



**LAKEWOOD VILLAGE TOWN HALL
100 HIGHRIDGE DRIVE
LAKEWOOD VILLAGE, TEXAS
TOWN COUNCIL MEETING
JANUARY 27, 2023 6:00 P.M.**

SPECIAL SESSION – AGENDA

Call to Order and Announce a Quorum is Present

A. PLEDGE TO THE FLAG:

B. VISITOR/CITIZENS FORUM: Pursuant to Texas Government code 551.007 (adopted in 2019): A governmental body shall allow each member of the public who desires to address the body regarding an item on an agenda for an open meeting of the body to address the body regarding the item at the meeting before or during the body's consideration of the item. A person who addresses the Council concerning an agenda item, including a Public Hearing, must limit his/her remarks to the specific subject matter being considered by the Council under that agenda item.

C. PUBLIC HEARING – A public hearing is scheduled on the critical water emergency to provide an opportunity for citizen comment.

D. CONSENT AGENDA: All the items on the Consent Agenda are considered to be self-explanatory and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member requests an item be removed from the Consent Agenda.

1. Minutes of January 12, 2023 Council Meeting (Ruth)
2. Engagement of Superior Management (Ruth)

E. REGULAR AGENDA:

1. Consideration of Development Agreement for The Northshore Project (Vargus)
2. Consideration of Cost Sharing Agreement with First Texas Homes (Vargus)
3. Discussion of Engagement of Town Hall Architect (Ruth)
4. Consideration of Budget Amendment (Vargus)
5. Discussion of Long-Term Debt Reduction Plan (Vargus)

F. EXECUTIVE SESSION: – In accordance with Texas Government Code, Section 551.001, et seq., the Town Council will recess into Executive Session (closed meeting) to discuss the following:

1. § 551.087 Texas Government Code to wit: Economic Development Negotiations regarding First Texas Homes, Taylor Morrison-South Oak, Project Lakewood Village Partners, Project Slade Rock, Project Lightning Bolt; and
2. § 551.071(2), Texas Government Code to wit: consultation with Town Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter to receive

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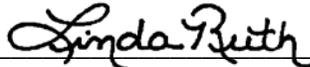
legal advice re: Development agreements, development and zoning standards; and

3. § 551.072 Texas Government Code to wit: deliberations about real property regarding First Texas Homes, Taylor Morrison-South Oak, Project Lakewood Village Partners, Project Slade Rock, and Project Lightning Bolt.

G. RECONVENE: Reconvene into regular session and consideration of action, if any, on items discussed in executive session.

H. ADJOURNMENT

I do hereby certify that the above notice of meeting was posted on the designated place for official notice at 1:30 p.m. on Monday, January 23, 2023.



Linda Ruth, TRMC, CMC
Town Administrator/Town Secretary



The Town Council reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Section 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development), 418.183 (Homeland Security)

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the Town Secretary's office at 972-294-5555 or FAX 972-292-0812 for further information.

One or more board members of the LAKWOOD VILLAGE MUNICIPAL DEVELOPMENT DISTRICT may attend this meeting. No action will be taken by the MDD board.

LAKWOOD VILLAGE TOWN COUNCIL

COUNCIL MEETING

JANUARY 12, 2023

Council Members:

Dr. Mark Vargus, Mayor
Darrell West – Mayor Pro-Tem
Clint Bushong
Serena Lepley
Matt Bissonnette
Eric Farage

Town Staff:

Linda Ruth, TRMC, CMC – Town Administrator/Town Secretary

REGULAR SESSION - 7:00 P.M.

With a quorum of the Council Members present, Mayor Vargus called the Regular Meeting of the Town Council to order at 7:00 p.m. on Thursday, January 12, 2023, in the Council Chambers of the Lakewood Village Town Hall, 100 Highridge Drive, Lakewood Village, Texas.

PLEDGE TO THE FLAG:

(Agenda Item A)

Mayor Vargus led the Pledge of Allegiance.

VISITOR/CITIZENS FORUM:

No one requested to speak.

PUBLIC HEARING:

(Agenda Item C)

A public hearing was held to provide an opportunity for citizen comment on the critical water emergency.

No one requested to speak.

MOTION: Upon a motion made by Councilman Farage and seconded by Mayor Pro-Tem West, council voted five (5) “ayes”, no (0) “nays” to close the public hearing at 7:01 p.m. *The motion carried.*

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CONSENT AGENDA:

(Agenda Item D)

1. Minutes of November 17, 2022 Council Meeting (Ruth)
2. Replat of 416 Lakecrest Drive (Ruth)
3. Vacate Northshore Preliminary Plat Approved on February 10, 2022 (Ruth)
4. Buy Board Interlocal Agreement/Resolution (Ruth)

MOTION: Upon a motion made by Mayor Pro-Tem West and seconded by Councilman Farage the council voted five (5) “ayes”, no (0) “nays” to approve the consent agenda items as presented. *The motion carried.*

REGULAR AGENDA:

(Agenda Item E.

**Presentation of the Fiscal Year 2021-2022
Financial Audit Report, Mr. Wayne Nabors,
Nabors CPA Services (Vargus)**

(Agenda Item E.1)

Mr. Wayne Nabors reported the town had received a clean audit, meaning the financial statements fairly report the town’s financial position without any material misstatements. Mr. Nabors reported the town has a very healthy cash reserve. Mr. Nabors reviewed the debit the town retired during the fiscal year. There was some discussion about revenues collected over revenues budgeted and the budget versus actual expenses. Mr. Nabors reported the council was fiscally wise to use the Public Improvement District funds to pay off the outstanding debt. Mr. Nabors stated the Town is in an extremely good cash position. Mr. Nabors reviewed the status of the bond issuances including the retirement of the 2014 bonds and the amortization of the 2020 and 2022 bonds. Mr. Nabors reported on the qualitative portions of the audit and reported that the town management fully participated in the audit process. There was some discussion about the requirements of the Governmental Accounting Standards Board. Mayor Vargus reported that the Utility Fund was impacted by the well failure. Mayor Vargus reviewed the American Recovery funds and the Public Improvement District payment. Mr. Nabors stated the Town leadership has done a good job of managing both debt and cash.

Mayor Vargus reviewed the impact of the property appraisals on the budget and property tax collections. Mayor Vargus reported that year marks the town’s fifteenth clean audit in a row. Prior to Mayor Vargus taking office the town had not previously successfully completed an audit.

MOTION: Upon a motion made by Councilman Farage and seconded Mayor Pro-Tem West voted five (5) “ayes”, no (0) “nays” to accept the Fiscal Year 2021-2022 financial audit as presented by Mr. Wayne Nabors. *The motion carried.*

**Presentation of the Investment Report for the
First Quarter of Fiscal Year 2023-2024
(Vargus)**

(Agenda Item E.2)

Mayor Vargus reviewed the investment report. Mayor Vargus reported the excess funds over \$50,000 are typically kept in TexPool because the interest earnings are higher. Mayor Vargus reported the town has just over \$3,000,000 cash. The earliest date the town can defease the outstanding bonds and be debt free is February 2027.

Mayor Vargus reviewed the bond payment schedule and the anticipated revenues to be used to make the payments.

**Discussion of Amending Fiscal Year 2023-
2024 Budget (Vargus)**

(Agenda Item E.3)

Mayor Vargus reviewed the current budget versus actual and reported on the appraisal district property valuations as of today. Mayor Vargus reviewed cash flow and the expected \$600,000 surplus in the general fund budget for each of the next three years. The excess funds can be used to build reserves and pay off the bonds early. The long-term goal is to reduce the property tax rate to zero.

Mayor Vargus stated that the town needs to start working on a new town hall. The current building will not be functional to support the future population. The surplus funds can be used toward the new town hall. Mayor Vargus reported he and the Town Administrator have had some preliminary meetings with a couple of architects. Mayor Vargus reported that in the near future he will bring a proposal to the council to engage an architect.

Mayor Vargus reviewed the proposed changes to the budget.

**Discussion of Water/Wastewater Capital
Improvement Projects (Vargus)**

(Agenda Item E.4)

Mayor Vargus reported the North Texas Groundwater Conservation District approved the Town's application for the new well yesterday. The engineers have already had the location of the new ground water storage tank surveyed. Town Engineer Kevin Ware completed an inspection of the fiberglass storage tanks and reported plumbing to the tanks will need to be replaced with larger pipes to accommodate the additional water output of the new well.

Mayor Vargus reported on the status of the wastewater plant improvements. The town engineer is handling sending out bids for some of the components. There was some discussion about

purchasing a modified backhoe for public works. Mayor Vargus stated the new equipment would be used on several infrastructure projects. Approximately one-half of the cost of the back-hoe would be covered by the Public Improvement District or other developers. Councilman Bushong reported the town needs to have equipment so rental fees are not incurred and/or Sam Morgan is not having to use his personal trailer.

**Consideration of Approval of Municipal
Development District Pilot Project for
Remote-Read Water Meters (Ruth)**

(Agenda Item E.5)

Municipal Development District President, Linda Loudon reported the MDD board supports this project. Mayor Vargus reported the meters are approximately \$100 and the special relay equipment is another approximate \$120. The pilot program will be deployed only on the properties that used to be in the Last Resort water system. The town has been billing the Last Resort customers the minimum bill. Public Works has a plan to identify the addresses serviced by each water meter. During the pilot program the town will not have to pay for use of the remote read software. Councilman Bushong reported testing will be performed to verify the accuracy and compatibility of the remote read software with the utility billing software. If the pilot program is successful and plan will be developed to expand the remote read meters to additional customers in Rocky Point and Lakewood Village.

MOTION: Upon a motion made by Councilwoman Lepley and seconded Councilman Farage, council voted five (5) “ayes”, no (0) “nays” to approve the Municipal Development District pilot project for remote-read water meters as discussed. *The motion carried.*

**Amendment of Regional Sewer Cost
Allocation and Rough Proportionality
Determination by Town Engineer, involving
developments in the town limits and
extraterritorial jurisdiction (Vargus)**

(Agenda Item E.6)

Mayor Vargus stated that council will consider this at the next council meeting. Mayor Vargus reported the bids on the lift station came in lower than expected so the allocations will need to be restated.

EXECUTIVE SESSION:

(Agenda Item F)

At 8:15 p.m. Mayor Vargus recessed into executive session in accordance with

1. § 551.087 Texas Government Code to wit: Economic Development Negotiations regarding

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JANUARY 12, 2023**

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First Texas Homes, Taylor Morrison-South Oak, Project Lakewood Village Partners, Project Slade Rock, Project Lightning Bolt; and

2. § 551.071(2), Texas Government Code to wit: consultation with Town Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter to receive legal advice re: Development agreements, development and zoning standards; and
3. § 551.072 Texas Government Code to wit: deliberations about real property regarding First Texas Homes, Taylor Morrison-South Oak, Project Lakewood Village Partners, Project Slade Rock, and Project Lightning Bolt.

RECONVENE:

(Agenda Item G)

Mayor Vargus reconvened the regular session at 9:07 p.m.

ADJOURNMENT

(Agenda Item H)

MOTION: Upon a motion made by Councilwoman Lepley and seconded by Councilman Farage council voted five (5) “ayes” and no (0) “nays” to adjourn the Regular Meeting of the Lakewood Village Town Council at 9:07 p.m. on Thursday January 12, 2023. The motion carried.

These minutes were approved by the Lakewood Village Town Council on the 27th day of January 2023.

APPROVED:

Darrell West
Mayor Pro-Tem

ATTEST:

Linda Ruth, TRMC, CMC
Town Administrator/Town Secretary



DEVELOPMENT AGREEMENT

This Development Agreement (this “**Agreement**”) is by and between the **TOWN OF LAKEWOOD VILLAGE, TEXAS**, a general law municipality located in Denton County, Texas (the “**Town**”), and Lakewood Village Partnership LLC, a Texas limited liability company, (“**LVP**” or “**Developer**”), and is made and entered into effective as of the last date signed by the parties hereto (the “**Effective Date**”). The foregoing parties are sometimes individually referred to as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, LVP holds fee simple title to approximately 38.519 acres of land described by metes and bounds on the attached **Exhibit A** and depicted on the attached **Exhibit B** (the “**LVP Property**”). The LVP Property is located within the Town’s municipal limits; and

WHEREAS, LVP intends to develop the LVP Property as a master planned single family residential community; and

WHEREAS, the Parties intend for this Agreement to establish certain restrictions and to impose certain commitments in connection with the development of the LVP Property; and

WHEREAS, the Parties intend for the LVP Property to be developed in a manner consistent with the Town’s zoning requirements, subdivision regulations, building material requirements and building code requirements, except as otherwise provided herein; and

WHEREAS, the Parties intend for the LVP Property to be developed in a manner consistent with the Concept Plan (the “**Concept Plan**”) shown on the attached **Exhibit C**; and

WHEREAS, LVP’s ability to efficiently develop the LVP Property depends on various Town approvals, including but not limited to, the Town’s approval of: (i) the Concept Plan, (ii) preliminary and final plats of the LVP Property that are generally in accordance with the Concept Plan, and (iii) construction plans for the LVP Property that meet or exceed the applicable requirements of Town regulations and uniform engineering design standards (collectively, the “**Approvals**”). This Agreement includes a process for seeking the Approvals; and

WHEREAS, the Town is agreeable to the LVP Property being developed as a master planned single family residential community; and

WHEREAS, the Parties intend for this Agreement to establish certain restrictions and impose certain commitments in connection with the development of the LVP Property; and

WHEREAS, the Town is the certified retail treated water provider for the LVP Property (under its water Certificate of Convenience and Necessity No. 10201) and the retail sewer provider (under sewer Certificate of Convenience and Necessity No. 20075) for the LVP Property, and the Parties intend for the Town to exclusively provide retail water and wastewater service to the LVP Property; and

WHEREAS, the development of the LVP Property will require the construction of certain onsite and offsite public infrastructure, including streets and roads; drainage; water, sanitary sewer, and other utility systems; open space and landscaping, as well as land for all such public infrastructure (the “**Public Infrastructure**”); and of

WHEREAS, each of the Parties have the authority to enter into this Agreement for the development of the LVP Property in accordance with the terms set forth herein and each agrees that it will receive a benefit equivalent to or greater than its obligations under this Agreement; and

NOW THEREFORE, for and in consideration of these premises and of the mutual promises, obligations, covenants and benefits herein contained, the Parties agree as follows:

SECTION 1 RECITALS

1.1. Incorporation of Recitals. The recitals contained in this Agreement are true and correct as of the Effective Date, are incorporated into this Agreement, and form the basis upon which the Parties negotiated and entered into this Agreement.

SECTION 2 REQUIRED IMPROVEMENTS

2.1 Public Infrastructure.

2.1.1 Standards. Except as otherwise expressly provided for in this Agreement, all Public Infrastructure shall be designed, constructed and installed by the Developer in compliance with state law and all applicable Town Ordinances, including without limitation, the Town’s adopted zoning ordinances, subdivision regulations, design standards, and building codes (collectively the “**Town Regulations**”). Construction and/or installation of Public Infrastructure shall not begin until a Final Plat (defined below) of the LVP Property has been approved by the Town, and complete and accurate civil engineering plans and specifications have been submitted by LVP Property and approved by the Town in accordance with all applicable Town Regulations. In addition to compliance with other requirements of Town Regulations applicable to contracts for construction of the Public Infrastructure, each contract for construction of Public Infrastructure for the development shall require a two-year maintenance bond following final acceptance of such Public Infrastructure by Town, which bond shall be on a form approved by the Town Attorney and shall name the Town as obligee/beneficiary. All Public Infrastructure, including all requirements in Section 2, will be constructed by the Developer at its sole cost within 180 days of final plat approval and will be continuously constructed until completion.

