalk along the front of the property.

### CAPTION

**Public Hearing** on a request by Lenvill Phipps for a **Zoning Change** from a Commercial zoning district to Planned Development-Commercial, located at 1604 E. Main Street, (Property ID 195689) - Owner: 6<sup>TH</sup> STREET MIDLOTHIAN, LLC (ZDC-59-2021)

### APPLICANT REQUEST

The applicant is requesting approval of a Planned Development (variance request) from City Council to construct a 4ft. sidewalk, opposed to the 6ft. sidewalk requirement, along the front of his business (1604 E. Main St.).

### CASE INFORMATION

*Applicant:* Lenvill Phipps, 6<sup>th</sup> Street Midlothian, LLC.

*Property Owner(s):* Lenvill Phipps, 6th Street Midlothian, LLC.

*Site Acreage:* 0.541 acres

*Current Zoning:* Commercial

*Requested Zoning:* Planned Development-Commercial

### SUBJECT PROPERTY

*General Location:* 1604 E. Main St.

*Parcel ID Number(s):* 195689

*Existing Use:* Currently Undeveloped

*Development History:* N/A

**Table 1: Adjoining Zoning & Uses**

Direction	Zoning	Current Use
North	LI1	Multi-Tenant Commercial/Industrial Building(s)
East	SF3	Undeveloped Land
South	LI1	Undeveloped Land
West	LI1	Undeveloped Land

*Future Land Use Plan:* Mixed Use Non-Residential

*Comprehensive Plan:* Mixed Use Non-Residential: Similar to Mixed Use Residential, land designated with this land use are intended for a mixture of nonresidential and residential uses. The only difference would be that Mixed Use Nonresidential has a greater percentage of nonresidential components than residential. Specifically, 80 percent of the acreage or square footage of proposed developments are required to be nonresidential with the remaining 20 percent of the acreage or square footage allocated to residential. Southlake’s Town Center is an example of Nonresidential Mixed Use.

*Thoroughfare Plan:* The subject property is accessible via E. Main St.

*Site Image:*



**PLANNING ANALYSIS**

Purpose of Request:

The applicant is requesting approval of a Planned Development (variance request) from City Council to construct a 4ft. sidewalk, opposed to the 6ft. sidewalk requirement, along the front of the property (1604 E. Main St.). The applicant intends to construct a 6,000 sq. ft. building on the subject property. Proposed use(s) for the site are currently unknown. Per the City of Waxahachie Zoning Ordinance, a Planned Development request must be reviewed by City Council.

Proposed Use/Analysis:

Per Section 3.5 (a) (Sidewalks) of the City of Waxahachie Subdivision Ordinance (Ord. 3151), "sidewalks not less than six feet (6') shall be provided within all non-residential developments." The applicant is requesting approval of a Planned Development (variance request) from City Council to construct a 4ft. sidewalk, opposed to the 6ft. sidewalk requirement, along the front of his business (1604 E. Main St.). The applicant is requesting to construct a 4ft. sidewalk so that the sidewalk will not interfere with the surrounding utility poles along the front of the property. However, after further review, staff determined that it would be possible for the applicant to construct a 5ft. sidewalk to be compliant with ADA (American with Disabilities Act) standards, while also avoiding surrounding utility poles. Due to this, staff suggests that the applicant construct a minimum 5ft. sidewalk along the front of the property.

**STAFF CONCERNS**

Sidewalk – ADA Compliance

Staff suggests that the applicant construct a minimum 5ft. sidewalk to meet the minimum requirement(s) of the (A)merican with (D)isabilities (A)ct.

**APPLICANT RESPONSE TO CONCERNS**

1. The applicant understands staff concerns and intends to state their reasoning at the June 7, 2021 City Council meeting.

**PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 9 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

**PUBLIC OWNER NOTIFICATION RESPONSES**

Staff received one (1) letter of support for the proposed request.

**RECOMMENDATION**

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial**
  - 1) Staff would be agreeable to a sidewalk variance at this location, however, the applicant must meet the minimum standards of ADA (5ft.)
- Approval, as presented.
- Approval, per the following comments:

**ATTACHED EXHIBITS**

1. Ordinance
2. Property Owner Notification Responses
3. Location Exhibit
4. Site Photo

**APPLICANT REQUIREMENTS**

1. If approved by City Council, within 30 days the applicant shall provide the Planning Department one revised electronic plan set that incorporates all comments.
2. Once the revised plans are provided, staff will verify all outstanding comments were satisfied.
  - a. If comments were not satisfied, then applicant will be notified to make corrections.
  - b. If all comments satisfied, applicant shall provide a set of drawings that incorporate all comments.

**STAFF CONTACT INFORMATION**

*Prepared by:*  
Colby Collins  
Senior Planner  
[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

*Reviewed by:*  
Shon Brooks, AICP  
Director of Planning  
[sbrooks@waxahachie.com](mailto:sbrooks@waxahachie.com)

(13)

PropertyID	Owner's Name	Acres	Legal Description	Owner's Address	Owner's City	Owner's State	Owner's ZIP	Physical Address
182087	ARLINGTON BANK & TRUST %PAUL MC GINNIS	0.265	272 S M DURRETT 0.265 ACRES	PO BOX 528	MAYPEARL	TX	78064	1518 E MAIN ST WAXAHACHIE TX 75165
182124	LEE TURNER MINISTRIES-LIFE OF VICTORY GLOBAL OUTREACH CENTER	0.1	272 S M DURRETT 0.1 ACRES	PO BOX 135	WAXAHACHIE	TX	75168	1521 MLK JR BLVD WAXAHACHIE TX 75165
193998	GREATER NEW MT ZION MISSIONARY BAPTIST CHURCH	1.03	272 S M DURRETT 1.03 ACRES	PO BOX 135	WAXAHACHIE	TX	75168	DR MARTIN LUTHER KING JR BLVD WAXAHACHIE TX 75165
195684	AMERICASE	0.541	B DAVIS YOUNG ADDN 0.541 ACRES	6200 N INTERSTATE -35E	WAXAHACHIE	TX	75165	1606 HIGHWAY 287 WAXAHACHIE TX 75165
195690	6TH STREET MIDLOTHIAN LLC	0.541	LOT C DAVIS YOUNG ADDN 0.541 AC	213 HIDDEN MEADOW CIR	MIDLOTHIAN	TX	78065	1604 E MAIN ST WAXAHACHIE TX 75165
195690	FB POTTER HOLDINGS LLC	0.544	LOT D DAVIS YOUNG ADDN 0.544 AC	1802 E MAIN ST STE 100	WAXAHACHIE	TX	75165	1602 E MAIN ST WAXAHACHIE TX 75165
195691	G5 INVESTMENT PROPERTIES LLC SERIES F	0.744	LOT E DAVIS YOUNG ADDN .744 AC	PO BOX 936	WAXAHACHIE	TX	75168	1600 E MAIN ST WAXAHACHIE TX 75165
195701	AMERICASE	1.447	1A 1 B R KINSALA ADDN-REV 1.447 ACRES	6200 N INTERSTATE 35E	WAXAHACHIE	TX	75165	1610 HIGHWAY 287 WAXAHACHIE TX 75165

(13)



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: ZDC-59-2021

LOREN GRAY INVESTMENTS LLC  
PO BOX 2868  
WAXAHACHIE, TX 75168

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, May 25, 2021 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, June 7, 2021 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Lenvill Phipps for a Zoning Change from a Commercial zoning district to Planned Development-Commercial, located at 1604 E. Main Street, (Property ID 195689) - Owner: 6<sup>TH</sup> STREET MIDLOTHIAN, LLC (ZDC-59-2021)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) for additional information on this request.

Case Number: ZDC-59-2021

City Reference: 182021

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on **Tuesday, May 18, 2021** to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [Planning@Waxahachie.com](mailto:Planning@Waxahachie.com) or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 401 South Rogers Street, Waxahachie, TX 75165.

SUPPORT

OPPOSE

Comments:

Signature

Printed Name and Title

Date

Address

5/11/21

PC Box 2868 Wax. TX.  
75168

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)*

*If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM COMMERCIAL (C) TO PLANNED DEVELOPMENT-COMMERCIAL (PD-C), WITH CONCEPT PLAN LOCATED AT 1604 E. MAIN STREET, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.541 ACRES, KNOWN AS A PORTION OF PROPERTY ID 195689, OF LOT C OF THE DAVIS YOUNG ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

**WHEREAS**, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

**WHEREAS**, a proper application for a PD, with Concept Plan has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-59-2021. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change denial of the subject property from C to PD-C, with Concept Plan; and

**WHEREAS**, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and

**WHEREAS**, a proper hearing was held as required by law and the Council having heard all arguments for and against said zoning amendment;

**NOW, THEREFORE**, this property is rezoned from C to PD-C, with Concept Plan in order to allow development of an office building without constructing a sidewalk on the following property: Lot C of the Davis Young Addition, which is shown on Exhibit A, and Site Photo shown as Exhibit B.

**PLANNED DEVELOPMENT**

**Purpose and Intent**

The purpose of this planned development to create a fence, and to establish appropriate restrictions and development controls necessary to ensure predictable land development, safe and efficient vehicular and pedestrian circulation, compatible uses of land and compliance with appropriate design standards.

**Development Standards**

All development on land located within the boundaries of this Planned Development District shall adhere to the rules and regulations set forth in this ordinance. The locations of buildings, driveways, parking areas, amenity areas, trails, fencing, and other common areas shall substantially conform to the locations shown on the approved Location Exhibit (Exhibit A).

Development Regulations

1. The development shall conform as approved by the City Council under case number ZDC-59-2021.
2. The applicant shall construct a minimum 5ft. sidewalk along the front of the property.
3. Where regulations are not specified in the Ordinance, the regulations of Commercial zoning of the City of Waxahachie Zoning Ordinance shall apply to this development.
4. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

**PASSED, APPROVED, AND ADOPTED** on this 7<sup>th</sup> day of June, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary



# Exhibit A - Location Exhibit

0 125 250 500 750 1,000 Feet

ZDC-59-2021 (PD)

(117)



**Exhibit B - Site Photo**

(15 + 16)



## Memorandum

To: Honorable Mayor and City Council  
From: Shon Brooks, Director of Planning  
Thru: Michael Scott, City Manager  
Date: May 26, 2021  
Re: ZDC-58-2021 – Sandstone Industrial Development

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At the May 25, 2021 Planning and Zoning meeting, the Planning and Zoning Commission voted 6-0 to continue case number ZDC-58-2021 from the May 25, 2021 Planning and Zoning Commission meeting agenda and the June 7, 2021 City Council meeting agenda to the June 29, 2021 Planning and Zoning Commission meeting agenda, and the July 6, 2021 City Council meeting agenda.

**PUBLISH ONE (1) TIME ON WEDNESDAY, MAY 12, 2021**

**CITY OF WAXAHACHIE, TEXAS  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN THAT a public hearing will be conducted by the City Council of Waxahachie, Texas on *June 7, 2021 at 7:00 p.m. at City Council Chambers, 401 S. Rogers, Waxahachie, Texas 75165*. The public hearing will be held to consider proposed assessments to be levied against the assessable property within phase 3 (“Phase 3”) of the Waxahachie Public Improvement District No. 1 (the “District”) pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended (the “Act”).

The general nature of the proposed improvements authorized by the Act to be undertaken and financed for the benefit of the property within the District (the “District Improvements”) include, but are not limited to, landscaping, entryway features, water, wastewater, sidewalks, streets, roadways, off-street parking, drainage system improvements, trails, parks and open space, special supplemental services for the improvement and promotion of the District, and payment of expenses incurred in the establishment, administration, and operation of the District. The proposed District Improvements to be undertaken at this time include road improvements, water distribution system improvements, sanitary sewer collection system improvements, storm sewer collection system improvements, and costs related to the administration of the District and financing the Phase 3 District Improvements.

The total cost of the District Improvements that benefits property within Phase 3 of the District is \$7,455,027.

The boundaries of the District include approximately 1,966 acres of land located within the corporate limits of the City of Waxahachie, Ellis County, Texas, being composed of tracts generally located east of Highway 287 and north and south of Park School House Road. The boundaries of Phase 3 of the District include approximately 63.311 acres of land within the District, as more particularly described by a metes and bounds description is available at Waxahachie City Hall, 401 S. Rogers, Waxahachie, Texas 75165, and available for public inspection.

All written or oral objections on the proposed assessment within the District will be considered at the public hearing.

A copy of the proposed assessment roll relating to the District Improvements to be undertaken at this time, which includes the assessments to be levied against certain assessable property in Phase

(17)

3 of the District, is available for public inspection at the office of the City Secretary, 401 S. Rogers, Waxahachie, Texas 75165.

## CITY OF WAXAHACHIE, TEXAS

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE ACCEPTING AND APPROVING AN UPDATED SERVICE AND ASSESSMENT PLAN AND A PHASE 3 ASSESSMENT ROLL FOR THE WAXAHACHIE PUBLIC IMPROVEMENT DISTRICT NO. 1; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN PHASE 3 OF THE DISTRICT; LEVYING SPECIAL ASSESSMENTS AGAINST PROPERTY WITHIN PHASE 3 OF THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR PAYMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS, PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, a petition was submitted and filed with the City Secretary (the "City Secretary") of the City of Waxahachie, Texas (the "City") pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act"), requesting the creation of a public improvement district in the City to be known as the Waxahachie Public Improvement District No. 1 (the "District"); and

**WHEREAS**, the petition contained the signatures of the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of the Ellis Central Appraisal District, and the signature of the property owners who owned taxable real property that constituted more than fifty percent of the area of all taxable property within the District that is liable for assessment; and

**WHEREAS**, on April 16, 2007, after due notice, the City Council of the City (the "City Council") held a public hearing in the manner required by law on the advisability of the public improvements and services described in the petition as required by Sec. 372.009 of the PID Act and made the findings required by Sec. 372.009(b) of the PID Act and, by Resolution No. 1087 (the "Authorization Resolution") adopted by a majority of the members of the City Council, authorized and created the District in accordance with its finding as to the advisability of the Authorized Improvements; and

**WHEREAS**, following adoption of the Authorization Resolution, the City published the Authorization Resolution in a newspaper of general circulation in the City; and

**WHEREAS**, no written protests regarding the creation of the District from any owners of record of property within the District were filed with the City Secretary within 20 days after publication of the Authorization Resolution; and

**WHEREAS**, on May 3, 2021, the City Council adopted a resolution approving a preliminary service and assessment plan update, determining the total costs of the Phase Three District Improvements (as defined in the Service and Assessment Plan, defined below), calling for a public hearing to consider the levying of the Assessments against the property within Phase 3 (as defined in the Service and Assessment Plan) of the District (the "Phase 3 Assessments"), authorizing and directing the filing of a proposed assessment roll for Phase 3 of the District (the "Phase 3 Assessment Roll"), authorizing and directing the publication of notice of a public hearing to consider the levying of the Phase 3 Assessments against the property within Phase 3 of the District (the "Levy and Assessment Hearing") in a newspaper of general circulation in the City, and directing related action; and

**WHEREAS**, on May 4, 2021, the City Secretary filed the Phase 3 Assessment Roll and made the same available for public inspection; and

**WHEREAS**, the City Secretary, pursuant to Section 372.016(b) of the PID Act, published notice of the Levy and Assessment Hearing on May 12, 2021 in the *Waxahachie Sun*, a newspaper of general circulation in the City; and

**WHEREAS**, the City Secretary, pursuant to Section 372.016(c) of the PID Act, mailed the notice of the Levy and Assessment Hearing to the last known address of the owners of the property liable for the Phase 3 Assessments; and

**WHEREAS**, the City Council opened the Levy and Assessment Hearing on *June 7, 2021*, and at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Phase 3 Assessment Roll, and the proposed Phase 3 Assessments, and to offer testimony pertinent to any issue presented on the amount of the Phase 3 Assessments, the allocation of costs of the Phase Three District Improvements, the purposes of the Phase 3 Assessments, the special benefits of the Phase Three District Improvements, and the penalties and interest on annual installments and on delinquent annual installments of the Phase 3 Assessments; and

**WHEREAS**, the City Council finds and determines that the Phase 3 Assessment Roll and the Waxahachie Public Improvement District No. 1 Service and Assessment Plan, as updated for Phase 3 on June 7, 2021 (as updated, the "Service and Assessment Plan"), in a form substantially similar to the attached as *Exhibit A* hereto, which final form shall be approved by the City Manager and the City's land use attorney, and which is incorporated herein for all purposes, should be

approved and that the Phase 3 Assessments should be levied as provided in this Ordinance and the Service and Assessment Plan and the Phase 3 Assessment Roll attached thereto as Appendix C-3; and

**WHEREAS**, the City Council further finds that there were no written objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of costs of the Phase Three District Improvements, the Phase 3 Assessment Roll, or the levy of the Phase 3 Assessments; and

**WHEREAS**, the City Council closed the Levy and Assessment Hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

Section 1. Terms.

Terms not otherwise defined herein are defined in the Service and Assessment Plan.

Section 2. Findings.

The findings and determinations set forth in the preambles hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section. The City Council hereby finds, determines, and ordains, as follows:

(a) The apportionment of the costs of the Phase Three District Improvements (as reflected in the Service and Assessment Plan) and the Annual Collection Costs (as reflected in the Service and Assessment Plan) is fair and reasonable, reflects an accurate presentation of the special benefit each assessed Parcel within Phase 3 of the District will receive from the construction of the Phase Three District Improvements identified in the Service and Assessment Plan, and is hereby approved;

(b) The Service and Assessment Plan covers a period of at least five years and defines the annual indebtedness and projected costs for the Phase Three District Improvements and has been reviewed and updated annually, including by the Service and Assessment Plan attached hereto;

(c) The Service and Assessment Plan apportions the cost of the Phase Three District Improvements to be assessed against the property in Phase 3 of the District and such apportionment is made on the basis of special benefits accruing to the property because of the Phase Three District Improvements;

(d) All of the real property in Phase 3 of the District which is being assessed in the amounts shown in the Phase 3 Assessment Roll will be benefited by the Phase Three District Improvements proposed to be constructed as described in the Service and Assessment Plan, and each assessed Parcel will receive special benefits in each year equal to or greater than each annual installment of the Phase 3 Assessments and will receive special benefits during the term of the Phase 3 Assessments equal to or greater than the total amount assessed;

(e) The method of apportionment of the costs of the Phase Three District Improvements and the Annual Collection Costs set forth in the Service and Assessment Plan results in imposing equal shares of the costs of the Phase Three District Improvements and Annual Collection Costs on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the costs of the Phase Three District Improvements and Annual Collection Costs;

(f) The Service and Assessment Plan should be approved as the service plan and assessment plan for the District as described in Sections 372.013 and 372.014 of the PID Act;

(g) The Phase 3 Assessment Roll in the form attached as Appendix C-3 to the Service and Assessment Plan should be approved as the Phase 3 Assessment Roll for Phase 3 of the District;

(h) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Phase 3 Assessments, interest on Annual Installments, interest and penalties on delinquent Phase 3 Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Phase 3 Assessments should be approved and will expedite collection of the Phase 3 Assessments in a timely manner in order to provide the services and improvements needed and required for Phase 3 of the District; and

(i) A written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon.

Section 3. Service and Assessment Plan.

The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the PID Act as the service plan and the assessment plan for the District.

Section 4. Phase 3 Assessment Roll.

The Phase 3 Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the PID Act as the Phase 3 Assessment Roll for Phase 3 of the District.

Section 5. Levy and Payment of Assessments for the Estimated Costs of Phase Three District Improvements.

(a) The City Council hereby levies an assessment on each parcel of Assessed Property (excluding Non-Benefitted Property) located within Phase 3 of the District, as shown and described in the Service and Assessment Plan and the Phase 3 Assessment Roll, in the respective amounts shown on the Phase 3 Assessment Roll as a special assessment on the properties set forth in the Phase 3 Assessment Roll.

(b) The levy of the Phase 3 Assessments shall be effective on the date of execution of this Ordinance levying the Phase 3 Assessments and strictly in accordance with the terms of the Service and Assessment Plan and the PID Act.

(c) The collection of the Phase 3 Assessments shall be as described in the Service and Assessment Plan. The collection of the first Annual Installment of the Phase 3 Assessments hereby levied against each Parcel of Assessed Property within Phase 3 of the District shall commence on September 1, 2021. Such first Annual Installment of a Phase 3 Assessment shall be due by January 31<sup>st</sup> of the following calendar year.

(d) Each Phase 3 Assessment may be paid in a lump sum at any time or may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.

(e) Each Phase 3 Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan.

(f) Each Annual Installment shall be collected each year in the manner set forth in the Service and Assessment Plan.

(g) The Annual Collection Costs for the Assessed Property within Phase 3 of the District shall be calculated pursuant to the terms of the Service and Assessment Plan.

Section 6. Method of Assessment.

The method of apportioning the estimated costs of the Phase Three District Improvements and the Annual Collection Costs is as set forth in the Service and Assessment Plan.

Section 7. Penalties and Interest on Delinquent Assessments.

Delinquent Phase 3 Assessments shall be subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan and as allowed by law. The Phase

3 Assessments shall have lien priority as specified in the PID Act, the Service and Assessment Plan, and as otherwise allowed by law.

Section 8. Prepayments of Assessments.

As provided in Section VI of the Service and Assessment Plan, the owner of any Assessed Property in Phase 3 of the District may prepay the Phase 3 Assessments levied by this Ordinance.

Section 9. Lien Priority.

The City Council and the owners of property in Phase 3 of the District intend for the obligations, covenants and burdens on the landowners of the Assessed Property in Phase 3 of the District, including without limitation the property owners' obligations related to payment of the Phase 3 Assessments and the Annual Installments thereof, to constitute covenants that shall run with the land. The Phase 3 Assessments and the Annual Installments thereof which are levied hereby shall be binding upon the landowners, as the owners of the Assessed Property within Phase 3 of the District, and their respective transferees, legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. The Phase 3 Assessments shall have lien priority as specified in the Service and Assessment Plan and the PID Act.

Section 10. Appointment of Initial Administrator and Collector of Assessments.

(a) Appointment of Administrator.

MuniCap, Inc. is hereby appointed and designated to initially serve, or until otherwise determined by the City Council, as the Administrator of the Service and Assessment Plan and of the Phase 3 Assessments levied by this Ordinance. The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan, in this Ordinance and in any contract between the City and the Administrator. The Administrator's fees, charges and expenses for providing such service shall constitute an Annual Collection Cost.

(b) Collector.

The City Council shall by future action, appoint a third-party collector of the Phase 3 Assessments. The City is hereby authorized to enter into an agreement with a third-party for the collection of the Phase 3 Assessments. The City may also contract with other qualified collection agents selected by the City or may collect the Phase 3 Assessments on its own behalf. The costs of such collection contracts shall constitute an Annual Collection Cost.

Section 11. Applicability of Tax Code.

To the extent not inconsistent with this Ordinance, and not inconsistent with the PID Act or the other laws governing public improvement districts, the provisions of the Texas Tax Code shall be applicable to the imposition and collection of Phase 3 Assessments by the City.

Section 12. Filing in Land Records.

The City Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan and the Phase 3 Assessment Roll, to be recorded in the real property records of Ellis County. The City Secretary is further directed to similarly file each Annual Service Plan Update approved by the City Council.

Section 13. Severability.

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity or any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 14. Effective Date.

This Ordinance shall take effect, and the levy of the Phase 3 Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage and execution hereof.

[Remainder of Page Intentionally Left Blank; Signature page follows]

**ADOPTED, PASSED, AND APPROVED** on this the 7th day of June, 2021.

ATTEST:

**CITY OF WAXAHACHIE**

\_\_\_\_\_  
Amber Villarreal, City Secretary

\_\_\_\_\_  
David Hill, Mayor

STATE OF TEXAS §

§

COUNTY OF ELLIS §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 by David Hill and Amber Villarreal, as Mayor and City Secretary, respectively, of the City of Waxahachie, Texas on behalf of said City.

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

(SEAL)

(18)

**Exhibit A**

**Service and Assessment Plan**

# WAXAHACHIE PUBLIC IMPROVEMENT DISTRICT No. 1

CITY OF WAXAHACHIE, TEXAS

## SERVICE AND ASSESSMENT PLAN

as updated for Phase #3 on June 7, 2020

**PREPARED BY:**

**MUNICAP, INC.**  
— PUBLIC FINANCE —

# WAXAHACHIE PUBLIC IMPROVEMENT DISTRICT No. 1

## SERVICE AND ASSESSMENT PLAN

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## ***I. PLAN DESCRIPTION AND DEFINED TERMS***

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### **A. INTRODUCTION**

Chapter 372, Texas Local Government Code, as amended (the “PID Act”), governs the creation of public improvement districts in Texas. On April 16, 2007, pursuant to and in accordance with the petition, notice, and public hearing requirements of the Act and the other applicable laws of the State of Texas, the City Council of the City of Waxahachie, Ellis County, Texas (the “City”) approved and adopted Resolution No. 1087 approving and authorizing the creation of Waxahachie Public Improvement District No. 1 (the “PID”). The purpose of the PID is to undertake public improvement projects that will confer a special benefit on property within the boundaries of the PID.

A service and assessment plan for platted lots in the PID (this "Service and Assessment Plan") was approved by the City Council pursuant to Ordinance No. 2413 approved and adopted on June 18, 2007 identifying the public improvements to be provided by the PID, the costs of the public improvements, and the manner of assessing property in the PID for costs of the public improvements. The Service and Assessment Plan is to be reviewed and updated at least annually.

Prior to the levy by the City of any special assessments on property within the boundaries of the PID, the Act requires the preparation of a service plan for the PID covering a period of at least five years and defining the annual indebtedness and the projected costs for the improvement projects (which plan shall be reviewed and updated annually). The required service plan for the PID is contained in Section IV of this Service and Assessment Plan.

The Act requires that an assessment plan be included in the service plan for the PID. As part of the assessment plan, the Act requires that the City Council of the City shall apportion the costs of the improvement projects to be assessed against property in the PID. The apportionment shall be made on the basis of special benefits accruing to the property within the boundaries of the PID because of the improvement projects. The required assessment plan for the PID is contained in Section V of this Service and Assessment Plan.

The Act requires that after the total costs of the improvement projects are determined, the City Council of the City shall prepare a proposed assessment roll that states the assessment against each parcel of land in the PID, as determined by the method of assessment chosen by the City. The Assessment Roll for the PID is included as *Appendix C* attached to this Service and Assessment Plan.

### **B. DEFINITIONS**

Terms used in this Service and Assessment Plan shall have the following meanings:

“**Actual Cost(s)**” means, with respect to a Public Improvement, the demonstrated, reasonable, allocable, and allowable costs of constructing such Public Improvement, as specified in a payment request in a form that has been reviewed and approved by the City. Actual Cost may include (a)

the costs incurred for the design, planning, financing, administration/management, acquisition, installation, construction and/or implementation of such Public Improvement, (b) the costs incurred in preparing the construction plans for such Public Improvements, (c) the fees paid for obtaining permits, licenses or other governmental approvals for such Public Improvements, (d) a construction management fee of 4.0% of the costs incurred for the construction of such Public Improvements if an Owner is serving as the construction manager but not the general contractor, (e) the costs incurred for external professional costs, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, taxes (property and franchise) related to the Public Improvements (f) all labor, bonds and materials, including equipment and fixtures, by contractors, builders and materialmen in connection with the acquisition, construction or implementation of the Public Improvements, (g) all related permitting, zoning and public approval expenses, architectural, engineering, and consulting fees, financing charges, taxes, governmental fees and charges, insurance premiums, and miscellaneous expenses, and all payments for Administrative Expenses.

**“Administrator”** means a person or entity that contracts with, or that is an employee, representative, or agent of, the City that performs the responsibilities provided for in this Service and Assessment Plan, in the Bond Indenture, or in any other agreement approved by the City Council and related to the administration of the PID.

**“Annual Collection Costs”** mean the following actual or anticipated costs related to the annual collection of outstanding Assessments (whether paid in full or in Annual Installments), including, but not limited to, the actual or anticipated costs of:

- (i) preparing this Service and Assessment Plan, each Annual Service Plan Update, and each Assessment Roll;
- (ii) computing, preparing, levying, collecting, and transmitting Assessments;
- (iii) remitting Assessments to the Trustee;
- (iv) the City, the Administrator, and the Trustee (and their respective legal counsel) in the discharge of their duties under this Service and Assessment Plan;
- (v) complying with arbitrage rebate requirements;
- (vi) complying with annual securities disclosure requirements; and
- (vii) the City, the Administrator, and the Trustee in any way related to computing, preparing, levying, collecting, and transmitting the Assessments (including, but not limited to, the administration of the PID, maintaining a record of installments, payments, reallocations, and/or cancellations of Assessments, repayment of Bonds, any associated legal expenses, reasonable costs of other consultants and advisors, and contingencies and reserves for all of the foregoing costs as deemed appropriate by the City Council).

- (viii) fees and expenses related to the Bonds including legal counsel, engineers, accountants, financial advisors, investment bankers, or other consultants and advisors. Administrative collection costs do not include payment of the actual principal of redemption premiums, if any, and interest on the Bonds; and
- (ix) administering the construction of the District Improvements.

**“Annual Installment”** means, with respect to each Parcel, each annual installment payment of the Assessment for the Parcel as shown on the Assessment Roll, which includes, without limitation, debt service and transaction costs related to any Bonds (other than costs payable from Bond proceeds), and Annual Collection Costs.

**“Annual Service Plan Update”** means the annual update to this Service and Assessment Plan as required by the Act.

**“Assessed Property”** means, collectively, all the Parcels in the PID (excluding Non-Benefited Property) described on the Assessment Roll attached as Appendix C to this Service and Assessment Plan.

**“Assessment”** means, with respect to each Parcel in the PID, the assessment levied against the Parcel in accordance with the Assessment Ordinance and this Service and Assessment Plan.

**“Assessment Ordinance”** means the Assessment Ordinance approved by the City Council that approves this Service and Assessment Plan and levies and imposes the Assessments, as shown on the Assessment Roll, subject to reallocation or reduction, from time to time, as provided by this Service and Assessment Plan and the PID Act.

**“Assessment Revenues”** mean the revenues actually received by the City from Assessments including, but not limited to, revenues from Annual Installments, revenues that result from the payment, in full, of any Assessment, and including revenues from prepayments of Assessments as provided by this Service and Assessment Plan.

**“Assessment Roll”** means a list of and description of all Parcels and the Assessment and Annual Installment for each Parcel attached as *Appendix C* to this Service and Assessment Plan, and including any updates, modification or amendments thereto prepared from time to time including, but not limited to, updates prepared in connection with any issuance of Bonds or in connection with any Annual Service Plan Update.

**“Bond Indenture”** means any indenture, ordinance, or similar document setting forth the terms and other provisions relating to any series of Bonds, as modified, amended, or supplemented from time to time.

**“Bonds”** mean the Phase One Bonds or any bonds (including refunding bonds) or other debt secured by Assessment Revenues, whether in one or more series, issued by the City with respect to the PID.

**“Certification for Payment”** means the certificate to be provided by the Developer, or his designee, to substantiate the Actual Cost of one or more District Improvements segments or sections.

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

**“City Council”** means the duly elected governing body of the City.

**“Collection Costs”** mean the sum of Annual Collection Costs and Delinquent Collection Costs.

**“Cost”** mean actual or budgeted costs, as applicable, to acquire, design, construct, install, or improve District Improvements including, but not limited to, all costs paid or incurred in connection with the issuance, from time to time, of multiple series of Bonds, and including all costs otherwise paid or incurred in connection with the transaction that results in the issuance of Bonds (whether such costs are characterized as interest, costs of issuance, reserve fund, or other costs of the transaction).

**“Delinquent Collection Costs”** mean interest, penalties, and expenses incurred or imposed with respect to any delinquent installments of the Assessments in accordance with the Act.

**“Developer”** means either Waxahachie 287, LP or Ellis County CTR Development, Ltd, and their respective successors and assigns.

**“District Improvements”** mean the public improvement projects authorized by the Act that confer a special benefit on the Assessed Property and that are described for each Phase in Section III of this Service and Assessment Plan.

**“Equivalent Units”** mean, for each Parcel, (i) the number of residential dwelling units built or expected to be built within the Parcel for each “Lot Type” shown below multiplied times (ii) the equivalency factor shown below:

<b>Lot Type</b>	<b>Equivalency Factor</b>
Lot Type 1 (90 FT single-family residential)	1.00 per dwelling
Lot Type 2 (70 FT single-family residential)	0.84 per dwelling unit
Lot Type 3 (60 FT single-family residential)	0.75 per dwelling unit

**“Lot Type 1”** means a single-family lot designated “SF-1” in the Planned Development Ordinance and identified as such in the Assessment Roll.

**“Lot Type 2”** means a single-family lot designated as “SF-2” in the Planned Development Ordinance and identified as such in the Assessment Roll.

**“Lot Type 3”** means a single-family lot designated as “SF-3” in the Planned Development Ordinance and identified as such in the Assessment Roll.

**“Maximum Assessment”** means the following amount per unit for each lot type:

Lot Type	Maximum Assessment
Lot Type 1 (90 FT single-family residential)	\$7,660 per unit
Lot Type 2 (70 FT single-family residential)	\$6,434 per unit
Lot Type 3 (60 FT single-family residential)	\$5,745 per unit

**“Non-Benefited Property”** means Parcels within the boundaries of the PID that have been determined by the City Council to receive no measurable special benefit from the District Improvements, including, but not limited to, Owner Association Property, Public Property, and right-of-way and easements for use by a public or private utility providers.

**“Owner Association Property”** means property within the boundaries of the PID that is owned by or offered for dedication to, whether in fee simple or through an exclusive use easement, a non-profit property owners’ association established for the benefit of a group of homeowners or property owners within the PID.

**“Parcel”** means a parcel of land within the PID identified (i) by a tax map identification number assigned by the Ellis County Central Appraisal District for real property tax purposes, (ii) by lot and block number in a final subdivision plat recorded in the real property records of Ellis County, (iii) by metes and bounds description, or (iv) by any other means determined by the City.

**“Phase One”** or **“Phase 1”** means a portion of the PID Property as depicted and described on Appendix A-1 attached to this Service and Assessment Plan identifying the property currently being developed within the boundaries of the PID.

**“Phase One Bonds”** means the City of Waxahachie Special Assessment Bonds, Series 2011 (Waxahachie Public Improvement District No. 1 Phase One Project) issued in the initial principal amount of \$1,340,000, and any Bonds issued to refund such Bonds.

**“Phase Two”** or **“Phase 2”** means a portion of the PID Property as depicted and described on Appendix A-2 attached to this Service and Assessment Plan identifying the property currently being developed within the boundaries of the PID.

**“Phase Three”** or **“Phase 3”** means a portion of the PID Property as depicted and described on Appendix A-3 attached to this Service and Assessment Plan identifying the property currently being developed within the boundaries of the PID.

**“PID Act”** or **“Act”** means Chapter 372, Texas Local Government Code, as amended.

**“PID Property”** means the property depicted and described on Appendix A attached to this Service and Assessment Plan identifying the total property included within the boundaries of the PID.

**“Planned Development Ordinance”** means Ordinance No. 2302 adopted by the City Council of the City on April 18, 2005, which ordinance establishes the zoning that is applicable to the PID Property.

**“Public Property”** means property within the boundaries of the PID that is owned by or offered for dedication to the federal government, the State of Texas, a county, the City, a school district, a public utility provider, or any other political subdivision or public agency, whether in fee simple or through an easement.

**“Service and Assessment Plan”** means this Service and Assessment Plan prepared for the PID pursuant to the Act, as amended and updated from time to time.

**“Trustee”** means the fiscal agent or trustee as specified in any Bond Indenture, including a substitute fiscal agent or trustee.

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## ***II. PROPERTY INCLUDED IN THE PID***

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### **A. PROPERTY INCLUDED IN THE PID**

The PID Property is depicted and described by metes and bounds on Appendix A attached to this Service and Assessment Plan. The PID Property consists of approximately 1,965 acres of land located within the corporate limits of the City, Ellis County, Texas. The PID Property is zoned as a planned development zoning district in accordance with the Planned Development Ordinance. The total estimated costs to design, acquire and construct the District Improvements was \$34,882,328.

The property in Phase One consists of approximately 78.6 acres of land and is located within the PID boundaries. The total cost of the District Improvements financed through the PID for Phase One was \$1,340,000.

The property in Phase Two consists of approximately 33.9 acres of land and is located within the PID boundaries. The property in Phase Three consists of approximately 63.3 acres of land and is located within the PID boundaries. The total cost of the District Improvements financed through the PID for Phase Two was \$749,059.

This Service and Assessment Plan is updated for Phase Three of the development, which includes approximately 253 residential dwelling units. The Parcels in Phase Three of the development are shown on the Assessment Roll and the map included as Appendix A-3. The total cost of the District Improvements financed through the PID for Phase Three is \$1,453,485.

The total estimated costs to design, acquire and construct the District Improvements for future phases to be developed after Phase Three is \$31,339,784 (i.e., \$34,882,328 - \$1,340,000 - \$749,059 - \$1,453,485).

For purposes of allocating the Assessments, the Assessed Property has been classified in one of three lot types. The following table shows the proposed residential lot types: The residential development at build-out in Phase One and Phase Two and the projected residential development in Phase Three of the PID Property are shown in Table II-A below for each of the three Lot Types developed or being developed.

**Table II-A**

<b>Lot Type</b>	<b>Projected Development Phase 1</b>	<b>Projected Development Phase 2</b>	<b>Projected Development Phase 3</b>
Lot Type 1 – 90 FT Single-Family	47 units	17 units	0 units
Lot Type 2 – 70 FT Single-Family	96 units	31 units	0 units
Lot Type 3 – 60 FT Single-Family	66 units	73 units	253units
	<b>209 Units</b>	<b>121 Units</b>	<b>253 Units</b>

The estimated number of lots and the classification of each lot are based on the subdivision of the lots in Phase Three, the allowable use the property pursuant to City land use regulations, and the Developer's estimated highest and best use of the property within Phase Three of the PID.

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### ***III. DESCRIPTION OF THE DISTRICT IMPROVEMENTS***

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#### **A. AUTHORIZED IMPROVEMENT OVERVIEW**

Section 372.003 of the PID Act defines the improvements that may be undertaken by a municipality or county through the establishment of a public improvement district, as follows:

##### 372.003. District Improvements

- (a) If the governing body of a municipality or county finds that it promotes the interests of the municipality or county, the governing body may undertake an improvement project that confers a special benefit on a definable part of the municipality or county or the municipality's extraterritorial jurisdiction. A project may be undertaken in the municipality or county or the municipality's extraterritorial jurisdiction.
  
- (b) A public improvement may include:
  - (i) landscaping;
  - (ii) erection of fountains, distinctive lighting, and signs;
  - (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of-way;
  - (iv) construction or improvement of pedestrian malls;
  - (v) acquisition and installation of pieces of art;
  - (vi) acquisition, construction, or improvement of libraries;
  - (vii) acquisition, construction, or improvement of off-street parking facilities;
  - (viii) acquisition, construction, improvement, or rerouting of mass transportation facilities;
  - (ix) acquisition, construction, or improvement of water, wastewater, or drainage facilities or improvements;
  - (x) the establishment or improvement of parks;
  - (xi) projects similar to those listed in Subdivisions (i)-(x);
  - (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
  - (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and

- (xiv) payment of expenses incurred in the establishment, administration, and operation of the district; and
- (xv) the development, rehabilitation, or expansion of affordable housing.

**Phase One District Improvements**

After analyzing the public improvement projects authorized by the Act, the City determined that the District Improvements benefiting the properties in Phase One (the “Phase One District Improvements”) should be undertaken by the City for the benefit of the property within Phase One of PID. A summary of the Actual Costs of the Phase One District Improvements is shown in Table III-A below.

**Table B-1**  
**Phase One District Improvements**

<b>Phase One District Improvement</b>	<b>Total Actual Cost</b>
Phase 1 - Street Grading and Paving	\$328,742
Phase 1 - Onsite Water Distribution System	\$132,078
Phase 1 - Onsite Wastewater Management System	\$120,149
Phase 1 - Storm Drainage Management System	\$147,931
Phase 1 - Engineering	\$106,916
Phase 1 - Bond Financing Costs	\$504,183
<b>Total Phase One Costs of District Improvements</b>	<b>\$1,340,000</b>

**Road Improvements:**

The Phase One District Improvements include street grading and paving improvements, water distribution system improvements, wastewater collection system improvements and storm drainage system improvements.

The Phase One street grading and paving improvements include the construction of the residential streets that provide access to the Phase One lots. The construction consists of the excavation of the streets and rights-of-way, lime stabilized subgrade and reinforced concrete pavement. The streets are curb and gutter construction. The curb and gutter design conveys storm water to the storm drainage system.

The Phase One road improvements have been completed.

**Water Distribution System Improvements:**

The Phase One water distribution system improvements include the construction of PVC water lines, valves, fire hydrants and service lines to the Phase One lots. The water infrastructure constructed is connected to the City water distribution system.

The Phase One water distribution system improvements have been completed.

**Sanitary Sewer Improvements:**

The Phase One wastewater distribution system improvements include the construction of PVC sewer lines, manholes and service lines to the Phase One lots and a sewer trunk line that runs through Phase One. The wastewater infrastructure constructed is connected to the City wastewater collection system.

The Phase One sanitary sewer improvements have been completed.

**Storm Drainage Improvements**

The Phase One storm drainage system improvements include curb inlets and reinforced concrete pipe to convey storm water through the developed area. The storm drainage system discharges into water courses adjacent to the development and includes headwalls, rock rip rap and erosion control items.

The Phase One storm drainage improvements have been completed.

**Phase Two District Improvements**

After analyzing the public improvement projects authorized by the Act, the City determined that the District Improvements benefiting the properties in Phase Two (the “Phase Two District Improvements”) should be undertaken by the City for the benefit of the property within Phase Two of PID. A summary of the Costs of the Phase Two District Improvements is shown in Table III-B below.

**Table III-B**  
**Estimated Costs of District Improvements – Phase Two**

<b>District Improvements</b>	<b>Cost</b>
Phase Two roadway improvements	\$936,493
Phase Two water distribution improvements	\$275,351
Phase Two sanitary sewer improvements	\$278,831
Phase Two storm sewer improvements	\$107,796
Estimated engineering, inspection and contingency	\$183,686
<i>Sub-total cost of improvements</i>	\$1,782,157
Less: estimated other sources of funds	(\$1,033,098)
<b>Total estimated PID-funded District Improvements</b>	<b>\$749,059</b>

**Road Improvements:**

*Residential Streets* - The roadway improvements within Phase Two include construction of approximately 2,489 linear feet of 7” thick, 36-foot wide, concrete pavement with curb and gutter

and 8,982 linear feet of 6" thick, 30-foot wide, concrete pavement with curb and gutter. The concrete is 3,600 pounds per square inch (psi) strength. Unclassified excavation for the project consists of 115,000 cubic yards of cut and fill. 41,171 square yards (sy) of pavement sub-grade are lime stabilized and compacted. Intersections, signage, lighting and re-vegetation of all disturbed areas within the right of way are included. These roadway improvements include streets that provide street access to each lot within Phase Two. All roadway projects were designed and constructed in accordance with City standards and specifications and are owned and operated by the City. These projects provide access to community roadways and state highways.

The Phase One road improvements have been completed.

### **Water Distribution System Improvements:**

*Water Lines* – the Phase Two waterline improvements consist of constructing approximately 9,211 linear feet of 8" water line, including associated 8" gate valves, and approximately 602 linear feet of 12" water line, including associated 12" gate valves. One-inch diameter water services are provided to each of the 121 lots and an additional two-inch service to the park within Phase Two. All associated waterline testing, trench safety and erosion protection during construction are included. These lines are designed and constructed in accordance with City standards and specifications and are owned and operated by the City. These lines include the necessary appurtenances to be fully operational transmission lines extending water service to the limits of Phase Two and all lots within Phase Two.

The Phase One water distribution system improvements have been completed.

### **Sanitary Sewer Improvements:**

*Wastewater Lines* - The Phase Two wastewater collection system improvements include construction of 10,299 linear feet of 8" gravity sanitary sewer line that connects to the gravity sewer trunk line flowing to proposed collection point located in Phase 1B. Construction includes connection at multiple points through 51 concrete manholes. Services to individual lots are by 4" gravity sewer services. All lines are designed and constructed in accordance with City standards and specifications and are owned and operated by the City. These lines include the necessary appurtenances to be fully operational extending wastewater service to the limits of Phase Two and each of the 178 lots and park within Phase Two.

The Phase Two sanitary sewer improvements have been completed.

### **Storm Drainage Improvements**

The drainage portion of the Phase Two Improvements consists of underground reinforced concrete storm sewer pipes, inlets and rock riprap protection at outfalls. The main means of conveyance of storm drainage within Phase Two is within underground storm drain pipes. The roadway pavement section incorporates the use of curbs with integrated drainage inlets to control runoff and conveyance of storm water throughout the drainage basins associated with Phase Two. The system includes underground reinforced concrete pipe (RCP) with associated headwalls, safety end

treatments, manholes and storm sewer energy dissipaters at the points of discharge. All of the drainage areas within Phase Two flow to existing facilities constructed with the previous phases of Saddlebrook Estates. This project was constructed to City standards and specifications and is owned and operated by the City.

The Phase Two storm drainage improvements have been completed.

### **Phase Three District Improvements**

After analyzing the public improvement projects authorized by the Act, the City has determined that the District Improvements benefiting the properties in Phase Three (the “Phase Three District Improvements”) should be undertaken by the City for the benefit of the property within Phase Three of PID. A summary of the estimated Costs of the Phase Three District Improvements is shown in Table III-C below.

**Table III-C**  
**Estimated Costs of District Improvements – Phase Three**

<b>District Improvements</b>	<b>Cost</b>
Phase Three roadway improvements	\$2,949,600
Phase Three utility improvements	\$3,730,087
Estimated engineering, inspection and contingency	\$775,340
Estimated bond issuance costs <sup>(a)</sup>	\$0
<i>Sub-total cost of improvements</i>	<i>\$7,455,027</i>
Less: estimated other sources of funds	(\$6,001,542)
<b>Total estimated PID-funded District Improvements</b>	<b>\$1,453,485</b>

(a) If and when Bonds are issued for Phase Three District Improvements, proceeds of those Bonds may be used to fund costs of issuance, capitalized interest, underwriters discount and any debt service reserve fund or other required reserves.

### **Road Improvements:**

*Residential Streets* - The roadway improvements within Phase Three include construction of approximately 42,682 square yards (sy) of 6” thick concrete pavement, approximately 4,210 square yards (sy) of 7” thick concrete pavement, approximately 3,322 square yards (sy) of 8” thick concrete pavement, 53,491 square yards (sy) of pavement sub-grade will be lime stabilized and compacted, 8,510 square feet (sf) of side walk 5 feet wide, and 11,450 linear feet (lf) of sidewalk 6 feet wide. These roadway improvements include streets that will provide street access to each lot within Phase Three. All roadway projects will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City. These projects will provide access to community roadways and state highways.

## **Utility Improvements:**

The Phase 3 utility improvements include water distribution system improvements, wastewater collection system improvements and storm sewer collection system improvements.

*Water Lines* – the Phase Three waterline improvements consists of constructing approximately 7,829 linear feet (lf) of 8” water line, including associated 8” gate valves, approximately 10,720 linear feet (lf) of 12” water line, including associated 12” gate valves, and approximately 1,160 linear feet (lf) of 16” water line, including associated 16” gate valves. All associated waterline testing, trench safety and erosion protection during construction are included. Construction includes connection of 38 fire hydrants. These lines will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City. These lines will include the necessary appurtenances to be fully operational transmission lines extending water service to the limits of Phase Three and all lots within Phase Three.

*Wastewater Lines* - The Phase Three wastewater collection system improvements also include construction of approximately 7,400 linear feet (lf) of 8” sanitary sewer line, approximately 2,572 linear feet (lf) of 10” sanitary sewer line, approximately 979 linear feet (lf) of 12” sanitary sewer line, approximately 1,446 linear feet (lf) of 15” sanitary sewer line, approximately 2,212 linear feet (lf) of 21” sanitary sewer line located in Phase Three. Construction includes connection at multiple points through 46 concrete manholes. All lines will be designed and constructed in accordance with City standards and specifications and will be owned and operated by the City. These lines will include the necessary appurtenances to be fully operational extending wastewater service to the limits of Phase Three and each of the 253 lots and park within Phase Three.

*Storm Drainage Improvements* - The drainage portion of the Phase Three Improvements consists of underground reinforced concrete storm sewer pipes, inlets and rock riprap protection at outfalls. The main means of conveyance of storm drainage within Phase Three is within underground storm drainpipes. The roadway pavement section incorporates the use of curbs with integrated drainage inlets to control runoff and conveyance of storm water throughout the drainage basins associated with Phase Three. The system includes underground reinforced concrete pipe (RCP) with associated headwalls, safety end treatments, manholes and storm sewer energy dissipaters at the points of discharge. All of the drainage areas within Phase Three flow to existing facilities constructed with the previous phases of Saddlebrook Estates. This project will be constructed to City standards and specifications and will be owned and operated by the City.

Additional details of the Phase Three Improvements are shown in Appendix B attached to this Service and Assessment Plan. The method of cost allocation is explained in Section V (C).

The costs shown in Table III-C are estimates and may be revised in Annual Service Plan Updates. The detailed costs of the District Improvements are shown in Appendix B to this Service and Assessment Plan. Savings from one line item may be applied to a cost increase in another line item. These savings may be applied only to increases in costs of the District Improvements (i.e., the improvements for the benefit of property within the PID).

The Act provides that if the governing body of a municipality determines that it promotes the interests of the municipality, the governing body may undertake public improvement projects authorized by the Act that confer a special benefit on a definable part of the municipality. The City Council has determined that the “District Improvements” described on Appendix B to this Service and Assessment Plan are authorized by the Act, promote the interests of the City, and confer a special benefit on the Assessed Property. The individual line items described on Appendix B may be updated with each update of this Service and Assessment Plan. Individual line items may be adjusted upward or downward, however, the total cost of all line items cannot exceed the total shown on Appendix B.

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## **IV. SERVICE PLAN**

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### **A. SOURCES AND USES OF FUNDS**

The PID Act requires a service plan cover a period of at least five years. The service plan is required to define the annual projected costs and indebtedness for the improvement projects undertaken within each Phase of the PID. This plan shall be reviewed and updated annually for the purpose of determining the annual budget for the District Improvements and for the issuance of Bonds for Phase Three or any other Bond issues. The annual update to this Service and Assessment Plan is herein referred to as the “Annual Service Plan Update.”

The Actual Costs, including costs related to the issuance of the Phase One Bonds and payment of expenses incurred in the establishment, administration, and operation of Phase One of the PID, was \$1,390,000, of which \$1,340,000 was funded with the PID Assessments as shown on Table IV-A. All of the Costs were expended during the first five years after adoption of the updated Service and Assessment Plan for Phase One.

**Table IV-A**  
**Sources and Uses of Funds**  
**Phase One District Improvements**

<b>Sources of Funds</b>	<b>Total</b>
Bond proceeds	\$1,340,000
Other private funds	\$50,000
<b>Total Sources of Funds</b>	<b>\$1,390,000</b>
<b>Uses of Funds</b>	
Phase One District Improvements	\$835,817
Capitalized Interest Account	\$54,558
Cost of Issuance	\$297,095
Reserve Account	\$131,093
Prepayment Reserve Account	\$1,437
Developer's Reserve Account	\$50,000
Collection Costs Account	\$20,000
<b>Total Uses of Funds</b>	<b>\$1,390,000</b>

The Costs, including estimated costs incurred in the establishment, administration, and operation of Phase Two of the PID, is \$1,782,157, of which \$749,059 is being funded with the PID Assessments as shown on Table IV-B. All of the Costs are were expended during the first five years after adoption of the updated Service and Assessment Plan for Phase Two.

**Table IV-B**  
**Sources and Uses of Funds**  
**Phase Two District Improvements**

<b>Sources of Funds:</b>	<b>Total</b>
PID Assessments	\$749,059
Estimated other source of funds	\$1,033,098
<b>Total sources of funds</b>	<b>\$1,782,157</b>
<b>Uses of Funds:</b>	
Estimated Phase Two District Improvements	\$1,782,157
<b>Total uses of funds</b>	<b>\$1,782,157</b>

The estimated Costs, including estimated costs incurred in the establishment, administration, and operation of Phase Three of the PID, is \$7,455,027, of which \$1,448,485 is being funded with the PID Assessments as shown on Table IV-C. All of the Costs are anticipated to be expended during the first five years after adoption of this Service and Assessment Plan.

**Table IV-C**  
**Sources and Uses of Funds**  
**Phase Three District Improvements**

<b>Sources of Funds:</b>	<b>Total</b>
PID Assessments	\$1,453,485
Estimated other source of funds	\$6,001,542
<b>Total sources of funds</b>	<b>\$7,455,027</b>
<b>Uses of Funds:</b>	
Estimated Phase Three District Improvements	\$7,455,027
<b>Total uses of funds</b>	<b>\$7,455,027</b>

The annual projected costs and annual projected indebtedness is shown by Table IV-B-1, Table IV-B-2, and Table IV-B-3 on the page 18 and page 19 of this report. Bonds may be issued by the City in the next five years to pay for or reimburse all or a portion of the Phase Three District Improvements. The annual projected costs and indebtedness is subject to revision and shall be reviewed and updated at least annually for the purpose of determining the annual budget for Administrative Collection Costs, updating the estimated costs of Phase Two District Improvements and Phase Three District Improvements, and updating the Phase One, Phase Two and Phase Three Assessment Rolls.

**Table IV-B-1**  
**Phase #1 Annual Projected Costs and Indebtedness**

<b>Assessment Year Ending 08/15</b>	<b>Annual Projected Costs</b>	<b>Annual Projected Indebtedness</b>	<b>Other Funding Sources</b>	<b>Projected Annual Installments</b>
2010-2020	\$1,340,000	\$1,340,000	\$0	\$1,207,465
2021	\$0	\$0	\$0	\$131,887
2022	\$0	\$0	\$0	\$144,372
2023	\$0	\$0	\$0	\$147,384
2024	\$0	\$0	\$0	\$145,213
2025	\$0	\$0	\$0	\$147,862
2026	\$0	\$0	\$0	\$150,139
2027	\$0	\$0	\$0	\$152,043
<b>Total</b>	<b>\$1,340,000</b>	<b>\$1,340,000</b>	<b>\$0</b>	<b>\$2,226,365</b>

**Table IV-B-2**  
**Phase #2 Annual Projected Costs and Indebtedness**

<b>Assessment Year Ending 08/15</b>	<b>Annual Projected Costs</b>	<b>Annual Projected Indebtedness</b>	<b>Other Funding Sources</b>	<b>Projected Annual Installments</b>
2010-2015	\$0	\$0	\$0	\$0
2016-2020	\$1,782,157	\$749,059	\$1,033,098	\$205,754
2021	\$0	\$0	\$0	\$71,679
2022	\$0	\$0	\$0	\$72,553
2023	\$0	\$0	\$0	\$64,293
2024	\$0	\$0	\$0	\$65,105
2025	\$0	\$0	\$0	\$65,860
2026	\$0	\$0	\$0	\$66,559
<b>Total</b>	<b>\$1,782,157</b>	<b>\$749,059</b>	<b>\$1,033,098</b>	<b>\$611,804</b>

**Table IV-B-3**  
**Phase #3 Annual Projected Costs and Indebtedness**

<b>Assessment Year Ending 08/15</b>	<b>Annual Projected Costs</b>	<b>Annual Projected Indebtedness</b>	<b>Other Funding Sources</b>	<b>Projected Annual Installments</b>
2021	\$7,179,911	\$1,453,000	\$5,726,911	\$0
2022	\$0	\$0	\$0	\$132,046
2023	\$0	\$0	\$0	\$132,370
2024	\$0	\$0	\$0	\$132,701
2025	\$0	\$0	\$0	\$133,041
2026	\$0	\$0	\$0	\$133,389
<b>Total</b>	<b>\$7,179,911</b>	<b>\$1,453,000</b>	<b>\$5,726,911</b>	<b>\$663,548</b>

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## ***V. ASSESSMENT PLAN***

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### **A. INTRODUCTION**

The Act requires the governing body of a municipality to apportion the cost of improvement projects to be assessed against property in a public improvement district on the basis of special benefits conferred upon the property because of the projects. The Act provides that the cost of improvement projects may be assessed: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements. This Section V of this Service and Assessment Plan describes the special benefit received by each Parcel of the Assessed Property as a result of the District Improvements, provides the basis and justification for the determination that this special benefit exceeds the costs of the Assessments, and establishes the methodology by which the City Council allocates the special benefit of the District Improvements to Parcels in a manner that results in equal shares of the Cost of the District Improvements being apportioned to Parcels similarly benefited. The determination by the City Council of the assessment methodology set forth below is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of the PID Property.

### **B. SPECIAL BENEFIT**

The Assessed Property will receive a direct and special benefit from the District Improvements, and this benefit will be equal to or greater than the cost of the Assessments. The District Improvements are provided specifically for the benefit of the Assessed Property. The District Improvements (more particularly described in line-item format on Appendix B to this Service and Assessment Plan) include the following categories of public improvement projects authorized by the Act: (i) streets (including paving, landscaping, sidewalks, street lights, and screening walls), recreational facilities, entry features, parks, hike and bike trails, open space improvements, common area improvements, pond improvements, water improvements, wastewater improvements, and storm water improvements; (ii) engineering, contract administration, and contingencies associated with the foregoing; and (iii) various issuance and transaction costs related to the issuance of one or more series of Bonds.

The owners of the Assessed Property have acknowledged that the District Improvements confer a special benefit on the Assessed Property and have consented to the imposition of the Assessments to pay for the District Improvements. The owners are acting in their interest in consenting to this imposition because the special benefit conferred upon the Assessed Property by the District Improvements exceeds the amount of the Assessments.

The owners of the Assessed Property have represented: (i) that, based on their evaluation of the potential development of the Assessed Property, the highest and best use is the use described in this Service and Assessment Plan and otherwise required by the Planned Development Ordinance; and (ii) that it is in the interest of the owners of the Assessed Property to maximize the value of such property. Use of the Assessed Property as described in this Service and Assessment Plan and as required by the Planned Development Ordinance will require that District Improvements be acquired, constructed, installed, and improved. Funding the cost of the District Improvements through the PID is determined to be the most beneficial means of doing so. In summary, the Assessments result in a special benefit to the Assessed Property, and this special benefit exceeds the amount of the Assessments based on the evidence, information, and testimony provided to the City Council.

### **C. ASSESSMENT METHODOLOGY**

1. The Cost of the District Improvements may be assessed by the City Council against the Assessed Property so long as the special benefit conferred upon the Assessed Property by the District Improvements equals or exceeds the Assessments on the Assessed Property. The Cost may be assessed by using any methodology that results in the imposition of equal shares of the Cost on Assessed Property similarly benefited.

2. For purposes of this Service and Assessment Plan, the City Council has determined that the Cost of the District Improvements shall be allocated to the Assessed Property on the basis of the relative value of Parcels after undertaking the District Improvements and that such method of allocation will result in the imposition of equal shares of the Cost on Parcels similarly situated. In determining the relative value of Parcels, the City Council has taken into consideration (i) the type of residential development (i.e., single-family, duplex, or multi-family); (ii) single-family lot size; (iii) current and projected land values; (iv) current and projected home prices; (v) current and projected market demands for single-family residential development within the City and within the region; and (vi) the high-quality, master-planned community development standards created by the Planned Development Ordinance. In determining the relative value of Parcels, the City Council has also taken into consideration independent studies supporting the conclusion that larger residential lots with full municipal services (including police, fire, and other emergency services), with access to concrete streets with curb and gutter storm drainage facilities, and with municipal water and wastewater service will be developed with larger, more expensive homes; and that such larger, more expensive homes, on average, will create more vehicle trips and greater demands for water and wastewater consumption.

3. Having taken into consideration the matters described above, the City Council has determined that allocating the Cost of the District Improvements among Parcels based on value after undertaking the District Improvements is best accomplished (and most easily illustrated) by creating a hierarchy of benefited Parcels based on the “Lot Types” defined in Section I.B of this Service and Assessment Plan. This hierarchy of value (from Lot Type 1 representing the highest value to Lot Type 3 representing the lowest value) is set forth in Tables V-A, V-C and V-E below. These tables illustrate that the City Council has determined: (i) that a Lot Type 1 dwelling unit receives the greatest benefit from the District Improvements, which benefit is given an “Equivalent Unit” value of 1.0 per dwelling unit; (ii) that a Lot Type 2 dwelling unit receives a smaller benefit;

namely, 84% of the benefit received by a Type 1 Lot dwelling unit (hence the Equivalent Unit value of 0.84 per dwelling unit); and (iii) that a Lot Type 3 dwelling unit receives an even smaller benefit; namely, 75% of the benefit received by a Type 1 dwelling unit (hence the Equivalent Unit value of 0.75 per dwelling unit).