2.1.2 ROW Dedication for Eldorado Parkway Expansion. Developer will dedicate in fee simple to the Town all right-of way as required by Town Regulations and this Agreement for the widening of Eldorado Parkway (the “**Entry Street**”); such dedication shall consist of approximately 400 feet (length) and 12 feet wide of right-of-way. The right-of-way dedication for the Entry Street shall be at Developer’s sole expense, as generally shown on the Concept Plan and as depicted in **Exhibit D**. Notwithstanding the foregoing, Developer

understands and agrees that the actual amount of land dedicated for right-of-way and its exact location shall be based upon the approved final plat for the LVP Property. The right-of-way for the Entry Street will be dedicated simultaneously with or as part of the final plat application for all or any portion of the LVP Property. As used herein, the term Final Plat shall refer to a final plat for all and/or any portion of the LVP Property that has been approved by the Town in accordance with applicable Town Regulations (the “**Final Plat**”)

- 2.1.3 **Entry Road Improvement**. As generally depicted in **Exhibit D** and in accordance with the approved Final Plat and Town Regulations, Developer shall, as its sole cost and expense, design and construct at no cost to the Town, a fourteen (14) foot wide roadway extension in the expanded right-of-way on the Entry Street dedicated to the Town for the purpose of widening Eldorado Parkway. Construction will occur concurrently with street construction in the LVP Property.
- 2.1.4 **Paving**. As generally depicted in **Exhibit E** and in accordance with the approved Final Plat and Town Regulations, Developer shall, as its sole cost and expense, design and construct at no cost to the Town, approximately 800 foot long, and three foot wide roadway extension in the right-of-way for the purpose of widening Eldorado Parkway. Construction will occur concurrently with street construction in the LVP Property
- 2.1.5 **Landscaping**. In accordance with Town Regulations and a Town approved landscaping plan, Developer shall install, at Developer’s sole expense, landscaping in the area adjacent to the right-of-way expansion for the Entry Road, as generally depicted in **Exhibit D1 and Exhibit E1**. At minimum, the landscaping plan shall provide for a fifteen foot (15’) wide berm, or natural screen (no fences), the plans, dimensions and location of which shall be subject to Town approval as part of the Developer proposed landscape plan.
- 2.1.6 **Entry Street Sidewalk**. In accordance with Town Regulations, as amended, and at a location as generally depicted in **Exhibit D1 and Exhibit E1**, Developer shall design and construct a five (5) foot meandering sidewalk adjacent to the right-of-way. Such sidewalk shall be designed and constructed at Developer’s sole cost and expense. Plans, dimensions, and location of sidewalk shall be subject to Town approval.

2.2 Entry Feature

- 2.2.1 **Entry Feature**. Developer shall, as its sole cost and expense, design and construct at no cost to the Town and with Town approval, an entry feature to be located at the entrance to the development from Eldorado Parkway (the “**Entry Feature**”) including a design similar to the entry feature depicted in **Exhibit F**. The Entry Feature shall be constructed concurrently with the street construction of the LVP Property.

2.3 Cost Reimbursement for Entry Street and Waterfall Entry Feature

- 2.3.1 Except for those fees expressly waived in this Agreement, Developer shall pay Town all fees due for the development of the LVP Property as required by Town Regulations, as amended. The Town agrees to waive all impact fees in the Town’s Code of Ordinances as consideration for the Entry Street improvements and for the Entry Feature for the LVP Property. Other fees of the Town shall be paid by the Developer.

2.4 Capital Fee Per Lot

2.4.1 Developer shall pay or shall bind the purchaser of each lot in the LVP Property to pay a \$13,000 per lot capital contribution fee to the Town. The capital contribution fee shall be paid by the Developer or lot owner or the builder when an initial building permit application on a lot is submitted to the Town. Developer shall incorporate the capital contribution fee requirement into any and all purchase agreements for all lots in the LVP Property. Developer shall incorporate an automatic reversionary clause into all deeds to builders or lot owners that requires builders or lot owners to seek permits within 36 months of lot purchase.

2.5 Improvement Costs

2.5.1 Off-site Water and Wastewater Facilities. The Town (i) is the wastewater provider for the LVP Property, (ii) will provide sufficient wastewater capacity to serve the LVP Property as developed in accordance with the Concept Plan, and (iii) will provide the necessary wastewater capacity for Developer's full development of the LVP Property.

(a) Obligation to Construct. Developer shall construct or cause the construction of a lift station, wastewater lines, and water lines ("Water and Wastewater Facilities") at locations designated by the Town, which will serve the LVP Property. The Water and Wastewater Facilities shall be designed by a registered civil engineer in accordance with applicable law, including Town Regulations. After construction and acceptance by the Town, all Water and Wastewater Facilities designed and constructed to serve LVP Property will be owned, operated, and maintained by the Town.

2.5.2 Regional Lift Station. Upon execution of this Agreement, Developer shall pay to the town the Developer's proportionate share of the regional lift station costs as amended by the Town Engineer and approved by the Town. Developer shall be responsible for the proportionate share of any related costs which exceed the initial allocation. Similarly, the Town agrees to refund to Developer their proportionate share of any excess funds remaining after construction of the lift station.

2.6 Dedication and Maintenance of Open Space

2.6.1 Open Space. Developer agrees to dedicate in fee simple a minimum of three (3) acres to the Town for use as open space in the locations generally shown on the Concept Plan. The dedication will occur at Final Plat in accordance with this Agreement and Town Regulations. The Entry Way, entrance side lots, berm and sidewalk area are to be considered as open space.

2.6.2 Maintenance of Park Space. Developer will not create a Homeowners Association, and the Town will assume responsibility for maintaining the open space upon filing of a final plat.

2.7 Development Standards

- 2.7.1 Development Standards. Developer agrees that construction of homes and development of the LVP Property shall be done in accordance with the standards and requirements set forth in this Agreement, in the Town of Lakewood Village Zoning Ordinance No. 19-02 and Development Standards, attached hereto as **Exhibit G**. Developer shall file **Exhibit G** in the land records for the LVP Property and shall include Exhibit G, “Development Standards,” in deeds to lot owners as deed restrictions so that such standards are covenants that run with the LVP Property and are enforceable upon current and future owners of the LVP Property, including without limitation End-Buyers (defined below). In the event of a conflict between the regulations for the LVP Planned Development and Zoning Ordinance 19-02 and the Development Standards, the Parties agree the Development Standards shall control. The Parties agree that the Concept Plan, Development Standards and the applicable provisions of this Agreement memorialize the plan for development of the LVP Property as provided for in the Texas Local Government Code and other applicable law. The Town agrees to consider zoning the LVP Property consistent with the Concept Plan, Development Standards and applicable provisions of this Agreement. Through this Agreement, the Developer expressly consents and agrees to submit an application for and to request zoning of the LVP Property consistent with and as contemplated by this section. The Developer agrees that nothing in this Agreement shall prevent **Exhibit G**, of this Agreement, and the Town Regulations, including but not limited to zoning, from being enforced against an End-Buyer. Nothing provided in this section should be construed as a waiver of the Town Council’s legislative authority or discretion.
- 2.7.2 The Parties agree the Concept Plan was created by the Developer for illustrating the boundary, lot mix and general layout and dimensions of the Development. Any amendment agreed to by the Parties to the Concept Plan or subsequent Preliminary Plat shall be considered an amendment to this Agreement and, upon approval, shall replace the attached Preliminary Plat and become a part of this Agreement. The Mayor may administratively approve any amendments to the Preliminary Plat that the Mayor deems in his reasonable discretion to be minor in nature. If the Mayor deems an amendment to not be minor in nature, the Preliminary Plat may be amended as set forth in the Town Regulations. The preliminary plat under this agreement supersedes the previous preliminary plat submittal approved by the Town Council on February 10th, 2022 and vacated on January 12, 2023. The Concept Plan under this agreement supersedes any previously submitted concept plan.
- 2.7.3 Final Plat. The Developer shall submit a final plat for any portion and/or all of the LVP Property in accordance with Town Regulations. The plat shall be in general conformance with the Preliminary Plat, including any amendments. The processing and content of all plats must adhere to the Town Regulations, except as they may be expressly altered by this Agreement.
- 2.7.4 Building Codes, Fire Codes and Building Materials. As consideration for the impact fees being waived for the LVP Property, Developer has consented to and requested, and the Parties agree, that **Exhibit G**, the Town-adopted building codes and local amendments as

subsequently amended, the Town-adopted fire codes and local amendments as subsequently amended, and the Town's building material regulations contained in the zoning ordinance and in other Town ordinances, all as subsequently amended, to apply to the LVP Property, and voluntarily agrees to burden the LVP Property with their applicability, despite Texas Government Code Chapter 3000, effective September 1, 2019, as it presently exists or may be subsequently amended. The Parties further acknowledge and agree that the terms, provisions, covenants, and agreements contained in, or referenced in, this paragraph are covenants that touch and concern the LVP Property and that it is the intent of the Parties that such terms, provisions, covenants, and agreements shall run with the LVP Property and shall be binding upon the Parties hereto, their successors and assigns, and all subsequent owners of the LVP Property. Should any amendment to the building material regulations contained in the zoning ordinance and in other Town ordinances be held to be invalid by a court of competent jurisdiction, the Parties agree that the building material regulations in effect on August 1, 2019, shall then touch and concern the LVP Property and be binding upon the LVP Property.

SECTION 3 ASSIGNMENT AND ENCUMBRANCE

3.1 Assignment by Developer to Successors.

- 3.1.1 The Developer has the right, only with the Town's written consent (which shall not be unreasonably withheld, delayed or conditioned) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of the Developer under this Agreement, to any person or entity (an "**Developer Assignee**") that (i) is or will become an owner of any portion of the LVP Property or (ii) is controlled by or under common control by the Developer and becomes an owner of any portion of the LVP Property, provided that the Developer is not in breach of this Agreement at the time of such assignment. A Developer Assignee is considered the "Developer" and a "Party," under this Agreement for purposes of the obligations, rights, title, and interest assigned to the Developer Assignee. Notice of each proposed assignment to a Developer Assignee shall be provided to the Town at least thirty (30) days prior to the effective date of the assignment, which notice shall include a copy of the proposed assignment document together with the name, address, telephone number, and e-mail address (if available) of a contact person representing the Developer Assignee.
- 3.1.2 Each assignment shall be in writing executed by the Developer and the Developer Assignee and shall obligate the Developer Assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. A copy of each fully executed assignment to a Developer Assignee shall be provided to all Parties within fifteen (15) days after execution. From and after such assignment, the Town agrees to look solely to the Developer Assignee for the performance of all obligations assigned to the Developer Assignee and agrees that the Developer shall be released from subsequently performing the assigned obligations and from any liability that results from the Developer Assignee's failure to perform the assigned obligations; provided, however, if a copy of the assignment is not received by the Town within 15 days after execution, Developer shall not be released until the Town receives such copy of the assignment.

- 3.1.3 No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the Town approves the release in writing.
- 3.1.4 The Developer shall maintain written records of all assignments made to Developer Assignees, including a copy of each executed assignment and the Developer Assignee's Notice information as required by this Agreement, and, upon written request from another Party, shall provide a copy of such records to the requesting person or entity.
- 3.2 Collateral Assignments. The Developer and Developer Assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement for the benefit of their respective lenders without the consent of, but with prompt written notice to, the Town. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the Town has been given a copy of the documents creating the lender's interest, including notice information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement and shall be given a reasonable time to do so in addition to the cure periods otherwise provided to the defaulting Party by this Agreement; and the Town agrees to accept a cure offered by the lender as if offered by the defaulting Party. A lender is not a Party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the LVP Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. Any purchaser from or successor owner through a lender of any portion of the LVP Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the LVP Property until all defaults under this Agreement with respect to the acquired portion of the LVP Property have been cured.
- 3.3 Transfer of Warranties. Any Public Infrastructure that are transferred to the Town shall be accompanied by all applicable third-party bonds and warranties related to construction and maintenance of such Public Infrastructure.
- 3.4 Assignees as Parties. An assignee authorized in accordance with this Agreement and for which notice of assignment has been provided in accordance with this Agreement shall be considered a "Party" for the purposes of this Agreement. With the exception of the End-Buyer of a lot within the LVP Property, any person or entity upon becoming an owner of land or upon obtaining an ownership interest in any part of the LVP Property shall be deemed to be a "Developer" and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.
- 3.5 No Third-Party Beneficiaries. This Agreement only inures to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

SECTION 4
RECORDATION AND ESTOPPEL CERTIFICATES

- 4.1 Binding Obligations. This Agreement and all amendments hereto (including amendments to the Concept Plan as allowed in this Agreement) and assignments hereof shall be recorded in the deed records of Denton County. This Agreement binds and constitutes a covenant running with the LVP Property. Upon the Effective Date, this Agreement shall be binding upon the Parties and their successors and assigns permitted by this Agreement and forms a part of any other requirements for Development within the LVP Property. This Agreement, when recorded on or after the Effective Date, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the LVP Property; however, except for the Development Standards provided in **Exhibit G** which Developer shall file in the land records as deed restrictions running with the LVP Property, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer/homebuyer of a fully developed and improved lot (an "**End-Buyer**") but shall not negate the End-Buyer's obligation to comply with the Town's Regulations, including but not limited to zoning ordinances, as they currently exist or may be amended.
- 4.2 Estoppel Certificates. From time to time upon written request of the Developer, if needed to facilitate a sale of all or a portion of the LVP Property or a loan secured by all or a portion of the LVP Property, the Town will execute a written estoppel certificate in a form and substance satisfactory to the Town, to its reasonable knowledge and belief, identifying any obligations of the Developer under this Agreement that are in default. The Developer shall pay the Town \$300 at the time of the Developer's request for an estoppel certificate for each request in excess of one per calendar year.

SECTION 5
INSURANCE, INDEMNIFICATION AND RELEASE

5.1 Insurance.

- 5.1.1 With no intent to limit any contractor's liability or obligation for indemnification, the Developer shall maintain or cause to be maintained, by the persons constructing the Public Infrastructure, certain insurance, as provided below in full force and effect at all times during construction of the Public Infrastructure and shall require that the Town is named as an additional insured under such contractor's insurance policies.
- 5.1.2 With regard to the obligations of this Agreement, the Developer shall obtain and maintain in full force and effect at its expense, or shall cause each contractor to obtain and maintain at their expense, the following policies of insurance and coverage:
- (a) Commercial general liability insurance insuring the Town, contractor and the Developer against liability for injury to or death of a person or persons and for damage to property occasioned by or arising out of the activities of Developer, the contractor, the Town and their respective officers, directors, agents, contractors, or employees, in the amount of \$1,000,000 Per Occurrence or a limit equal to the amount of the contract amount, \$2,000,000 General Aggregate Bodily Injury and Property Damage. The contractor may procure and maintain a Master or Controlled Insurance policy to satisfy

- the requirements of this section, which may cover other property or locations of the contractor and its affiliates, so long as the coverage required in this section is separate;
- (b) Worker's Compensation insurance as required by law;
 - (c) Business automobile insurance covering all operations of the contractor pursuant to the Construction Agreement involving the use of motor vehicles, including all owned, non-owned and hired vehicles with minimum limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death and property damage liability.

5.2 Waiver of Subrogation Rights. Each insurance policy required pursuant to this Agreement shall provide for waivers of all rights of subrogation against the Town.

5.3 Additional Insured Status. With the exception of Worker's Compensation Insurance, all insurance required pursuant to this Agreement shall include and name the Town as additional insureds using Additional Insured Endorsements that provide the most comprehensive coverage to the Town under Texas law including products/completed operations.

5.4 Certificates of Insurance. Certificates of Insurance and policy endorsements in a form satisfactory to Town shall be delivered to Town prior to the commencement of any work or services on the Public Infrastructure. All required policies shall be endorsed to provide the Town with sixty (60) days advance notice of cancellation or non-renewal of coverage. The Developer shall provide sixty (60) days written notice of any cancellation, non-renewal or material change in coverage for any of the required insurance in this Article.

Within ten (10) days before the expiration of the required insurance policies, the Developer shall cause (and cause its contractors) to provide a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the Town. In addition, the Developer shall, within ten (10) business days after written request, provide the Town with certificates of insurance and policy endorsements for the insurance required herein (which request may include copies of such policies). The delivery of the certificates of insurance and the policy endorsements (including copies of such insurance policies) to the Town is a condition precedent to the payment of any amounts to the Developer by the Town.

5.5 Carriers. All policies of insurance required to be obtained by the Developer and its contractors pursuant to this Agreement shall be maintained with insurance carriers that are satisfactory to and approved by Town and are lawfully authorized to issue insurance in the state of Texas for the types and amounts of insurance required herein. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by the Town. All insurance coverage required herein shall be evidenced by a certificate of insurance and policy endorsements submitted by the Developer's and its contractors' insurer or broker. Certificates of insurance and policy endorsements received from any other source will be rejected.

5.6 INDEMNIFICATION.

DEVELOPER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD THE TOWN AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR ENTITIES, THAT MAY ARISE OUT OF OR BE OCCASIONED BY DEVELOPER'S ACT OR OMISSION, INCLUDING BUT NOT LIMITED TO BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, ANY ACT OR OMISSION, INCLUDING BUT NOT LIMITED TO ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE TOWN, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS IF FOUND BY A COURT. THE TOWN DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

DEVELOPER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND THE TOWN AGAINST ALL SUCH CLAIMS. TOWN RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, TOWN IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY TOWN IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND TOWN OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY TOWN PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF TOWN'S WRITTEN NOTICE THAT TOWN IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, TOWN SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND DEVELOPER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE TOWN.