**Table V-A**  
**Equivalent Unit Factor - Phase One**

<b>Lot Type</b>	<b>Equivalent Units</b>	<b>Total Number of Dwelling Units</b>	<b>Total Equivalent Units</b>
Lot Type 1 (90 foot Lots)	1.00 per dwelling unit	43 dwelling units	43.00
Lot Type 2 (70 foot Lots)	0.84 per dwelling unit	88 dwelling units	73.92
Lot Type 3 (60 foot Lots)	0.75 per dwelling unit	78 dwelling units	58.50
Total Equivalent Units			175.42
Total Phase One Assessments			\$1,340,000
Original Assessment Per Equivalent Unit			\$7,639
Average Annual Installment Per Equivalent Unit			\$866
Average Home Price Per Equivalent Unit			\$303,000
Average Tax Rate Equivalent per Equivalent Unit			\$0.29

The total Assessments for the Phase One Parcels are allocated among 175.42 Equivalent Units resulting in a cost per Equivalent Unit of \$7,639. The Phase One Assessment per dwelling unit is calculated as the product of (i) \$7,639 multiplied times (ii) the applicable Equivalent Unit value for each Lot Type. Table V-B sets forth the Phase One Assessment per dwelling unit on the following page.

**Table V-B**  
**Phase One Assessment per Lot Type**

<b>Lot Type</b>	<b>Equivalent Units</b>	<b>Phase One Assessment per Dwelling Unit</b>
Lot Type 1 (90 foot Lots)	1.00 per dwelling unit	\$7,639 per dwelling unit
Lot Type 2 (70 foot Lots)	0.84 per dwelling unit	\$6,417 per dwelling unit
Lot Type 3 (60 foot Lots)	0.75 per dwelling unit	\$5,729 per dwelling unit

Table V-C shows the Equivalent Units for Phase Two on the following page.

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**Table V-C**  
**Equivalent Unit Factor - Phase Two**

<b>Lot Type</b>	<b>Equivalent Units</b>	<b>Total Number of Dwelling Units</b>	<b>Total Equivalent Units</b>
Lot Type 1 (90 foot Lots)	1.00 per dwelling unit	17 dwelling units	17.00
Lot Type 2 (70 foot Lots)	0.84 per dwelling unit	31 dwelling units	26.04
Lot Type 3 (60 foot Lots)	0.75 per dwelling unit	73 dwelling units	54.75
Total Equivalent Units			97.79
Total Phase Two Assessments			\$749,059
Original Assessment Per Equivalent Unit			\$7,660
Average Annual Installment Per Equivalent Unit			\$787
Average Home Price Per Equivalent Unit			\$295,000
Average Tax Rate Equivalent per Equivalent Unit			\$0.27

The total Assessments for the Phase Two Parcels are allocated among 97.79 Equivalent Units resulting in a cost per Equivalent Unit of \$7,660. The Phase Two Assessment per dwelling unit is calculated as the product of (i) \$7,660 multiplied times (ii) the applicable Equivalent Unit value for each Lot Type. Table V-D below sets forth the Phase Two Assessment per dwelling unit.

**Table V-D**  
**Phase Two Assessment per Lot Type**

<b>Lot Type</b>	<b>Equivalent Units</b>	<b>Phase One Assessment per Dwelling Unit</b>
Lot Type 1 (90 foot Lots)	1.00 per dwelling unit	\$7,660 per dwelling unit
Lot Type 2 (70 foot Lots)	0.84 per dwelling unit	\$6,434 per dwelling unit
Lot Type 3 (60 foot Lots)	0.75 per dwelling unit	\$5,745 per dwelling unit

Table V-E shows the Equivalent Units for Phase Three below.

**Table V-E**  
**Equivalent Unit Factor - Phase Three**

<b>Lot Type</b>	<b>Equivalent Units</b>	<b>Total Number of Dwelling Units</b>	<b>Total Equivalent Units</b>
Lot Type 3 (60 foot Lots)	0.75 per dwelling unit	253 dwelling units	189.75
Total Equivalent Units			189.75
Total Phase Three Assessments			\$1,453,485
Original Assessment Per Equivalent Unit			\$7,660
Average Annual Installment Per Equivalent Unit			\$659
Average Estimated Home Price Per Equivalent Unit			\$303,000
Average Tax Rate Equivalent per Equivalent Unit			\$0.22

The total Assessments for the Phase Three Parcels are allocated among 189.75 Equivalent Units resulting in a cost per Equivalent Unit of \$7,660. The Phase Three Assessment per dwelling unit is calculated as the product of (i) \$7,660 multiplied times (ii) the applicable Equivalent Unit value for each Lot Type. Table V-F below sets forth the Phase Three Assessment per dwelling unit.

**Table V-F**  
**Phase Three Assessment per Lot Type**

<b>Lot Type</b>	<b>Equivalent Units</b>	<b>Phase Three Assessment per Dwelling Unit</b>
Lot Type 3 (60 foot Lots)	0.75 per dwelling unit	\$7,660 per dwelling unit

It has been represented to the City Council by the owners of the Assessed Property that the District Improvements for the Assessed Property will be completed in accordance with the Planned Development Ordinance and the City’s Subdivision Ordinance, as amended. When the City has determined that the District Improvements have been completed in accordance with the Planned Development Ordinance and the City’s Subdivision Ordinance or when financial security (including, but not limited to, proceeds from the issuance of Bonds) to complete the District Improvements in accordance with the Planned Development Ordinance and Subdivision Ordinance has been provided in a manner approved by the City; then the Assessed Property shall be deemed to have received a special benefit from the District Improvements. When the Assessed Property is deemed to have received a special benefit from District Improvements, the City shall collect Assessments and Annual Installments to pay for such District Improvements and shall issue Bonds for such purpose.

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## ***VI. DETERMINATION OF ASSESSMENT***

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### **A. AMOUNT OF ASSESSMENTS**

The total Assessments for all Assessed Property shall not exceed the total Cost of the District Improvements. The Assessment for each Parcel shall be as shown on the Assessment Roll, and no Assessment shall be changed except as authorized by this Service and Assessment Plan or the Act.

### **B. REALLOCATION OF ASSESSMENTS**

#### **1. Subdivision**

Upon the subdivision of any Parcel, the Assessment for the Parcel prior to the subdivision shall be reallocated among the new subdivided Parcels according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

- A = the Assessment for each new subdivided Parcel
- B = the Assessment for the Parcel prior to subdivision
- C = the estimated Equivalent Units to be built on each new subdivided Parcel
- D = the sum of the estimated Equivalent Units to be built on all of the new subdivided Parcels

The calculation of the estimated number of units to be built on a Parcel shall be performed by the Administrator and confirmed by the City Council based on the information available regarding the use of the Parcel. The estimate as confirmed shall be conclusive. The number of units to be built on a Parcel may be estimated by net land area and reasonable density ratios.

The sum of the Assessments for all newly subdivided Parcels shall equal the Assessment for the Parcel prior to subdivision. The calculation shall be made separately for each newly subdivided Parcel. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid by such amount by the party requesting the subdivision of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

#### **2. Consolidation**

Upon the consolidation of two or more Parcels, the Assessment for the consolidated Parcel shall be the sum of the Assessments for the Parcels prior to consolidation. The reallocation of an Assessment for a Parcel that is a homestead under Texas law may not exceed the Assessment prior to the reallocation and to the extent the reallocation would exceed such amount, it shall be prepaid

by such amount by the party requesting the consolidation of the Parcels. Any reallocation pursuant to this section shall be reflected in an Annual Service Plan Update approved by the City Council.

### **C. REDUCTION OF ASSESSMENTS**

If after all District Improvements have been completed the Actual Cost of the District Improvements is less than the Cost used to calculate the Assessments, then the Assessment for each Parcel shall be reduced by an equal percentage such that the sum of the resulting reduced Assessments for all Parcels equals the actual reduced Cost of the District Improvements (but never less than an amount equal to the principal amount of outstanding Bonds). To the extent permitted by law and as provided by any Bond Indenture, the trustee under the Bond Indenture shall (with the consent of the City Council) refund the amount of such reduction to any owner of a Parcel who has already paid in full the Assessment for such owner's Parcel.

### **D. PAYMENT OF ASSESSMENTS**

#### **1. Payment in Full**

(a) The Assessment for any Parcel may be paid in full at any time. Payment shall include interest through the date of payment to the extent such interest is not included in any Annual Installment paid or to be paid. If payment in full will result in a redemption of Bonds, the payment amount shall be reduced by the amount, if any, of reserve funds applied to the redemption under the Bond Indenture.

(b) If an Annual Installment has been billed prior to payment in full of an Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount.

(c) Upon payment in full of an Assessment, the City shall deposit the payment in accordance with the applicable Bond Indenture; whereupon, the Assessment shall be reduced to zero, and the owner's obligation to pay the Assessment and Annual Installments thereof shall automatically terminate.

#### **2. Payment in Annual Installments**

The Act provides that an Assessment for a Parcel may be paid in full at any time. If not paid in full, the Act authorizes the City to collect interest and collection costs on the outstanding Assessment. An Assessment for a Parcel that is not paid in full will be collected in Annual Installments, including interest and Annual Collection Costs, beginning on the date the City determines that a phase of development of the PID Property has received a special benefit from District Improvements completed or to be completed in connection with such phase of development as provided by Section V.C.4 of this Service and Assessment Plan. Each Assessment shall bear interest at one-half of one percent above than the actual interest rate paid on the public debt used to finance the District Improvements. The Assessment Roll sets forth for each year the Annual Installment for each Parcel.

The interest rate on the Phase One Bonds is 7.15 percent per annum. Accordingly, the interest rate of 7.65 percent per annum is used as the interest rate on the Assessments for the Phase One Parcels.

Each Assessment on Parcels in Phase #2 shall be paid with interest based on an interest rate of 7.00% per annum for years 1 through 5 and 5.77% per annum following the fifth Annual Installment. Each Assessment on Parcels in Phase #2 shall be paid at a rate not to exceed five hundred basis points above the highest average index rate for tax-exempt bond reported in a daily or weekly bond index approved by the City and reported in the month prior to the establishment of the Assessments and continuing for a period of five years from such date. Such rate shall then adjust and shall not exceed two hundred basis points above the bond index rate described above and shall continue until the Assessments are paid in full. The index approved by the City is the Bond Buyer Index for which the highest average rate during September 2017 was 2.77%. The City has determined that the Assessments on Parcels in Phase #2 shall bear interest at the rate of 7.00% per annum for years 1 through 5 and 5.77% per annum following the fifth Annual Installment, which rate are equal to both the initial maximum allowable rate of interest of 7.00% as well as the maximum allowable rate of interest following the fifth Annual Installment, which would be 5.77%. Furthermore, the principal and interest component of the Annual Installments may not exceed the amounts shown on the Phase #2 Assessment Roll. The Phase #2 Assessment Roll, updated with the actual interest rate on the reimbursement agreement, is shown in Appendix C-2. The first annual installments for Parcels within Phase #2 were due by January 31, 2018.

Each Assessment on Parcels in Phase #3 shall be paid with interest based on an interest rate of 7.64% per annum for years 1 through 5 and 4.64% per annum following the fifth Annual Installment. Each Assessment on Parcels in Phase #3 shall be paid at a rate not to exceed five hundred basis points above the highest average index rate for tax-exempt bond reported in a daily or weekly bond index approved by the City and reported in the month prior to the establishment of the Assessments and continuing for a period of five years from such date. Such rate shall then adjust and shall not exceed two hundred basis points above the bond index rate described above and shall continue until the Assessments are paid in full. The index approved by the City is the Bond Buyer Index for which the highest average rate during May 2021 was 2.64%. The City has determined that the Assessments on Parcels in Phase #3 shall bear interest at the rate of 7.64% per annum for years 1 through 5 and 4.66% per annum following the fifth Annual Installment, which rate are equal to both the initial maximum allowable rate of interest of 7.64% as well as the maximum allowable rate of interest following the fifth Annual Installment, which would be 4.64%. Furthermore, the principal and interest component of the Annual Installments may not exceed the amounts shown on the Phase #3 Assessment Roll. The Phase #3 Assessment Roll is shown in Appendix C-3. Calculation of the annual installments shall be as of September 1 of each year. The first annual installments for Parcels within Phase #3 will be due on January 31, 2022 and will become delinquent February 1 following such payment date.

The City reserves and shall have the right and option to issue Bonds to pay or reimburse Costs of the Phase Three District Improvements. In the event of issuance of such Bonds, the Administrator shall recalculate the Annual Installments for Phase Three Assessments, and if necessary, may adjust, or decrease, the amount of the Annual Installment so that total Annual Installments of Special Assessments will be produced in annual amounts that are required to pay the debt service

on such Bonds when due and payable as required by and established in the Bond Indenture authorizing and securing such Bonds.

#### **E. COLLECTION OF ANNUAL INSTALLMENTS**

No less frequently than annually, the Administrator shall prepare, and the City Council shall approve, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and a calculation of the Annual Installment for each Parcel. Annual Collection Costs shall be allocated among Parcels in proportion to the amount of the Annual Installments for the Parcels. Each Annual Installment shall be reduced by any credits applied under the applicable Bond Indenture, such as capitalized interest, interest earnings on any account balances, and any other funds available to the Trustee for such purpose.

The City has made the determinations as provided in Section V.C.4 of this Service and Assessment Plan that the Assessed Property in Phase Three has received a special benefit from the Phase Three District Improvements completed or to be completed, and collection of Annual Installments for Phase Three shall commence as of September 1, 2021 and will be due by January 31, 2022.

Annual Installments shall be collected by the City in the same manner and at the same time as ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of delinquencies as are provided for ad valorem taxes of the City. The Assessments shall have lien priority as specified in the Act.

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## ***VII. THE ASSESSMENT ROLL***

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Each Parcel has been evaluated by the City Council (based on the Planned Development Ordinance, developable area, proposed Owner Association Property and Public Property, the District Improvements, best and highest use of land, and other development factors deemed relevant by the City Council) to determine the Lot Type that is anticipated to be developed within such Parcel. The Assessment for each Parcel will not exceed the Maximum Assessment for the Lot Type. All of the Assessments are set forth on the Assessment Roll attached as Appendix C to this Service and Assessment Plan. The Assessment Roll shall be updated upon the issuance of each series Bonds, upon the preparation of each Annual Service Plan Update, and to reflect, for each Parcel, prepayments and reductions authorized by this Service and Assessment Plan.

The Administrator shall prepare, and the City Council shall review and approve, updates (no less frequently than annually) to the Assessment Roll to reflect the following matters, together with any other changes helpful to the Administrator and permitted by the Act: (i) the identification of each Parcel (including, if available, the tax parcel identification number for each Parcel); (ii) the Assessment for each Parcel, including any adjustments authorized by this Service and Assessment Plan or in the Act; (iii) the Annual Installment for the Parcel for the year (if the Assessment is payable in installments); and (iv) payments of the Assessment, if any, as provided by Section VI.C of this Service and Assessment Plan.

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## ***VIII. MISCELLANEOUS PROVISIONS***

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### **A. ADMINISTRATIVE REVIEW**

An owner of a Parcel claiming that an error has been made in calculating the Assessment Roll (including the Annual Installment) shall (prior to pursuing any other remedy) give written notice describing the alleged error to the City within thirty (30) days after the owner receives the purportedly erroneous calculation. If an owner fails to give such notice, such owner shall be deemed to have accepted the calculation of the Assessment Roll (including the Annual Installment) and to have waived any objections to the calculation. The Administrator shall promptly review all notices alleging calculation errors and decide whether an error has been made. Any overpayment of a prior Annual Installment shall be credited against future Annual Installments, and no cash refunds shall be made except for the final year during which the Annual Installment is collected. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to the City Council for determination. Any amendments made to the Assessment Roll pursuant to calculation errors shall be made pursuant to the Act.

### **B. TERMINATION OF ASSESSMENTS**

Each Assessment shall terminate on the date the Assessment is paid in full, including unpaid Annual Installments, if any, and including Delinquent Collection Costs. After termination of an Assessment, the City shall provide to the owner of the affected Parcel a recordable “ Notice of the PID Assessment Termination.”

### **C. AMENDMENTS**

Supplemental Assessments may be made by the City Council in accordance with the Act to correct omissions or mistakes relating to the total Cost of the District Improvements. The City Council reserves the right to amend this Service and Assessment Plan without notice under the Act and without notice to owners of Parcels: (i) to correct minor mistakes and clerical errors; (ii) to clarify minor ambiguities; and (iii) to provide procedures for the collection and enforcement of Assessments, Collection Costs, and other charges imposed by this Service and Assessment Plan. The City Council further reserves the right to amend this Service and Assessment Plan (after notice and public hearing as required by the Act) to conform this Service and Assessment Plan to the requirements of the Act, including requirements arising from interpretations of the Act by the Attorney General of the State of Texas.

### **D. INTERPRETATION AND DETERMINATIONS**

The City Council shall make all interpretations and determinations related to the application of this Service and Assessment Plan, which determinations and interpretations are governmental actions involving legislative discretion. Ministerial and administrative acts may be delegated pursuant to this Service and Assessment Plan and the Bond Indenture.

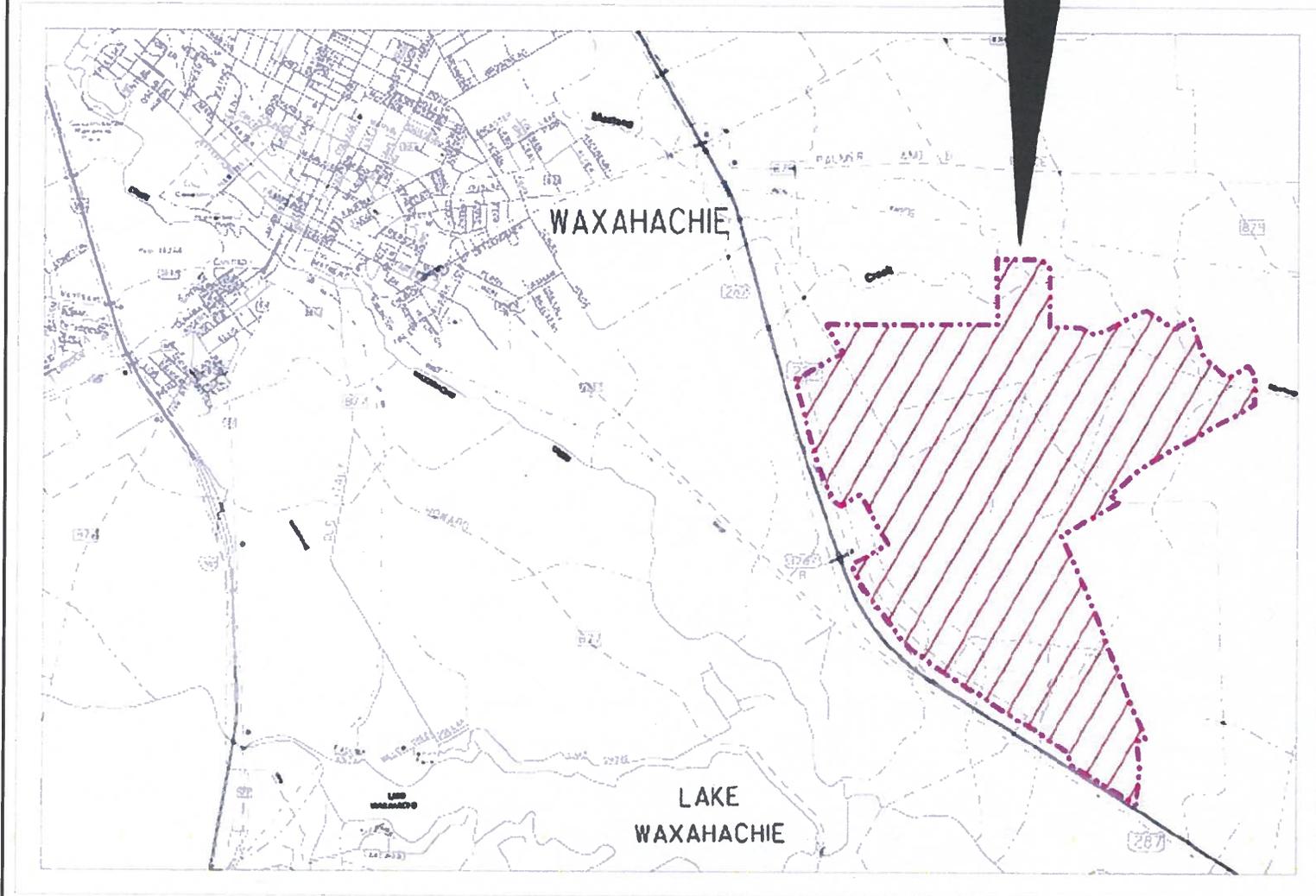
## **E. SEVERABILITY**

If any provision of this Service and Assessment Plan is held to be unenforceable by final judgment of any court having jurisdiction, such unenforceable provision shall be deleted and severed from this Service and Assessment Plan, and this Service and Assessment Plan, and all remaining provisions, shall remain in full force and effect and be interpreted to give effect to the intent of the parties as evidenced by this Service and Assessment Plan as a whole. To the extent required to give maximum effect to the intent of the parties, the remaining provisions of this Service and Assessment Plan shall be reformed or rewritten. All provisions of this Service and Assessment Plan are deemed to be severable.

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**APPENDIX A**  
**THE PID MAP**

# PROJECT LOCATION



**APPENDIX A-1**  
**THE PID MAP – PHASE ONE**

**APPENDIX A-2**  
**THE PID MAP – PHASE TWO**

**APPENDIX A-3**  
**THE PID MAP – PHASE THREE**

**APPENDIX B**  
**ESTIMATED COSTS OF THE DISTRICT IMPROVEMENTS**

**APPENDIX C-1**  
**PHASE #1 ASSESSMENT ROLL**

**Appendix C-1-1**  
**Phase #1 - Assessment Roll**

**Parcel  
Equivalent Units  
Assessment**

**All Parcels  
175.42  
\$1,340,000**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2010	\$0	\$0	\$0	\$0
2011	\$0	\$54,558	\$20,000	\$74,558
2012	\$5,000	\$102,319	\$20,400	\$127,719
2013	\$10,000	\$101,745	\$20,808	\$132,553
2014	\$10,000	\$100,980	\$21,224	\$132,204
2015	\$10,000	\$100,215	\$21,649	\$131,864
2016	\$15,000	\$99,259	\$22,082	\$136,340
2017	\$15,000	\$98,111	\$22,523	\$135,634
2018	\$20,000	\$96,773	\$22,974	\$139,746
2019	\$20,000	\$95,243	\$23,433	\$138,676
2020	\$25,000	\$93,521	\$23,902	\$142,423
2021	\$25,000	\$91,609	\$24,380	\$140,989
2022	\$30,000	\$89,505	\$24,867	\$144,372
2023	\$35,000	\$87,019	\$25,365	\$147,384
2024	\$35,000	\$84,341	\$25,872	\$145,213
2025	\$40,000	\$81,473	\$26,390	\$147,862
2026	\$45,000	\$78,221	\$26,917	\$150,139
2027	\$50,000	\$74,588	\$27,456	\$152,043
2028	\$55,000	\$70,571	\$28,005	\$153,576
2029	\$60,000	\$66,173	\$28,565	\$154,737
2030	\$65,000	\$61,391	\$29,136	\$155,527
2031	\$70,000	\$56,228	\$29,719	\$155,946
2032	\$75,000	\$50,681	\$30,313	\$155,995
2033	\$85,000	\$44,561	\$30,920	\$160,481
2034	\$90,000	\$37,868	\$31,538	\$159,405
2035	\$100,000	\$30,600	\$32,169	\$162,769
2036	\$110,000	\$22,568	\$32,812	\$165,380
2037	\$115,000	\$13,961	\$33,468	\$162,430
2038	\$125,000	\$4,781	\$34,138	\$163,919
<b>Total</b>	<b>\$1,340,000</b>	<b>\$1,988,861</b>	<b>\$741,024</b>	<b>\$4,069,885</b>

1 - The principal and interest amounts represent the debt service requirements using an interest rate of 7.15% and includes an additional 0.50% for prepayment and delinquency reserves.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**Appendix C-1-2**  
**Phase #1 - Assessment Per Unit**

**Lot Type**  
**Equivalent Unit Factor**  
**Assessment Per Unit**

**Lot Type 1 (90 Ft)**  
**1.00**  
**\$7,639**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2010	\$0	\$0	\$0	\$0
2011	\$0	\$311	\$114	\$425
2012	\$29	\$583	\$116	\$728
2013	\$57	\$580	\$119	\$756
2014	\$57	\$576	\$121	\$754
2015	\$57	\$571	\$123	\$752
2016	\$86	\$566	\$126	\$777
2017	\$86	\$559	\$128	\$773
2018	\$114	\$552	\$131	\$797
2019	\$114	\$543	\$134	\$791
2020	\$143	\$533	\$136	\$812
2021	\$143	\$522	\$139	\$804
2022	\$171	\$510	\$142	\$823
2023	\$200	\$496	\$145	\$840
2024	\$200	\$481	\$147	\$828
2025	\$228	\$464	\$150	\$843
2026	\$257	\$446	\$153	\$856
2027	\$285	\$425	\$157	\$867
2028	\$314	\$402	\$160	\$875
2029	\$342	\$377	\$163	\$882
2030	\$371	\$350	\$166	\$887
2031	\$399	\$321	\$169	\$889
2032	\$428	\$289	\$173	\$889
2033	\$485	\$254	\$176	\$915
2034	\$513	\$216	\$180	\$909
2035	\$570	\$174	\$183	\$928
2036	\$627	\$129	\$187	\$943
2037	\$656	\$80	\$191	\$926
2038	\$713	\$27	\$195	\$934
<b>Total</b>	<b>\$7,639</b>	<b>\$11,338</b>	<b>\$4,224</b>	<b>\$23,201</b>

1 - The principal and interest amounts represent the debt service requirements using an interest rate of 7.15% and includes an additional 0.50% for prepayment and delinquency reserves.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**Appendix C-1-3**  
**Phase #1 - Assessment Per Unit**

**Lot Type**  
**Equivalent Unit Factor**  
**Assessment Per Unit**

**Lot Type 2 (70 Ft)**  
**0.84**  
**\$6,417**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2010	\$0	\$0	\$0	\$0
2011	\$0	\$261	\$96	\$357
2012	\$24	\$490	\$98	\$612
2013	\$48	\$487	\$100	\$635
2014	\$48	\$484	\$102	\$633
2015	\$48	\$480	\$104	\$631
2016	\$72	\$475	\$106	\$653
2017	\$72	\$470	\$108	\$649
2018	\$96	\$463	\$110	\$669
2019	\$96	\$456	\$112	\$664
2020	\$120	\$448	\$114	\$682
2021	\$120	\$439	\$117	\$675
2022	\$144	\$429	\$119	\$691
2023	\$168	\$417	\$121	\$706
2024	\$168	\$404	\$124	\$695
2025	\$192	\$390	\$126	\$708
2026	\$215	\$375	\$129	\$719
2027	\$239	\$357	\$131	\$728
2028	\$263	\$338	\$134	\$735
2029	\$287	\$317	\$137	\$741
2030	\$311	\$294	\$140	\$745
2031	\$335	\$269	\$142	\$747
2032	\$359	\$243	\$145	\$747
2033	\$407	\$213	\$148	\$768
2034	\$431	\$181	\$151	\$763
2035	\$479	\$147	\$154	\$779
2036	\$527	\$108	\$157	\$792
2037	\$551	\$67	\$160	\$778
2038	\$599	\$23	\$163	\$785
<b>Total</b>	<b>\$6,417</b>	<b>\$9,524</b>	<b>\$3,548</b>	<b>\$19,489</b>

1 - The principal and interest amounts represent the debt service requirements using an interest rate of 7.15% and includes an additional 0.50% for prepayment and delinquency reserves.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**Appendix C-1-4**  
**Phase #1 - Assessment Per Unit**

**Lot Type**  
**Equivalent Unit Factor**  
**Assessment Per Unit**

**Lot Type 3 (60 Ft)**  
**0.75**  
**\$5,729**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2010	\$0	\$0	\$0	\$0
2011	\$0	\$233	\$86	\$319
2012	\$21	\$437	\$87	\$546
2013	\$43	\$435	\$89	\$567
2014	\$43	\$432	\$91	\$565
2015	\$43	\$428	\$93	\$564
2016	\$64	\$424	\$94	\$583
2017	\$64	\$419	\$96	\$580
2018	\$86	\$414	\$98	\$597
2019	\$86	\$407	\$100	\$593
2020	\$107	\$400	\$102	\$609
2021	\$107	\$392	\$104	\$603
2022	\$128	\$383	\$106	\$617
2023	\$150	\$372	\$108	\$630
2024	\$150	\$361	\$111	\$621
2025	\$171	\$348	\$113	\$632
2026	\$192	\$334	\$115	\$642
2027	\$214	\$319	\$117	\$650
2028	\$235	\$302	\$120	\$657
2029	\$257	\$283	\$122	\$662
2030	\$278	\$262	\$125	\$665
2031	\$299	\$240	\$127	\$667
2032	\$321	\$217	\$130	\$667
2033	\$363	\$191	\$132	\$686
2034	\$385	\$162	\$135	\$682
2035	\$428	\$131	\$138	\$696
2036	\$470	\$96	\$140	\$707
2037	\$492	\$60	\$143	\$694
2038	\$534	\$20	\$146	\$701
<b>Total</b>	<b>\$5,729</b>	<b>\$8,503</b>	<b>\$3,168</b>	<b>\$17,401</b>

1 - The principal and interest amounts represent the debt service requirements using an interest rate of 7.15% and includes an additional 0.50% for prepayment and delinquency reserves.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**APPENDIX C-2**  
**PHASE #2 ASSESSMENT ROLL**

**Appendix C-2-1**  
**Phase #2 - Assessment Roll**

**Parcel  
Equivalent Units  
Assessment**

**All Parcels  
97.79  
\$749,059**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2018	\$0	\$52,434	\$15,000	\$67,434
2019	\$0	\$52,434	\$15,150	\$67,584
2020	\$3,000	\$52,434	\$15,302	\$70,736
2021	\$4,000	\$52,224	\$15,455	\$71,679
2022	\$5,000	\$51,944	\$15,609	\$72,553
2023	\$6,000	\$42,528	\$15,765	\$64,293
2024	\$7,000	\$42,182	\$15,923	\$65,105
2025	\$8,000	\$41,778	\$16,082	\$65,860
2026	\$9,000	\$41,317	\$16,243	\$66,559
2027	\$11,000	\$40,797	\$16,405	\$68,203
2028	\$13,000	\$40,163	\$16,569	\$69,732
2029	\$14,000	\$39,413	\$16,735	\$70,148
2030	\$16,000	\$38,605	\$16,902	\$71,507
2031	\$18,000	\$37,682	\$17,071	\$72,753
2032	\$20,000	\$36,643	\$17,242	\$73,885
2033	\$22,000	\$35,489	\$17,415	\$74,903
2034	\$25,000	\$34,220	\$17,589	\$76,808
2035	\$27,000	\$32,777	\$17,765	\$77,542
2036	\$30,000	\$31,219	\$17,942	\$79,161
2037	\$33,000	\$29,488	\$18,122	\$80,610
2038	\$36,000	\$27,584	\$18,303	\$81,887
2039	\$40,000	\$25,507	\$18,486	\$83,993
2040	\$44,000	\$23,199	\$18,671	\$85,870
2041	\$47,000	\$20,660	\$18,857	\$86,517
2042	\$52,000	\$17,948	\$19,046	\$88,994
2043	\$56,000	\$14,948	\$19,236	\$90,184
2044	\$62,000	\$11,717	\$19,429	\$93,145
2045	\$67,000	\$8,139	\$19,623	\$94,762
2046	\$74,059	\$4,273	\$19,819	\$98,152
<b>Total</b>	<b>\$749,059</b>	<b>\$979,744</b>	<b>\$501,756</b>	<b>\$2,230,559</b>

1 - The principal and interest amounts represent the debt service requirements using an interest of 7.00% for years 1 through 5 and 5.77% thereafter.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**Appendix C-2-2**  
**Phase #2 - Assessment Per Unit**

<b>Lot Type</b>	<b>Lot Type 1 (90 Ft)</b>
<b>Equivalent Unit Factor</b>	<b>1.00</b>
<b>Assessment Per Unit</b>	<b>\$7,660</b>

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2018	\$0	\$536	\$153	\$690
2019	\$0	\$536	\$155	\$691
2020	\$31	\$536	\$156	\$723
2021	\$41	\$534	\$158	\$733
2022	\$51	\$531	\$160	\$742
2023	\$61	\$528	\$161	\$750
2024	\$72	\$523	\$163	\$758
2025	\$82	\$518	\$164	\$765
2026	\$92	\$513	\$166	\$771
2027	\$112	\$506	\$168	\$786
2028	\$133	\$498	\$169	\$801
2029	\$143	\$489	\$171	\$803
2030	\$164	\$479	\$173	\$815
2031	\$184	\$467	\$175	\$826
2032	\$205	\$455	\$176	\$835
2033	\$225	\$440	\$178	\$843
2034	\$256	\$425	\$180	\$860
2035	\$276	\$407	\$182	\$864
2036	\$307	\$387	\$183	\$878
2037	\$337	\$366	\$185	\$889
2038	\$368	\$342	\$187	\$898
2039	\$409	\$316	\$189	\$915
2040	\$450	\$288	\$191	\$929
2041	\$481	\$256	\$193	\$930
2042	\$532	\$223	\$195	\$949
2043	\$573	\$185	\$197	\$955
2044	\$634	\$145	\$199	\$978
2045	\$685	\$101	\$201	\$987
2046	\$757	\$53	\$203	\$1,013
<b>Total</b>	<b>\$7,660</b>	<b>\$11,585</b>	<b>\$5,131</b>	<b>\$24,375</b>

1 - The principal and interest amounts represent the debt service requirements using an interest of 7.00% for years 1 through 5 and 5.77% thereafter.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**Appendix C-2-3**  
**Phase #2 - Assessment Per Unit**

**Lot Type**  
**Equivalent Unit Factor**  
**Assessment Per Unit**

**Lot Type 2 (70 Ft)**  
**0.84**  
**\$6,434**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2018	\$0	\$450	\$129	\$579
2019	\$0	\$450	\$130	\$581
2020	\$26	\$450	\$131	\$608
2021	\$34	\$449	\$133	\$616
2022	\$43	\$446	\$134	\$623
2023	\$52	\$443	\$135	\$630
2024	\$60	\$440	\$137	\$636
2025	\$69	\$435	\$138	\$642
2026	\$77	\$431	\$140	\$647
2027	\$94	\$425	\$141	\$661
2028	\$112	\$419	\$142	\$673
2029	\$120	\$411	\$144	\$675
2030	\$137	\$402	\$145	\$685
2031	\$155	\$393	\$147	\$694
2032	\$172	\$382	\$148	\$702
2033	\$189	\$370	\$150	\$708
2034	\$215	\$357	\$151	\$722
2035	\$232	\$342	\$153	\$726
2036	\$258	\$325	\$154	\$737
2037	\$283	\$307	\$156	\$746
2038	\$309	\$287	\$157	\$754
2039	\$344	\$266	\$159	\$768
2040	\$378	\$242	\$160	\$780
2041	\$404	\$215	\$162	\$781
2042	\$447	\$187	\$164	\$797
2043	\$481	\$156	\$165	\$802
2044	\$533	\$122	\$167	\$822
2045	\$576	\$85	\$169	\$829
2046	\$636	\$45	\$170	\$851
<b>Total</b>	<b>\$6,434</b>	<b>\$9,731</b>	<b>\$4,310</b>	<b>\$20,475</b>

1 - The principal and interest amounts represent the debt service requirements using an interest of 7.00% for years 1 through 5 and 5.77% thereafter.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**Appendix C-2-4**  
**Phase #2 - Assessment Per Unit**

**Lot Type**  
**Equivalent Unit Factor**  
**Assessment Per Unit**

**Lot Type 3 (60 Ft)**  
**0.75**  
**\$5,745**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2018	\$0	\$402	\$115	\$517
2019	\$0	\$402	\$116	\$518
2020	\$23	\$402	\$117	\$543
2021	\$31	\$401	\$119	\$550
2022	\$38	\$398	\$120	\$556
2023	\$46	\$396	\$121	\$563
2024	\$54	\$392	\$122	\$568
2025	\$61	\$389	\$123	\$573
2026	\$69	\$384	\$125	\$578
2027	\$84	\$380	\$126	\$590
2028	\$100	\$374	\$127	\$600
2029	\$107	\$367	\$128	\$602
2030	\$123	\$359	\$130	\$612
2031	\$138	\$351	\$131	\$620
2032	\$153	\$341	\$132	\$627
2033	\$169	\$330	\$134	\$632
2034	\$192	\$318	\$135	\$645
2035	\$207	\$305	\$136	\$648
2036	\$230	\$290	\$138	\$658
2037	\$253	\$274	\$139	\$666
2038	\$276	\$257	\$140	\$673
2039	\$307	\$237	\$142	\$686
2040	\$337	\$216	\$143	\$697
2041	\$360	\$192	\$145	\$697
2042	\$399	\$167	\$146	\$712
2043	\$429	\$139	\$148	\$716
2044	\$476	\$109	\$149	\$734
2045	\$514	\$76	\$150	\$740
2046	\$568	\$40	\$152	\$760
<b>Total</b>	<b>\$5,745</b>	<b>\$8,688</b>	<b>\$3,848</b>	<b>\$18,282</b>

1 - The principal and interest amounts represent the debt service requirements using an interest of 7.00% for years 1 through 5 and 5.77% thereafter.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**APPENDIX C-3**

**PHASE #3 ASSESSMENT ROLL**

**Appendix C-3-1**  
**Phase #3 - Assessment Roll**

**Parcel  
Equivalent Units  
Assessment**

**All Parcels  
189.75  
\$1,453,485**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2022	\$1,000	\$111,046	\$20,000	\$132,046
2023	\$1,000	\$110,970	\$20,400	\$132,370
2024	\$1,000	\$110,893	\$20,808	\$132,701
2025	\$1,000	\$110,817	\$21,224	\$133,041
2026	\$1,000	\$110,741	\$21,649	\$133,389
2027	\$30,000	\$67,210	\$22,082	\$119,291
2028	\$30,000	\$65,818	\$22,523	\$118,341
2029	\$35,000	\$64,426	\$22,974	\$122,399
2030	\$35,000	\$62,802	\$23,433	\$121,235
2031	\$40,000	\$61,178	\$23,902	\$125,080
2032	\$40,000	\$59,322	\$24,380	\$123,702
2033	\$40,000	\$57,466	\$24,867	\$122,333
2034	\$45,000	\$55,610	\$25,365	\$125,975
2035	\$45,000	\$53,522	\$25,872	\$124,394
2036	\$50,000	\$51,434	\$26,390	\$127,823
2037	\$50,000	\$49,114	\$26,390	\$125,503
2038	\$50,000	\$46,794	\$26,390	\$123,183
2039	\$55,000	\$44,474	\$26,390	\$125,863
2040	\$60,000	\$41,922	\$26,390	\$128,311
2041	\$60,000	\$39,138	\$26,390	\$125,527
2042	\$65,000	\$36,354	\$26,390	\$127,743
2043	\$65,000	\$33,338	\$26,390	\$124,727
2044	\$70,000	\$30,322	\$26,390	\$126,711
2045	\$75,000	\$27,074	\$26,390	\$128,463
2046	\$75,000	\$23,594	\$26,390	\$124,983
2047	\$80,000	\$20,114	\$26,390	\$126,503
2048	\$85,000	\$16,402	\$26,390	\$127,791
2049	\$85,000	\$12,458	\$26,390	\$123,847
2050	\$90,000	\$8,514	\$26,390	\$124,903
2051	\$93,485	\$4,338	\$26,390	\$124,212
<b>Total</b>	<b>\$1,453,485</b>	<b>\$1,587,198</b>	<b>\$741,712</b>	<b>\$3,782,395</b>

1 - The principal and interest amounts represent the debt service requirements using an interest of 7.64% for years 1 through 5 and 4.64% thereafter.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**Appendix C-3-2**  
**Phase #3 - Assessment Per Unit**

**Lot Type**  
**Equivalent Unit Factor**  
**Assessment Per Unit**

**Lot Type 3 (60 Ft)**  
**0.75**  
**\$7,660**

<b>Year</b>	<b>Principal<sup>1</sup></b>	<b>Interest<sup>1</sup></b>	<b>Annual Collection Costs<sup>2</sup></b>	<b>Total Annual Installment</b>
2022	\$5	\$585	\$105	\$696
2023	\$5	\$585	\$108	\$698
2024	\$5	\$584	\$110	\$699
2025	\$5	\$584	\$112	\$701
2026	\$5	\$584	\$114	\$703
2027	\$158	\$354	\$116	\$629
2028	\$158	\$347	\$119	\$624
2029	\$184	\$340	\$121	\$645
2030	\$184	\$331	\$123	\$639
2031	\$211	\$322	\$126	\$659
2032	\$211	\$313	\$128	\$652
2033	\$211	\$303	\$131	\$645
2034	\$237	\$293	\$134	\$664
2035	\$237	\$282	\$136	\$656
2036	\$264	\$271	\$139	\$674
2037	\$264	\$259	\$139	\$661
2038	\$264	\$247	\$139	\$649
2039	\$290	\$234	\$139	\$663
2040	\$316	\$221	\$139	\$676
2041	\$316	\$206	\$139	\$662
2042	\$343	\$192	\$139	\$673
2043	\$343	\$176	\$139	\$657
2044	\$369	\$160	\$139	\$668
2045	\$395	\$143	\$139	\$677
2046	\$395	\$124	\$139	\$659
2047	\$422	\$106	\$139	\$667
2048	\$448	\$86	\$139	\$673
2049	\$448	\$66	\$139	\$653
2050	\$474	\$45	\$139	\$658
2051	\$493	\$23	\$139	\$655
<b>Total</b>	<b>\$7,660</b>	<b>\$8,365</b>	<b>\$3,909</b>	<b>\$19,934</b>

1 - The principal and interest amounts represent the debt service requirements using an interest of 7.64% for years 1 through 5 and 4.64% thereafter.

2- Administrative Expenses are estimated and will be updated each year in the Annual Service Plan Updates.

**WAXAHACHIE PUBLIC IMPROVEMENT DISTRICT NO. 1  
PHASE 3 IMPROVEMENTS REIMBURSEMENT AGREEMENT**

This Waxahachie Public Improvement District No. 1 Phase 3 Improvements Reimbursement Agreement (this "Reimbursement Agreement") is executed by and between the **City of Waxahachie, Texas** (the "City") and **287 Waxahachie L.P.**, a Texas limited partnership (the "Developer") (individually referred to as a "Party" and collectively as the "Parties") to be effective June 7, 2021 (the "Effective Date").

**RECITALS**

**WHEREAS**, capitalized terms used in this Reimbursement Agreement shall have the meanings given to them in this Reimbursement Agreement or in the *Waxahachie Public Improvement District No. 1 Service and Assessment Plan*, dated June 7, 2021, as the same may be amended, supplemented, and updated from time to time (the "SAP") approved by Ordinance No. \_\_\_\_\_ passed and approved by the City Council on June 7, 2021; and

**WHEREAS**, on April 16, 2007 the City Council passed and approved Resolution No. 1087 authorizing the creation of the Waxahachie Public Improvement District No. 1 (the "District") covering approximately 1,965 acres of land described by metes and bounds in said Resolution (the "District Property"); and

**WHEREAS**, the purpose of the District is to finance public improvements (the "Authorized Improvements") as provided by Chapter 372, Texas Local Government Code, as amended (the "PID Act") that promote the interests of the City and confer a special benefit on the Assessed Property within the District; and

**WHEREAS**, the District Property is being developed in phases, and special assessments for each phase have been or will be levied against the Assessed Property within such phase to pay the costs of Authorized Improvements that confer a special benefit on the Assessed Property within such phase; and

**WHEREAS**, Phase Three District Improvements (as defined in the SAP) are to be constructed within Phase 3 of the District Property, as described and depicted in the SAP; and

**WHEREAS**, on May 3, 2021, the City Council passed and approved Resolution No. 1309 determining, among other things, the estimated costs of the Phase Three District Improvements; and

**WHEREAS**, on June 7, 2021, the City Council passed and approved Ordinance No. \_\_\_\_\_ (the "Assessment Ordinance") which, among other things, approved the SAP (including the assessment roll for Phase 3 (as amended and updated from time to time in the SAP, the "Phase 3 Assessment Roll")), levied assessments, and established the dates upon which interest on assessments will begin to accrue and collection of assessments will begin; and

**WHEREAS**, in addition to approving the SAP, the Assessment Ordinance levied assessments against property within Phase 3 (the "Phase 3 Assessed Property") for the Phase Three

District Improvements in accordance with the Phase 3 Assessment Roll attached as Appendix C-3 to the SAP; and

**WHEREAS**, the Parties have entered into that certain “Waxahachie Public Improvement District No. 1 Phase 3 Construction, Funding, and Acquisition Agreement” dated as of June 7, 2021 (the “Construction Funding Agreement”) for the construction of the Phase Three District Improvements; and

**WHEREAS**, the SAP established \$7,455,027.00 as the cost of the Phase Three District Improvements, of which, \$1,453,485.00 is to be assessed against Phase 3 of the District Property (the “Phase 3 Improvements Costs”); and

**WHEREAS**, the SAP allocated the Phase 3 Improvements Costs to Phase 3 of the District Property, and the SAP contemplated the allocation of the Phase 3 Improvements Costs among the single family residential lots to be created from the subdivision of the Phase Three Property; and

**WHEREAS**, assessments against lots within Phase 3 of the District (“Phase 3 Assessments”) are reflected on the Phase 3 Assessment Roll as approved by the City Council; and

**WHEREAS**, the SAP and the Assessment Ordinance provide, in part, that an assessment or assessments may be paid in full, and if an assessment is not paid in full, it shall be due and payable in Annual Installments plus interest for a period of 30 years or until the assessment is paid in full; and

**WHEREAS**, all revenue received and collected by the City from the collection of the Phase 3 Assessments and Annual Installments (excluding Delinquent Collection Costs, and Annual Collection Costs) (the “Phase 3 Assessment Revenue”) shall be deposited as required by the PID Act into an assessment fund that is segregated from all other funds of the City (the “Phase 3 Assessment Fund”); and

**WHEREAS**, if Future Phase 3 Bonds (as defined below) are issued, Phase 3 Assessment Revenue shall be collected and deposited as provided in the indenture(s) authorizing the issuance of the Future Phase 3 Bonds; and

**WHEREAS**, the Phase 3 Assessment Revenue deposited into the Phase 3 Assessment Fund shall be used to reimburse Developer and its assigns for the Phase 3 Improvements Costs advanced by the Developer in an amount not to exceed \$1,453,485.00, plus interest; and

**WHEREAS**, the Parties agree that this Reimbursement Agreement supersedes and replaces any prior agreements (whether written or oral) including any amendments to those prior agreements between the Parties regarding the subject matter hereof; and

**WHEREAS**, the obligations of the City to use the Phase 3 Assessments hereunder is authorized by the PID Act;

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS OF THE PARTIES SET FORTH IN THIS REIMBURSEMENT AGREEMENT AND FOR VALUABLE CONSIDERATION THE RECEIPT AND ADEQUACY OF WHICH ARE ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:**

1. The recitals in the “WHEREAS” clauses of this Reimbursement Agreement are true and correct, create obligations of the Parties, and are incorporated as part of this Reimbursement Agreement for all purposes.
2. Strictly subject to the terms, conditions, and requirements and solely from the Phase 3 Assessment Revenues as herein provided, the City agrees to pay the Developer and its assigns, and the Developer and its assigns shall be entitled to receive from the City, the amount equal to the actual costs of the Phase Three District Improvements paid by the Developer for the Phase 3 Improvements Costs that were within budgeted costs, or authorized overrun costs, that were paid or incurred by the Developer in accordance with the Construction Funding Agreement plus interest on the unpaid balance in accordance with the terms of this Reimbursement Agreement until September 1, 2052 (the “Maturity Date”), and which shall be reimbursed to the Developer and its assigns in a principal amount not to exceed \$1,453,485.00 (the “Reimbursement Amount”), plus interest accrued, as hereinafter provided; provided, however, the Reimbursement Amount shall not exceed \$3,040,683.00. The City hereby covenants to create, concurrently with the execution of this Reimbursement Agreement, a separate fund to be designated the “Phase 3 Assessment Fund.” The Reimbursement Amount is payable from monies to be deposited in the Phase 3 Assessment Fund, or from the net proceeds of Future Phase 3 Bonds, as described below:
  - a. The Reimbursement Amount is payable solely from: (i) the Phase 3 Assessment Revenue received and collected by the City and deposited into the Phase 3 Assessment Fund; (ii) the net proceeds (after payment of costs of issuance, including the costs paid or incurred by the City) of one or more series of bonds (the “Future Phase 3 Bonds”) issued by the City and secured by the Phase 3 Assessment Revenue; or (iii) a combination of items (i) and (ii) immediately above. The Phase 3 Assessment Revenue shall be received, collected and deposited into the Phase 3 Assessment Fund subject to the following limitations:
    - i. Calculation of the Phase 3 Assessments and the first Annual Installment for a Parcel shall begin as provided for in the SAP and the Assessment Ordinance.
    - ii. Until such time as Future Phase 3 Bonds are issued, the Phase 3 Assessments shall accrue interest at the per annum rate set forth in this Section 2. Interest shall continue on the unpaid principal amount of the

Phase 3 Assessments for a Parcel for the earlier of 30 years or until the Phase 3 Assessments for such Parcel are paid in full.

- iii. The Developer and its assigns shall be reimbursed in a combined aggregate amount not to exceed \$1,453,485.00 plus interest from the Phase 3 Assessment Fund and as allowed under this Section 2(a).
  - iv. The unpaid Reimbursement Amount shall bear simple interest per annum at the rate of (x) 7.64% for years one through five, and (y) 4.64% for years six through 31, provided that, in the event Future Phase 3 Bonds are issued, the per annum interest rate on the Reimbursement Amount shall not exceed, and shall be limited to, the per annum interest rate on such bonds. The interest rate has been approved by the City Council and is authorized by the PID Act and was determined based upon *The Bond Buyer*, a daily publication that publishes this interest rate index, which the highest average index rate for tax-exempt bonds reported in the previous month was 2.64%. The interest rates of 7.64% and 4.64% contained herein complies with Subsections 372.023(e)(1) and (e)(2) of the PID Act.
  - v. If Future Phase 3 Bonds are issued, the City shall bill, collect, and upon receipt, deposit all Phase 3 Assessment Revenue relating to such bonds in the manner set forth in the indenture(s) authorizing such bonds.
3. The amount of the Reimbursement Amount that has not been paid, plus the interest accrued as described in Section 2(a)(iv) above, are collectively, the “Unpaid Balance.” The Unpaid Balance is secured by and payable solely from the Phase 3 Assessment Revenue received and collected by the City and deposited into the Phase 3 Assessment Fund or from the net proceeds of the Future Phase 3 Bonds. No other City funds, revenue, taxes, or income of any kind shall be used to pay the Unpaid Balance, even if the Unpaid Balance is not paid in full by the Maturity Date. This Reimbursement Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than Phase 3 Assessment Revenue received, collected and deposited into the Phase 3 Assessment Fund or from the net proceeds of the Future Phase 3 Bonds. The City covenants that it will comply with the provisions of this Reimbursement Agreement, the Construction Funding Agreement, and the PID Act, including provisions relating to the administration of the District and the enforcement and collection of taxes and assessments, and all other covenants provided therein. Notwithstanding its collection efforts, if the City fails to receive all or any part of the Phase 3 Assessment Revenue and, as a result, is unable to make transfers from the Phase 3 Assessment Revenue Fund for payments to the Developer as required under this Reimbursement Agreement, such failure and inability shall not constitute a Failure or Default by the City under this Reimbursement Agreement.

4. If Future Phase 3 Bonds are issued, the net proceeds of such Future Phase 3 Bonds shall be used, from time to time, first to pay the Unpaid Balance due to the Developer under this Reimbursement Agreement for the costs of the Phase Three District Improvements that have already been paid by the Developer and then to pay all or any portion of any Phase 3 Improvements Cost. If, after application of the net proceeds of such Future Phase 3 Bonds, any Phase 3 Improvements Cost remains unpaid, then the Developer shall pay such cost. If, after application of the net proceeds of any Future Phase 3 Bonds, the Unpaid Balance due the Developer remains unpaid, all payments toward the Unpaid Balance due the Developer shall be paid from amounts deposited into any funds created for such purpose under any indenture relating to any Future Phase 3 Bonds. Once the principal amount of all Future Phase 3 Bonds plus all payments paid to the Developer under this Reimbursement Agreement equal the Unpaid Balance, this Reimbursement Agreement shall terminate.
5. The Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with written notice to) the City, the Developer's right, title, or interest under this Reimbursement Agreement including, but not limited to, any right, title, or interest of the Developer in and to payment of the Unpaid Balance (any of the foregoing, a "Transfer," and the person or entity to whom the Transfer is made, a "Transferee"). Notwithstanding the foregoing, however, no Transfer shall be effective until five days after notice of the Transfer is received by the City, including for each Transferee the information required by Section 9 below. The City may rely on any notice of a Transfer received from the Developer without obligation to investigate or confirm the validity or occurrence of such Transfer. No conveyance, transfer, assignment, mortgage, pledge or other encumbrance shall be made by the Developer or any successor or assignee of the Developer that results in the City being an "obligated person" within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission without the express written consent of the City. The Developer waives all rights or claims against the City for any such funds provided to a third party as a result of a Transfer for which the City has received notice.
6. The obligations of the City under this Reimbursement Agreement are non-recourse and payable only from the Phase 3 Assessment Fund or the net proceeds of the Future Phase 3 Bonds and such obligations do not create a debt or other obligation payable from any other City revenues, taxes, income, or property. None of the City or any of its elected or appointed officials or any of its officers or employees shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of this Reimbursement Agreement or their acts or omissions under this Reimbursement Agreement.
7. Nothing in this Reimbursement Agreement is intended to constitute a waiver by the City of any remedy the City may otherwise have outside this Reimbursement Agreement against



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10. Notwithstanding anything herein to the contrary, nothing herein shall otherwise authorize or permit the use by the City of the Phase 3 Assessments contrary to the provisions of the PID Act.
11. Remedies:
  - a. If either Party fails to perform an obligation imposed on such Party by this Reimbursement Agreement (a "Failure") and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a "Default." Upon the occurrence of a Failure by a non-performing Party, the other Party shall notify the non-performing Party and all Transferees of the non-performing Party in writing specifying in reasonable detail the nature of the Failure. The non-performing Party to whom notice of a Failure is given shall have at least 30 days from receipt of the notice within which to cure the Failure; however, if the Failure cannot reasonably be cured within 30 days and the non-performing Party has diligently pursued a cure within such 30-day period and has provided written notice to the other Party that additional time is needed, then the cure period shall be extended for an additional 30-day period so long as the non-performing Party is diligently pursuing a cure. Any Transferee shall have the same rights as the Developer to enforce the obligations of the City under this Reimbursement Agreement and shall also have the right, but not the obligation, to cure any alleged Failure by the Developer within the same time periods that are provided to the Developer. The election by a Transferee to cure a Failure by the Developer shall constitute a cure by the Developer but shall not obligate the Transferee to be bound by this Reimbursement Agreement with respect to Developer obligations under this Reimbursement Agreement unless the Transferee agrees to be bound or is bound as a result of a Transfer to the Transferee.
  - b. If the Developer is in Default, the City shall have available all remedies at law or in equity, provided that no Default by the Developer shall: (1) affect the obligations of the City to use the amounts transferred to the Phase 3 Assessment Fund as provided in Sections 2 and 3 of this Reimbursement Agreement; or (2) entitle the City to terminate this Reimbursement Agreement.

- c. If the City is in Default, the Developer's sole and exclusive remedies shall be to:  
(1) seek a writ of mandamus to compel performance by the City; or (2) seek specific enforcement of this Reimbursement Agreement.
12. To the extent there is a conflict between this Reimbursement Agreement and an indenture securing the Future Phase 3 Bonds, the indenture securing the Future Phase 3 Bonds shall control as the provisions relate to the Phase 3 Assessments. To the extent there is a conflict between this Reimbursement Agreement and the Construction Funding Agreement, the Construction Funding Agreement shall control.
  13. The failure by a Party to insist upon the strict performance of any provision of this Reimbursement Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the provisions of this Reimbursement Agreement.
  14. The City does not waive or surrender any of its governmental powers, immunities, or rights except to the extent permitted by law and necessary to allow the Developer to enforce its remedies under this Reimbursement Agreement.
  15. Nothing in this Reimbursement Agreement, express or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and the Developer and its assigns any rights, remedies, or claims under or by reason of this Reimbursement Agreement, and all covenants, conditions, promises, and agreements in this Reimbursement Agreement shall be for the sole and exclusive benefit of the City and the Developer.
  16. The Parties acknowledge that each has been actively involved in negotiating this Reimbursement Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Reimbursement Agreement. In the event of any dispute over the meaning or application of any provision of this Reimbursement Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.
  17. In this Reimbursement Agreement, time is of the essence and compliance with the times for performance herein is required.
  18. The City represents and warrants that this Reimbursement Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Reimbursement Agreement on behalf of the City has been duly authorized to do so. The Developer represents and warrants that this Reimbursement Agreement has been approved by appropriate action of the Developer,

and that the individual executing this Reimbursement Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Reimbursement Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

19. This Reimbursement Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Reimbursement Agreement. This Reimbursement Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Reimbursement Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Reimbursement Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Reimbursement Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.
20. This Reimbursement Agreement may be executed in any number of counterparts, each of which shall be deemed an original.
21. The Parties agree that at any time after execution of this Reimbursement Agreement, they will, upon request of another Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Reimbursement Agreement. This provision shall not be construed as limiting or otherwise hindering the legislative discretion of the City Council seated at the time that this Reimbursement Agreement is executed or any future City Council.
22. The term of this Reimbursement Agreement is thirty (30) years, or until the Unpaid Balance is paid in full, whichever occurs first.
23. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Reimbursement Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Reimbursement Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three (3) business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give Notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term "force majeure" shall include events or circumstances that are not within the reasonable control of Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

24. The Developer hereby verifies that the Developer and its parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Reimbursement Agreement is a contract for goods or services, will not boycott Israel during the term of this Reimbursement Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.
25. The Developer hereby represents that neither the Developer nor any of its parent companies, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

[SIGNATURE PAGES TO FOLLOW]

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

ATTEST:

**CITY OF WAXAHACHIE**

\_\_\_\_\_  
Amber Villarreal, City Secretary

\_\_\_\_\_  
David Hill, Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
Robert Brown, Attorney for the City

[Signature Page for Phase 3 Improvements Reimbursement Agreement]

**DEVELOPER:**

287 Waxahachie, LP,  
a Texas limited partnership

By: Centamtar Terras, LLC,  
a Texas limited liability company,  
Its General Partner

By: CTMGT, LLC,  
a Texas limited liability company,  
Its Sole Manager and Member

By: \_\_\_\_\_  
Name: Mehrdad Moayedi,  
Its: Sole Manager and Member

[Signature Page for Phase 3 Improvements Reimbursement Agreement]

**WAXAHACHIE PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT NO. 1**  
**PHASE 3 CONSTRUCTION, FUNDING, AND ACQUISITION AGREEMENT**

**THIS WAXAHACHIE PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT NO. 1 PHASE 3 CONSTRUCTION, FUNDING, AND ACQUISITION AGREEMENT** (this “Agreement”), dated as of June 7, 2021, is by and between the **CITY OF WAXAHACHIE, TEXAS**, a home rule municipality of the State of Texas (the “City”), and **287 WAXAHACHIE, L.P.**, a Texas limited partnership (the “Developer”) (individually referred to as a “Party” and collectively as the “Parties”).

**ARTICLE I**  
**DEFINITIONS**

The following terms shall have the meanings ascribed to them in this Article I for purposes of this Agreement. Unless otherwise indicated, any other terms, capitalized or not, when used herein shall have the meanings ascribed to them in the Service and Assessment Plan (as hereinafter defined).

“**Actual Cost(s)**” means the costs of the Phase 3 Improvements actually paid or incurred for the design, construction, and installation of the Phase 3 Improvements.

“**Administrator**” means, initially, Municap, Inc., or any other individual or entity designated by the City to administer the District.

“**Annual Service Plan Update**” means the annual update to the Service and Assessment Plan conducted by the Administrator pursuant to Section IV of the Service and Assessment Plan.

“**Budgeted Cost(s)**” means the costs shown on **Exhibit A** attached hereto.