5.7 THE DEVELOPER'S ACKNOWLEDGEMENT OF THE CITY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/DEVELOPERS' WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS EXPRESSLY SET FORTH IN THIS AGREEMENT.

(a) THE DEVELOPER ACKNOWLEDGES AND AGREES THAT, PROVIDED THERE ARE NO CITY DEFAULTS UNDER THIS AGREEMENT:

(I) THE PUBLIC INFRASTRUCTURE EXPRESSLY SET FORTH IN THIS AGREEMENT TO BE CONSTRUCTED UNDER THIS AGREEMENT, AND THE FEES TO BE IMPOSED BY THE CITY PURSUANT TO THIS AGREEMENT, REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:

(A) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;

(B) VIOLATION OF THE TEXAS LOCAL GOVERNMENT CODE, AS IT EXISTS OR MAY BE AMENDED; AND/OR

(C) NUISANCE.

(II) THE AMOUNT OF THE DEVELOPER'S FINANCIAL AND INFRASTRUCTURE CONTRIBUTION FOR THE PUBLIC INFRASTRUCTURE EXPRESSLY SET FORTH IN THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT THE DEVELOPER'S ANTICIPATED IMPROVEMENTS AND DEVELOPER'S DEVELOPMENT OF THE PROPERTY PLACES ON THE CITY'S INFRASTRUCTURE.

(III) THE DEVELOPER HEREBY AGREES, STIPULATES AND ACKNOWLEDGES THAT: (A) ANY PROPERTY WHICH IT CONVEYS TO THE CITY OR ACQUIRES FOR THE CITY PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY THE DEVELOPER FOR SUCH LAND, AND THE DEVELOPER HEREBY WAIVES ANY CLAIM THEREFOR THAT IT MAY HAVE; AND (B) ALL PREREQUISITES TO SUCH DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND ANY VALUE RECEIVED BY THE CITY RELATIVE TO SAID CONVEYANCE IS RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF THE PROPERTY ON THE CITY'S INFRASTRUCTURE. THE DEVELOPER WAIVES AND RELEASES ALL CLAIMS IT MAY HAVE AGAINST THE CITY RELATED TO THIS AGREEMENT, INCLUDING: (A) CLAIMS OR CAUSES OF ACTION BASED ON ILLEGAL OR EXCESSIVE EXACTIONS; AND (B) ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN DOLAN V. CITY OF TIGARD, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.

(b) THIS SECTION 5.7 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

**SECTION 6
GENERAL PROVISIONS**

6.1 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the Town Council of the Town; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

6.2 Conflicts. In the event a court of competent jurisdiction determines there is a conflict between this Agreement and the application of any other ordinance, rule, regulation, standard, policy, order, guidelines or other Town-adopted or Town-enforced requirement, whether existing on the Effective Date or hereinafter adopted, then this Agreement shall control. In the event of any conflict between any final plat and the final zoning, the final plat shall control.

6.3 Default; Remedies. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but in no event more than 30 days after written notice of the alleged failure has been given). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured and within such 30-day period gives written notice to the non-defaulting Party of the details of why the cure will take longer than 30 days with a statement of how many days are needed to cure.

If the Developer fails to comply with any provision of this Agreement after the giving of notice and the expiration of the cure period, Town shall have the following remedies, in addition to Town's other rights and remedies:

- (a) to refuse to issue building permits for the LVP Property; and/or
- (b) to refuse to accept any portion of any future public improvements on the LVP Property and/or associated with the development of the LVP Property.

If a Party is in default, the aggrieved Party may only seek relief for specific performance, mandamus, or injunctive relief. The Town waives its governmental immunity only for this relief. **NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE AGGRIEVED PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.**

6.4 Force Majeure. In the event any Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, other than any Party's obligations to pay funds to any other Party, then the obligations of such Party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused, to the extent provided, but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the Party whose contractual obligations are affected thereby shall give notice and the full particulars of such force majeure to the other Parties. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure", as used herein, shall include without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas, County or any civil or military authority, insurrections, protests, riots, vandalism, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, drought, arrests, restraint of government and people, civil disturbances, explosions, fire, subsidence, partial or entire failure of water supply, electric supply, and inability to provide water necessary for operation of the water and sanitary sewer systems hereunder, or of the Town to receive wastewater, and other similar incapacities of any Party, whether similar to those enumerated or otherwise, which are not within the control of the Party claiming such inability, which such Party could not have avoided by the exercise of reasonable due diligence and care and which the Party is proceeding promptly to cure, if within the Party's ability to cure. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the Party having the difficulty.

6.5 Approvals and Consents. Approvals or consents required or permitted to be given under this Agreement that are not ministerial shall be evidenced by an ordinance, resolution or voice vote adopted by the governing body of the appropriate Party or by a certificate executed by a person, firm or entity previously authorized to give such approval or consent on behalf of the Party.

6.6 Notices. Any notice or other communication required by this Agreement to be given, provided, or delivered to a Party shall be in writing addressed to the Parties as set forth below. Notices shall be considered "given" for purposes of this Agreement: (a) if by Certified Mail, five business days after deposited with the U.S. Postal Service, Certified Mail, return Receipt Requested; (b) if by private delivery service (e.g., FedEx or UPS), on the date delivered to the notice address as evidenced by a receipt signed by any person at the notice address; or (c) if by any other means (including, but not limited to, FAX and E-mail), when actually received by the Party at the notice address.

If to the Town, to:

Town of Lakewood Village, Texas
Attn: Mayor and Town Administrator
100 Highridge Drive
Lakewood Village, Texas 75068

Telephone: 972-294-5555
Email: mark@lakewoodvillagetx.us
linda@lakewoodvillagetx.us

with a copy to:

Wm. Andrew Messer
Messer, Fort & McDonald, PLLC
6371 Preston Road, Suite 200
Frisco, Texas 75034
Telephone: (972) 668-6400

Email: andy@txmunicipallaw.com

If to LVP, to:

Todd Sortor
Attn:

Telephone: 214-783-8686
Fax:
Email: toddfsortor@gmail.com

with copy to:

Toates Law Firm, PLLC
Attn: W. Russell Toates
5501 LBJ Frwy, Suite 220
Dallas, Texas 75240
Telephone: 214-827-5900
Fax: 214-602-6491
E-mail: russ@toateslaw.com

Each Party has the right to change, from time to time, its notice addresses by giving at least ten (10) days written notice to the other Parties. If any time period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the period shall be extended to the first business day following such Saturday, Sunday, or legal holiday.

6.7 Non-Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

- 6.8 Reservation of Rights. All rights, powers, privileges and authority of the Parties hereto not restricted or affected by the express terms and provisions hereof are reserved by the Parties and, from time to time, may be exercised and enforced by the Parties.
- 6.9 Captions. The captions of each section of this Agreement are inserted solely for convenience and shall never be given effect in construing the duties, obligations or liabilities of the Parties hereto or any provisions hereof, or in ascertaining the intent of any Party, with respect to the provisions hereof.
- 6.10 Severability. If any provision of this 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 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 Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.
- 6.11 Amendments. This Agreement may only be amended by a written agreement signed by the Parties.
- 6.12 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this 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.
- 6.13 Authority and Enforceability. The Town represents and warrants that this Agreement has been approved by official action by the Town Council of the Town 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 Agreement on behalf of the Town has been duly authorized to do so. The Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that the individual executing this Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this 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.
- 6.14 Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the Town does not waive or surrender any of its respective governmental powers, immunities, or rights except as provided in this section. The Parties acknowledge that the Town waives its sovereign immunity as to suit solely under Section 6.3 of this Agreement.
- 6.15 Construction and Venue. This Agreement is a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas, as such laws are now in effect, and all obligations of the Parties are performable in Denton County in which the LVP Property is located. Exclusive venue for any action to enforce or construe this Agreement shall be in Denton County, Texas.

- 6.16 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is required.
- 6.17 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties.
- 6.18 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- 6.19 Further Documents. The Parties agree that at any time after execution of this 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 Agreement. This provision shall not be construed as limiting or otherwise hindering the legislative discretion of the Town Council seated at the time that this Agreement is executed or any future Town Council.
- 6.20 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.
- 6.21 Form 1295 Certificate. The Developer represents that it has complied with Texas Government Code, Section 2252.908 and in connection therewith, the Developer has completed a Texas Ethics Commission Form 1295 Certificate generated by the Texas Ethics Commission's electronic filing system in accordance with the rules promulgated by the Texas Ethics Commission. The Developer further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the Town at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate. The Parties agree that, except for the information identifying the Town and the contract identification number, the Town is not responsible for the information contained in the Form 1295 completed by the Developer. The information contained in the Form 1295 completed by the Developer has been provided solely by the Developer and the Town has not verified such information.
- 6.22 Boycott of Israel. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2271.002, Texas Government Code, 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 will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to enable compliance with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, 'boycott Israel,' a term defined in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, 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.

6.23 Iran, Sudan and Foreign Terrorist Organizations. Section 2252.151 of the Texas Government Code defines a "governmental contract" as a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment, and provides that the term includes a contract to obtain a professional or consulting service subject to Chapter 2254 of the Texas Government Code. The Developer represents that, as of the date of this Agreement, to the extent this Agreement constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the Developer (if any) is an entity listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code or 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>.

6.24 Verification Regarding Discrimination Against Fossil Fuel Companies. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, "boycott energy companies," a term defined in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, 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 with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above.

6.25 Verification Regarding No Discrimination Against Firearm Entities and Firearm Trade Associations. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate

against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification and the following definitions,

- (a) ‘discriminate against a firearm entity or firearm trade association,’ a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade association,
- (b) ‘firearm entity,’ a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting), and
- (c) ‘firearm trade association,’ a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code."

6.26 Employment of Undocumented Workers. During the term of this Agreement, the Developer agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), the Developer shall repay the Chapter 380 grant payments granted herein within 120 days after the date the Developer is notified by the City of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. Pursuant to Section 2264.101 (c), Texas Government Code, a business is not liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

6.27 Chapter 380 Reporting. The City agrees to timely report this Agreement to the State Comptroller in accordance with Section 403.0246 of the Texas Government Code and Chapter 380 of the Texas Local Government Code.

6.28 Exhibits. The following exhibits are attached to this Agreement and incorporated herein for all purposes as if set forth in full in the body of this Agreement:

- Exhibit A LVP Property Metes & Bounds
- Exhibit B LVP Property Depiction
- Exhibit C Concept Plan
- Exhibit D ROW Dedication (west of development entrance)
- Exhibit D1 Sidewalk and Landscaping (west of development entrance)
- Exhibit E Eldorado Paving (east of development entrance)
- Exhibit E1 Sidewalk and Landscaping (east of development entrance)
- Exhibit F Entrance Water Feature
- Exhibit G Development Standards

[Remainder of page intentionally left blank.]

EXECUTED BY THE PARTIES TO BE EFFECTIVE ON THE EFFECTIVE DATE:

TOWN OF LAKEWOOD VILLAGE, TEXAS

By: _____

Name: _____

Title: Mayor

Date: _____

ATTEST:

By: _____

Name: _____

Title: Town Secretary

Date: _____

APPROVED AS TO FORM

Name:

STATE OF TEXAS §

§

COUNTY OF DENTON §

This instrument was acknowledged before me on the ___ day of _____, 2022
by _____, the Mayor of the Town of Lakewood Village, Texas, on behalf of said
Town.

(SEAL)

Notary Public, State of Texas

DEVELOPER:

Lakewood Village Partnership, LLC

By:

Name: _____

Its: _____

Date: _____

STATE OF TEXAS §

§

COUNTY OF DENTON §

This instrument was acknowledged before me on the ___ day of _____, 2022 by _____, _____, of Lakewood Village Partnership, LLC, on behalf of such limited liability corporation.

(SEAL)

Notary Public, State of Texas

EXHIBIT A

LVP PROPERTY METES & BOUNDS

Tract 1

Being a tract or parcel of land situated in the Benj. C. Shahan Survey, Abstract No. 1169, City of Lakewood Village, Denton County, Texas, and being more particularly described as follows;

BEGINNING at an iron pin set for corner in the Southeasterly right-of-way line of Old Hwy. 24 (60' R.O.W.);

THENCE, North 60°21'40" East, along said Southeasterly right-of-way line, a distance of 960.52 feet to an iron pin set for corner;

THENCE, South, departing said Southeasterly right-of-way line, a distance of 218.26 feet to an iron pin set for corner;

THENCE, East a distance of 74.20 feet to an iron pin set for corner;

THENCE, South, a distance of 417.42 feet to an iron pin set for corner;

THENCE, West, a distance of 74.20 feet to an iron pin set for corner;

THENCE, South, a distance of 1255.06 feet to an iron pin set for corner;

THENCE, North 31°53'27" West, a distance of 232.77 feet to a Government Monument for corner;

THENCE North 25°34'34" West, a distance of 490.33 feet to a Government Monument for corner;

THENCE, South 09°44'40", a distance of 222.92 feet to an iron pin set for corner;

THENCE, West, a distance of 45.03 feet to an iron pin set for corner;

THENCE, North, a distance of 612.04 feet to an iron pin set for corner;

THENCE, West, a distance of 417.42 feet to an iron pine set for corner;

THENCE, North, a distance of 383.48 feet to the point of beginning and containing 19.297 acres of land, more or less. (849,560,869 sq. ft.)

SAVE AND EXCEPT:

BEING A 0.329 ACRE TRACT OF LAND SITUATED IN THE B.C. SHAHAN SURVEY, ABSTRACT NO. 1169, CITY OF LAKEWOOD VILLAGE, DENTON COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN 12.297 ACRE TRACT OF LAND

CONVEYED TO ATALBOURNE LIMITED AS RECORDED IN VOLUME an, PAGE 618 OF THE REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS, BEARING BASIS FOR THIS PLAT OF SURVEY IS THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE, N.A.D. 83, SAID 0.329 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT 1/2" IRON ROD FOUND LOCATED AT AN INTERIOR ELL CORNER OF THE SAID TRACT OF LAND CONVEYED TO ATALBOURNE LIMITED;

THENCE ALONG THE COMMON LOT LINE OF THE SAID 19.297 ACRE TRACT OF LAND AND THAT CERTAIN 19.237 ACRE TRACT OF LAND CONVEYED TO R-INN VENTURE INCORPORATED AS RECORDED IN VOLUME 1966, PAGE 368 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS, THE FOLLOWING FOUR COURSES:

N 89°28'54" E, A DISTANCE OF 74.20 FEET;

N 00°31'06"W, A DISTANCE OF 417.42 FEET;

S 89°28'54" W, A DISTANCE OF 74.20 FEET;

N 00°31'06° W, A DISTANCE OF 200.11 FEET TO A 5/8" IRON ROD CAPPED -CARTER & BURGESS" SET AND THE POINT OF BEGINNING;

THENCE S 59°35'02" W, A DISTANCE OF 963.00 FEET TO A 5/8" IRON ROD CAPPED "CARTER & BURGESS" SET;

THENCE N 00°31'06" W, ALONG THE COMMON LOT LINE OF THE SAID 19297 ACRE TRACT OF LAND AND THAT CERTAIN 20.231 ACRE TRACT OF LAND CONVEYED TO TOM TIPS LIMITED PARTNERSHIP AS RECORDED IN VOLUME 1990, PAGE 731 OF THE REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS, A DISTANCE OF 20.74 FEET TO THE EXISTING SOUTHEASTERLY RIGHT-OF-WAY LINE OF GARZA LANE (60' R.O.W);

THENCE N 59°57'24" E, ALONG SAID EXISTING SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 959.43 FEET;

THENCE S 00°31'06" E, ALONG THE COMMON LOT LINE OF THE SAID 19297 ACRE TRACT OF LAND, A DISTANCE OF 13.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.329 ACRES OF LAND MORE OR LESS.

Tract 2

BEING ALL THAT CERTAIN, LOT, TRACT OR PARCEL OF LAND SITUATED IN THE BENJAMIN C. SHAHAN SURVEY, ABSTRACT NO. 1169 IN THE CITY OF LAKEWOOD VILLAGE, DENTON COUNTY, TEXAS, AND BEING A RESURVEY OF THE 19.5506 ACRE PROPERTY DESCRIBED IN DEED TO UNIBRUS, INC., BY DEED RECORDED UNDER INSTRUMENT NUMBER 111087 OF THE OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD WITH YELLOW PLASTIC CAP FOUND IN THE SOUTHEASTERLY RIGHT OF WAY LINE OF ELDORADO PARKWAY (80 FOOT RIGHT OF WAY) FORMERLY KNOWN AS GARZA LANE (60 FOOT RIGHT OF WAY), SAID POINT BEING THE NORTHEAST CORNER OF SUBJECT PROPERTY AND BEING COMMON TO THE NORTHWEST CORNER OF A CALLED 15.419 ACRE TRACT OF LAND CONVEYED TO MIGUEL HERRERA BY DEED RECORDED UNDER COUNTY CLERKS FILE NO. 2004-69012 OF THE REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS;

THENCE SOUTH 00°54'38" EAST AND DEPARTING THE SOUTHEASTERLY RIGHT OF WAY LINE OF SAID ELDORADO PARKWAY AND FOLLOWING ALONG THE EAST LINE OF AFORESAID UNIBRUS, INC., TRACT COMMON TO THE MIGUEL HERRERA CALLED 15.419 ACRE TRACT, AND ALONG AN EXISTING PLASTIC RAIL FENCE LINE FOR A DISTANCE OF 1042.84 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID MIGUEL HERRERA CALLED 15.419 ACRE TRACT;

THENCE NORTH 88°50'56" EAST AND FOLLOWING ALONG THE COMMON LINE OF SAID MIGUEL HERRERA CALLED 15.419 ACRE TRACT AND THE UNIBRUS, INC., TRACT AND ALONG A PLASTIC RAIL FENCE FOR A DISTANCE OF 489.23 FEET TO A 1/2" IRON ROD FOUND FOR CORNER, SAID POINT BEING COMMON TO AN ELL CORNER OF A CALLED 19.429 ACRE TRACT DESCRIBED IN DEED TO PHILIP HANCOCK, ET AL AS RECORDED IN VOLUME 2006 AT PAGE 47468 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS;

THENCE SOUTH 00°26'11" EAST AND FOLLOWING ALONG THE WEST LINE OF SAID PHILIP HANCOCK CALLED 19.429 ACRE TRACT, COMMON TO THE EAST LINE OF SAID UNIBRUS INC., TRACT, FOR A DISTANCE OF 215.50 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" SET FOR CORNER;

THENCE SOUTH 89°32'41" WEST AND CONTINUING ALONG THE COMMON LINE OF SAID PHILIP HANCOCK CALLED 19.429 ACRE TRACT AND SAID UNIBRUS, INC., TRACT FOR A DISTANCE OF 436.79 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" SET FOR CORNER;

THENCE SOUTH 00°29'43" EAST AND CONTINUING ALONG THE COMMON LINE OF SAID PHILIP HANCOCK CALLED 19.429 ACRE TRACT AND SAID UNIBRUS, INC., TRACT FOR A DISTANCE OF 772.34 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" SET FOR THE SOUTHEAST CORNER OF SAID UNIBRUS, INC., TRACT AND ALSO BEING THE SOUTHWEST CORNER OF SAID PHILIP HANCOCK CALLED 19.429 ACRE TRACT, LOCATED ON THE BOUNDARY LINE OF LAKE LEWISVILLE ALSO KNOWN AS GARZA LITTLE ELM RESERVOIR, AND BEING WITNESSED BY A BRASS GOVERNMENT MONUMENT IN CONCRETE STAMPED "E-418-9" FOUND BEARING NORTH 73°26'46" EAST AT A DISTANCE OF 8.81 FEET;

THENCE SOUTH 73°26'46" WEST AND FOLLOWING ALONG THE BOUNDARY LINE OF LAKE LEWISVILLE, ALSO KNOWN AS GARZA LITTLE ELM RESERVOIR, FOR A DISTANCE OF 404.31 FEET TO A CORPS OF ENGINEERS BRASS MONUMENT IN CONCRETE STAMPED "E-418-10" FOUND FOR THE SOUTHWEST CORNER OF SAID UNIBRUS, INC., TRACT, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF A CALLED 19.297 ACRE TRACT DESCRIBED IN DEED TO ALBOURNE REALTY AS RECORDED IN VOLUME 4289 AT PAGE 27 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS;

THENCE NORTH 32°19'52" WEST AND CONTINUING ALONG THE BOUNDARY LINE OF LAKE LEWISVILLE, ALSO KNOWN AS GARZA LITTLE ELM RESERVOIR, FOR A DISTANCE OF 54.68 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" SET FOR A SOUTHERN CORNER OF SAID ALBOURNE TRACT, SAID POINT ALSO BEING THE MOST SOUTHWESTERLY CORNER OF AFORESAID UNIBRUS INC., TRACT;

THENCE NORTH 01°01'28" WEST AND FOLLOWING ALONG THE COMMON LINE OF SAID ALBOURNE CALLED 19.297 ACRE TRACT AND THE UNIBRUS, INC., TRACT FOR A DISTANCE OF 1255.06 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" SET FOR CORNER AND BEING WITNESSED BY A 1/2" IRON ROD FOUND BEARING NORTH 01°01'28" WEST AT A DISTANCE OF 20.0 FEET;

THENCE NORTH 89°22'28" EAST AND FOLLOWING ALONG THE COMMON LINE OF SAID ALBOURNE CALLED 19.297 ACRE TRACT AND SAID UNIBRUS, INC., TRACT FOR A DISTANCE OF 74.20 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" FOUND FOR CORNER;

THENCE NORTH 00°38'58" WEST AND CONTINUING ALONG THE COMMON LINE OF SAID ALBOURNE CALLED 19.297 ACRE TRACT AND SAID UNIBRUS TRACT

FOR A DISTANCE OF 417.42 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" FOUND FOR CORNER AND BEING WITNESSED BY A 1/2" IRON ROD FOUND BEARING NORTH 00°38'58" WEST AT A DISTANCE OF 19.9 FEET;

THENCE SOUTH 89°22'28" WEST AND CONTINUING ALONG THE COMMON LINE OF SAID ALBOURNE CALLED 19.297 ACRE TRACT AND SAID UNIBRUS, INC., TRACT FOR A DISTANCE OF 74.17 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" FOUND FOR CORNER AND BEING WITNESSED BY A 1/2" IRON ROD FOUND BEARING NORTH 00°37'32" WEST AT A DISTANCE OF 19.9 FEET;

THENCE NORTH 00°37'32" WEST AND CONTINUING ALONG THE COMMON LINE OF SAID ALBOURNE CALLED 19.297 ACRE TRACT AND SAID UNIBRUS, INC., TRACT FOR A DISTANCE OF 205.32 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" FOUND FOR THE NORTHWEST CORNER OF SAID UNIBRUS, INC., TRACT, SAID POINT BEING LOCATED ON THE AFORESAID SOUTHEASTERLY RIGHT OF WAY LINE OF ELDORADO PARKWAY, AS ESTABLISHED BY THE 0.098 ACRE RIGHT OF WAY DEDICATION DEED TO DENTON COUNTY, TEXAS AS RECORDED IN VOLUME 4141 AT PAGE 1134 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS;

THENCE NORTH 59°35'02" EAST (BASIS OF BEARINGS PER DEED TO DENTON COUNTY, TEXAS RECORDED IN VOLUME 4141 AT PAGE 1134 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS) AND FOLLOWING ALONG THE SOUTHEASTERLY OF SAID ELDORADO PARKWAY FOR A DISTANCE OF 385.99 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS1890" FOUND FOR CORNER, SAID POINT BEING THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 914.92 FEET WITH A CENTRAL ANGLE OF 02°35'16" AND A CHORD BEARING NORTH 60°47'12" EAST AT A DISTANCE OF 41.32 FEET;

THENCE NORTHEASTERLY AND FOLLOWING ALONG SAID CURVE TO THE RIGHT AND CONTINUING ALONG THE SOUTHEASTERLY RIGHT OF WAY LINE OF SAID ELDORADO PARKWAY FOR AN ARC DISTANCE OF 41.32 FEET TO THE POINT OF BEGINNING AND CONTAINING 19.5506 ACRES OF LAND, MORE OR LESS.

EXHIBIT B

LVP PROPERTY DEPICTION

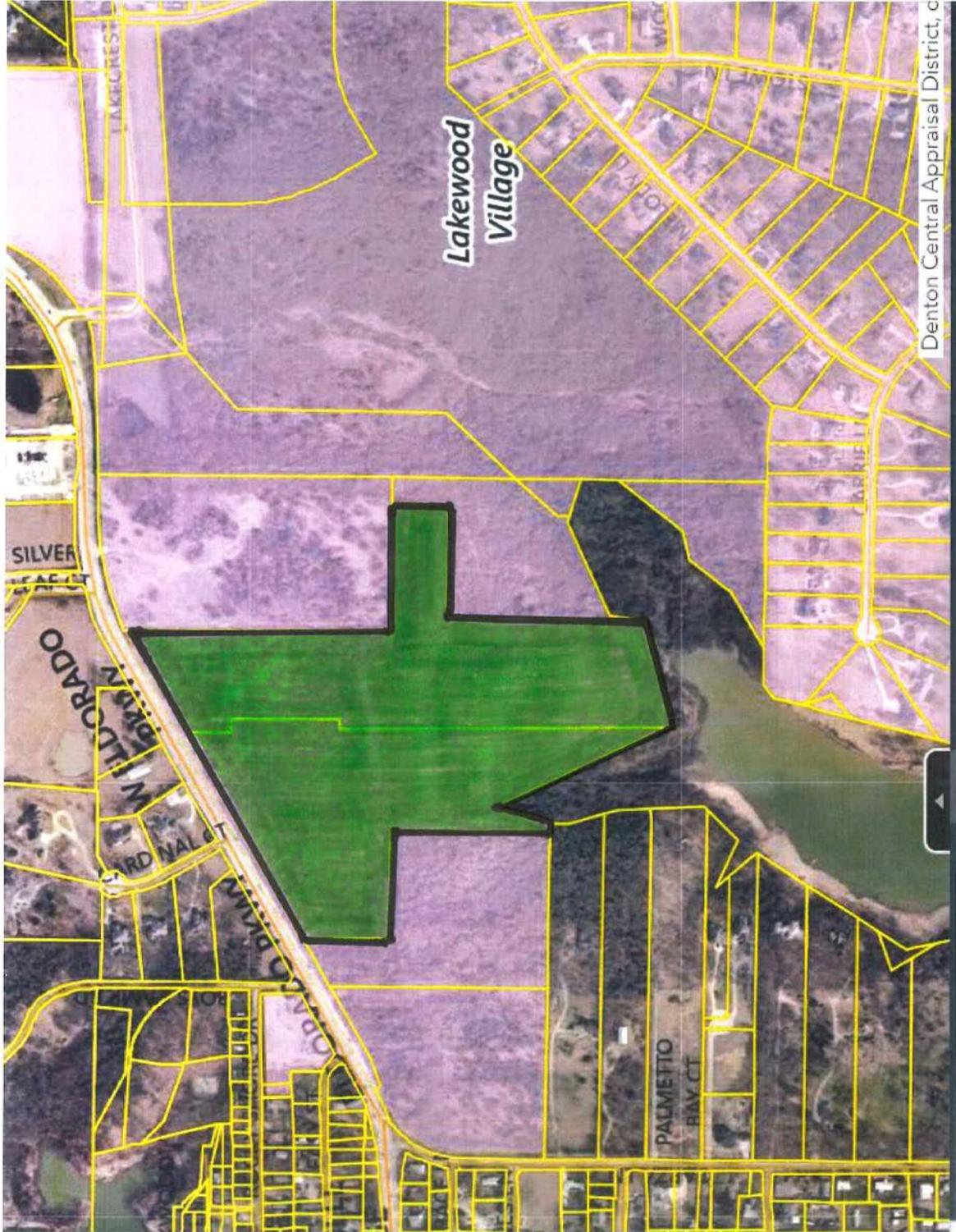


EXHIBIT C Concept Plan

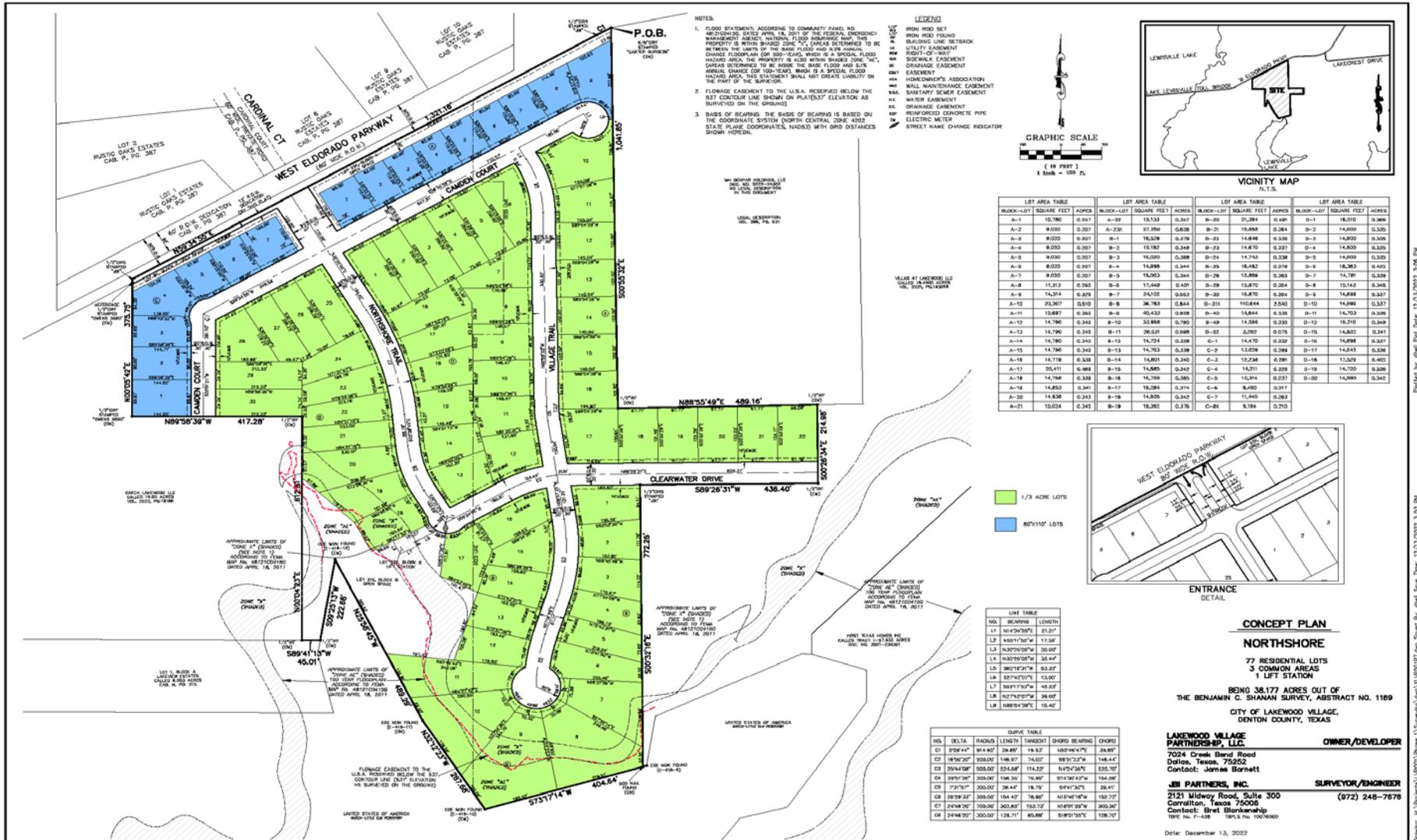


EXHIBIT D1
Entry Street Landscaping and Sidewalk -
West of development entrance

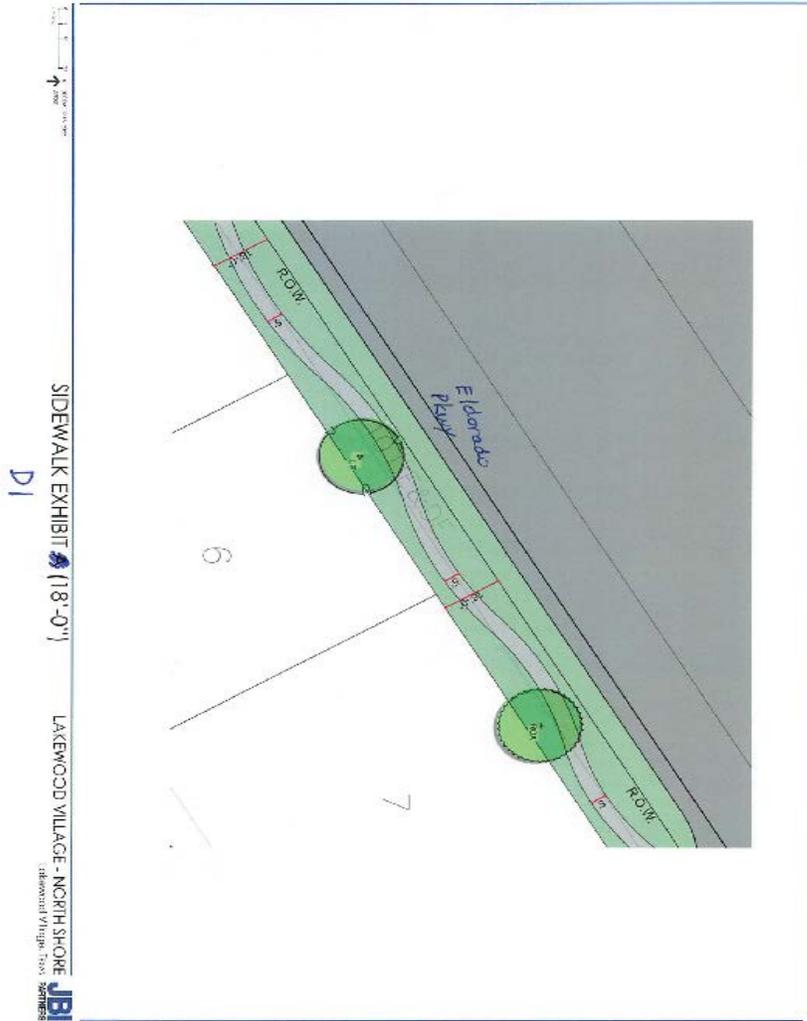


EXHIBIT E
ELDORADO ROW PAVING
(East of Development Entrance)