“**Certification for Payment**” means a certificate, substantially in the form of **Exhibit B** hereto or otherwise agreed to by the Developer, the Administrator, and City Representative, executed by an engineer, construction manager or other person or entity acceptable to the City, as evidenced by the signature of a City Representative, provided to the City Representative and the Administrator, specifying the amount of work performed and the amount charged for that work, including materials and labor costs, presented to the Administrator to request payment for Cost(s) of the Phase 3 Improvements.

“**City Manager**” means the City Manager of the City, or its designee.

“**City Inspector**” means an individual employed by or an agent of the City whose job is, in part or in whole, to inspect infrastructure to be owned by the City for compliance with all rules and regulations applicable to the development and the infrastructure inspected.

“**City Representative**” means City Manager of the City, or any other official or agent of

the City later authorized by the City to undertake the action referenced herein.

**“Construction Contracts”** means the contracts for the construction of the Phase 3 Improvements. “Construction Contract” means any one of the Construction Contracts.

**“Cost(s)”** means the Budgeted Cost(s) or the Actual Cost(s) of a Phase 3 Improvement as reflected in a construction contract, if greater than the Budgeted Cost(s).

**“Cost Overrun”** means, with respect to each Phase 3 Improvement, the Cost(s) or Actual Cost(s) as appropriate of such Phase 3 Improvement in excess the Budgeted Cost(s).

**“Cost Underrun”** means, with respect to each Phase 3 Improvement, the amount by which the Budgeted Cost(s) exceeds the Actual Cost(s), as appropriate, of such Phase 3 Improvement.

**“District”** means the Waxahachie Public Improvement District No. 1 created by the City on April 16, 2007.

**“Final Completion”** means completion of a Phase 3 Improvement (including a section or segment of a Phase 3 Improvement) in compliance with existing City standards for dedication under the City’s ordinances.

**“Phase 3 Assessed Property”** means any property that benefits from the Phase 3 Improvements within the District on which Assessments have been imposed as shown in the Phase 3 Assessment Roll, as the Phase 3 Assessment Roll is updated each year by the Annual Service Plan Update. Phase 3 Assessed Property includes Parcels within the District other than Non-Benefited Property.

**“Phase 3 Assessment Fund”** means the fund by such name created under the Phase 3 Reimbursement Agreement where monies from the collection of Phase 3 Assessments are to be deposited in accordance with the Phase 3 Reimbursement Agreement.

**“Phase 3 Assessment Roll”** means assessment roll for Phase 3 of the District as shown on Exhibit C-3 of the Service and Assessment Plan.

**“Phase 3 Improvements”** mean, collectively, the Phase 3 Improvements listed in **Exhibit A** to be constructed in compliance with City ordinances and regulations. An individual Phase 3 Improvement, including a completed segment or part, shall be referred to as a **Phase 3 Improvement**.

**“Phase 3 Reimbursement Agreement”** means the Waxahachie Public Improvement District No. 1 Phase 3 Reimbursement Agreement dated as of June 7, 2021, by and between the City and the Developer providing for the construction and financing of certain Phase 3 Improvements by the Developer or incurred by the Developer for which the Developer will be reimbursed by the City pursuant to the PID Act.

“**PID Act**” means the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, Improvement Districts in Municipalities and Counties, Subchapter A, Public Improvement Districts, as amended.

“**Plans**” means the plans, specifications, schedules and related construction contracts for the Phase 3 Improvements, respectively, approved pursuant to the applicable standards and ordinances of the City, and any other applicable governmental entities.

“**Service and Assessment Plan**” means the Waxahachie Public Improvement District No. 1 Service and Assessment Plan, adopted by the City Council on June 18, 2007, as updated, amended and supplemented to date, as updated for Phase 3 on June 7, 2021, and as the same may be updated, amended, or supplemented, for the purpose of assessing allocated cost(s) against the property located within the boundaries of the District having terms, provisions and findings approved and agreed to by the Developer and the City, as required by this Agreement and in accordance with the PID Act.

“**Substantial Completion**” means the time at which the construction of a Phase 3 Improvement (or specified part thereof) has progressed to the point where such Phase 3 Improvement (or a specified part thereof) is sufficiently complete in accordance with the Construction Contracts related thereto so that such Phase 3 Improvement (or a specified part thereof) can be utilized for the purposes for which it is intended.

“**Supplement**” means a written document agreed upon by the Parties to this Agreement amending, supplementing, or otherwise modifying this Agreement and any exhibit hereto, including any amendments to the list of Phase 3 Improvements in **Exhibit A** in a manner consistent with the Service and Assessment Plan, the PID Act and this Agreement.

## ARTICLE II RECITALS

### Section 2.01. The District and the Phase 3 Improvements.

- (a) The City has created the District under the PID Act for the financing of, among other things, the acquisition, construction, and installation of the Phase 3 Improvements.
- (b) The Phase 3 Improvements are eligible to be financed with the collection of Assessments from property within the District to the extent specified in the Service and Assessment Plan.
- (c) The Developer will undertake the construction and installation or cause the construction and installation of the Phase 3 Improvements for dedication to and acceptance by the City, in accordance with the terms and conditions contained in this Agreement.

Section 2.02. Agreements. In consideration of the mutual promises and covenants set forth

herein, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree that the foregoing recitals, as applicable to each, are true and correct and further make the agreements set forth herein.

**ARTICLE III  
FUNDING**

Section 3.01. Reimbursements.

- (a) The City's obligation with respect to the payment of the Phase 3 Improvements shall be limited to the Budgeted Cost(s), and shall be payable solely from amounts on deposit within the Phase 3 Assessment Fund for the payment of such cost(s) as provided herein and in the Service and Assessment Plan. The Developer agrees and acknowledges that it is responsible for all Actual Costs, Cost Overruns, except to the extent as provided for in Section 4.04 below, and all expenses related to the Phase 3 Improvements.
- (b) The obligation of owners of Phase 3 Assessed Property within the District, including the Developer to the extent it owns any Phase 3 Assessed Property in the District, to pay Assessments is not in any way dependent on the availability of amounts in the Phase 3 Assessment Fund, or otherwise available from other sources, including bonds issued by the City, that are secured or that are to be paid, in whole or in part, by Phase 3 Assessments, to pay for all or any portion of the Cost(s) hereunder.
- (c) The Developer acknowledges that any lack of availability of amounts in the Phase 3 Assessment Fund or otherwise available from other sources, including bonds issued by the City, that are secured or that are to be paid, in whole or in part, by Phase 3 Assessments, to pay the costs of the Phase 3 Improvements shall in no way diminish any obligation of the Developer with respect to the construction of or contributions for the Phase 3 Improvements required by this Agreement or any other agreement to which the Developer is a party or any governmental approval to which the Developer or any land within the District is subject.
- (d) The City shall have no responsibility whatsoever to the Developer with respect to the investments of any monies held by a trustee under an indenture, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment.

Section 3.02. Disbursements.

The City and the Developer agree that monies deposited into the Phase 3 Assessment Fund and upon the presentation of evidence satisfactory to the City Representative, the City will, on a monthly basis if a Certification for Payment is approved by the City, cause the payment for cost(s) of Phase 3 Improvements up to \$1,453,485.00 plus interest accrued pursuant to the Phase 3 Reimbursement Agreement from the Phase 3 Assessment Fund, subject to the availability of funds in the Phase 3 Assessment Fund, to the Developer or its assignees. These payments will be

delivered to the Developer or its assignees pursuant to the submission of a Certification for Payment, in accordance with this Agreement and the Phase 3 Reimbursement Agreement, substantially in the form of **Exhibit B** attached hereto.

Section 3.03. Accounts. All disbursements from the Phase 3 Assessment Fund shall be made by the City in accordance with provisions of this Agreement, the Service and Assessment Plan, and in all respects, the Phase 3 Reimbursement Agreement.

#### ARTICLE IV CONSTRUCTION OF PHASE 3 IMPROVEMENTS

Section 4.01. Duty of Developer to Construct.

- (a) All Phase 3 Improvements shall be constructed by or at the direction of the Developer in accordance with the Plans and in accordance with this Agreement. The Developer shall perform or caused to be performed all of its obligations and shall conduct all operations with respect to the construction of Phase 3 Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction, and installation of the Phase 3 Improvements to be acquired and accepted by the City, from the Developer as provided in this Agreement.
- (b) The Developer shall not be relieved of its obligation to construct or cause to be constructed each Phase 3 Improvement and, upon completion, inspection, and acceptance, convey each Phase 3 Improvement to the City in accordance with the terms hereof, even if there are insufficient funds in the Phase 3 Assessment Fund to pay the Actual Cost(s) thereof.

Section 4.02. No Competitive Bidding. The Phase 3 Improvements shall not require competitive bidding pursuant to and Section 252.022(9) of the Texas Local Government Code, as amended.

Section 4.03. Independent Contractor. In performing this Agreement, the Developer is an independent contractor and not the agent or employee of the City with respect to the Phase 3 Improvements.

Section 4.04. Remaining Funds after Completion of a Phase 3 Improvement. Upon the Final Completion of an Phase 3 Improvement (or its completed segment or portion thereof) and payment of all outstanding invoices for such Phase 3 Improvement, if the Actual Cost(s) of such Phase 3 Improvement (or its completed segment or portion thereof) is less than the Budgeted

Cost(s) (a “Cost Underrun”), any remaining Budgeted Cost(s) will be available to pay Cost Overruns on any other Phase 3 Improvement (or its completed segment or portion thereof). Prior to Final Completion of all of the Phase 3 Improvements (or its completed segment or portion thereof), any anticipated Cost Underruns for such Phase 3 (or segment or portion thereof) may be applied to any Cost Overruns on any other Phase 3 Improvement. Upon the Final Completion of the Phase 3 Improvements (or its completed segment or phase thereof) and the payment thereof pursuant to the terms of the Phase 3 Reimbursement Agreement, if there are funds remaining in the Phase 3 Assessment Fund, such funds may be used to reimburse the Developer for any qualifying costs of the Phase 3 Improvements (or segment or portion thereof) that have not been previously paid. If bonds are issued by the City that are secured by or that are to be paid, in whole or in part, by Phase 3 Assessments for the payment of the Phase 3 Improvements, any net balance remaining in the Phase 3 Assessment Fund after a reconciliation of Cost Overruns and Cost Underruns related to Phase 3 Improvements (or its completed segment or phase thereof) will be distributed first to the bond trustee, to the extent prepayment is allowed without penalty under the indenture, for the payment of such bonds, second to the City’s general fund, and in no case to the Developer, and the City agrees that upon such issuance of bonds, funds deposited to the Phase 3 Assessment Fund for the payment of Phase 3 Improvements will be dispersed only as described in the bond indenture.

Section 4.05. Contracts and Change Orders. The Developer shall be responsible for entering into all contracts and any supplemental agreements (herein referred to as “change orders”) required for the construction of the Phase 3 Improvements. The Developer may approve and implement any change orders, even if such change order would increase the Cost of a Phase 3 Improvement, but the Developer shall be solely responsible for payment of any Cost Overruns resulting from such change orders, except for amounts available and approved pursuant to Section 4.04.

## ARTICLE V ACQUISITION, CONSTRUCTION, AND PAYMENT

Section 5.01. Payment Requests for the Phase 3 Improvements.

- (a) No payment hereunder shall be made from the Phase 3 Assessment Fund or pursuant to any bond indenture for bonds issued by the City for a Phase 3 Improvement (or its completed segment or phase thereof), until a Certification for Payment is received from the Developer for work with respect to a Phase 3 Improvement (or its completed segment or phase thereof) and approved for payment by the City. Upon receipt of a Certification for Payment, substantially in the form of **Exhibit B** hereto (along with all accompanying documentation required by the City) from the Developer, the City Inspector shall conduct a review in order to confirm that such request is complete, to confirm that the work with respect to such Phase 3 Improvement identified therein for which payment is requested was performed in accordance with all applicable governmental laws, rules and regulations and

applicable Plans therefor and with the terms of this Agreement, and to verify and approve the Actual Cost of such work specified in such Certification for Payment (collectively, the “Developer Compliance Requirements”), and shall, upon the conclusion of the review, forward the request to the City Representative. The City Inspector and/or City Representative shall also conduct such review as is required in his discretion to confirm the matters certified in the Certification for Payment. The Developer agrees to cooperate with the City Inspector and/or City Representative in conducting each such review and to provide the City Inspector and/or City Representative with such additional information and documentation as is reasonably necessary for the City Inspector and/or City Representative to conclude each such review.

- (b) Within fifteen (15) business days of receipt of any Certification for Payment, the City Representative shall either (i) approve and execute the Certification for Payment and forward the same to the Administrator for payment (from those funds available in the Phase 3 Assessment Fund or, if bonds have been issued by the City, forward the Certification for Payment to the bond trustee, or (ii) in the event the City Representative disapproves the Certification for Payment, give written notification to the Developer of the City Representative’s disapproval, in whole or in part, of such Certification for Payment, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Certification for Payment. If a Certification for Payment seeking reimbursement is approved only in part, the City Representative shall specify the extent to which the Certification for Payment is approved and shall deliver such partially approved Certification for Payment to the Administrator for approval in accordance with Section 5.02 hereof or to the bond trustee in accordance with payment provisions applicable to the bonds and delivery to the Developer in accordance with Section 5.01(d) hereof, and any such partial work shall be processed for payment under Section 5.02, notwithstanding such partial denial.
- (c) Within ten (10) business days of the City receiving additional documentation required for approval of the Certification for Payment, the City shall either (i) approve the Certification for Payment with respect to the disputed portion of the Certification for Payment and forward such approved Certification for Payment to the Administrator or the bond trustee, as applicable, or (ii) deny the Certification for Payment with respect to the disputed portion of the Certification for Payment.
- (d) If the City Representative denies the Certification for Payment, the denial must be in writing, stating the reason(s) for denial. The denial may be appealed to the City Council by the Developer in writing within 30 days of being denied by the City Representative. Denial of the Certification for Payment by the City Council shall be attempted to be resolved by half-day mediation between the parties in the event an agreement is not otherwise reached by the parties, with the mediator’s fee being paid by Developer. The Certification for

Payment shall not be forwarded to the Administrator or the bond trustee, as applicable, for payment until the dispute is resolved by the City and the Developer.

Section 5.02. Payment for Phase 3 Improvement.

- (a) If no bonds have been issued by the City, upon receipt of a reviewed and approved Certification for Payment, as evidenced by the signature of the City Representative, the Administrator shall make payment from the Phase 3 Assessment Fund from those funds available, for such approved Certification for Payment pursuant to the terms of the Certification for Payment in an amount not to exceed the Budgeted Cost(s), except as provided for in Section 4.04, and in accordance with the Phase 3 Reimbursement Agreement. Any amount remaining to be paid on a monthly basis after funds have been exhausted in the Phase 3 Assessment Fund, shall remain as an amount outstanding to be paid, and shall be paid in the next monthly disbursement of funds from the Phase 3 Assessment Fund, again subject to availability of funds in the Phase 3 Assessment Fund and in accordance with the Phase 3 Reimbursement Agreement.
- (b) Notwithstanding any other provisions of this Agreement, the Administrator shall make payment directly to the person or entity specified by the Developer in an approved Certification for Payment, including: (1) a general contractor or supplier of materials or services or jointly to Developer (or any permitted assignee of such Developer) and the general contractor or supplier of materials or services, as indicated in an approved Certification for Payment; (2) to the Developer or any assignee of the Developer if an unconditional lien release is attached to such Certification for Payment; and, (3) to the Developer, or to the third party contractor directly, at Developer's request as specified in the Certification for Payment, in the event the Developer provides a general contractor's or suppliers of materials unconditional lien release for a portion of the work covered by the Developer or any assignee of the Developer to the extent of such lien release. If the request for payment results in ninety percent (90%) or more of the Budgeted Costs for such Phase 3 Improvement identified in such request for payment being paid, then the Administrator or the bond trustee, as applicable, shall hold the payment until work with respect to that Phase 3 Improvement has been completed by the Developer and accepted by the City. Neither the Administrator, nor the City, City Council, City Manager, or City Representative shall have any liability for relying on the accuracy of the payee information in any Certification for Payment as presented by the Developer or its assignees.
- (c) Withholding Payments.

Nothing in this Agreement shall be deemed to prohibit the Developer or the City from contesting in good faith the validity or amount of any mechanic's or materialman's lien and/or judgment nor limit the remedies available to the Developer or the City with respect thereto, including the withholding of any payment that may be associated with the exercise

of any such remedy, so long as such delay in performance shall not subject the Phase 3 Improvement to foreclosure, forfeiture, or sale. In the event that any such mechanics or materialman's lien and/or judgment with respect to any Phase 3 Improvement is contested, the Developer shall post or cause delivery of a surety bond in the amount determined by the City or City may decline to accept the Phase 3 Improvement until such mechanics or materialman's lien and/or judgment is satisfied.

## ARTICLE VI OWNERSHIP AND TRANSFER OF PHASE 3 IMPROVEMENT

Section 6.01. Phase 3 Improvement to be Owned by the City – Title Evidence. The Developer shall furnish to the City a preliminary title report for land with respect to the Phase 3 Improvements, including any related rights-of-way, easements, and open spaces if any, to be acquired and accepted by the City from the Developer and not previously dedicated or otherwise conveyed to the City, for review and approval at least 30 calendar days prior to the transfer of title of a Phase 3 Improvement to the City. The City shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the City, could materially affect the City's use and enjoyment of any part of the property or easement covered by the preliminary title report. In the event the City does not approve the preliminary title report, the City shall not be obligated to accept title to the Phase 3 Improvement until the Developer has cured such objections to title to the satisfaction of the City.

Section 6.02. Phase 3 Improvement Constructed on City Land or Developer Land. If the Phase 3 Improvement is on land owned by the City, the City hereby grants to the Developer a license to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Phase 3 Improvement. If the Phase 3 Improvement is on land owned by the Developer, the Developer hereby grants to the City an easement to enter upon such land for purposes related to inspection and maintenance (pending acquisition and acceptance) of the Phase 3 Improvement. The grant of the permanent easement shall not relieve the Developer of any obligation to grant the City title to property and/or easements related to the Phase 3 Improvement as required by this Agreement or as should in the City's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of such Phase 3 Improvement. The provisions for inspection and acceptance of such Phase 3 Improvement otherwise provided herein shall apply.

## ARTICLE VII REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 7.01. Representations, Covenants and Warranties of the Developer. The Developer represents and warrants for the benefit of the City as follows:

- (a) Organization. The Developer is a Texas limited liability company duly formed, organized

and validly existing under the laws of the State of Texas, is in compliance with the laws of the State of Texas, and has the power and authority to own its properties and assets and to carry on its business in the State of Texas as now being conducted as hereby contemplated.

- (b) Authority. The Developer has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Developer.
- (c) Binding Obligation. This Agreement is a legal, valid, and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, subject to bankruptcy and other equitable principles.
- (d) Compliance with Law. The Developer shall not commit, suffer or permit any act to be done in, upon or to the lands of the Developer in the District or the Phase 3 Improvements in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the lands in the District or the Phase 3 Improvements.
- (e) Requests for Payment. The Developer represents and warrants that (i) it will not request payment from the Phase 3 Assessment Fund for the acquisition or construction of any improvement that are not part of the Phase 3 Improvements, and (ii) it will diligently follow all procedures set forth in this Agreement with respect to the Certification for Payments.
- (f) Financial Records. For a period of two years after completion of the Phase 3 Improvements, the Developer covenants to maintain proper books of record and account for the construction of the Phase 3 Improvements and all Costs related thereto. Such accounting books shall be maintained in accordance with generally accepted accounting principles, and shall be available for inspection by the City or its agent at any reasonable time during regular business hours on reasonable notice.
- (g) Plans. The Developer represents that it has obtained or will obtain approval of the Plans from all appropriate departments of the City and from any other public entity or public utility from which such approval must be obtained. The Developer further agrees that, subject to the terms hereof, the Phase 3 Improvements will be constructed in full compliance with such Plans and any change orders thereto consistent with the PID Act and this Agreement.
- (h) Additional Information. The Developer agrees to cooperate with all reasonable written requests for nonproprietary information by the City Manager or the City Representative related to the status of construction of the Phase 3 Improvements within the District and the anticipated completion dates for future Phase 3 Improvements.
- (i) Financial Resources. The Developer represents and warrants that it has the financial

resources, or the ability to obtain sufficient financial resources, to meet its obligations under this Agreement.

Section 7.02. Indemnification and Hold Harmless. THE DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS THE INSPECTOR, THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING, AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE PHASE 3 IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUBCONTRACTORS AND SUPPLIERS IN THE PROVISION OF THE PHASE 3 IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE PHASE 3 IMPROVEMENTS; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES AND/OR TRUSTEES, REGARDING OR RELATED TO THE PHASE 3 IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE PHASE 3 IMPROVEMENTS, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE SOLE OR PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE "CLAIMS"). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OF ANY INDEMNIFIED PARTY, DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. THE INDEMNIFIED PARTIES RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR/ITS OWN DEFENSE, AT THEIR/ITS SOLE COST; HOWEVER, INDEMNIFIED PARTIES ARE UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY AN INDEMNIFIED PARTY IS NOT TO BE CONSTRUED AS A

WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND INDEMNIFIED PARTIES OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES, PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND DEVELOPER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 7.02 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

THE PARTIES AGREE AND STIPULATE THAT THIS INDEMNIFICATION COMPLIES WITH THE CONSPICUOUSNESS REQUIREMENT AND THE EXPRESS NEGLIGENCE TEST, AND IS VALID AND ENFORCEABLE AGAINST THE DEVELOPER.

Section 7.03. Use of Monies by City. The City agrees not to take any action or direct the Administrator to take any action to expend, disburse or encumber the monies held in the Phase 3 Assessment Fund, and any monies to be transferred thereto for any purpose other than the purposes permitted by the Service and Assessment Plan, including amendments and annual updates, or the Phase 3 Reimbursement Agreement. To the extent authorized by law, the City agrees not to modify or supplement the Service and Assessment Plan without the approval of the Developer if as a result or as a consequence of such modification or supplement (a) the amount of monies that would otherwise have been (i) available under the Phase 3 Assessment Fund for the Costs of the Phase 3 Improvements is reduced, delayed or deferred, or (ii) available in the Phase 3 Assessment Fund upon the issuance of bonds as described herein, is reduced, delayed or deferred, (b) the obligations or liabilities of the Developer under this Agreement or the Phase 3 Reimbursement Agreement are or may be increased or otherwise adversely affected in any manner, or (c) the rights of the Developer under this Agreement or the Phase 3 Reimbursement Agreement are or may be modified in any manner.

Section 7.04. No Reduction of Assessments. The Developer agrees not to take any action or actions to reduce the total amount of such Assessments to be levied as of the effective date of this Agreement.

## ARTICLE VIII TERMINATION

This Agreement may be terminated by the mutual, written consent of the City and the Developer, in which event the City may either execute contracts for or perform any remaining work related to the Phase 3 Improvements not accepted by the City or other appropriate entity and use all or any portion of funds on deposit in the Phase 3 Assessment Fund to pay for same, and the Developer shall have no claim or right to any further payments for the Cost(s) of an Phase 3 Improvement hereunder, except as otherwise may be provided in such written consent.

### Section 8.02. City's Election for Cause.

(a) The City, upon notice to Developer and the passage of the cure period identified in subsection (b) below, may terminate this Agreement, without the consent of the Developer if the Developer shall breach any material covenant or default in the performance of any material obligation hereunder.

(b) If any such event described in Section 8.02(a) occurs, the City shall give written notice of its knowledge of such event to the Developer, and the Developer agrees to promptly meet and confer with the City Inspector and other appropriate City staff and consultants as to options available to assure timely completion, subject to the terms of this Agreement, of the Phase 3 Improvements. Such options may include, but not be limited to, the termination of this Agreement by the City. If the City elects to terminate this Agreement, the City shall first notify the Developer (and any mortgagee or trust deed beneficiary specified in writing by the Developer to the City to receive such notice) of the grounds for such termination and allow the Developer a minimum of 45 days to eliminate or to mitigate to the satisfaction of the City the grounds for such termination. Such period may be extended, at the sole discretion of the City, if the Developer, to the reasonable satisfaction of the City, is proceeding with diligence to eliminate or mitigate such grounds for termination. If at the end of such period (and any extension thereof), as determined reasonably by the City, the Developer has not eliminated or completely mitigated such grounds to the satisfaction of the City, the City may then terminate this Agreement. In the event of the termination of this Agreement, the Developer is entitled to payment for work accepted by the City related to a Phase 3 Improvement only as provided for under the terms of an indenture and this Agreement prior to the termination date of this Agreement. Notwithstanding the foregoing, so long as the Developer has breached any material covenant or defaulted in the performance of any material obligation hereunder, notice of which has been given by the City to the Developer, and such event has not been cured or otherwise eliminated by the Developer, the City may in its discretion cease or cause the trustee to cease making payments for the Actual Costs of Phase 3 Improvements, provided that the Developer shall receive payment of the Actual Costs of any Phase 3 Improvements that were accepted by the City at the time of the occurrence of such breach or default by the Developer upon

submission of the documents and compliance with the other applicable requirements of this Agreement.

(c) If this Agreement is terminated by the City for cause, the City may either execute contracts for or perform any remaining work related to the Phase 3 Improvements not accepted by the City and use all or any portion of the funds on deposit in the Phase 3 Assessment Fund and the Developer shall have no claim or right to any further payments for the Phase 3 Improvements hereunder, except as otherwise may be provided upon the mutual written consent of the City and the Developer or as provided for in the Phase 3 Reimbursement Agreement. The City shall have no obligation to perform any work related to a Phase 3 Improvement or to incur any expense or cost in excess of the remaining balance of the Phase 3 Assessment Fund.

Section 8.03. Construction of the Phase 3 Improvements Upon Termination of this Agreement. Notwithstanding anything to the contrary contained herein, upon the termination of this Agreement pursuant to this Article VIII, the Developer shall perform its obligations with respect to the Phase 3 Improvements in accordance with this Agreement.

Section 8.04. Force Majeure. Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes or other acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, epidemics and pandemics, damage to work in progress by casualty or by other cause beyond the reasonable control of the party (financial inability excepted) (“Force Majeure”), then the specified time for performance shall be extended by the amount of the delay actually so caused. The extension of time to perform allowed by this Section 8.04 shall not apply unless, upon the occurrence of an event of Force Majeure, the party needing additional time to perform notifies the other party of the event of Force Majeure and the amount of additional time reasonably required within ten (10) business days of the occurrence of the event of Force Majeure.

## ARTICLE IX MISCELLANEOUS

Section 9.01. Limited Liability of City. The Developer agrees that any and all obligations of the City arising out of or related to this Agreement are special obligations of the City, and the City’s obligations to make any payments hereunder are restricted entirely to the monies, if any, in the Phase 3 Assessment Fund and, subject in all respects to Article III hereof, from no other source. Neither the City, the City Inspector, the City Representative, nor any other City employee, officer, official, or agent shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of their actions hereunder or execution hereof.

Section 9.02. Audit. The City Inspector or a finance officer of the City shall have the right,



the City pursuant to Section 9.03 of this Agreement. The obligations, requirements, or covenants of this Agreement shall be able to be assigned to an affiliate or related entity of the Developer, or any lien holder on the Property, without prior written consent of the City. The obligations, requirements, or covenants of this Agreement shall not be assigned by the Developer to a non-affiliate or non-related entity of the Developer without prior written consent of the City Manager, except pursuant to a collateral assignment to any person or entity providing construction financing to the Developer for the Developer for an Phase 3 Improvement, provided such person or entity expressly agrees to assume all obligations of the Developer hereunder if there is a default under such financing and such Person elects to complete the Phase 3 Improvement. No such assignment shall be made by the Developer or any successor or assignee of the Developer that results in the City being an "obligated person" within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission without the express written consent of the City. In connection with any consent of the City, the City may condition its consent upon the acceptability of the financial condition of the proposed assignee, upon the assignee's express assumption of all obligations of the Developer hereunder and/or upon any other reasonable factor which the City deems relevant in the circumstances. In any event, any such assignment shall be in writing, shall clearly identify the scope of the rights and/or obligations assigned.

Section 9.06. Other Agreements. The obligations of the Developer hereunder shall be those of a Party hereto and not as an owner of property in the District. Nothing herein shall be construed as affecting the City's or the Developer's rights or duties to perform their respective obligations under other agreements, use regulations, ordinances or subdivision requirements relating to the development of the lands in the District, including the applicable Construction Contracts. To the extent there is a conflict between this Agreement and the Phase 3 Reimbursement Agreement with respect to any receivables due under this Agreement, the Phase 3 Reimbursement Agreement shall control. If the City issues bonds to finance the Phase 3 Improvements under the terms of a bond indenture and there is a conflict between this Agreement, the Phase 3 Reimbursement Agreement, and the bond indenture, the bond indenture shall control.

Section 9.07. Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure by a Party to exercise its rights upon the default of any other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the terms of this Agreement thereafter.

Section 9.08. Merger. No other agreement, statement or promise made by any Party or any employee, officer or agent of any Party with respect to any matters covered hereby that is not in writing and signed by all the Parties to this Agreement shall be binding.

Section 9.09. Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the Parties hereto any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions or stipulations hereof, and all covenants, conditions, promises and agreements in this Agreement contained by or on behalf of the Parties shall be for the sole and exclusive benefit of the Parties.

Section 9.10. Amendment. This Agreement may be amended upon agreement of the Parties, from time to time in a manner consistent with the PID Act, in writing hereto and executed

in counterparts, each of which shall be deemed an original.

Section 9.11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 9.12. Effective Date. This Agreement shall become effective upon its execution and delivery, by the Parties hereto. All representations and warranties set forth therein shall be deemed to have been made on the Effective Date.

Section 9.13. Term. The term of this Agreement, other than the provisions contained in Section 7.02, which shall survive the termination of this Agreement, shall be thirty (30) years or until all amounts under the Phase 3 Reimbursement Agreement have been paid or the Phase 3 Reimbursement Agreement terminates in accordance with its terms. If bonds are issued by the City to finance the Phase 3 Improvements, this Agreement will terminate automatically and with no further action by the City or the Developer upon the redemption or defeasance of all outstanding bonds issued under the bond indenture. If the Developer defaults under this Agreement or the Phase 3 Reimbursement Agreement, this Agreement and the Phase 3 Reimbursement Agreement shall not terminate with respect to the costs of the Phase 3 Improvements that have been approved by the City pursuant to a Certification for Payment prior to the date of default.