300 foot wide expansion x 800 foot long

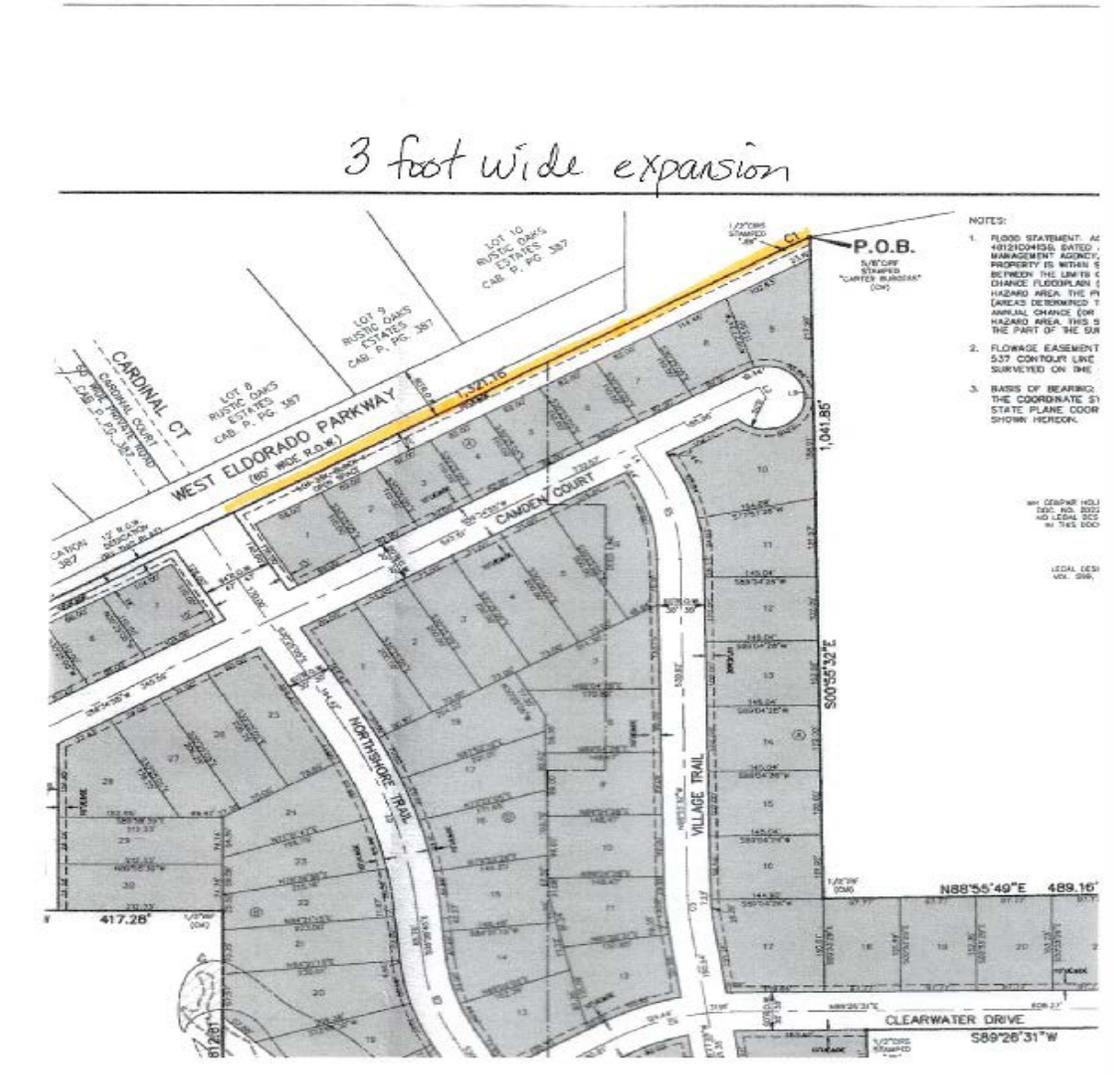


EXHIBIT E1
Entry Street Landscaping and Sidewalk -
East of Development Entrance

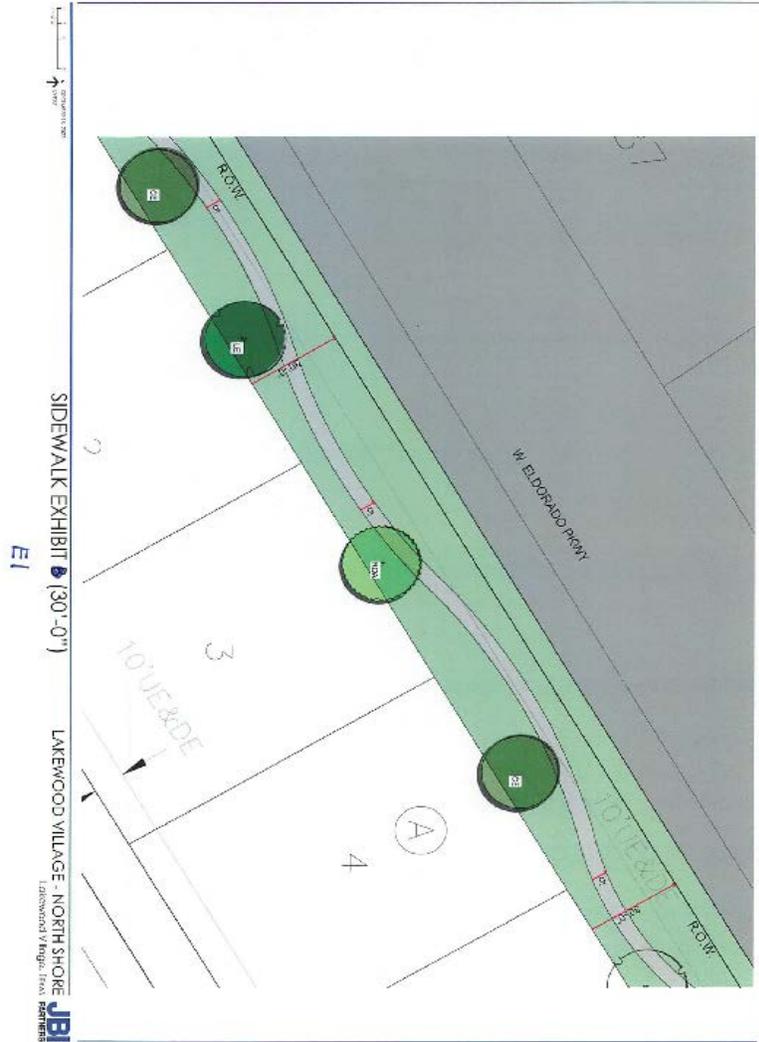


EXHIBIT F

ENTRY FEATURE DEPICTION



JULY 8, 2022
LVP001

ENTRY SIGN CONCEPT

EXHIBIT G

DEVELOPMENT STANDARDS

Development Standards	1/3 Acre Waterfront ¹ TYPE A	1/3 Acre Not Waterfront TYPE B	Eldorado Lots TYPE C
Number of Lots	5	56	16
Minimum Front Yard	20 ft	20 ft	20 ft
Minimum Front Yard for porches and swing in garages	20 ft	20 ft	20 ft
Minimum Side Yard - Dwelling or Accessory Structure ^{2,3}	12 ft	12 ft	7 ft
Minimum Rear Yard - Pool and/or Spa	10 ft	10 ft	5 ft
Minimum 80% masonry (brick, stone, stucco only)	YES	YES	YES
Lot Dimensions			
Minimum Area	0.5 AC	0.33 AC	0.20 AC
Minimum Width	70 ft	70 ft	70 ft
*Cul-de-sac déviations acceptable			
Dwellings			
Minimum Dwelling Area - Single Story	3,000 sq ft	3,000 sq ft	2,000 sq ft
Minimum Ground Floor Dwelling Area - Two Story	3,000 sq ft	2,500 sq ft	1,500 sq ft
Maximum Height\Stories	2.5	2.5	2.5
Maximum Lot Coverage front yard ⁴	50%	50%	50%
Ground Floor Minimum Elevation (above mean sea level)	540 ft	540 ft	540 ft

1. Waterfront Lots are Block B, Lots 7, 8, 9, 10, and 11
2. Air conditioner equipment, pool equipment, and similar appurtenances are permitted in the side yard, but must be located at least four feet from the property line.
3. The following lots will have 7' side yard setbacks: **BLK B, Lots 4-6, and 19-30 ; BLK D, Lots 1-7, and 17-18**
- 4.- For corner lots, the 50% coverage applies to each front yard individually

EXHIBIT G - Continued

Development Standards Continued	1/3 Acre Waterfront¹ TYPE A	1/3 Acre Not Waterfront TYPE B	Eldorado TYPE C
Fencing	Town Fence Ordinance	Cedar board on board	Cedar board on board
Driveway Width (minimum)	12 Feet	12 Feet	10 feet
Driveway minimum distance from side Property line	5 feet	5 feet	3 feet
Minimum Garage Size	25' width 22' depth	25' width 22' depth	25' width 22' depth
Front-facing garages allowed	NO	NO	YES
Carports Permitted	NO	NO	NO
Detached Garage Apartment permitted	YES	YES	NO
Guest House	YES	NO	NO
Accessory Structures ⁴	YES	YES	YES
Landscaping			
Minimum number of trees ⁵	3	2	2
Ground cover (shrubs)	15	15	10

4. The exterior facades of accessory building (excluding greenhouses) two hundred fifty (250) square feet or greater in size shall be constructed using the same exterior construction materials as the dwelling and match the façade of the home.

5. Existing trees included.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into to be effective December ___, 2022 and is by and between the City of Lakewood Village, a Texas municipality (the "City"), and First Texas Homes, Inc., ("First Texas"). The City and First Texas Homes, Inc., shall sometimes hereafter be individually called a "Party" and collectively the "Parties."

WITNESSETH:

WHEREAS, the City is the retail provider of sanitary sewer services within its corporate limits; and

WHEREAS, First Texas and other developers of land as shown on Exhibit A within the corporate limits desire to obtain sanitary sewer service from the City; and

WHEREAS, a plan has been engineered by KJE Engineers ("KJE") which includes a regional lift station and 1,675 linear feet of an 8" force main sewer line that will be routed directly to an upgraded treatment plant, ("Initial Development Plan"); and

WHEREAS, a cost estimate for implementing the Initial Development Plan has been obtained from KJE ("Initial Cost Estimate") included herein as Exhibit B; and

WHEREAS, the City has contacted the developers of the Developments listed on Exhibit B about paying their respective percent allocation as stated in Exhibit B; and

WHEREAS, the developers of the Developments listed on Exhibit B have stated their intent to pay their respective percentage allocations as stated in Exhibit B; and

WHEREAS, KJE will modify the Initial Development Plan when it prepares the construction plans ("Final Development Plan");

NOW THEREFORE, in consideration of the mutual covenants, conditions and agreement hereinafter contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties each hereby agree as follows:

WHEREAS, NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1

APPROVAL BY THE CITY

The City and TCEQ, if needed, shall approve the Final Development Plan. To date the Initial Development Plan has been approved, and the City has engaged in final design and approval.

ARTICLE 2

DEVELOPMENT COST PRO RATA

First Texas agrees to make its required pro rata contribution to the project as stated in Exhibit B. The City has agreed to obtain the required contributions from other developments listed in Exhibit B prior to entering into the construction contract.

ARTICLE 3

EASEMENTS

The Final Development Plan will require obtaining utility easements from approximately _____ landowners. KJE and the City are in the process of negotiating the easements. It is expected that some of the landowners will demand a fee in exchange for the granting the easement. In the event that easements cannot be obtained voluntarily, the City agrees to use its power of eminent domain to obtain the easements. Expenses incurred to obtain these easements will be included in the final project costs.

ARTICLE 4

CONSTRUCTION COORDINATION

First Texas agrees to build the improvements on the GM approved plans for the construction of the Final Development Plan Improvements ("Improvements"). The Improvements shall be constructed and inspected in accordance with applicable state law, City regulations, TCEQ standards, and other development requirements, including those imposed by the City and any other governing body or entity with jurisdiction over the Improvements. This Agreement and construction of the Improvements are anticipated to be exempt from competitive bidding pursuant to Texas Local Government Code, Section 252.022(a)(11). First Texas shall enter into the necessary contracts to construct the Improvements.

Upon the City's approval of the Final Development Plan, the City and First Texas shall enter into an escrow agreement (the "Escrow Agreement"), the form of which shall be mutually acceptable to the Parties. The developer of each development listed in Exhibit B shall deposit its Required Financial Contribution (the "Cost Sharing Funds") with Sendera Title Insurance Company ("Escrow Agent"). The Escrow Agreement shall address standards and delivery of invoices and documentation, and that upon satisfaction of the document requirements set forth herein as to the applicable component of Improvements, draws shall be submitted to the Escrow Agent and paid to First Texas as provided herein within five (5) business days of the submittal and satisfaction of the documentation and approval requirements of the applicable section below. Draws shall be submitted monthly by First Texas as the party constructing the Improvements. All costs, including costs for design, construction administrative fees, and third-party testing fees incurred in the construction of the Improvements shall be subject to the monthly reimbursement provisions hereof. In addition, a five percent (5%) contractor fee shall be payable to First Texas. First Texas shall provide to the City and Escrow Agent each month during the term of construction and installation of the Improvements (i) an invoice each month for the total costs

incurred in constructing and installing the Improvements (the "Improvements Invoice"), (ii) copies of contracts, receipts and other backup information, with reasonably sufficient detail of the costs described on the Improvements Invoice, and (iii) as to the final reimbursement payment only, reasonable evidence that the City has inspected and approved the Improvements (collectively, the "Improvements Cost Information"). Upon approval of the applicable draw request by the parties, the Escrow Agent shall pay the sums required by the applicable invoice.

The Parties acknowledge that the amount of Cost Sharing Funds is an estimate only, and that each development shall, as needed, deposit into the escrow account its respective per allocate share of any additional costs for any of the Improvements upon delivery of a written notice from First Texas or the City which has noted the need for additional Cost Sharing Funds, provided that any additional costs for any of the Improvements are necessary to complete the Improvements in accordance with the Plans and applicable law. Any such notice shall be accompanied by (i) copies of contracts, receipts and other backup information, with reasonably sufficient detail of the additional costs described on the invoice for the applicable portion of the work (the "Additional Cost Information"), and (ii) reasonable evidence that, if required, the City has inspected and approved the portion of the Improvements for which additional Cost Sharing Funds are requested ("Additional Costs"). The parties shall use all commercially reasonable efforts to reach timely agreement on the requested additional costs and shall promptly deposit their respective share into the Escrow Account so that the work can be timely completed. Once the Additional Cost is determined as an Additional Costs invoice is issued, if a party fails to pay its portion of the Additional Costs on or before the end of the fifteenth (15th) day after submission, then the amount due from the defaulting party under the Additional Costs invoice shall commence to bear interest until paid at the rate of thirteen percent (13%) or max rate allowed by per annum, and the non-defaulting party shall have the right to commence legal proceedings in the appropriate court to collect the amount due under the Additional Costs invoice. In the alternative the City or First Texas can fund the unpaid additional costs into the Escrow Account and will be reimbursed at the end of project construction.