Section 9.14 No Waiver of Powers or Immunity. The City does not waive or surrender any of its governmental powers, immunities, or rights except as necessary to allow Developer to enforce its remedies under this Agreement.

Section 9.15. No Boycott Israel. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 9.16. Not a Listed Company. The Developer hereby represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each of its parent

(20)

company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

*[Execution pages follow]*

(20)

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of this the \_\_\_\_\_  
day of \_\_\_\_\_, 2021.

**CITY OF WAXAHACHIE**

By: \_\_\_\_\_  
Name: David Hill, Mayor

ATTEST:

\_\_\_\_\_  
Amber Villarreal, City Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Robert Brown, Attorney for the City

[Signature Page for Phase 3 CFA]

**DEVELOPER:**

287 Waxahachie, LP,  
a Texas limited partnership

By: Centamtar Terras, LLC,  
a Texas limited liability company,  
Its General Partner

By: CTMGT, LLC,  
a Texas limited liability company,  
Its Sole Manager and Member

By: \_\_\_\_\_  
Name: Mehrdad Moayedi,  
Its: Sole Manager and Member

[Signature Page for Phase 3 CFA]

(20)

**Exhibit A**

**List of Phase 3 Improvements and Budgeted Costs**

<b>Phase 3 Improvements</b>	<b>Estimated Costs</b>
Roadway improvements	\$2,949,600
Utility improvements	\$3,730,087
Estimated engineering, inspection, and contingency	\$775,340
<b>Total</b>	<b>\$7,455,027</b>

**Exhibit B****FORM OF CERTIFICATION FOR PAYMENT**

The undersigned is an agent for 287 Waxahachie, L.P., a Texas limited partnership ( the "Developer") and requests payment from the Phase 3 Assessment Fund (as defined in the Phase 3 CFA Agreement) from the City of Waxahachie, Texas (the "City") in the amount of \$ \_\_\_\_\_ for labor, materials, fees, and/or other general costs related to the construction of certain Phase 3 Improvements related to the Waxahachie Public Improvement District No. 1 (the "Phase 3 Improvements"). Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Waxahachie Public Improvement District No. 1 Phase 3 Construction, Funding, and Acquisition Agreement (the "Phase 3 CFA Agreement").

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

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Certification for Payment on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced Phase 3 Improvements have not been the subject of any prior payment request submitted to the City or, if previously requested, no disbursement was made with respect thereto.
3. The amount listed for the Phase 3 Improvements below is a true and accurate representation of the costs associated with the creation, acquisition, or construction of said Phase 3 Improvement, and such costs are in compliance with the Phase 3 CFA Agreement and the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Phase 3 CFA Agreement and the Service and Assessment Plan.
5. All conditions set forth in the Phase 3 CFA Agreement for the payment hereby requested have been satisfied.
6. The work with respect to the Phase 3 Improvement referenced below (or its completed segment) has been completed and the City may begin inspection of the Phase 3 Improvement.
7. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review. In no event shall the City require both an all-bills-paid affidavit and copies of cleared checks to be provided as supporting documentation. The City agrees that providing either an all-bills-paid affidavit or copies

of cleared checks shall be sufficient.

8. As required by Texas Local Government Code, Section 252.051, as amended, the Developer has provided the City with an independent appraisal of any Phase 3 Improvement consisting of any real property, or any interest in real property including easements and rights-of-way and open space if any, to be acquired by the City including specifically monies on deposit in the Phase 3 Assessment Fund.

**Payments requested should include the following:**

Payee / Description of Phase 3 Improvement	Total Cost of Phase 3 Improvement	Budgeted Cost of Phase 3 Improvement	Amount to be paid from the Phase 3 Assessment Fund

Attached hereto, are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments.

Pursuant to the Phase 3 CFA Agreement, after receiving this Certification for Payment, the City is authorized to inspect the Phase 3 Improvement (or completed segment or phase) and confirm that said work has been completed in accordance with all applicable governmental laws, rules, and Plans. Afterwards, the City must then accept or deny this Certification for Payment.

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

- a. X amount to Person or Account Y for Z goods or services.
- b. Etc.

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

**287 Waxahachie, L.P.**

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

**APPROVAL OF REQUEST BY CITY**

The City is in receipt of the attached Certification for Payment, acknowledges the Certification for Payment, and finds the Certification for Payment to be in order. After reviewing the Certification for Payment, the City approves the Certification for Payment.

**CITY OF WAXAHACHIE, TEXAS**

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

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

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

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

### PHASE 3 LANDOWNER AGREEMENT

This **PHASE 3 LANDOWNER AGREEMENT** (the "Agreement"), is entered into as of June 7, 2021, between the City of Waxahachie, Texas (the "City"), a home rule municipality of the State of Texas (the "State"), and 287 Waxahachie, LP, a Texas limited partnership ("Landowner").

#### RECITALS:

**WHEREAS**, Landowner owns the Assessed Property described by a metes and bounds description attached as **Exhibit I** to this Agreement and which is incorporated herein for all purposes, comprising all of the non-exempt, privately-owned land described in **Exhibit I** (the "Landowner Parcel") which is located within the Waxahachie Public Improvement District No. 1 (the "District") in the City; and

**WHEREAS**, the City Council has adopted an assessment ordinance for the Phase Three District Improvements (including all exhibits and attachments thereto, the "Phase 3 Assessment Ordinance") and the Service and Assessment Plan included as an exhibit to the Phase 3 Assessment Ordinance (the "Service and Assessment Plan") and which is incorporated herein for all purposes, and has levied an assessment on each Parcel (excluding Non-Benefited Property) in Phase 3 of the District (as identified in the Service and Assessment Plan) that will be used to reimburse Landowner for the costs of constructing the Phase Three District Improvements or pledged as the security for the payment of bonds or other obligations to be issued for the purpose of paying the costs of constructing the Phase Three District Improvements that will benefit the Assessed Property (as defined in the Service and Assessment Plan) in Phase 3 of the District; and

**WHEREAS**, the Covenants, Conditions and Restrictions attached to this Agreement as **Exhibit II** and which are incorporated herein for all purposes, include the statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended (the "PID Act"), to the purchaser.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the City and Landowner hereby contract, covenant and agree as follows:

#### **DEFINITIONS; APPROVAL OF AGREEMENTS**

Definitions. Capitalized terms used but not defined herein (including each exhibit hereto) shall have the meanings ascribed to them in the Service and Assessment Plan.

Affirmation of Recitals. The findings set forth in the Recitals of this Agreement are hereby incorporated as the official findings of the City Council.

**I.  
AGREEMENTS OF LANDOWNER**

A. Affirmation and Acceptance of Agreements and Findings of Benefit. Landowner hereby ratifies, confirms, accepts, agrees to, and approves:

(i) the creation and boundaries of the District, and the boundaries of the Landowner's Parcel which are within the District, all as shown on **Exhibit I**, and the location and development of the Phase Three District Improvements on the Landowner Parcel and on the property within Phase 3 of the District;

(ii) the determinations and findings as to the benefits by the City Council in the Service and Assessment Plan and the Phase 3 Assessment Ordinance; and

(iii) the Phase 3 Assessment Ordinance and the Service and Assessment Plan.

B. Acceptance and Approval of Assessments and Lien on Property. Landowner consents to, agrees to, acknowledges and accepts the following:

(i) each Assessment levied by the City on the Landowner's Parcel within Phase 3 of the District, as shown on the assessment roll attached as Appendix C-3 to the Service and Assessment Plan (the "Phase 3 Assessment Roll");

(ii) the Phase Three District Improvements specially benefit Phase 3 of the District, and the Landowner's Parcel, in an amount in excess of the Assessment levied on the Landowner's Parcel within Phase 3 of the District, as such Assessment is shown on the Phase 3 Assessment Roll;

(iii) each Assessment is final, conclusive and binding upon Landowner and any subsequent owner of the Landowner's Parcel, regardless of whether such landowner may be required to prepay a portion of, or the entirety of, such Assessment upon the occurrence of a mandatory prepayment event as provided in the Service and Assessment Plan;

(iv) the obligation to pay the Assessment levied on the Landowner's Parcel owned by it when due and in the amount required by and stated in the Service and Assessment Plan and the Phase 3 Assessment Ordinance;

(v) each Assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Landowner's Parcel, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Landowner's Parcel regardless of whether such owner is named;

(vi) the Assessment lien on the Landowner's Parcel is a lien and covenant that runs with the land and is effective from the date of the Phase 3 Assessment Ordinance and continues until the Assessment is paid and may be enforced by the governing body of the City in the same manner that an ad valorem tax lien against real property may be enforced by the City;

(vii) delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) the owner of an Assessed Parcel may pay at any time the entire Assessment, with interest that has accrued on the Assessment, on any parcel in the Landowner's Parcel;

(ix) the Annual Installments of the Assessments (as defined in the Service and Assessment Plan and Phase 3 Assessment Roll) may be adjusted, decreased and extended; and, the assessed parties shall be obligated to pay their respective revised amounts of the annual installments, when due, and without the necessity of further action, assessments or reassessments by the City, the same as though they were expressly set forth herein; and

(x) Landowner has received, or hereby waives, all notices required to be provided to it under State law, including the PID Act, prior to the Effective Date (defined herein).

C. Mandatory Prepayment of Assessments. Landowner agrees and acknowledges that Landowner or subsequent landowners may have an obligation to prepay an Assessment upon the occurrence of a mandatory prepayment event, at the sole discretion of the City and as provided in the Service and Assessment Plan, as amended or updated or upon sale of property in the PID to a party not subject to Assessments.

D. Notice of Assessments. Landowner further agrees as follows:

(i) the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be terms, conditions and provisions running with the Landowner's Parcel and shall be recorded (the contents of which shall be consistent with the Phase 3 Assessment Ordinance and the Service and Assessment Plan as reasonably determined by the City), in the records of the County Clerk of Ellis County, as a lien and encumbrance against such Landowner's Parcel, and Landowner hereby authorizes the City to so record such documents against the Landowner's Parcel owned by Landowner;

(ii) reference to the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be included on all recordable subdivision plats and such plats shall be recorded in the real property records of Ellis County, Texas;

(iii) in the event of any subdivision, sale, transfer or other conveyance by Landowner of the right, title or interest of Landowner in the Landowner's Parcel or any part thereof, the Landowner's Parcel, or any such part thereof, shall continue to be bound by all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions and any purchaser, transferee or other subsequent owner shall take such Landowner's Parcel subject to all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions; and

(iv) Landowner shall comply with, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the City) any party who purchases any Landowner's Parcel owned by Landowner, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead"

designations under State law, to comply with, the Homebuyer Education Program described on **Exhibit III** to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if, and when, (i) a final certificate of occupancy for a residential unit on such Lot is issued by the City, and (ii) there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling residences to individual home buyers (a "Builder") but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder.

Notwithstanding the provisions of this Section, upon Landowner's request and the City's consent, in the City's sole and absolute discretion, the Covenants, Conditions and Restrictions may be included with other written restrictions running with the land on property within the District, provided they contain all the material provisions and provide the same material notice to prospective property owners as does the document attached as **Exhibit II**.

## II.

### OWNERSHIP AND CONSTRUCTION OF PHASE THREE DISTRICT IMPROVEMENTS

A. Ownership and Transfer of Phase Three District Improvements. Landowner acknowledges that all of the Phase Three District Improvements and the land (or easements, as applicable) needed therefor shall be owned by the City, as applicable, once accepted by and conveyed to the City, following construction and Landowner will execute such conveyances and/or dedications of public rights of way and easements as may be reasonably required to evidence such ownership, as generally described on the current plats of the property within the District, and without monetary or other compensation to the Landowner .

B. Grant of Easement and License, Construction of Phase Three District Improvements.

(i) Any subsequent owner of the Landowner's Parcel shall, upon the request of the City or Landowner grant and convey to the City or Landowner and its contractors, materialmen and workmen a temporary license and/or easement, as appropriate, to construct the Phase Three District Improvements on the property within Phase 3 of the District, to stage on the property within Phase 3 of the District construction trailers, building materials and equipment to be used in connection with such construction of the Phase Three District Improvements and for passage and use over and across parts of the property within Phase 3 of the District as shall be reasonably necessary during the construction of the Phase Three District Improvements, and without monetary or other compensation to be paid for such grant or conveyance. Any subsequent owner of the Landowner's Parcel may require that each contractor constructing the Phase Three District Improvements cause such owner of the Landowner's Parcel to be indemnified and/or named as an additional insured under liability insurance reasonably acceptable to such owner of the Landowner's Parcel. The right to use and enjoy any easement and license provided above shall continue until the construction of the Phase Three District Improvements is complete; provided, however, any such license or easement shall

automatically terminate upon the recording of the final plat for the Landowner's Parcel in the real property records of Ellis County, Texas.

(ii) Landowner hereby agrees that any right or condition imposed by any agreement, with respect to the Assessment has been satisfied, and that Landowner shall not have any rights or remedies against the City under any law or principles of equity concerning the Assessments, with respect to the formation of the District, approval of the Service and Assessment Plan and the City's levy and collection of the Assessments.

**III.  
COVENANTS AND WARRANTIES; MISCELLANEOUS**

A. Special Covenants and Warranties of Landowner.

Landowner represents and warrants to the City as follows:

(i) Landowner is duly organized, validly existing and, as applicable, in good standing under the laws of the state of its organization and has the full right, power and authority to enter into this Agreement, and to perform all the obligations required to be performed by Landowner hereunder.

(ii) This Agreement has been duly and validly executed and delivered by, and on behalf of, Landowner and, assuming the due authorization, execution and delivery thereof by and on behalf of the City and Landowner, constitutes a valid, binding and enforceable obligation of such party enforceable in accordance with its terms. This representation and warranty is qualified to the extent the enforceability of this Agreement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws of general application affecting the rights of creditors in general.

(iii) Neither the execution and delivery hereof, nor the taking of any actions contemplated hereby, will conflict with or result in a breach of any of the provisions of, or constitute a default, event of default or event creating a right of acceleration, termination or cancellation of any obligation under, any instrument, note, mortgage, contract, judgment, order, award, decree or other agreement or restriction to which Landowner is a party, or by which Landowner or Landowner's Parcel is otherwise bound.

(iv) Landowner is, subject to all matters of record in the Ellis County, Texas Real Property Records, the sole owner of the Landowner's Parcel.

(v) The Landowner's Parcel owned by Landowner is not subject to, or encumbered by, any covenant, lien, encumbrance or agreement which would prohibit (i) the creation of the District, (ii) the levy of the Assessments and the priority of the lien related to the assessments as described in this Agreement, or (iii) the construction of the Phase Three District Improvements on those portions of the property within Phase 3 of the District which are to be owned by the City, as generally described on the current plats of the property within the District (or, if subject to any such prohibition, the approval or consent of all necessary parties thereto has been obtained).

(vi) Landowner covenants and agrees to execute any and all documents necessary, appropriate or incidental to the purposes of this Agreement, as long as such documents are consistent with this Agreement and do not create additional liability of any type to, or reduce the rights of, such Landowner by virtue of execution thereof.

B. Waiver of Claims Concerning Phase Three District Improvements. Landowner, with full knowledge of the provisions, and the rights thereof pursuant to such provisions, of applicable law, waives any claims against the City and its successors, assigns and agents, pertaining to the installation of the Phase Three District Improvements.

C. Notices.

Any notice or other communication to be given to the City or Landowner under this Agreement shall be given by delivering the same in writing to:

To the City:                   Attn: City Manager  
City of Waxahachie, Texas  
401 S. Rogers  
Waxahachie, Texas 75165

With a copy to:               Attn: Robert Brown, City Attorney  
Brown & Hofmeister, LLP  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

To Landowner:                Attn: Mehrdad Moayed  
287 Waxahachie, L.P.  
1800 Valley View Lane, Suite 300  
Farmers Branch, Texas 75234

With a copy to:               Attn: Robert Miklos  
Miklos Cinclair, PLLC  
1800 Valley View Lane, Suite 360  
Farmers Branch, Texas 75234

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the recipient as the address set forth herein.

Each recipient may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this provision shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for, or actually received by, the addressee.

D. Parties in Interest.

This Agreement is made solely for the benefit of the City and Landowner and is not assignable, except, in the case of Landowner, in connection with the sale or disposition of all or substantially all of the parcels which constitute the Landowner's Parcel. However, the parties expressly agree and acknowledge that the City, Landowner, each current owner of any parcel which constitutes the Landowner's Parcel, and the holders of bonds issued by the City to finance the costs of the Phase Three District Improvements and which are secured by a pledge of the Assessments or any part thereof, are express beneficiaries of this Agreement and shall be entitled to pursue any and all remedies at law or in equity to enforce the obligations of the parties hereto. This Agreement shall be recorded in the real property records of Ellis County, Texas.

E. Amendments.

This Agreement may be amended only by written instrument executed by the City and Landowner. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the property within the District and recorded in the Real Property Records of Ellis County, Texas.

F. Effective Date.

This Agreement shall become and be effective (the "Effective Date") upon the date of final execution by the latter of the City and Landowner and shall be valid and enforceable on said date and thereafter.

G. Estoppels.

Within 10 business days after written request from a party hereto, the other party shall provide a written certification, indicating whether this Agreement remains in effect as to the Landowner's Parcel.

H. Termination.

This Agreement shall terminate and be of no further force and effect as to the Landowner's Parcel upon payment in full of the Assessment(s) against such Landowner's Parcel.

I. Landowner hereby verifies that Landowner and its parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made

for ordinary business purposes. Landowner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Landowner and exists to make a profit.

J. Landowner hereby represents that neither Landowner nor any of its parent companies, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and excludes Landowner and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. Landowner understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with Landowner and exists to make a profit.

[Signature pages to follow]

EXECUTED by the City and Landowner on the respective dates stated below.

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

**CITY OF WAXAHACHIE, TEXAS**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

STATE OF TEXAS

§

COUNTY OF ELLIS

§

§

This instrument was acknowledged before me on the \_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the Mayor of the City of Waxahachie, Texas on behalf of said City.

(SEAL)

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

\_\_\_\_\_  
Name printed or typed

Commission Expires: \_\_\_\_\_

**LANDOWNER**

287 Waxahachie, LP,  
a Texas limited partnership

By: Centamtar Terras, LLC,  
a Texas limited liability company,  
Its General Partner

By: CTMGT, LLC,  
a Texas limited liability company,  
Its Sole Manager and Member

By: \_\_\_\_\_  
Name: Mehrdad Moayed,   
Its: Sole Manager and Member

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on \_\_\_\_\_  
20\_\_\_\_\_, by Mehrdad Moayed, the Sole Manager and Member of CTMGT, LLC, as the Sole  
Manager and Member of Centamtar Terras, LLC, as the General Partner of 287 Waxahachie, LP,  
a Texas limited partnership on behalf of said partnership.

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

[Signature Page Landowner Agreement]

**LANDOWNER AGREEMENT - EXHIBIT I****METES AND BOUNDS DESCRIPTION OF LANDOWNER'S PARCEL****Tract 1**

WHEREAS 287 WAXAHACHIE, L.P. ARE THE SOLE OWNERS OF A 12.642 ACRE TRACT OF LAND SITUATED IN THE S.M. DURITT SURVEY, ABSTRACT NO. 272 AND THE M. RAFFERTY SURVEY, ABSTRACT NO. 898, CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND BEING PART OF A 226.000 ACRE TRACT OF LAND, CONVEYED TO 287 WAXAHACHIE, L.P. AS RECORDED IN COUNTY CLERK'S FILE NO. 2018-8887, OFFICIAL PUBLIC RECORDS, ELLIS COUNTY, TEXAS. SAID 12.642 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 DATUM (NAD83 2011, EPOCH DATE 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM ELLIS CORS ARP (PID-DF8988), AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET ON THE NORTHWEST LINE OF SAID 226.000 ACRE TRACT, FROM WHICH A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR AN INTERIOR ELL CORNER OF SAID 226.000 ACRE TRACT, BEARS NORTH 59 DEGREES 29 MINUTES 51 SECONDS EAST, A DISTANCE OF 963.19 FEET. SAID POINT BEING THE BEGINNING OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 00 DEGREES 01 MINUTE 19 SECONDS, A RADIUS OF 525.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 30 DEGREES 03 MINUTES 14 SECONDS EAST, A DISTANCE OF 0.20 FEET;

THENCE, OVER AND ACROSS SAID 226.000 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

ALONG SAID CURVE TO THE RIGHT, AN ARC DISTANCE OF 0.20 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 30 DEGREES 02 MINUTES 35 SECONDS EAST, A DISTANCE OF 125.46 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 76 DEGREES 08 MINUTES 45 SECONDS EAST, A DISTANCE OF 14.14 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

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SOUTH 31 DEGREES 08 MINUTES 14 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 58 DEGREES 51 MINUTES 46 SECONDS WEST, A DISTANCE OF 21.90 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 30 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 1345.67 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 29 MINUTES 51 SECONDS WEST, A DISTANCE OF 13.08 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 30 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 148.72 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 29 MINUTES 51 SECONDS WEST, A DISTANCE OF 69.48 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 08 DEGREES 37 MINUTES 56 SECONDS, A RADIUS OF 275.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 34 DEGREES 49 MINUTES 07 SECONDS EAST, A DISTANCE OF 41.39 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 41.43 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 29 MINUTES 51 SECONDS WEST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 30 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 19.45 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 29 MINUTES 51 SECONDS WEST, PASSING AT A DISTANCE OF 109.94 FEET A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" FOUND FOR AN INTERIOR ELL CORNER OF SAID 226.000 ACRE TRACT, AND CONTINUING ALONG A SOUTHEAST LINE OF SAID 226.000 ACRE TRACT, IN ALL A TOTAL DISTANCE OF 145.00 FEET TO A

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5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

THENCE, OVER AND ACROSS SAID 226.000 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 30 DEGREES 30 MINUTES 09 SECONDS WEST, A DISTANCE OF 19.45 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 21 DEGREES 29 MINUTES 50 SECONDS, A RADIUS OF 80.00 FEET, AND A LONG CHORD THAT BEARS NORTH 41 DEGREES 15 MINUTES 07 SECONDS WEST, A DISTANCE OF 29.84 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 30.02 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 18 DEGREES 49 MINUTES 38 SECONDS, A RADIUS OF 420.00 FEET, AND A LONG CHORD THAT BEARS NORTH 42 DEGREES 35 MINUTES 16 SECONDS WEST, A DISTANCE OF 137.39 FEET;

ALONG SAID REVERSE CURVE TO THE RIGHT, AN ARC DISTANCE OF 138.01 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 33 DEGREES 10 MINUTES 26 SECONDS WEST, A DISTANCE OF 588.01 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 07 DEGREES 16 MINUTES 34 SECONDS, A RADIUS OF 420.00 FEET, AND A LONG CHORD THAT BEARS NORTH 29 DEGREES 32 MINUTES 10 SECONDS WEST, A DISTANCE OF 53.30 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 53.34 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 25 DEGREES 53 MINUTES 54 SECONDS WEST, A DISTANCE OF 177.51 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 04 DEGREES 36 MINUTES 27 SECONDS, A RADIUS OF 330.00 FEET, AND A LONG CHORD THAT BEARS NORTH 28 DEGREES 12 MINUTES 09 SECONDS WEST, A DISTANCE OF 26.53 FEET;

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ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 26.54 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 30 DEGREES 30 MINUTES 24 SECONDS WEST, A DISTANCE OF 506.24 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 30 DEGREES 30 MINUTES 13 SECONDS WEST, A DISTANCE OF 207.44 TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER ON THE NORTHWEST LINE OF SAID 226.000 ACRE TRACT;

THENCE, NORTH 59 DEGREES 29 MINUTES 51 SECONDS EAST, ALONG SAID NORTHWEST LINE, A DISTANCE OF 332.24 FEET TO THE **POINT OF BEGINNING** AND CONTAINING A CALCULATED AREA OF 12.642 ACRES OF LAND.

## **Tract 2**

WHEREAS 287 WAXAHACHIE, L.P. IS THE SOLE OWNER OF A 50.669 ACRE TRACT OF LAND SITUATED IN THE G. CARPENTER SURVEY, ABSTRACT NO. 190 AND THE M. RAFFERTY SURVEY, ABSTRACT NO. 898, CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AND BEING PART OF A 226.000 ACRE TRACT OF LAND, CONVEYED TO 287 WAXAHACHIE, L.P., AS RECORDED IN COUNTY CLERK'S FILE NO. 2018-8887, OFFICIAL PUBLIC RECORDS, ELLIS COUNTY, TEXAS, PART OF THE REMAINDER OF A 293.183 ACRE TRACT OF LAND CONVEYED AS TRACT 1, AND PART OF THE REMAINDER OF A 169.065 ACRE TRACT OF LAND CONVEYED AS TRACT 2 TO 287 WAXAHACHIE, L.P., AS RECORDED IN VOLUME 2156, PAGE 687, OFFICIAL PUBLIC RECORDS, ELLIS COUNTY, TEXAS. SAID 50.669 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 DATUM (NAD83 2011, EPOCH DATE 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM ELLIS CORS ARP (PID-DF8988), AND DALLAS CORS ARP (PID-DF8984), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** AT A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR THE WEST CORNER OF SADDLEBROOK ESTATES, PHASE 1B-1, AN ADDITION TO THE CITY OF WAXAHACHIE, AS RECORDED IN CABINET I, PAGE 550, PLAT RECORDS, ELLIS COUNTY, TEXAS;

THENCE, OVER AND ACROSS SAID 293.183 ACRE TRACT AND SAID 169.065 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

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NORTH 58 DEGREES 23 MINUTES 25 SECONDS WEST, A DISTANCE OF 1061.23 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 31 DEGREES 46 MINUTES 06 SECONDS WEST, A DISTANCE OF 600.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 58 DEGREES 23 MINUTES 25 SECONDS WEST, A DISTANCE OF 1128.15 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 09 DEGREES 22 MINUTES 19 SECONDS WEST, PASSING AT A DISTANCE OF 84.76 FEET, A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER ON THE SOUTHWEST LINE OF AFORESAID 226.000 ACRE TRACT, AND CONTINUING ALONG SAID SOUTHWEST LINE, IN ALL A TOTAL DISTANCE OF 510.90 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

THENCE, OVER AND ACROSS SAID 226.000 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 11 DEGREES 21 MINUTES 38 SECONDS EAST, A DISTANCE OF 63.84 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 37 DEGREES 33 MINUTES 39 SECONDS WEST, A DISTANCE OF 68.33 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

THENCE, OVER AND ACROSS AFORESAID 169.065 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 30 DEGREES 30 MINUTES 09 SECONDS WEST, A DISTANCE OF 107.03 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 29 MINUTES 51 SECONDS WEST, A DISTANCE OF 756.35 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER ON THE SOUTHWEST LINE OF SAID 169.065 ACRE TRACT AND THE COMMON THE NORTHEAST RIGHT-OF-WAY LINE OF STATE HIGHWAY NO. 287, A VARIABLE WIDTH RIGHT-OF-WAY, CONVEYED TO THE STATE OF TEXAS, AS RECORDED IN VOLUME 528, PAGE 262, OFFICIAL PUBLIC RECORDS, ELLIS COUNTY, TEXAS;

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THENCE, NORTH 38 DEGREES 38 MINUTES 25 SECONDS WEST, ALONG SAID SOUTHWEST LINE AND SAID COMMON NORTHEAST RIGHT-OF-WAY LINE, A DISTANCE OF 50.51 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, FROM WHICH A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" FOUND BEARS NORTH 38 DEGREES 38 MINUTES 25 SECONDS WEST, A DISTANCE OF 96.43 FEET;

THENCE, NORTH 59 DEGREES 29 MINUTES 51 SECONDS EAST, OVER AND ACROSS SAID 169.065 ACRE TRACT, DEPARTING SAID NORTHEAST RIGHT-OF-WAY LINE, A DISTANCE OF 768.50 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER ON THE SOUTHWEST LINE OF AFORESAID 226.000 ACRE TRACT;

THENCE, NORTH 30 DEGREES 30 MINUTES 09 SECONDS WEST, ALONG SAID SOUTHWEST LINE A DISTANCE OF 95.55 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" FOUND FOR AN INTERIOR ELL CORNER OF SAID 226.000 ACRE TRACT;

THENCE, OVER AND ACROSS SAID 226.000 ACRE TRACT, AFORESAID 169.065 ACRE TRACT, AND AFORESAID 293.183 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 59 DEGREES 29 MINUTES 51 SECONDS EAST, A DISTANCE OF 110.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 30 DEGREES 30 MINUTES 09 SECONDS WEST, A DISTANCE OF 19.45 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 59 DEGREES 29 MINUTES 51 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 08 DEGREES 37 MINUTES 56 SECONDS, A RADIUS OF 275.00 FEET, AND A LONG CHORD THAT BEARS NORTH 34 DEGREES 49 MINUTES 07 SECONDS WEST, A DISTANCE OF 41.39 FEET;

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 41.43 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 59 DEGREES 29 MINUTES 51 SECONDS EAST, A DISTANCE OF 408.12 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

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SOUTH 30 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 206.28 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 29 MINUTES 51 SECONDS WEST, A DISTANCE OF 10.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 30 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 203.91 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 24 DEGREES 09 MINUTES 26 SECONDS EAST, A DISTANCE OF 48.64 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 09 DEGREES 22 MINUTES 19 SECONDS EAST, A DISTANCE OF 285.98 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 14 DEGREES 12 MINUTES 00 SECONDS EAST, A DISTANCE OF 92.50 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 33 DEGREES 12 MINUTES 24 SECONDS EAST, A DISTANCE OF 93.12 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 51 DEGREES 49 MINUTES 40 SECONDS EAST, A DISTANCE OF 92.52 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 58 DEGREES 13 MINUTES 54 SECONDS EAST, A DISTANCE OF 567.89 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 31 DEGREES 46 MINUTES 06 SECONDS EAST, A DISTANCE OF 107.06 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 16 DEGREES 01 MINUTE 07 SECONDS WEST, A DISTANCE OF 13.44 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 01 DEGREE 45 MINUTES 47 SECONDS, A RADIUS OF 325.00 FEET, AND A LONG CHORD THAT

(21)

BEARS NORTH 62 DEGREES 02 MINUTES 33 SECONDS WEST, A DISTANCE OF 10.00 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 10.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 28 DEGREES 50 MINUTES 21 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 11 DEGREES 15 MINUTE 17 SECONDS, A RADIUS OF 275.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 66 DEGREES 47 MINUTES 18 SECONDS EAST, A DISTANCE OF 53.93 FEET;

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 54.02 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 72 DEGREES 24 MINUTES 56 SECONDS EAST, A DISTANCE OF 76.22 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 14 DEGREES 01 MINUTE 31 SECONDS, A RADIUS OF 275.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 65 DEGREES 24 MINUTES 10 SECONDS EAST, A DISTANCE OF 67.15 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 67.32 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 31 DEGREES 36 MINUTES 35 SECONDS EAST, A DISTANCE OF 78.99 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 51 DEGREES 54 MINUTES 19 SECONDS EAST, A DISTANCE OF 273.29 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 59 DEGREES 29 MINUTES 51 SECONDS EAST, A DISTANCE OF 816.58 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 30 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 466.87 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE

(21)

TO THE LEFT HAVING A CENTRAL ANGLE OF 02 DEGREES 49 MINUTES 04 SECONDS, A RADIUS OF 990.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 31 DEGREES 54 MINUTES 41 SECONDS EAST, A DISTANCE OF 48.68 FEET;

ALONG SAID TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 48.69 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 56 DEGREES 40 MINUTES 45 SECONDS EAST, A DISTANCE OF 80.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 25 DEGREES 04 MINUTES 12 SECONDS, A RADIUS OF 910.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 45 DEGREES 51 MINUTES 19 SECONDS EAST, A DISTANCE OF 395.00 FEET;

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 398.17 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 58 DEGREES 23 MINUTES 25 SECONDS EAST, A DISTANCE OF 16.51 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 76 DEGREES 36 MINUTES 35 SECONDS EAST, A DISTANCE OF 14.14 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 58 DEGREES 23 MINUTES 25 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 13 DEGREES 23 MINUTES 25 SECONDS EAST, A DISTANCE OF 14.14 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 58 DEGREES 23 MINUTES 25 SECONDS EAST, A DISTANCE OF 507.45 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR NORTH CORNER OF SADDLEBROOK ESTATES, PHASE 1A, AN ADDITION TO THE CITY OF WAXAHACHIE, AS RECORDED IN CABINET H, PAGE 581, PLAT RECORDS, ELLIS COUNTY, TEXAS, SAME BEING THE NORTH CORNER OF SARATOGA DRIVE, (AN 80' RIGHT-OF-WAY) OF SAID SADDLEBROOK ESTATES, PHASE 1A;

(21)

THENCE, SOUTH 31 DEGREES 36 MINUTES 35 SECONDS WEST, ALONG THE NORTHWEST LINE OF SAID SADDLEBROOK ESTATES, PHASE 1A, OVER AND ACROSS SAID SARATOGA DRIVE, A DISTANCE OF 80.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE NORTHWEST CORNER OF SAID SARATOGA DRIVE, AND BEING ON THE NORTHEAST LINE OF AFORESAID SADDLEBROOK ESTATES, PHASE 1B-1, FROM WHICH A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" FOUND BEARS SOUTH 58 DEGREES 23 MINUTES 25 SECONDS EAST, A DISTANCE OF 10.00 FEET;

THENCE, ALONG THE SAID NORTHEAST LINE, THE FOLLOWING COURSES AND DISTANCES:

NORTH 58 DEGREES 23 MINUTES 25 SECONDS WEST, A DISTANCE OF 593.96 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 14 DEGREES 01 MINUTE 28 SECONDS, A RADIUS OF 990.00 FEET, AND A LONG CHORD THAT BEARS NORTH 51 DEGREES 22 MINUTES 41 SECONDS WEST, A DISTANCE OF 241.72 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 242.32 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER;

NORTH 88 DEGREES 56 MINUTES 22 SECONDS WEST, A DISTANCE OF 15.24 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER;

THENCE, ALONG THE NORTHWEST LINE OF SAID SADDLEBROOK, PHASE 1B-1, THE FOLLOWING COURSES AND DISTANCES:

SOUTH 48 DEGREES 32 MINUTES 48 SECONDS WEST, A DISTANCE OF 30.95 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 15 DEGREES 44 MINUTES 10 SECONDS, A RADIUS OF 960.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 39 DEGREES 28 MINUTES 41 SECONDS WEST, A DISTANCE OF 262.83 FEET;

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 263.66 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER;

SOUTH 31 DEGREES 36 MINUTES 35 SECONDS WEST, A DISTANCE OF 615.51 TO THE **POINT OF BEGINNING** AND CONTAINING A CALCULATED AREA OF 50.669 ACRES OF LAND.