ARTICLE 5

TRUE UP

After the Improvements are constructed and accepted by the City, First Texas Homes and City engineer will prepare a true up summary of the actual construction costs for the Improvements ("Final Costs"). If there are funds remaining in the Escrow Account, then they will be reimbursed to the developers listed in Exhibit B in accordance with their percent allocations. If there is a shortfall, the developers will pay their percent allocation of the shortfall amount into the Escrow Account. If there remains a shortfall due to non-payment by some of the developments the City will pay for the remaining shortfall.

ARTICLE 6

DEFAULT

If a Party should default (the "Defaulting Party") with respect to any of its obligations hereunder and should fail, within (i) fifteen (15) days after delivery of written notice of such

default for monetary obligations from another Party (the "Complaining Party"), or (ii) (60) days after delivery of written notice of such default from a Complaining Party for all non-monetary defaults, to cure such default, the Complaining Party may by action or proceeding at law or in equity, may be awarded its damages and/or specific performance for such default.

ARTICLE 7

NOTICES

Any and all notices, elections, approvals, consents, demands, requests and responses ("Communications") permitted or required to be given under this Agreement shall not be effective unless in writing, signed by or on behalf of the Party giving the same, and sent by certified or registered mail, postage prepaid, return receipt requested, by hand delivery or by a nationally recognized overnight courier service (such as FedEx), to the Party to be notified at the address of such Party set forth below or at such other address within the continental United States as such other Party may designate by notice specifically designated as a notice of change of address and given in accordance with this Section. Any Communications shall be effective upon the earlier of their receipt or three days after mailing in the manner indicated in this Section. Receipt of Communications shall occur upon actual delivery but if attempted delivery is refused or rejected, the date of refusal or rejection shall be deemed the date of receipt. Any Communications must be addressed as follows, subject to change as provided above:

If to First Texas, to: First Texas Homes
 c/o Kevin Murday
 500 Crescent Court, #350
 Dallas, TX 75201
 kmurday@FirstTexasHomes.com
 jzuniga@FirstTexasHomes.com

With a copy to: Art Anderson
 Winstead PC
 2728 N. Harwood Street, Suite 500
 Dallas, TX 75201
 aanderson@winstead.com

ARTICLE 8

MISCELLANEOUS

1. Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Texas and Denton County.
2. Modifications. The terms of this Agreement may not be changed, modified, waived, discharged or terminated orally, but only by an instrument or instruments in writing, signed by the Party against whom the enforcement of the change, modification, waiver, discharge or termination is asserted. Each Party's consent to an action shall not be

deemed to constitute consent to modification of any provisions that would be in violation of the terms of this Agreement.

3. Time of Essence; Consents. Time is of the essence of this Agreement. Any provisions for consents or approvals in this Agreement shall mean that such consents or approvals shall not be effective unless in writing and executed by First Texas and City.
4. This Amendment may be executed in multiple counterparts, each of which when combined will constitute one and the same agreement.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

City of Lakewood Village, a Texas municipal corporation

By: _____

Name: _____

Title _____

ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on November ____ 2022, by _____, _____ of the City of Lakewood Village, a Texas city.

NOTARY PUBLIC, STATE OF TEXAS

First Texas Homes, Inc., a Texas Corporation
By: Keith Hardesty, Division President

By: _____

Name: _____

Title _____

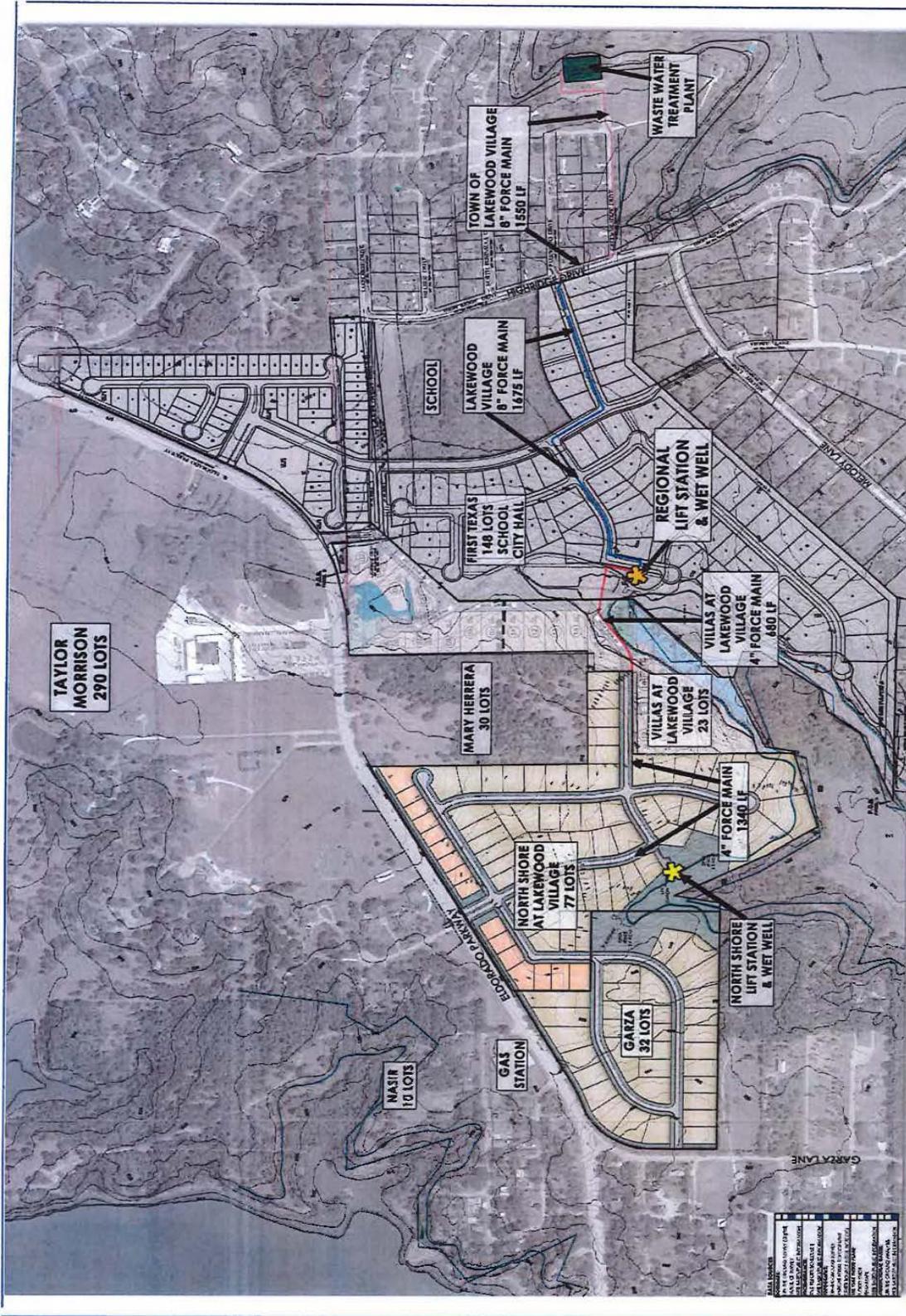
ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on November ____ 2022, by _____, _____ by First Texas Homes, Inc., a Texas Corporation.

NOTARY PUBLIC, STATE OF TEXAS



JBI
 SANITARY SEWER SYSTEM
 LAKEWOOD VILLAGE, TEXAS PARTNERS

LAKEWOOD VILLAGE

EXHIBIT
A

DATE PLOTTED	10/23/2022
PROJECT	SANITARY SEWER SYSTEM
CLIENT	JBI PARTNERS
DESIGNER	WILLIAMS BROS. ENGINEERS
CHECKER	WILLIAMS BROS. ENGINEERS
DATE	10/23/2022
SCALE	1" = 200'
PROJECT NO.	22-0001
DATE	10/23/2022
BY	WILLIAMS BROS. ENGINEERS
CHECKED	WILLIAMS BROS. ENGINEERS
DATE	10/23/2022

1" = 200'
 0 100 200 400
 OCT 23, 2022
 11:46 AM



Bold. Insightful. Connected.

500 Moseley Road | Cross Roads, Texas 76227 | (940) 387-0805

October 4, 2022

Ms. Linda Ruth, TRMC, CMC
Town Administrator
Lakewood Village
100 Highridge Drive
Lakewood Village, Texas 75068

RE: Town Regional Lift Station/Force Main Proportionality Assessment

Dear Ms. Ruth:

KJE has reviewed the design plans for the proposed regional lift station that were included with the Lakewood Village Civil Construction Plans prepared by engineers at JBI Partners, Inc. Included in the plan set was a predicted design flow tabulation of the proposed individual developments. KJE has reviewed these calculations and concur that the predicted peak flowrates are reasonable and in conformance with TCEQ guidelines. The flow rates were appropriated based on an anticipated number of persons per development and a standard unit flowrate (gallons/person/day), combined with peak factors. A summary of these flow values is listed below:

<u>Development</u>	<u>Predicted Peak Flowrate (Gallons / Minutes)</u>
Lakewood Village (First Texas Homes)	144.2
New Town Hall (First Texas Homes)	1.8
New School (Lakewood Village)(First Texas Homes)	59.5
Villas of Lakewood Village	26.0
North Shore at Lakewood Village	75.6
Garza	38.2
Rustic Oaks	9.5
New Service Station	1.0
Ms. Herrera Development	28.6
South Oak Phase III Development	268.0
Total	652.40



KJE has also developed an opinion of probable construction costs associated with the proposed regional lift station and force main required to reach the wastewater treatment plant. Based on industry feedback regarding the design plans, the following represents an opinion of the probable construction costs for the project:

Proposed Lift Station (All Components)	\$1,600,000
Proposed Force Main (8") (1675 Linear Feet)	\$150,750
Subtotal	\$1,750,750
Contingency (20%)	\$350,150
Total	\$2,100,900

Based on the predicted flowrates from the developments, the proposed financial requirement for the planned developments to pay their proportionate share of the regional wastewater improvements is the following:

<u>Development</u>	<u>Predicted Peak Flowrate (Gallons / Minutes)</u>	<u>Percent Allocation</u>	<u>Required Financial Contribution</u>
Lakewood Village (First Texas Homes)	144.2	22.10%	\$464,362.02
New Town Hall (First Texas Homes)	1.8	0.28%	\$5,796.47
New School (Lakewood Village) (First Texas Homes)	59.5	9.12%	\$191,605.69
Villas of Lakewood Village	26.0	3.99%	\$83,726.85
North Shore at Lakewood Village	75.6	11.59%	\$243,451.93
Garza	38.2	5.86%	\$123,014.07
Rustic Oaks	9.5	1.46%	\$30,592.50
New Service Station	1.0	0.15%	\$3,220.26
Ms. Herrera Development	28.6	4.38%	\$92,099.54
South Oak Development	268.0	41.08%	\$863,030.66
Total	652.4	100%	\$2,100,900.00

Please note that these costs were developed in conformance with Texas Local Government Code § 212.904(a). We appreciate the opportunity to assist with this evaluation and please let us know if there any questions.

Sincerely,



Kevin J Ware, PE
Principal
KJE
Firm #F-12214



EXHIBIT D

ESTIMATED QUANTITIES AND UNIT COSTS (BID PROPOSAL)

Utility Improvements
Lakewood Village
Town of Lakewood Village and Lakewood Village ETJ, Denton County, Texas
JBI Project No. FTH040
December 13, 2022

FOR: UTILITY IMPROVEMENTS FOR LAKEWOOD VILLAGE, TOWN OF LAKEWOOD VILLAGE AND LAKEWOOD VILLAGE ETJ, DENTON COUNTY, TEXAS

Pursuant to the foregoing "Notice to Bidders", the undersigned bidder, having thoroughly examined the Contract Documents, including plans, specifications, and the site of the project, and understanding the amount of work to be done and the prevailing conditions, hereby proposes to do all of the work, furnish all labor, equipment, and material, except as specified to be furnished by the Owner, which is necessary to fully complete the project and subject to the inspection and approval of the governing agencies, and binds himself upon acceptance of this Proposal to execute a contract and furnish bonds as may be required by the Contract Documents for the performing and completing of said work. Contractor proposes to do the work within time stated and for the following sums:

Section A - Water

Item No.	Description	Quantity	Unit	Unit Price	Total Price
1.	Bore with 18" steel casing pipe under existing Lakecrest Drive pavement for 12" water pipe, complete in place	350	LF	\$447.60	\$156,660.00
2.	12" diameter PVC C-905 DR-18 pipe including trench, embedment, backfill, compaction, complete in place	2,368	LF	\$68.40	\$161,971.20
3.	8" diameter PVC C-900 DR-18 pipe including trench, embedment, backfill, compaction, complete in place	40	LF	\$39.60	\$1,584.00
4.	12" gate valve per Town Standards, complete in place	11	EA	\$4,562.00	\$50,182.00
5.	8" gate valve per Town Standards, complete in place	4	EA	\$2,555.00	\$10,220.00
6.	2" air release valve per Town Standards, complete in place	1	EA	\$11,353.00	\$11,353.00
7.	Fire hydrant assembly on 12" water main to include all fittings and 6-inch valve per Town Standards, complete in place	3	EA	\$9,166.00	\$27,498.00
8.	Concrete encasement, complete in place	20	LF	\$57.00	\$1,140.00
9.	Ductile iron fittings, per Town Standards, complete in place	2.00	TON	\$19,075.00	\$38,150.00
10.	Connect to existing 12" water pipe with a cut in tee, complete in place	1	EA	\$2,130.00	\$2,130.00
11.	Traffic control along Lakecrest Drive for water main installation via boring, complete in place	1	LS	\$2,981.00	\$2,981.00
12.	Excavation safety and support system including excavation safety plans for trenches over five feet in depth, complete in place	2,408	LF	\$0.20	\$481.60
13.	All testing, excluding density, compaction and materials, as required by the governing authority, complete for	2,408	LF	\$5.40	\$13,003.20
Subtotal Section A - Water					\$477,354.00

Section B - Sanitary Sewer Force Main - Onsite

Item No.	Description	Quantity	Unit	Unit Price	Total Price
1.	Clearing and grubbing site, to include the removal of any/all trees & brush with offsite disposal, complete in place	2.00	AC	\$8,354.00	\$16,708.00
2.	Unclassified excavation of onsite material, transport, and placement for lift station pad, complete in place	400	CY	\$21.00	\$8,400.00
3.	10" diameter SDR-26 PVC pipe including trench, embedment, backfill, and compaction, complete in place	155	LF	\$85.30	\$13,221.50

Continued on Next Page



Continued from Previous Page

Item No.	Description	Quantity	Unit	Unit Price	Total Price
4.	4' diameter standard manhole (greater than 12' and less than or equal to 20' deep), complete in place	1	EA	\$15,905.00	\$15,905.00
5.	Excavation safety and support system including excavation safety plans for trenches over five feet in depth, complete in place	155	LF	\$0.60	\$93.00
6.	All testing, excluding density, compaction and materials, as required by the governing authority, complete for	155	LF	\$7.00	\$1,085.00
Subtotal Section B - Sanitary Sewer Force Main - Onsite					\$55,412.50

Section C - Lift Station

Item No.	Description	Quantity	Unit	Unit Price	Total Price
1.	Lift Station Improvements to include: wet well, valve vault, all pumps, controls, electric panels & racks, power, emergency generator, odor control unit, slabs, lighting, and all other appurtenances within limits of proposed fence, as directed by Design Engineer, specifications, plans, and City standards, complete in place	1	LS	\$1,045,450.00	\$1,045,450.00
2.	6" - 4000 psi concrete Lift station driveway with #4 bars 18" OCEW from street to lift station fencing, complete in place	55	SY	\$227.00	\$12,485.00
3.	6" flex base pavement access road from Lakecrest Drive to lift station driveway per lift station access road exhibit, complete in place	1,684	SY	\$21.00	\$35,364.00
4.	Perimeter fencing and columns around lift station, complete in place	1	LS	\$27,810.00	\$27,810.00
5.	All testing, excluding density, compaction and materials, as required by the governing authority, complete	1	LS	\$11,845.00	\$11,845.00
6.	Maintenance bond for Utility improvements, 2 years/110%, per Town of Lakewood Village requirements, complete	1	LS	\$18,025.00	\$18,025.00
Subtotal Section C - Lift Station					\$1,150,979.00

Section D - Erosion Control

Item No.	Description	Quantity	Unit	Unit Price	Total Price
1.	Silt Fence, complete in place	1,500	LF	\$4.10	\$6,150.00
Subtotal Section D - Erosion Control					\$6,150.00

Section E - Miscellaneous

Item No.	Description	Quantity	Unit	Unit Price	Total Price
1.	Maintenance bond for Utility improvements, 2 years/110%, per Town of Lakewood Village requirements, complete	1	LS	\$12,830.00	\$12,830.00
Subtotal Section E - Miscellaneous					\$12,830.00



SUMMARY	
Subtotal Section A - Water	\$477,354.00
Subtotal Section B - Sanitary Sewer Force Main - Onsite	\$55,412.50
Subtotal Section C - Lift Station	\$1,150,979.00
Subtotal Section D - Erosion Control	\$6,150.00
Subtotal Section E - Miscellaneous	\$12,830.00
TOTAL UTILITY IMPROVEMENTS	\$1,702,725.50

Alternate Bid Items - Water

Item No.	Description	Quantity	Unit	Unit Price	Total Price
1.	Remove & replace existing asphalt pavement on Lakecrest Drive for installation of 12" water main via open cut, complete in place	920	SY	\$128.00	\$117,760.00
2.	Traffic control along Lakecrest Drive for water main installation via open cut in sections, complete in place	1	LS	\$8,931.00	\$8,931.00

Alternate Bid Items - Onsite Sanitary Sewer

Item No.	Description	Quantity	Unit	Unit Price	Total Price
1.	Clearing and grubbing site, to include the removal of any/all trees & brush with onsite control burning, complete in place	2.00	AC	\$11,400.00	\$22,800.00

All Utility Improvements shall conform to Town of Lakewood Village standards and specifications.
Contractor is responsible to maintain and repair all erosion control measures while working on site at his sole expense.

All unit prices include any necessary permitting, testing, Town required bonds and City acceptance.

The undersigned agrees to complete the work by these Contract Documents for the base bid in the following number of working days.

110 Working days for substantial completion of Utility Improvements

25 Additional working days for final completion for Utility Improvements

Within five (5) days after receipt of the Notice of Acceptance of this bid, the undersigned will execute the formal contract and will deliver proof of insurance for the faithful performance of this contract.

Submitted by:

Company:

PCI Construction

Address:

405 Interchange Street

By:



(Signature)

McKinney, Texas 75071

Rodney Key

(Print Name)

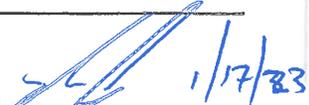
Phone:

972-562-2762

Field

Contact: Kevin Gerstenkorn

Date: 12/30/2022





November 11, 2022

Linda Ruth, TRMC, CMC
Town Administrator
100 Highridge Drive
Lakewood Village, TX 75068

PROFESSIONAL SERVICES PROPOSAL FOR THE TOWN OF LAKEWOOD VILLAGE TOWN HALL FEASIBILITY STUDY

Brown Reynolds Watford Architects is pleased to submit this professional services proposal for a Feasibility Study for the new Highland Village Town Hall. Our proposed team, scope of services, project schedule, and compensation are described below.

PROJECT TEAM

Our proposed key personnel include the following:

- BRW Architects, Inc.
 - Stephen Hilt, AIA Associate Principal
 - Chris Sano, AIA Design Director
 - Sam Watkins, AIA Project Manager
- CCM Construction Services
 - John Coakley Cost Estimating
Senior Estimator

SCOPE OF BASIC SERVICES

We understand that the project scope is a feasibility study for a new Town Hall for the Town of Lakewood Village. The proposed scope of services are described below:

Programming (Meeting #1)

Based on input from the Town departmental staff, BRW will develop a Space Program for the new Town Hall. The Space Program will include the proposed size, function, adjacencies and special requirements for each room, along with site development requirements. The Space Program will include projections for future growth. The team will also tour existing Town facilities with Town staff.

Site Analysis and Planning (Meeting #2)

BRW will analyze the proposed construction site in regard to site access, known setbacks and site restrictions, approximate topography, and known utilities. We will prepare a conceptual site plan that addresses site circulation, visitor and employee parking, mechanical/electrical equipment, dumpster enclosure, fire lanes, and any site fencing and screening walls. The purpose of the concept plan is not to determine a final design but only to identify a potential solution approach to validate if the site is large enough for the proposed program and that is acceptable for the purpose of project construction cost estimating. If the proposed 1.5 acre site is found to be inadequate for the program, then BRW will consider instead a site that incorporates one or more proposed adjacent single family home properties into the site.

Based upon the approved space program and concept site plan, and upon discussion with Town staff regarding level of quality and proposed major materials, BRW will prepare a pricing package for the cost estimator.

Budget Analysis (Meeting #3)

BRW will review a report draft and the cost estimate with the Owner. One (1) round of Owner and BRW comments will be incorporated into the cost estimate. BRW will also recommend a total project budget that includes the probable construction costs estimate and allowances for Owner's development cost and professional fees and expenses with each of these costs based upon industry averages, recent comparable projects, or Owner-provided budgets for each item included in the soft costs. BRW and CCM will also recommend allowances for contingencies including but not necessarily limited to a construction cost escalation contingency, design contingencies, and Owner-Controlled contingencies.

Presentation

Based upon the completed report, BRW will prepare a brief presentation for Council and if requested will participate in the presentation to Council.

OPTIONAL SERVICES:

Concept Imaging

If authorized by Owner, BRW will conduct a project visioning session between Basic Services Meetings #1 and #2, and will provide an elevation and massing study and provide a concept rendering for the facility based upon Owner input and the approved space program and concept site plan. The purpose of these services would be to provide a rendering to help communicate the scope, scale, quality of finishes, and a potential concept image for the Town Hall. The intent of this rendering is not to restrict later design decisions but rather to assist in consolidating support for the project or to generate discussion and comments upon the initial concept in order to inform future design decisions. Accordingly, a rendering style depicting a limited level of detail is anticipated. BRW will make up to one round of rendering revisions for Town comments.

Concept Design

If authorized by Owner, in lieu of Concept Imaging, BRW will develop a concept design for the facility to include a project visioning session, and up to two additional design meetings with an additional round(s) of "Owner comments and revisions on the design. Additional

project deliverables will include a hard line floor plan depicting each room in the space program in an acceptable configuration to Owner for the form and function of the facility, a colored concept site plan indicating an initial concept for site masterplan including indication of landscape and hardscape zones, a 3-dimensional concept “sketchup” model of all sides of the building from which perspective views can be taken, and an enhanced rendering from a vantagepoint as selected by the Owner.

Additional Meeting(s): Basic Services Meeting #2 will include review of a initial 3-D “white box” massing model options to inform one or two design concepts for further development, based upon a similar concept floor plan. The additional meeting(s) will occur between basic services meetings 2 and 3, to include review of an initial concept floor plan and development of the selected massing model(s) to illustrate use of materials and a greater level of detail in the massing development. In case required by a significantly different direction from initial concepts, and a second additional web based meeting is included to review a revised concept. Direction for further refinement of the concept floor plan, concept design, and vantage point for the enhanced rendering will be confirmed in this meeting(s).

Enhanced Rendering: An enhanced rendering will be produced from the selected vantagepoint. BRW will provide a pre-final draft rendering for one round of Owner review and comments and make one round of revisions to incorporate into the final rendering.

Cost Estimating: Unless the Owner requires budget numbers at the earliest date, budget estimating services will occur after concept design is complete. This will result in more information for the estimator based upon the concept design and will extend the time required for completion of basic services.

Final Deliverables

BRW will provide a Feasibility Study report in .pdf file format, printable to 8 ½” x 11” format, with 11”x17” fold-outs for drawings and other exhibits. Bound paper copies may be provided at Owner’s request as a reimbursable expense. The report will include an executive summary, narrative describing the existing site conditions and facility needs, conceptual site plan, cost estimate, and budget recommendations.

If the Optional Services for project imaging are authorized, then deliverables will also include an electronic file perspective view of a concept front façade. Printed copies of renderings may be provided at Owner’s request as a reimbursable expense.

Owner-Provided Information

The Owner shall furnish the Architect the below information as available:

- Property boundary information
- Available zoning information for the subject property(ies)
- Available or proposed utility drawings or city map for water, storm and sanitary sewer, and telecom services, if available to the Town and as applicable to the project.
- Other information available to Owner regarding franchise utilities
- Projected budgets for soft cost separate contracts, if the Town wishes to set such budget directly. Otherwise, BRW will suggest budgets and contingencies based upon similar projects.

- If available to the Owner, provide a sample geotechnical report from a nearby construction site. If such report is not available, CCM will make assumptions for foundations and paving based upon typical conditions for the geologic formation or based upon other similar projects. BRW and CCM may additionally recommend a design contingency for less favorable conditions that may be encountered upon geotechnical investigation on the site.

Excluded Services

The below services are not anticipated at this time, however, they could be provided as an Additional Service:

- Property boundary and topographic survey
- Geotechnical survey
- Engineering design or analysis
- Coordination with franchise utility companies
- Zoning modifications, including S.U.P.s and P.D.s
- Property plat
- Environmental or hazardous materials conditions / issues
- LEED certification or sustainable design analysis
- Additional or Photo-Real Renderings
- Land acquisition cost estimating
- Multiple revisions to project imaging
- Additional meetings or services beyond than those indicated above

PROJECT SCHEDULE

BRW will complete the Feasibility Study to the best of our ability within 2 to 3 months from a Notice to Proceed. The following is a typical approximate schedule, which could require more time if longer periods for Owner review and comment are required:

Basic Services Schedule:

• Notice to Proceed and first meeting preparations	Week 1
• Meeting #1	Week 2
• Develop Space Program and concept site plan	Weeks 2-4
• Meeting #2	Week 5
• Develop pricing package	1 Week
• Cost Estimating & draft report development	2 Weeks
• BRW Review of Cost Estimate, and Project Budget Analysis	1 Week
• Meeting #3	Week 9-10
• Owner Comments	1 Week
• <u>Incorporation of Comments and Final Report</u>	<u>1 Week</u>
Anticipated Duration for Basic Services Only:	13-14 weeks

Concept Imaging (Duration add to project schedule):

• Visioning Session & Preparation	+1 week
• Renderings: Timing based upon when authorized and Owner input	+ 1-2 weeks

Concept Design (Duration add to project schedule):

- Visioning Session & Preparation +1 week
- Additional week for development prior to Meeting #2 +1 week
- Additional Meeting #1 +2-3 weeks
- Additional Meeting #2 (if req'd, web meeting) +1-2 weeks
- Renderings: +1-2 weeks

COMPENSATION

Based upon the scope of services described above, Brown Reynolds Watford Architects proposes the below lump sum fees, plus reimbursable expenses.

Basic Services:

- BRW Architects \$23,500.00
- Cost Estimating Services \$6,050.00
- Basic Services Fee: \$29,550.00

Optional Services:

- Concept Imaging \$6,500.00
- Concept Design \$28,500.00

Reimbursable expenses are in addition to the above fee and shall not exceed \$500 without the written approval of the Owner. They shall be invoiced at the same cost billed to the Architect and include, but are not limited to, report documents reproduction and courier / overnight deliveries, and allowable mileage travel at standard IRS rates.

Compensation shall be invoiced monthly based on the percent complete.

Additional Services for project scope modifications or professional services beyond this proposal shall be authorized in writing by the Owner and shall be authorized as lump sums or computed at 1.10 times the amount billed the Architect by consultants. Additional Services performed by BRW Architects shall be compensated at standard hourly rates or for a negotiated lump sum fee.

We hope this proposal meets your expectations. Please call us with any comments or questions. We look forward to working with the Town of Lakewood Village.

BROWN REYNOLDS WATFORD ARCHITECTS, INC.



STEPHEN HILT, AIA
ASSOCIATE PRINCIPAL

November 3, 2022

Linda Ruth, TRMC, CMC
Town Administrator
Lakewood Village
100 Highridge Drive
Lakewood Village, Texas 75068

RE: Scope of Basic Services for City Hall Feasibility Study

Dear Linda,

It was our pleasure to meet with you and the mayor last week. Your combined vision and commitment to the community is readily apparent. It's exciting to see tight knit areas like yours be able to transition into redevelopment over the years and sustain a positive track; as you know, that is a rare feat.

As you experience this next phase of growth and the needs for a new City Hall become both a necessity and an opportunity, we are pleased to be considered as a potential partner in assisting you in developing a concept, cost budget, and game plan for taking the important step to building a new City Hall that can serve the community for the next 50 years. On behalf of our team, let me express our appreciation for your consideration in delivering the first vital step of completing a City Hall Feasibility Study to help guide your decision-making and communication to your colleagues and the public.

I can assure you that we heard you loud and clear when you shared that your biggest concern is that consultants often don't listen and seem to impose their views on clients as opposed to helping realize a vision that is clearly already well thought out. We empathize and take care to partner and collaborate WITH you. Our duty of care is to provide sound information and practical recommendations based on what you want to inform and express your vision. We think you will be very pleased with how we conduct our work alongside of you. We look forward to working together with you.

Based upon our understanding of the project, the attached Exhibit A provides a detailed outline of our proposed Scope of Work and Fees. We look forward to further conversations during the project kick-off meeting to confirm key project tasks, associated milestones, and schedule for progress updates, etc.

The attached proposal of work includes the following:

1. Detailed engagement with Town Administrator and Mayor to verify, comprehend, and articulate their vision for the City Hall program and relationships of operations to each other.
2. Facility review of the existing City Hall to observe operational patterns, space adjacencies and capacities, potential improvements to processes sought by the Village, and understand anticipated staff growth as well as desired public interface (e.g. utility bill payments, service clerks, mail service, etc).
3. Regulatory and code engagement to assess impacts on design and construction delivery specific to the area.

Conroe:
310 Longmire Road
Conroe, Texas 77304

Bryan:
105 N. Main, Ste. 123
Bryan, Texas 77803

www.burditt.com

Conroe 936.756.3041
Bryan 979.977.5846
Fax 936.539.3240

4. Collaboration with developer (site donation and potential construction of new City Hall) to discuss general challenges and opportunities related to the site and general building style, high level material directions, relevant subjects.
5. Site analysis of topography, accessibility, preliminary traffic-impact review, drainage, existing landscape features/vegetation, and suitability for intended use.
6. Programming and concept scenarios of potential site development and related proposed improvements.
7. Conceptual design services including development of a final Master Plan of the site and associated development, including rendered illustrations of the proposed Pre-Schematic improvements.
8. Development of Opinion of Probable Cost (OPC) of proposed site improvements.
9. Submission of Final Report of Feasibility Study, including final Master Plan and Pre- Schematic designs of proposed improvements, related OPC, impact factors, and other supporting documentation to Town Administrator, Mayor, and City Council.

We are prepared to begin upon approval and execution of a mutually approved Professional Services Agreement (PSA) using Lakewood Village preferred format or via a signature to this proposal for which terms are attached in Exhibit B should you choose to utilize this format.

Thank you for the confidence placed in our firm to execute this important project. As discussed, we view this process as a collaboration we journey through together via authentic listening and fulfillment of your vision. We believe this will go a long way to successfully completing the feasibility study in a way that articulates your vision with a clear path to confidently move forward with development.

Project completion will be on or before April 1, 2023. We will attend any designated meetings for Council's approval to be available to address questions or comments. Please keep us posted as to the projected date for approval of the proposal of services. We look forward to discussing any questions you have or for comments regarding revisions you see appropriate.

Sincerely,



J. Shane Howard
Sr. Vice President

Attachment: Exhibit A – Scope of Services
 Exhibit B – Terms and Conditions
 Exhibit C – 2022 Burditt Hourly Rates

APPROVED: Lakewood Village

By: _____

DATE: _____

Statement of Jurisdiction:

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding a registrant's professional practices. The Board may be contacted at:

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
P. O. BOX 12337 – AUSTIN, TX 78711-2337

Exhibit A Scope of Work

PROJECT UNDERSTANDING

The project understanding is summarized below. The associated Scope of Work was communicated during initial discussions with Town Administrator and Mayor with Burditt.

The overall Project requirements and associated Feasibility Study is a detailed and iterative process; therefore, the following is not intended to be exhaustive. It does serve to establish a basis of agreement of certain project parameters and understandings which are to be included in the Project Scope of Work.