(21)

**SAVE AND EXCEPT THE FOLLOWING:**

Lots 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, and 93, Block D and Lots 25, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, and 49, Block F, SADDLEBROOK ESTATES, PHASE 2A, an Addition to the City of Waxahachie, Ellis County, Texas, according to the map or plat thereof recorded in Cabinet L, Slide 88, Map or Plat Records of Ellis County, Texas.

## LANDOWNER AGREEMENT - EXHIBIT II

### DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (as it may be amended from time to time, this "Declaration") is made as of June 7, 2021 by 287 Waxahachie, LP, a Texas limited partnership (the "Landowner").

#### RECITALS:

- A. The Landowner holds record title to that portion of the real property located in Ellis County, Texas, which is described in the attached Exhibit I (the "Landowner's Parcel").
- B. The City Council of the City of Waxahachie (the "City Council") upon a petition requesting the establishment of a public improvement district covering the property within the District to be known as the Waxahachie Public Improvement District No. 1 (the "District") by the then owners of more than 50% of the appraised value of the taxable real property and owners of more than 50% of the area of all taxable real property within the area requested to be included in the District created such District, in accordance with the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act").
- C. The City Council has adopted a Phase 3 Assessment Ordinance to levy assessments for certain public improvements (including all exhibits and attachments thereto, the "Phase 3 Assessment Ordinance") and the Service and Assessment Plan included as an exhibit to the Phase 3 Assessment Ordinance (as amended from time to time, the "Service and Assessment Plan"), and has levied the assessments (as amended from time to time, the "Assessments") on property in Phase 3 of the District.
- D. The statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended, to the purchaser, is incorporated into these Covenants, Conditions and Restrictions.

#### DECLARATIONS:

NOW, THEREFORE, the Landowner hereby declares that the Landowner's Parcel is and shall be subject to, and hereby imposes on the Landowner's Parcel, the following covenants, conditions, and restrictions:

#### 1. **Acceptance and Approval of Assessments and Lien on Property:**

- (a) Landowner accepts each Assessment levied on the Landowner's Parcel owned by such Landowner.
- (b) The Assessment (including any reassessment, the expense of collection, and reasonable attorney's fees, if incurred) is (a) a first and prior lien (the "Assessment Lien") against the property assessed, superior to all other liens or claims except for

liens or claims for state, county, school district or municipality ad valorem property taxes whether now or hereafter payable, and (b) a personal liability of and charge against the owners of the property to the extent of their ownership regardless of whether the owners are named. The Assessment Lien is effective from the date of the Phase 3 Assessment Ordinance until the Assessments are paid and may be enforced by the City in the same manner as an ad valorem property tax levied against real property that may be enforced by the City. The owner of any assessed property may pay, at any time, the entire Assessment levied against any such property. Foreclosure of an ad valorem property tax lien on property within Phase 3 of the District will not extinguish the Assessment or any unpaid but not yet due annual installments of the Assessment, and will not accelerate the due date for any unpaid and not yet due annual installments of the Assessment.

It is the clear intention of all parties to these Declarations of Covenants, Conditions and Restrictions, that the Assessments, including any annual installments of the Assessments (as such annual installments may be adjusted, decreased or extended), are covenants that run with the Landowner's Parcel and specifically binds the Landowner, its successors and assigns.

In the event of delinquency in the payment of any annual installment of the Assessment, the City is empowered to order institution of an action in district court to foreclose the related Assessment Lien, to enforce personal liability against the owner of the real property for the Assessment, or both. In such action the real property subject to the delinquent Assessment may be sold at judicial foreclosure sale for the amount of such delinquent property taxes and Assessment, plus penalties, interest, and costs of collection.

**2. Landowner or any subsequent owner of the Landowner's Parcel waives:**

- (a) any and all defects, irregularities, illegalities, or deficiencies in the proceedings establishing the District and levying and collecting the Assessments or the annual installments of the Assessments;
- (b) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the levy of Assessments by the City Council concerning the Assessments;
- (c) any and all defects, irregularities, illegalities, or deficiencies in, or in the adoption of, the Phase 3 Assessment Ordinance by the City Council;
- (d) any and all actions and defenses against the adoption or amendment of the Service and Assessment Plan, the City's finding of a 'special benefit' pursuant to the PID Act and the Service and Assessment Plan, and the levy of the Assessments; and
- (e) any right to object to the legality of any of the Assessments or the Service and Assessment Plan or to any of the previous proceedings connected therewith which occurred prior to, or upon, the City Council's levy of the Assessments.

- 3. **Amendments:** This Declaration may be terminated or amended only by a document duly executed and acknowledged by the then-current owner(s) of the Landowner's Parcel and the City. No such termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the parties by whom approval is required as set forth above and recorded in the Real Property Records of Ellis County, Texas.
- 4. **Third Party Beneficiary:** The City is a third-party beneficiary to this Declaration and may enforce the terms hereof.
- 5. **Notice to Subsequent Purchasers:** Upon the sale of a dwelling unit within the District, the purchaser of such property shall be provided a written notice that reads substantially similar to the following:

**TEXAS PROPERTY CODE SECTION 5.014**

**NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS CONCERNING THE PROPERTY AT [Street Address]**

As the purchaser of this parcel of real property, you are obligated to pay an assessment to the City of Waxahachie, Texas, for improvement projects undertaken by a public improvement district under Chapter 372 of the Texas Local Government Code, as amended. The assessment may be due in periodic installments.

The amount of the assessment against your property may be paid in full at any time together with interest to the date of payment. If you do not pay the assessment in full, it will be due and payable in annual installments (including interest and collection costs). More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the City of Waxahachie, 401 S. Rogers, Waxahachie, Texas 75165. Your failure to pay the assessment or the annual installments could result in a lien on and the foreclosure of your property.

Signature of Purchaser(s) \_\_\_\_\_ Date: \_\_\_\_\_

The seller shall deliver this notice to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

EXECUTED by the undersigned on the date set forth below to be effective as of the date first above written.

**LANDOWNER**

287 Waxahachie, LP,  
a Texas limited partnership

By: Centamtar Terras, LLC,  
a Texas limited liability company,  
Its General Partner

By: CTMGT, LLC,  
a Texas limited liability company,  
Its Sole Manager and Member

By: \_\_\_\_\_  
Name: Mehrdad Moayedi,  
Its: Sole Manager and Member

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on \_\_\_\_\_ 2021,  
by Mehrdad Moayedi, the Sole Manager and Member of CTMGT, LLC, as the Sole Manager and  
Member of Centamtar Terras, LLC, as the General Partner of 287 Waxahachie, LP, a Texas  
limited partnership on behalf of said partnership.

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

**LANDOWNER AGREEMENT - EXHIBIT III****HOMEBUYER EDUCATION PROGRAM**

As used in this Exhibit III, the recorded Phase 3 Assessment Ordinance and the Covenants, Conditions and Restrictions in Exhibit II of this Agreement are referred to as the "Recorded Notices."

1. Any Landowner who is a Builder shall attach the Recorded Notices and the final Phase 3 Assessment Roll for such Assessed Parcel (or if the Phase 3 Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30 year payment for such Assessed Parcel) as an addendum to any residential homebuyer's contract.
2. Any Landowner who is a Builder shall provide evidence of compliance with 1 above, signed by such residential homebuyer, to the City.
3. Any Landowner who is a Builder shall prominently display signage in its model homes, if any, substantially in the form of the Recorded Notices.
4. If prepared and provided by the City, any Landowner who is a Builder shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.
5. Any Landowner who is a Builder shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers.

### PHASE 3 LANDOWNER AGREEMENT

This **PHASE 3 LANDOWNER AGREEMENT** (the "Agreement"), is entered into as of June 7, 2021, between the City of Waxahachie, Texas (the "City"), a home rule municipality of the State of Texas (the "State"), and D. R. Horton-Texas, Ltd., a Texas limited partnership ("Landowner").

#### RECITALS:

**WHEREAS**, Landowner owns the Assessed Property described by lot and block attached as **Exhibit I** to this Agreement and which is incorporated herein for all purposes, comprising all of the non-exempt, privately-owned land described in **Exhibit I** (the "Landowner Parcel") which is located within the Waxahachie Public Improvement District No. 1 (the "District") in the City; and

**WHEREAS**, the City Council has adopted an assessment ordinance for the Phase Three District Improvements (including all exhibits and attachments thereto, the "Phase 3 Assessment Ordinance") and the Service and Assessment Plan included as an exhibit to the Phase 3 Assessment Ordinance (the "Service and Assessment Plan") and which is incorporated herein for all purposes, and has levied an assessment on each Parcel (excluding Non-Benefited Property) in Phase 3 of the District (as identified in the Service and Assessment Plan) that will be used to reimburse Landowner for the costs of constructing the Phase Three District Improvements or pledged as the security for the payment of bonds or other obligations to be issued for the purpose of paying the costs of constructing the Phase Three District Improvements that will benefit the Assessed Property (as defined in the Service and Assessment Plan) in Phase 3 of the District; and

**WHEREAS**, the Covenants, Conditions and Restrictions attached to this Agreement as **Exhibit II** and which are incorporated herein for all purposes, include the statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended (the "PID Act"), to the purchaser.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the City and Landowner hereby contract, covenant and agree as follows:

#### **DEFINITIONS; APPROVAL OF AGREEMENTS**

Definitions. Capitalized terms used but not defined herein (including each exhibit hereto) shall have the meanings ascribed to them in the Service and Assessment Plan.

Affirmation of Recitals. The findings set forth in the Recitals of this Agreement are hereby incorporated as the official findings of the City Council.

**I.  
AGREEMENTS OF LANDOWNER**

A. Affirmation and Acceptance of Agreements and Findings of Benefit. Landowner hereby ratifies, confirms, accepts, agrees to, and approves:

(i) the creation and boundaries of the District, and the boundaries of the Landowner's Parcel which are within the District, all as shown on **Exhibit I**, and the location and development of the Phase Three District Improvements on the Landowner Parcel and on the property within Phase 3 of the District;

(ii) the determinations and findings as to the benefits by the City Council in the Service and Assessment Plan and the Phase 3 Assessment Ordinance; and

(iii) the Phase 3 Assessment Ordinance and the Service and Assessment Plan.

B. Acceptance and Approval of Assessments and Lien on Property. Landowner consents to, agrees to, acknowledges and accepts the following:

(i) each Assessment levied by the City on the Landowner's Parcel within Phase 3 of the District, as shown on the assessment roll attached as Appendix C-3 to the Service and Assessment Plan (the "Phase 3 Assessment Roll");

(ii) the Phase Three District Improvements specially benefit Phase 3 of the District, and the Landowner's Parcel, in an amount in excess of the Assessment levied on the Landowner's Parcel within Phase 3 of the District, as such Assessment is shown on the Phase 3 Assessment Roll;

(iii) each Assessment is final, conclusive and binding upon Landowner and any subsequent owner of the Landowner's Parcel, regardless of whether such landowner may be required to prepay a portion of, or the entirety of, such Assessment upon the occurrence of a mandatory prepayment event as provided in the Service and Assessment Plan;

(iv) the obligation to pay the Assessment levied on the Landowner's Parcel owned by it when due and in the amount required by and stated in the Service and Assessment Plan and the Phase 3 Assessment Ordinance;

(v) each Assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Landowner's Parcel, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Landowner's Parcel regardless of whether such owner is named;

(vi) the Assessment lien on the Landowner's Parcel is a lien and covenant that runs with the land and is effective from the date of the Phase 3 Assessment Ordinance and continues until the Assessment is paid and may be enforced by the governing body of the City in the same manner that an ad valorem tax lien against real property may be enforced by the City;

(vii) delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) the owner of an Assessed Parcel may pay at any time the entire Assessment, with interest that has accrued on the Assessment, on any parcel in the Landowner's Parcel;

(ix) the Annual Installments of the Assessments (as defined in the Service and Assessment Plan and Phase 3 Assessment Roll) may be adjusted, decreased and extended; and, the assessed parties shall be obligated to pay their respective revised amounts of the annual installments, when due, and without the necessity of further action, assessments or reassessments by the City, the same as though they were expressly set forth herein; and

(x) Landowner has received, or hereby waives, all notices required to be provided to it under State law, including the PID Act, prior to the Effective Date (defined herein).

C. Mandatory Prepayment of Assessments. Landowner agrees and acknowledges that Landowner or subsequent landowners may have an obligation to prepay an Assessment upon the occurrence of a mandatory prepayment event, at the sole discretion of the City and as provided in the Service and Assessment Plan, as amended or updated or upon sale of property in the PID to a party not subject to Assessments.

D. Notice of Assessments. Landowner further agrees as follows:

(i) the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be terms, conditions and provisions running with the Landowner's Parcel and shall be recorded (the contents of which shall be consistent with the Phase 3 Assessment Ordinance and the Service and Assessment Plan as reasonably determined by the City), in the records of the County Clerk of Ellis County, as a lien and encumbrance against such Landowner's Parcel, and Landowner hereby authorizes the City to so record such documents against the Landowner's Parcel owned by Landowner;

(ii) reference to the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be included on all recordable subdivision plats and such plats shall be recorded in the real property records of Ellis County, Texas;

(iii) in the event of any subdivision, sale, transfer or other conveyance by Landowner of the right, title or interest of Landowner in the Landowner's Parcel or any part thereof, the Landowner's Parcel, or any such part thereof, shall continue to be bound by all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions and any purchaser, transferee or other subsequent owner shall take such Landowner's Parcel subject to all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions; and

(iv) Landowner shall comply with, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the City) any party who purchases any Landowner's Parcel owned by Landowner, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead"

designations under State law, to comply with, the Homebuyer Education Program described on **Exhibit III** to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if, and when, (i) a final certificate of occupancy for a residential unit on such Lot is issued by the City, and (ii) there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling residences to individual home buyers (a "Builder") but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder.

Notwithstanding the provisions of this Section, upon Landowner's request and the City's consent, in the City's sole and absolute discretion, the Covenants, Conditions and Restrictions may be included with other written restrictions running with the land on property within the District, provided they contain all the material provisions and provide the same material notice to prospective property owners as does the document attached as **Exhibit II**.

**II.  
OWNERSHIP AND CONSTRUCTION OF  
PHASE THREE DISTRICT IMPROVEMENTS**

A. Ownership and Transfer of Phase Three District Improvements. Landowner acknowledges that all of the Phase Three District Improvements and the land (or easements, as applicable) needed therefor shall be owned by the City, as applicable, once accepted by and conveyed to the City, following construction and Landowner will execute such conveyances and/or dedications of public rights of way and easements as may be reasonably required to evidence such ownership, as generally described on the current plats of the property within the District, and without monetary or other compensation to the Landowner .

B. Grant of Easement and License, Construction of Phase Three District Improvements.

(i) Any subsequent owner of the Landowner's Parcel shall, upon the request of the City or Landowner grant and convey to the City or Landowner and its contractors, materialmen and workmen a temporary license and/or easement, as appropriate, to construct the Phase Three District Improvements on the property within Phase 3 of the District, to stage on the property within Phase 3 of the District construction trailers, building materials and equipment to be used in connection with such construction of the Phase Three District Improvements and for passage and use over and across parts of the property within Phase 3 of the District as shall be reasonably necessary during the construction of the Phase Three District Improvements, and without monetary or other compensation to be paid for such grant or conveyance. Any subsequent owner of the Landowner's Parcel may require that each contractor constructing the Phase Three District Improvements cause such owner of the Landowner's Parcel to be indemnified and/or named as an additional insured under liability insurance reasonably acceptable to such owner of the Landowner's Parcel. The right to use and enjoy any easement and license provided above shall continue until the construction of the Phase Three District Improvements is complete; provided, however, any such license or easement shall

automatically terminate upon the recording of the final plat for the Landowner's Parcel in the real property records of Ellis County, Texas.

(ii) Landowner hereby agrees that any right or condition imposed by any agreement, with respect to the Assessment has been satisfied, and that Landowner shall not have any rights or remedies against the City under any law or principles of equity concerning the Assessments, with respect to the formation of the District, approval of the Service and Assessment Plan and the City's levy and collection of the Assessments.

**III.  
COVENANTS AND WARRANTIES; MISCELLANEOUS**

**A. Special Covenants and Warranties of Landowner.**

Landowner represents and warrants to the City as follows:

(i) Landowner is duly organized, validly existing and, as applicable, in good standing under the laws of the state of its organization and has the full right, power and authority to enter into this Agreement, and to perform all the obligations required to be performed by Landowner hereunder.

(ii) This Agreement has been duly and validly executed and delivered by, and on behalf of, Landowner and, assuming the due authorization, execution and delivery thereof by and on behalf of the City and Landowner, constitutes a valid, binding and enforceable obligation of such party enforceable in accordance with its terms. This representation and warranty is qualified to the extent the enforceability of this Agreement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws of general application affecting the rights of creditors in general.

(iii) Neither the execution and delivery hereof, nor the taking of any actions contemplated hereby, will conflict with or result in a breach of any of the provisions of, or constitute a default, event of default or event creating a right of acceleration, termination or cancellation of any obligation under, any instrument, note, mortgage, contract, judgment, order, award, decree or other agreement or restriction to which Landowner is a party, or by which Landowner or Landowner's Parcel is otherwise bound.

(iv) Landowner is, subject to all matters of record in the Ellis County, Texas Real Property Records, the sole owner of the Landowner's Parcel.

(v) The Landowner's Parcel owned by Landowner is not subject to, or encumbered by, any covenant, lien, encumbrance or agreement which would prohibit (i) the creation of the District, (ii) the levy of the Assessments and the priority of the lien related to the assessments as described in this Agreement, or (iii) the construction of the Phase Three District Improvements on those portions of the property within Phase 3 of the District which are to be owned by the City, as generally described on the current plats of the property within the District (or, if subject to any such prohibition, the approval or consent of all necessary parties thereto has been obtained).

(vi) Landowner covenants and agrees to execute any and all documents necessary, appropriate or incidental to the purposes of this Agreement, as long as such documents are consistent with this Agreement and do not create additional liability of any type to, or reduce the rights of, such Landowner by virtue of execution thereof.

B. Waiver of Claims Concerning Phase Three District Improvements. Landowner, with full knowledge of the provisions, and the rights thereof pursuant to such provisions, of applicable law, waives any claims against the City and its successors, assigns and agents, pertaining to the installation of the Phase Three District Improvements.

C. Notices.

Any notice or other communication to be given to the City or Landowner under this Agreement shall be given by delivering the same in writing to:

To the City:                   Attn: City Manager  
City of Waxahachie, Texas  
401 S. Rogers  
Waxahachie, Texas 75165

With a copy to:             Attn: Robert Brown, City Attorney  
Brown & Hofmeister, LLP  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

To Landowner:             Attn: David Booth  
D. R. Horton-Texas, Ltd.  
4306 Miller Road  
Rowlett, Texas 75088

With a copy to:             Attn: Jim Ilkenhans, Regional Counsel  
D. R. Horton-Texas, Ltd.  
4306 Miller Road  
Rowlett, Texas 75088

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the recipient as the address set forth herein.

Each recipient may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this provision shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when received for, or actually received by, the addressee.

D. Parties in Interest.

This Agreement is made solely for the benefit of the City and Landowner and is not assignable, except, in the case of Landowner, in connection with the sale or disposition of all or substantially all of the parcels which constitute the Landowner's Parcel. However, the parties expressly agree and acknowledge that the City, Landowner, each current owner of any parcel which constitutes the Landowner's Parcel, and the holders of bonds issued by the City to finance the costs of the Phase Three District Improvements and which are secured by a pledge of the Assessments or any part thereof, are express beneficiaries of this Agreement and shall be entitled to pursue any and all remedies at law or in equity to enforce the obligations of the parties hereto. This Agreement shall be recorded in the real property records of Ellis County, Texas.

E. Amendments.

This Agreement may be amended only by written instrument executed by the City and Landowner. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the property within the District and recorded in the Real Property Records of Ellis County, Texas.

F. Effective Date.

This Agreement shall become and be effective (the "Effective Date") upon the date of final execution by the latter of the City and Landowner and shall be valid and enforceable on said date and thereafter.

G. Estoppels.

Within 10 business days after written request from a party hereto, the other party shall provide a written certification, indicating whether this Agreement remains in effect as to the Landowner's Parcel.

H. Termination.

This Agreement shall terminate and be of no further force and effect as to the Landowner's Parcel upon payment in full of the Assessment(s) against such Landowner's Parcel.

I. Landowner hereby verifies that Landowner and its parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made

for ordinary business purposes. Landowner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Landowner and exists to make a profit.

J. Landowner hereby represents that neither Landowner nor any of its parent companies, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and excludes Landowner and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. Landowner understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with Landowner and exists to make a profit.

[Signature pages to follow]

EXECUTED by the City and Landowner on the respective dates stated below.

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

**CITY OF WAXAHACHIE, TEXAS**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

STATE OF TEXAS           §  
  §  
COUNTY OF ELLIS       §

This instrument was acknowledged before me on the \_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, the Mayor of the City of Waxahachie, Texas on behalf of said City.

(SEAL)

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

\_\_\_\_\_  
Name printed or typed

Commission Expires: \_\_\_\_\_

[Signature Page Landowner Agreement]

**LANDOWNER**

**D.R. HORTON-TEXAS, LTD.,  
a Texas limited partnership**

By: D.R. Horton, Inc.,  
A Delaware corporation,  
Its Authorized Agent

By: \_\_\_\_\_  
Name: David L. Booth  
Title: Assistant Vice President

STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_ 2021, by David L. Booth, as Assistant Vice President of D. R. Horton, Inc., a Delaware corporation, the Authorized Agent of D. R. Horton-Texas, Ltd., a Texas limited partnership on behalf of said limited partnership.

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

[Signature Page Landowner Agreement]

(22)

**LANDOWNER AGREEMENT - EXHIBIT I**

**DESCRIPTION OF LANDOWNER'S PARCEL**

Lots 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, and 93, Block D and Lots 25, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, and 49, Block F, SADDLEBROOK ESTATES, PHASE 2A, an Addition to the City of Waxahachie, Ellis County, Texas, according to the map or plat thereof recorded in Cabinet L, Slide 88, Map or Plat Records of Ellis County, Texas.

**LANDOWNER AGREEMENT - EXHIBIT II**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (as it may be amended from time to time, this "Declaration") is made as of June 7, 2021 by D. R. Horton-Texas, Ltd., a Texas limited partnership (the "Landowner").

**RECITALS:**

- A. The Landowner holds record title to a portion of the real property described by lot and block in the attached Exhibit I (the "Landowner's Parcel").
- B. The City Council of the City of Waxahachie (the "City Council") upon a petition requesting the establishment of a public improvement district covering the property within the District to be known as the Waxahachie Public Improvement District No. 1 (the "District") by the then owners of more than 50% of the appraised value of the taxable real property and owners of more than 50% of the area of all taxable real property within the area requested to be included in the District created such District, in accordance with the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act").
- C. The City Council has adopted a Phase 3 Assessment Ordinance to levy assessments for certain public improvements (including all exhibits and attachments thereto, the "Phase 3 Assessment Ordinance") and the Service and Assessment Plan included as an exhibit to the Phase 3 Assessment Ordinance (as amended from time to time, the "Service and Assessment Plan"), and has levied the assessments (as amended from time to time, the "Assessments") on property in Phase 3 of the District.
- D. The statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended, to the purchaser, is incorporated into these Covenants, Conditions and Restrictions.

**DECLARATIONS:**

NOW, THEREFORE, the Landowner hereby declares that the Landowner's Parcel is and shall be subject to, and hereby imposes on the Landowner's Parcel, the following covenants, conditions, and restrictions:

**1. Acceptance and Approval of Assessments and Lien on Property:**

- (a) Landowner accepts each Assessment levied on the Landowner's Parcel owned by such Landowner.
- (b) The Assessment (including any reassessment, the expense of collection, and reasonable attorney's fees, if incurred) is (a) a first and prior lien (the "Assessment Lien") against the property assessed, superior to all other liens or claims except for

liens or claims for state, county, school district or municipality ad valorem property taxes whether now or hereafter payable, and (b) a personal liability of and charge against the owners of the property to the extent of their ownership regardless of whether the owners are named. The Assessment Lien is effective from the date of the Phase 3 Assessment Ordinance until the Assessments are paid and may be enforced by the City in the same manner as an ad valorem property tax levied against real property that may be enforced by the City. The owner of any assessed property may pay, at any time, the entire Assessment levied against any such property. Foreclosure of an ad valorem property tax lien on property within Phase 3 of the District will not extinguish the Assessment or any unpaid but not yet due annual installments of the Assessment, and will not accelerate the due date for any unpaid and not yet due annual installments of the Assessment.

It is the clear intention of all parties to these Declarations of Covenants, Conditions and Restrictions, that the Assessments, including any annual installments of the Assessments (as such annual installments may be adjusted, decreased or extended), are covenants that run with the Landowner's Parcel and specifically binds the Landowner, its successors and assigns.

In the event of delinquency in the payment of any annual installment of the Assessment, the City is empowered to order institution of an action in district court to foreclose the related Assessment Lien, to enforce personal liability against the owner of the real property for the Assessment, or both. In such action the real property subject to the delinquent Assessment may be sold at judicial foreclosure sale for the amount of such delinquent property taxes and Assessment, plus penalties, interest, and costs of collection.

**2. Landowner or any subsequent owner of the Landowner's Parcel waives:**

- (a) any and all defects, irregularities, illegalities, or deficiencies in the proceedings establishing the District and levying and collecting the Assessments or the annual installments of the Assessments;
- (b) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the levy of Assessments by the City Council concerning the Assessments;
- (c) any and all defects, irregularities, illegalities, or deficiencies in, or in the adoption of, the Phase 3 Assessment Ordinance by the City Council;
- (d) any and all actions and defenses against the adoption or amendment of the Service and Assessment Plan, the City's finding of a 'special benefit' pursuant to the PID Act and the Service and Assessment Plan, and the levy of the Assessments; and
- (e) any right to object to the legality of any of the Assessments or the Service and Assessment Plan or to any of the previous proceedings connected therewith which occurred prior to, or upon, the City Council's levy of the Assessments.