- Lakewood Village (referenced herein as “Village”) owns 1.567 acres of dedicated land at the corner of El Dorado Parkway and Lakewood Village Drive contributed by 1st Texas Homes, Inc for the purposes of constructing a new City Hall.
- The Village intends the developer to be the construction contractor for the new City Hall.
- The above mentioned site has been identified as the subject property for the purpose of this Feasibility Study.
- The Lakewood Village logo is to be contemplated within design concepts for the new City Hall.
- Lakewood Village describes their vision for the new City Hall as a “classy,” beautiful facility consistent with the aesthetic value of the high market value homes in the community; it is to be a showcase.
- The new City Hall should have the feel of a Texas county courthouse with “iconic,” prominent features.
- The City Hall will include, at a minimum, the following amenities and details:
 - Clock Tower (if possible)
 - Ground floor will include an indoor area for community mailboxes
 - Space for potential UPS Store-type tenant to provide mail and packaging services to residents
 - Council Chambers that can also be used for municipal court
 - Staff offices to be located on 2nd floor
 - Mayor
 - Town Administrator
 - Secretary
 - Building Inspector bullpen and meeting room(s)
 - Records Storage Room
 - Executive Conference Room
 - Utility Staff and Payment Window
 - Community gathering space on 3rd floor with views to lake and surrounding community
- The Mayor and Town Administrator shall serve as the primary project team for Lakewood Village.
- No public input or stakeholder engagement is required for the Feasibility Study beyond direct discussions with Mayor/Town Administrator and cursory collaboration meetings with 1st Texas Homes.
- A Final Feasibility Report will be delivered no later than April 1, 2023.

SCOPE OF WORK

I. PROGRAMMING PHASE: SITE ASSESSMENT, STAFF & SELECTED USER INTERVIEWS, MARKET ANALYSIS, FACILITY REVIEW, & PROGRAM DEVELOPMENT

1. Conduct initial Project Kickoff Meeting with Village project team. During this meeting, a recommended Project Schedule will be presented for consideration. Tasks will be addressed, and goals and objectives reaffirmed.
2. During initial meetings with Village, we will confirm program intentions and preliminary program needs, improvements and limits of work, team member roles.
3. Review applicable documents as supplied by Village.
4. Initiate a preliminary review relevant regulatory and current Village code requirements.
5. Conduct a review existing City Hall operations and customer/staff flows.
6. Conduct a site assessment of the subject property, including, researching preliminary site attributes, such as topography, accessibility, preliminary traffic- impact review, drainage, existing landscape features/vegetation, and suitability for intended use.
7. Initiate engagement with 1st Texas Homes.
8. Develop initial Program Statement detailing Facts, Goals, Concepts, & Needs for the Project as summarized from information and program goals as articulated by Village project team.
9. Present a draft of the Program Statement along with supporting data Village for review and comment.
10. Upon approval, finalize the Program Statement prior to proceeding with the Concept Development Phase. The approved Program Statement will affirm the Project's Facts, Goals, Concepts, & Needs to be utilized during the concept development and pre-schematic phases.

II. CONCEPT DEVELOPMENT PHASE: DEVELOPMENT CONCEPTS OF SITE AND ASSOCIATED IMPROVEMENTS, FINAL MASTER PLAN, & INITIAL OPC

1. Confirm design intentions and preliminary program needs, improvements and limits of work.
2. Initiate space planning and prioritize adjacencies per program needs as identified during Phase I. Conceptual facility plan(s) will be developed in association with the design concepts of the proposed Master Plan(s).
3. Provide multiple precedents of similar City Hall structures and design concepts to Village project team for feedback and input related Provide up to two (2) design concepts of a Master Plan. The Master Plan is an overall vision of the layout and potential development of the subject property as related to the proposed planned improvements.
4. Prepare first Opinion of Probable Costs (OPC) of design concept(s) of the Master Plan and associated improvements.
5. Meet with Village project team to review and revise concept(s) of the Master Plan and OPC.

6. Upon Village direction, present to any Key Stakeholders and Elected officials concept(s) of the Master Plan and selected rendered illustrations of associated proposed improvements.
7. Based on the Master Plan(s) review comments, Village will advise Design Team on which concept to be selected as the Final Master Plan for the Feasibility Report.
8. Prepare a Final Master Plan of proposed improvement concepts with an updated OPC. Typically, two (2) meetings with Staff should be sufficient to refine proposed development of the Final Master Plan.
9. Present the Final Master Plan and OPC to Village for review and confirmation. Upon approval from Staff and Steering Committee, the Design team will commence with the Pre-Schematic Design Phase & Feasibility Report.

III. PRE-SCHEMATIC DESIGN PHASE & FEASIBILITY REPORT: PRE-SCHEMATIC DESIGN OF FACILITIES, SITE STRUCTURES, LANDSCAPING, REVIEW OF PRELIMINARY ENGINEERING CONSIDERATIONS, & UPDATED OPC

1. Refine conceptual facility plans to finalize a pre-schematic floor plan of the proposed City Hall.
2. Develop pre-schematic exterior and selected interior views of the proposed City Hall.
3. Develop pre-schematic designs of site improvements, including landscaping, hardscape, etc.
4. Develop preliminary rendered illustrations of selected exterior and interior views of the proposed City Hall and associated site improvements.
5. Update OPC in association with Pre-Schematic Design of facilities, site structures, landscaping, and other improvements.
6. Meet with Staff and Steering Committee for review and comment of Pre-Schematic Designs, rendered illustrations, and updated OPC.
7. Upon Village project team direction, present to Key Stakeholders and Elected officials selected rendered illustrations of Pre-Schematic Designs.
8. Revise Pre-Schematic designs as reasonably required by Village.
9. Prepare Draft Feasibility Report for review and comment.
10. Revise Draft Feasibility Report per Village comments.
11. Prepare presentation of Feasibility Report to Council and others as directed.
12. Upon approval of Draft Feasibility Report by Village, prepare Final Feasibility Report as project deliverable.
13. At the conclusion of this phase, submit four (4) bound copies of Final Feasibility Report along with reproducible electronic copies to Village.

IV. BASIC SERVICES FEE PROPOSAL:

Based on the proposed 'Exhibit B' Scope of Work and general program currently understood, we propose the following lump sum fees:

- A. FEASIBILITY STUDY SERVICES FEE **\$65,000**
 - a. Services include the following:
 - i. Facility Review Existing City Hall
 - ii. Site Assessment
 - iii. Programming, Conceptual Design, & Master Planning
 - iv. Pre-Schematic Design Services
 - v. Development of Opinion of Probable Cost (OPC)
 - vi. Final Report of Feasibility Study, including Final Master Plan and Pre- Schematic designs of proposed improvements, related OPC, Market Analysis, and other supporting documentation.

This fee is inclusive of expenses required to deliver BASIC SERVICES outlined in this scope.

- B. DELIVERABLES
 - a. Four (4) hard-bound copies; 11x14 format
 - b. An electronic copy (PDF) of the Final Feasibility Report will provided.

C. FEE SCHEDULE		
a. Phase I: Programming.....	33% of Fee	\$21,450
b. Phase II: Concept Development.....	33% of Fee	\$21,450
c. Phase II: Pre-Schematic & Feasibility Report	34% of Fee	<u>\$22,100</u>
d. Total Basic Fee Schedule		\$65,000

PROFESSIONAL FEES:

The project will be invoiced monthly on a percentage complete of the fixed fee, lump sum basis of \$65,000.

If changes to scope or construction budgets are requested by or necessitated and approved by the Village, change orders will be submitted accordingly .

ADDITIONAL OR SUPPLEMENTAL SERVICES FEE:

Any services other than those outlined in the afore referenced Scope of Work shall be charged as Additional Services and at the 2022 Burditt Hourly Rates (Exhibit C).

TO BE PROVIDED BY CLIENT

Client shall provide the following information as available:

1. Any available site plans, relevant documents, utilities or easements.

**EXHIBIT B
TERMS AND CONDITIONS**

ADDITIONAL SERVICES

Additional assignments outside the Basic Scope of Services will be invoiced at a pre-approved Lump Sum amount or at Burditt Consultants, LLC's published 2022 Hourly Rates. Additional assignments include, but are not limited to, any changes due to revisions in the base data relating to this matter, additional design changes following approval by Client, any additional services requested by Client. Additional services will be provided upon prior authorization from Client.

PAYMENT OF FEES

For the scope of services stated herein, Client agrees to pay Consultant the compensation stated in this Agreement. Consultant agrees to submit invoices monthly for services rendered. Invoices shall be forwarded upon completion or, based upon the percentage of completion. Invoices are due and payable, in Conroe, Texas, within 30 days of receipt. Any invoice payment due past 30 days will be subject to interest at the rate of the lesser of (i) one and one-half percent (1 1/2%) per month or (ii) the maximum rate allowed by law.

REIMBURSABLE EXPENSES

There will be no expenses for Basic Services. Necessary project expenses are already calculated into Basic Services Fees; Additional subconsultants beyond those currently required for Basic Service requested and authorized by Client shall be paid at cost plus ten percent (10%) after prior approval.

FORCE MAJEURE

Circumstances or events may occur that are outside the control of either party. Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

STANDARD OF CARE

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care used by members of Consultant's profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

INDEMNIFICATION

To the fullest extent permitted by law, Client and Consultant each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Consultant, they shall be borne by each party in proportion to its negligence.

RISK ALLOCATION

Burditt Consultants, LLC agrees to carry out and perform the services herein agreed to in a professional and competent manner. In recognition of the relative risks, rewards, and benefits of the project both to the Client and Burditt, the risks have been allocated so that the Client agrees that, to the fullest extent permitted by law, Burditt's total liability to the Client, for any and all claims, losses, expenses, damages or claim expenses arising out of this agreement, from any cause or causes, shall not exceed the total amount of Burditt's fee or other amount agreed upon when added under Special Conditions. Such causes include, but are not limited to, Burditt's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

OWNERSHIP OF DOCUMENTS

All study documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant's professional service, and Consultant shall retain an ownership and property interest therein.

USE OF ELECTRONIC MEDIA

Copies of documents that may be relied upon by Client, if pertaining to construction use, are limited to the printed copies (also known as hard copies) that are signed or sealed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by Consultant to Client are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, Consultant makes no representations to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

HAZARDOUS ENVIRONMENTAL CONDITIONS

It is acknowledged by both parties that Consultant's scope of services does not include any services related to the presence at the site of asbestos, PCBs, petroleum, hazardous waste or radioactive materials. Client acknowledges that Consultant is performing professional services for Client and Consultant is not and shall not be required to become an "arranger," "operator," "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA).

OPINIONS OF COST

When included in Consultant's scope of service, opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent Consultant's judgment as a professional generally familiar with the industry. However, since Consultant has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Consultant's opinions or estimates of probable construction cost.

TERMINATION OF CONTRACT

Client may terminate this Agreement with seven (7) days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven (7) days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Consultant has been paid in full all amounts due for services, expenses and other related charges.

TDLR DOCUMENTATION:

Pursuant to Texas Accessibility Standards (TAS) and ADA Requirements, Client is responsible for any fees associated with the review, filing and recording of the Construction Documents. If an Elimination of Architectural Barriers (EAB) project number is available, Client shall provide Burditt with the number prior to finalization of the Construction Documents. Pursuant to the requirements of the law, Burditt will file the plans for review.

EXHIBIT C
2022 Hourly Rates

HOURLY RATES APPLY ONLY TO ADDITIONAL SERVICES OR FOR REQUESTS MADE OUTSIDE OF BASIC SERVICES. Hourly Basis Rates for Professional Services not covered under Basic Services and requested by Owner shall be at the following rates:

CLASSIFICATION	HOURLY RATE
Principal	\$225
Program Manager	\$200
Project Manager	\$175
Project Architect/Landscape Architect	\$160
Senior Planner	\$160
Senior Urban Forester	\$160
Wetland Scientist	\$150
Natural Resource Planner/Forester	\$150
Planning Associate	\$150
Licensed Irrigator	\$150
Geographic Information Systems (GIS) Planner	\$135
Architecture/Landscape Architecture Associate	\$115
CAD Designer II	\$ 90
CAD Designer I	\$ 80
Administrative Assistant II	\$ 70
Administrative Assistant I	\$ 55

Invoices are prepared monthly with payments due 30 days upon receipt. Interest at the rate of 1 ½ % per month will be charged on all accounts not paid by the 30th day following the billing date. Sub-consultants not currently required by project and approved by Client shall be invoiced at cost plus ten percent (10%).

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MEMORANDUM

TO: Town Council
FROM: Dr. Mark E. Vargus, Mayor
DATE: January 20, 2023
RE: 2023 Budget Amendment

Several events have occurred since we adopted our budget in July 2022. The overall effect of the changes is that we will have a greater surplus than anticipated. The specific amendments are highlighted in the attached spreadsheets; specifically:

General Fund Revenues

Property Taxes **increased** to \$ 403,750
Debt Servicing **increased** to \$ 323,000
Infrastructure Inspections **increased** to \$272,845
Interest Revenue **increased** to \$ 80,000
MDD Reimbursements **decreased** to zero.

General Fund Expenditures

Accounting Fees increased to \$23,000
Insurance increased to \$16,000
Contract Labor increased to \$2,000
Fire/EMS increased to \$56,000
Infrastructure Inspections increased by \$229,900

Debt Servicing

2014 CO Bonds Principal payment of \$178,000 DELETED.
2014 CO Bonds Interest payment of \$5,433 DELETED
General Fund transfer of \$93,300 ELIMINATED

Utility Fund Revenues

Interest Revenue **increased** to \$ 16,000

Utility Fund Expenditures

Laboratory Sewer **decreased** to \$8,000
Laboratory Water **decreased** to \$2,000

I look forward to your comments. Thank You.

TOWN OF LAKEWOOD VILLAGE

BUDGET AMENDMENT ORDINANCE NO. 23-XX

AN ORDINANCE OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS AMENDING THE BUDGET FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2022 AND TERMINATING ON SEPTEMBER 30, 2023, AND MAKING APPROPRIATIONS FOR EACH DEPARTMENT PROJECT AND ACCOUNT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Town of Lakewood Village, Texas Fiscal Year 2022-2023 Budget was adopted within the time and in the manner required by State Law; and

WHEREAS, the Town of Lakewood Village, Texas has reviewed the Budget; and

WHEREAS, the Town Council of the Town of Lakewood Village, Texas has reviewed each line item in each department and considered the status of the Capital Improvement Projects for the rest of the fiscal year; and

WHEREAS, the Town Council of the Town of Lakewood Village, Texas hereby finds and determines that it is prudent to amend the line items due to unforeseen situations that have occurred in the Town; and

WHEREAS, the Town Council of the Town of Lakewood Village, Texas further finds that these amendments will serve in the public interest; and

WHEREAS, the Town Council of the Town of Lakewood Village, Texas finds and determines that the change in the Budget for the stated municipal purpose is warranted and necessary, and that the amendment of the Budget to fund these line items is an emergency and a matter of public necessity warranting action at this time;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS:

Section 1. Findings

The facts and matters set out above are found to be true and correct.

Section 2. Purpose

The Town of Lakewood Village, Texas, Fiscal Year 2022-2023 Budget is hereby amended to fund the line items as stated in Exhibit "A", and by decreasing line items as set forth in Exhibit "A". This Amendment to the original budget of the Town of Lakewood Village, Texas, for the Fiscal Year 2022-2023 shall be attached to and made part of the original budget by the Town Secretary and shall be filed in accordance with State Law. Attached

to and made a part of this Ordinance is Exhibit “A”, reflecting the budgetary funding for this amendment.

Section 3. Savings/Repealing Clause

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 4. Severability

It is hereby declared to be the intention of the Town Council that if any of the sections, paragraphs, sentences, clauses, and phrases of the Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the Town Council without the incorporation of this Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections..

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas this the 27th day of January, 2023

Dr. Mark E. Vargus
MAYOR

ATTESTED:

Linda Ruth, TRMC, CMC
Town Administrator/Town Secretary



Exhibit A

<i>General Fund</i>							
		2023	2023	2022	2022	2021	2021
REVENUES		Budget Amend	Budget	Budget	YTD 7/14	Budget	Actual
Property Taxes		\$403,750	\$393,000	\$312,500	\$321,152	\$275,000	\$277,899
Franchise Fees		\$40,000	\$40,000	\$38,000	\$37,627	\$37,000	\$39,498
Sales Taxes		\$100,000	\$100,000	\$80,000	\$77,856	\$40,000	\$63,028
Fines & Forfeitures		\$3,000	\$3,000	\$3,000	\$2,154	\$3,000	\$4,711
Licenses & Permits		\$322,485	\$50,000	\$59,700	\$82,036	\$39,000	\$92,728
Fees & Service Charges		\$2,000	\$2,000	\$2,000	\$2,075	\$2,000	\$3,310
Miscellaneous		\$3,000	\$3,000	\$40,000	\$39,916	\$3,000	\$990
CRF Grant		\$0	\$0	\$0	\$0	\$20,270	\$20,270
TOTAL		\$874,235	\$591,000	\$535,200	\$562,816	\$419,270	\$502,434
EXPENDITURES		2023	2023	2022	2022	2021	2021
		Budget Amend	Budget	Budget	YTD 7/14	Budget	Actual
General Government		\$196,000	\$185,000	\$207,850	\$147,274	\$167,000	\$186,027
Public Safety