- 3. **Amendments:** This Declaration may be terminated or amended only by a document duly executed and acknowledged by the then-current owner(s) of the Landowner's Parcel and the City. No such termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the parties by whom approval is required as set forth above and recorded in the Real Property Records of Ellis County, Texas.
- 4. **Third Party Beneficiary:** The City is a third-party beneficiary to this Declaration and may enforce the terms hereof.
- 5. **Notice to Subsequent Purchasers:** Upon the sale of a dwelling unit within the District, the purchaser of such property shall be provided a written notice that reads substantially similar to the following:

**TEXAS PROPERTY CODE SECTION 5.014**

**NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS CONCERNING THE PROPERTY AT [Street Address]**

As the purchaser of this parcel of real property, you are obligated to pay an assessment to the City of Waxahachie, Texas, for improvement projects undertaken by a public improvement district under Chapter 372 of the Texas Local Government Code, as amended. The assessment may be due in periodic installments.

The amount of the assessment against your property may be paid in full at any time together with interest to the date of payment. If you do not pay the assessment in full, it will be due and payable in annual installments (including interest and collection costs). More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the City of Waxahachie, 401 S. Rogers, Waxahachie, Texas 75165. Your failure to pay the assessment or the annual installments could result in a lien on and the foreclosure of your property.

Signature of Purchaser(s) \_\_\_\_\_

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

The seller shall deliver this notice to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

EXECUTED by the undersigned on the date set forth below to be effective as of the date first above written.

**LANDOWNER**

**D.R. HORTON-TEXAS, LTD.,  
a Texas limited partnership**

By: D.R. Horton, Inc.,  
A Delaware corporation,  
Its Authorized Agent

By: \_\_\_\_\_  
Name: David L. Booth  
Title: Assistant Vice President

STATE OF TEXAS           §  
  §  
COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me on \_\_\_\_\_ 2021, by David L. Booth, as Assistant Vice President of D. R. Horton, Inc., a Delaware corporation, the Authorized Agent of D. R. Horton-Texas, Ltd., a Texas limited partnership on behalf of said limited partnership.

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

**LANDOWNER AGREEMENT - EXHIBIT III**  
**HOMEBUYER EDUCATION PROGRAM**

As used in this Exhibit III, the recorded Phase 3 Assessment Ordinance and the Covenants, Conditions and Restrictions in Exhibit II of this Agreement are referred to as the "Recorded Notices."

1. Any Landowner who is a Builder shall attach the Recorded Notices and the final Phase 3 Assessment Roll for such Assessed Parcel (or if the Phase 3 Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30 year payment for such Assessed Parcel) as an addendum to any residential homebuyer's contract.
2. Any Landowner who is a Builder shall provide evidence of compliance with 1 above, signed by such residential homebuyer, to the City.
3. Any Landowner who is a Builder shall prominently display signage in its model homes, if any, substantially in the form of the Recorded Notices.
4. If prepared and provided by the City, any Landowner who is a Builder shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.
5. Any Landowner who is a Builder shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers.

**WAXAHACHIE PUBLIC IMPROVEMENT DISTRICT NO. 1  
PHASE 2 IMPROVEMENTS REIMBURSEMENT AGREEMENT**

This Waxahachie Public Improvement District No. 1 Phase 2 Improvements Reimbursement Agreement (this "Reimbursement Agreement") is executed by and between the **City of Waxahachie, Texas** (the "City") and **287 Waxahachie L.P.**, a Texas limited partnership (the "Developer") (individually referred to as a "Party" and collectively as the "Parties") to be effective June 7, 2021 (the "Effective Date").

**RECITALS**

**WHEREAS**, capitalized terms used in this Reimbursement Agreement shall have the meanings given to them in this Reimbursement Agreement, in the Original SAP (as defined below), or in the 2017 Annual Update (as defined below) (the Original SAP, as amended, supplemented and updated to date by the 2017 Annual Update and otherwise, and as may be amended, supplemented and updated from time to time in accordance with its terms and state law is referred to herein as the "SAP"); and

**WHEREAS**, on April 16, 2007 the City Council passed and approved Resolution No. 1087 authorizing the creation of the Waxahachie Public Improvement District No. 1 (the "District") covering approximately 1,965 acres of land described by metes and bounds in said Resolution (the "District Property"); and

**WHEREAS**, the purpose of the District is to finance public improvements (the "Authorized Improvements") as provided by Chapter 372, Texas Local Government Code, as amended (the "PID Act") that promote the interests of the City and confer a special benefit on the Assessed Property within the District; and

**WHEREAS**, the District Property is being developed in phases, and special assessments for each phase have been or will be levied against the Assessed Property within such phase to pay the costs of Authorized Improvements that confer a special benefit on the Assessed Property within such phase; and

**WHEREAS**, Phase Two District Improvements (as defined in the SAP) within Phase 2 (as defined in the SAP) of the District Property have been completed and accepted by the City; and

**WHEREAS**, on June 18, 2007, the City Council adopted Ordinance No. 2413, which approved the District Service and Assessment Plan dated June 18, 2007 (the "Original SAP"); and

**WHEREAS**, in addition to approving the Original SAP, Ordinance No. 2413 levied assessments against property within the District (the "Assessed Property") and established the dates upon which interest on assessments will begin to accrue and collection of assessments will begin; and

**WHEREAS**, in the District Annual Service Plan Update, dated September 14, 2017 (the "2017 Annual Update"), the City determined to identify a portion of the Assessed Property as "Phase Two" consisting of approximately 121 lots "Phase 2 Assessed Property") and included a

separate assessment roll for Phase 2 (as amended and updated from time to time in the SAP, the "Phase 2 Assessment Roll") attached as Appendix C-2 to the 2017 Annual Update; and

**WHEREAS**, the 2017 Annual Update established \$749,059 as the cost of the Phase Two District Improvements to be assessed against Phase 2 of the District Property (the "Phase 2 Improvements Costs"); and

**WHEREAS**, the 2017 Annual Update allocated the Phase 2 Improvements Costs to Phase 2 of the District Property, and the SAP contemplated the allocation of the Phase 2 Improvements Costs among the single family residential lots to be created from the subdivision of the Phase Two Property; and

**WHEREAS**, assessments against Parcels within Phase 2 of the District ("Phase 2 Assessments") are reflected on the Phase 2 Assessment Roll as approved by the City Council; and

**WHEREAS**, the SAP and the Assessment Ordinance provide, in part, that an assessment or assessments may be paid in full, and if an assessment is not paid in full, it shall be due and payable in Annual Installments plus interest for a period of 30 years or until the assessment is paid in full; and

**WHEREAS**, all revenue received and collected by the City from the collection of the Phase 2 Assessments and Annual Installments (excluding Delinquent Collection Costs, and Annual Collection Costs) (the "Phase 2 Assessment Revenue") shall be deposited as required by the PID Act into an assessment fund that is segregated from all other funds of the City (the "Phase 2 Assessment Fund"); and

**WHEREAS**, the Phase 2 Assessment Revenue deposited into the Phase 2 Assessment Fund shall be used to reimburse Developer and its assigns for the Phase 2 Improvements Costs advanced by the Developer in an amount not to exceed \$749,059.00, plus interest; and

**WHEREAS**, the City agreed to reimburse the Developer for certain costs of District Improvements pursuant to that certain District Improvements Payment Agreement executed between the City and World Land dated June 18, 2007 (the "Payment Agreement"), and to evidence such obligation in a temporary note in the form attached as Exhibit A to the Payment Agreement (a "Temporary Note") to be executed by the City upon the written request of the Developer, with any Temporary Note payable solely from Bonds issued by the City payable out of assessments on District Property benefited by the related District Improvements; and

**WHEREAS**, no Temporary Note has been executed by the City in connection with the reimbursement of the Phase Two District Improvements; and

**WHEREAS**, the City and the Developer desire to amend and restate the terms of the rights of the Developer to be reimbursed for costs of the Phase Two District Improvements pursuant to the Payment Agreement and Temporary Note, and provide for the rights and obligations of the

Developer relating to the Phase Two District Improvements in this Reimbursement Agreement; and

**WHEREAS**, the Parties agree that this Reimbursement Agreement supersedes and replaces the Payment Agreement, any Temporary Note and any other prior agreements (whether written or oral) including any amendments to those prior agreements between the Parties regarding the subject matter hereof; and

**WHEREAS**, the City will have no commitment or obligation to issue Bonds to pay or reimburse the Developer for the costs of Phase Two District Improvements pursuant to the Payment Agreement or otherwise; and

**WHEREAS**, the obligations of the City to use the Phase 2 Assessments hereunder is authorized by the PID Act;

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS OF THE PARTIES SET FORTH IN THIS REIMBURSEMENT AGREEMENT AND FOR VALUABLE CONSIDERATION THE RECEIPT AND ADEQUACY OF WHICH ARE ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:**

1. The recitals in the “WHEREAS” clauses of this Reimbursement Agreement are true and correct, create obligations of the Parties, and are incorporated as part of this Reimbursement Agreement for all purposes.
2. Strictly subject to the terms, conditions, and requirements and solely from the Phase 2 Assessment Revenues as herein provided, the City agrees to pay the Developer and its assigns, and the Developer and its assigns shall be entitled to receive from the City, the amount equal to the actual costs of the Phase Two District Improvements paid by the Developer for the Phase 2 Improvements Costs that were within budgeted costs, or authorized overrun costs, that were paid by the Developer plus interest from the Effective Date on the unpaid balance in accordance with the terms of this Reimbursement Agreement until December 31, 2046 (the “Maturity Date”), and which shall be reimbursed to the Developer and its assigns in a principal amount not to exceed \$749,059.00 (the “Reimbursement Amount”), plus interest accrued to date and to accrue, as hereinafter provided. The City hereby covenants to create, concurrently with the execution of this Reimbursement Agreement, a separate fund to be designated the “Phase 2 Assessment Fund.” The Reimbursement Amount is payable from monies to be deposited in the Phase 2 Assessment Fund as described below:
  - a. The Reimbursement Amount is payable solely from the Phase 2 Assessment Revenue received and collected by the City and deposited into the Phase 2 Assessment Fund. The Phase 2 Assessment Revenue shall be received, collected

and deposited into the Phase 2 Assessment Fund subject to the following limitations:

- i. Calculation of the Phase 2 Assessments and the Annual Installment for a Parcel shall be as provided for in the SAP and the Assessment Ordinance.
  - ii. The Phase 2 Assessments shall accrue interest from the Effective Date at the per annum rates set forth in this Section 2. Interest shall continue on the unpaid principal amount of the Phase 2 Assessments for a Parcel for the earlier of December 31, 2046 or until the Phase 2 Assessments for such Parcel are paid in full.
  - iii. The Developer and its assigns shall be reimbursed in a combined aggregate amount not to exceed \$749,059.00 plus interest accrued and unpaid to date and to accrue from the Phase 2 Assessment Fund and as allowed under this Section 2(a); provided however, the Reimbursement Amount (including interest) shall not exceed \$1,728,803.00.
  - iv. The unpaid Reimbursement Amount shall bear simple interest per annum at the rate of 7.00% to but not including, September 14, 2022, and at the rate of 5.77% thereafter for the remaining term of this Reimbursement Agreement.
3. The amount of the Reimbursement Amount that has not been paid, plus the interest as described in Section 2 above, are collectively, the "Unpaid Balance." The Unpaid Balance is secured by and payable solely from the Phase 2 Assessment Revenue received and collected by the City and deposited into the Phase 2 Assessment Fund. No other City funds, revenue, taxes, or income of any kind shall be used to pay the Unpaid Balance, even if the Unpaid Balance is not paid in full by the Maturity Date. This Reimbursement Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than Phase 2 Assessment Revenue received, collected and deposited into the Phase 2 Assessment Fund. The City covenants that it will comply with the provisions of this Reimbursement Agreement and the PID Act, including provisions relating to the administration of the District and the enforcement and collection of taxes and assessments, and all other covenants provided therein. Notwithstanding its collection efforts, if the City fails to receive all or any part of the Phase 2 Assessment Revenue and, as a result, is unable to make transfers from the Phase 2 Assessment Revenue Fund for payments to the Developer as required under this Reimbursement Agreement, such failure and inability shall not constitute a Failure or Default by the City under this Reimbursement Agreement.
4. Once all payments paid to the Developer under this Reimbursement Agreement equals the Unpaid Balance, this Reimbursement Agreement shall terminate.

5. The Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with written notice to) the City, the Developer's right, title, or interest under this Reimbursement Agreement including, but not limited to, any right, title, or interest of the Developer in and to payment of the Unpaid Balance (any of the foregoing, a "Transfer," and the person or entity to whom the Transfer is made, a "Transferee"). Notwithstanding the foregoing, however, no Transfer shall be effective until five days after notice of the Transfer is received by the City, including for each Transferee the information required by Section 9 below. The City may rely on any notice of a Transfer received from the Developer without obligation to investigate or confirm the validity or occurrence of such Transfer. No conveyance, transfer, assignment, mortgage, pledge or other encumbrance shall be made by the Developer or any successor or assignee of the Developer that results in the City being an "obligated person" within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission without the express written consent of the City. The Developer waives all rights or claims against the City for any such funds provided to a third party as a result of a Transfer for which the City has received notice.
6. The obligations of the City under this Reimbursement Agreement are non-recourse and payable only from the Phase 2 Assessment Fund and such obligations do not create a debt or other obligation payable from any other City revenues, taxes, income, or property. None of the City or any of its elected or appointed officials or any of its officers or employees shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of this Reimbursement Agreement or their acts or omissions under this Reimbursement Agreement.
7. Nothing in this Reimbursement Agreement is intended to constitute a waiver by the City of any remedy the City may otherwise have outside this Reimbursement Agreement against the Developer, any Transferee, or any other person or entity involved in the design, construction or installation of the Phase Two District Improvements. The obligations of Developer hereunder shall be those as a Party hereto and not solely as an owner of property in the District. Nothing herein shall be constructed, nor is intended, to affect the City's or Developer's rights and duties to perform their respective obligations under other agreements, regulations and ordinances.
8. This Reimbursement Agreement is being executed and delivered, and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Reimbursement Agreement. In the event of a dispute involving this Reimbursement Agreement, venue for such dispute shall lie in any court of competent jurisdiction in Ellis County, Texas.



notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a “Default.” Upon the occurrence of a Failure by a non-performing Party, the other Party shall notify the non-performing Party and all Transferees of the non-performing Party in writing specifying in reasonable detail the nature of the Failure. The non-performing Party to whom notice of a Failure is given shall have at least 30 days from receipt of the notice within which to cure the Failure; however, if the Failure cannot reasonably be cured within 30 days and the non-performing Party has diligently pursued a cure within such 30-day period and has provided written notice to the other Party that additional time is needed, then the cure period shall be extended for an additional 30-day period so long as the non-performing Party is diligently pursuing a cure. Any Transferee shall have the same rights as the Developer to enforce the obligations of the City under this Reimbursement Agreement and shall also have the right, but not the obligation, to cure any alleged Failure by the Developer within the same time periods that are provided to the Developer. The election by a Transferee to cure a Failure by the Developer shall constitute a cure by the Developer but shall not obligate the Transferee to be bound by this Reimbursement Agreement with respect to Developer obligations under this Reimbursement Agreement unless the Transferee agrees to be bound or is bound as a result of a Transfer to the Transferee.

- b. If the Developer is in Default, the City shall have available all remedies at law or in equity, provided that no Default by the Developer shall: (1) affect the obligations of the City to use the amounts transferred to the Phase 2 Assessment Fund as provided in Sections 2 and 3 of this Reimbursement Agreement; or (2) entitle the City to terminate this Reimbursement Agreement.
  - c. If the City is in Default, the Developer’s sole and exclusive remedies shall be to: (1) seek a writ of mandamus to compel performance by the City; or (2) seek specific enforcement of this Reimbursement Agreement.
12. [RESERVED]
  13. The failure by a Party to insist upon the strict performance of any provision of this Reimbursement Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party shall not constitute a waiver of such Party’s right to insist and demand strict compliance by such other Party with the provisions of this Reimbursement Agreement.
  14. The City does not waive or surrender any of its governmental powers, immunities, or rights except to the extent permitted by law and necessary to allow the Developer to enforce its remedies under this Reimbursement Agreement.

15. Nothing in this Reimbursement Agreement, express or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and the Developer and its assigns any rights, remedies, or claims under or by reason of this Reimbursement Agreement, and all covenants, conditions, promises, and agreements in this Reimbursement Agreement shall be for the sole and exclusive benefit of the City and the Developer.
16. The Parties acknowledge that each has been actively involved in negotiating this Reimbursement Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Reimbursement Agreement. In the event of any dispute over the meaning or application of any provision of this Reimbursement Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.
17. In this Reimbursement Agreement, time is of the essence and compliance with the times for performance herein is required.
18. The City represents and warrants that this Reimbursement Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Reimbursement Agreement on behalf of the City has been duly authorized to do so. The Developer represents and warrants that this Reimbursement Agreement has been approved by appropriate action of the Developer, and that the individual executing this Reimbursement Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Reimbursement Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.
19. This Reimbursement Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Reimbursement Agreement. This Reimbursement Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Reimbursement Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Reimbursement Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Reimbursement Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.
20. This Reimbursement Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

21. The Parties agree that at any time after execution of this Reimbursement Agreement, they will, upon request of another Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Reimbursement Agreement. This provision shall not be construed as limiting or otherwise hindering the legislative discretion of the City Council seated at the time that this Reimbursement Agreement is executed or any future City Council.
22. The term of this Reimbursement Agreement ends on December 31, 2046, or the date the Unpaid Balance is paid in full, whichever occurs first.
23. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Reimbursement Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this Reimbursement Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three (3) business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give Notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term "force majeure" shall include events or circumstances that are not within the reasonable control of Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.
24. The Developer hereby verifies that the Developer and its parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Reimbursement Agreement is a contract for goods or services, will not boycott Israel during the term of this Reimbursement Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law. As used in the foregoing verification, 'boycott Israel' means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.
25. The Developer hereby represents that neither the Developer nor any of its parent companies, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

(23)

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable State or Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

[SIGNATURE PAGES TO FOLLOW]

(23)

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

ATTEST:

**CITY OF WAXAHACHIE**

\_\_\_\_\_  
Amber Villarreal, City Secretary

\_\_\_\_\_  
David Hill, Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
Robert Brown, Attorney for the City

[Signature Page for Phase 2 Improvements Reimbursement Agreement]

**DEVELOPER:**

**287 Waxahachie, LP,**  
a Texas limited partnership

By: Centamtar Terras, LLC,  
a Texas limited liability company,  
Its General Partner

By: CTMGT, LLC,  
a Texas limited liability company,  
Its Sole Manager and Member

By: \_\_\_\_\_  
Name: Mehrdad Moayedi,  
Its: Sole Manager and Member

[Signature Page for Phase 2 Improvements Reimbursement Agreement]



(24)

3. That the Mayor of said City has approved and hereby approves the aforesaid Resolution; that the Mayor and the City Secretary of said City have duly signed said Resolution; and that the Mayor and the City Secretary of said City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Resolution for all purposes.

**SIGNED AND SEALED** the 7th day of June, 2021.

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City Secretary

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Mayor

(SEAL)

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION, SERIES 2021; DIRECTING THE PREPARATION OF A PRELIMINARY OFFICIAL STATEMENT AND RELATED MATERIALS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Waxahachie, Texas (the "City") expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described in Exhibit A to this Resolution prior to the issuance of the Certificates of Obligation hereinafter described; and

WHEREAS, the City's City Manager, Director of Finance, Financial Advisor and Bond Counsel are prepared to draft and distribute necessary documents for the sale on a competitive bid basis of the Certificates of Obligation;

WHEREAS, the City Council hereby finds, considers and declares that the reimbursement of the payment by the City of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the U.S. Treasury Regulations, to reimburse itself for such payments at such time as it issues the hereinafter described Certificates of Obligation; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was considered was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

Section 1. That attached hereto and marked Exhibit A is a form of notice (the "Notice"), the form and substance of which are hereby passed and approved.

Section 2. That the City Secretary shall cause the Notice to be published, in substantially the form attached hereto, in the Waxahachie Sun, a newspaper of general circulation in the City of Waxahachie, Texas, for two (2) consecutive weeks, the date of the first publication to be before the forty-fifth (45<sup>th</sup>) day before the date tentatively set for the adoption of the ordinance authorizing the issuance of the Certificates of Obligation as shown in the Notice.

Section 3. That the City Secretary shall cause the Notice to be posted, in substantially the form attached hereto, continuously on the City's internet website for at least forty-five (45) days before the date tentatively set for the adoption of the ordinance authorizing the issuance of the Certificates of Obligation as shown in the Notice.

Section 4. That the facilities and improvements to be financed with proceeds from the proposed Certificates of Obligation are to be used for the purposes described in the attached Notice of Intention. No bond proposition to authorize the issuance of bonds for the same purpose as any of the projects described in Exhibit A to be financed with the proceeds of the proposed Certificates of Obligation was submitted to the voters of the City during the preceding three (3) years and failed to be approved.

Section 5. That all costs to be reimbursed pursuant to this Resolution will be capital expenditures; the proposed Certificates of Obligation shall be issued within eighteen (18) months of the later of (i) the date the expenditures are paid or (ii) the date on which the property, with respect to which such expenditures were made, is placed in service; and the foregoing notwithstanding, the Certificates of Obligation will not be issued pursuant to this Resolution on a date that is more than three years after the date any expenditure which is to be reimbursed is paid.

Section 6. That the City Manager and Director of Finance are hereby directed to cause the preparation of a Preliminary Official Statement for the Certificates of Obligation, together with related materials, and the

Director of Finance and the Financial Advisor are authorized to distribute same among entities which would be interested in bidding on the Certificates of Obligation and other interested persons.

Section 7. That the Director of Finance and the Financial Advisor are authorized to apply to rating agencies for ratings on the Certificates of Obligation and to make presentations to them and provide to such entities the information reasonably requested by them.

Section 8. That the Council hereby authorizes its advisors, the City Manager and the Director of Finance of the City, and its members to do all things necessary to prepare for the sale of the Certificates of Obligation.

Section 9. That this Resolution shall be effective immediately upon passage and adoption.

## EXHIBIT A

NOTICE OF INTENTION TO ISSUE  
CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that it is the intention of the City Council of the City of Waxahachie, Texas, to issue one or more series of the interest bearing certificates of obligation of the City to be entitled "City of Waxahachie, Texas Combination Tax and Revenue Certificates of Obligation", for the purpose of paying contractual obligations to be incurred by the City, to-wit, the construction, installation and equipment of park and recreational improvements in the City; the construction and equipment of fire stations and the purchase of fire apparatuses; improvements to streets and public mobility infrastructure, including related signage and drainage and the acquisition of right-of-way, throughout the City; the construction of improvements and extensions to the City's water and wastewater system; the construction of municipal buildings for development services departments and additional City Hall space; and the payment of fiscal, engineering and legal fees incurred in connection therewith.

The City Council tentatively proposes to authorize the issuance of said series (one or more) of Certificates of Obligation at its regular meeting place in the City Hall at a meeting to commence at 7 o'clock, p.m., on August 2, 2021. In the event City Council will be unable to meet at City Hall on August 2, 2021, the City will post information on its website for attending the meeting by telephone, teleconference, or other electronic means. The maximum amount of Certificates of Obligation that may be authorized to be sold on said date for such purposes described above is \$43,300,000. The City Council presently proposes to provide for payment of said series (one or more) of Certificates of Obligation from the levy of taxes and from a limited surplus revenue pledge (not to exceed \$1,000) derived from the operation of the City's water and wastewater systems.

In accordance with the provisions of Subchapter C of Chapter 271, Texas Local Government Code, as amended ("Chapter 271"), the following information has been provided by the City: (i) the principal amount of all outstanding debt obligations of the City is \$169,865,000; (ii) the current combined principal and interest required to pay all outstanding debt obligations of the City on time and in full is \$232,231,606; (iii) the maximum principal amount of the certificates of obligation to be authorized is \$43,300,000; (iv) the estimated combined principal and interest required to pay the certificates of obligation to be authorized on time and in full is \$52,853,319; (v) the maximum interest rate for the certificates of obligation may not exceed the maximum legal interest rate; and (vi) the maximum maturity date of the certificates of obligation to be authorized is August 1, 2041.

CITY OF WAXAHACHIE, TEXAS

/s/ David Hill

Mayor

(25)



## Memorandum

To: Honorable Mayor and City Council  
From: Wade G. Goolsby, Chief of Police  
Thru: Michael Scott, City Manager   
Date: June 1, 2021  
Re: Continuance of Juvenile Curfew Ordinance

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A number of years ago, the City of Waxahachie had a significant issue with juveniles creating problems during the late night hours. Due to the issues, the city adopted a curfew ordinance that established a curfew for any person under seventeen (17) years of age.

The Texas Local Government Code (Title 11; Sec. 370.002) requires a municipality that has adopted a juvenile curfew ordinance to review that ordinance every three years. The statute states in part, "Before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:

- (1) review the ordinance or order's effects on the community and on problems the ordinance or order was intended to remedy;
- (2) conduct public hearings on the need to continue the ordinance or order;
- and
- (3) abolish, continue, or modify the ordinance or order."

We have reviewed the ordinance and do not feel that it needs to be modified. However, we respectfully ask Council to continue the Ordinance in an effort to prevent the previous juvenile related issues from recurring. We feel that the continued adoption of the ordinance eliminates many of the juvenile issues that we experienced before.

ORDINANCE NO.

**AN ORDINANCE PASSING ARTICLE VII, CURFEW FOR MINORS, AND ENACTING SEC. 21-81, THROUGH 21.85, ENACTING A CURFEW FOR MINORS, PROVIDING FOR DEFENSES, ENFORCEMENT, AND PENALTIES, DECLARING AN EMERGENCY, AND SETTING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE:

That Article VII, Curfew for Minors, is enacted to read as follows:

**Sec. 21-81. Definitions.**

For the purposes of this article the following words, terms and phrases shall have the meanings respectively ascribed to them herein:

*Curfew hours:*

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday and Sunday.

*Emergency:* An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

*Establishment:* Any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

*Guardian:*

- (1) A person, who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

*Minor:* Any person under seventeen (17) years of age.

*Operator:* Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members of partners or an association or partnership and the officers of a corporation.

*Parent:* A person who is:

- (1) A natural parents, adoptive parents, or stepparent of another person; or
- (2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

*Public Place:* Any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

*Remain:*

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

*Serious bodily injury:* Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

### **Sec. 21-82. Offenses.**

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

### **Sec. 21-83. Defenses.**

- (a) It is a defense to prosecution under Section 21-82 that the minor was:
  - (1) Accompanied by the minor's parent or guardian;
  - (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (3) In a motor vehicle involved in interstate travel;
  - (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (5) Involved in an emergency;
  - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - (7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity

supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.

(b) It is a defense to prosecution under Section 21-82(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

**SEC. 21-84. Enforcement.**

Before take any enforcement action under this section, a police officer shall ask the apparent offender’s age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 21-83 is present.

**Sec. 21-85. Penalties.**

(a) A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500.00).

(b) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 21-82(a) and shall refer the minor to juvenile court.

AN EMERGENCY AFFECTING THE PUBLIC HEALTH, SAFETY AND WELFARE IS FOUND TO EXIST, IN THAT PUBLIC SAFETY, AND THE SAFETY OF MINORS, CALLS FOR RULES ON A CURFEW FOR MINORS, AND THIS ORDINANCE IS TO BE EFFECTIVE UPON PASSAGE..

PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of June, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

(27)



## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: June 4, 2021  
Re: Advanced Metering Infrastructure and Smart Meter Implementation

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On Monday, June 7, 2021 an item authorizing the City Manager to execute all agreements necessary for the implementation of an Advanced Metering Infrastructure System (AMI), and for the replacement of associated water meters will appear before the City Council for consideration, in the amount of \$9,441,000.

This item will authorize the total funding necessary to complete the implementation and integration of the AMI System, and will include the following elements:

- Meter Replacements - \$7,733,707
- Lid Replacements - \$425,016
- Box Leveling - \$55,039
- Box Replacement - \$1,078,936
- Owner Directed Allowance (will be returned if not used) - \$100,000
- Incode Integration and Third Party Engineering Review - \$48,302

(27)

Staff's recommendation is to partner with Performance Services, Inc. (PSI) to manage the full turnkey implementation of the proposed AMI system, and associated smart meter hardware. PSI specializes in the management of AMI implementations, and has a proven track record of delivering successful projects. In addition, they offer a revenue guarantee associated with the savings from the implementation of the new smart meters, which ensures the project will be self-funding.

Upon a thorough review of the available AMI systems and meters, the City's evaluation team, in conjunction with PSI, have determined that Badger Meter's solution is the best fit for the City's needs. The Badger system operates on a cellular based network, and the estimated annual support costs associated with the software is approximately \$121,000 (based on current meter counts). Please note that this annual figure has been factored into the overall life cycle costs for the project, and with these amounts included, the AMI project is anticipated to net over \$13,500,000 in revenue over the next 20 years.

This project is anticipated to take approximately 18 months for full implementation, and is expected to be completed by the end of calendar year 2022. Given the initial total costs of the AMI implementation, it is necessary to leverage debt to proceed with the project. As such, the AMI project has been incorporated into the proposed FY20-21 bond sale. However, to secure current pricing, the project must begin in advance of the funding of bond proceeds. As a result, a reimbursement resolution is required. The reimbursement resolution will authorize a reimbursement to the Water Fund for expended funds associated with implementation of the AMI project from the proceeds of future debt.

I am available at your convenience should you need additional information.

Tommy Ludwig

**RESOLUTION NO.**

**A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE PURPOSE OF THE IMPLEMENTATION OF AN ADVANCED METERING INFRASTRUCTURE SYSTEM AND FOR THE REPLACEMENT OF ASSOCIATED WATER METERS**

**WHEREAS**, the City of Waxahachie (the “City”) intends to issue debt to finance cost to be incurred to perform the implementation of an advanced metering infrastructure system and for the replacement of associated water meters and related expenses prior to the issuance of such debt with the expectation that such expenditures are to be reimbursed with proceeds of such debt; and

**WHEREAS**, Treas. Reg. § 1.150-2 (the “Regulation”) provides that to fund such reimbursement with proceeds of tax-exempt obligations the City must declare its expectation to make such reimbursement; and

**WHEREAS**, the City desires to preserve its ability to reimburse the expenditures with proceeds of tax-exempt obligations.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:**

**SECTION 1**

That the City reasonably expects to reimburse the Water Fund with proceeds of debt hereafter to be issued by the City, and this resolution shall constitute a declaration of official intent under the Regulation.

**SECTION 2**

That the City Manager is authorized to take those steps reasonable and necessary to comply with the intent of this resolution including a loan from the Water Fund in an amount not to exceed \$1,000,000.

**SECTION 3**

That this resolution shall take effect immediately from and after the date of passage.

ADOPTED THIS 7<sup>th</sup> day of June, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary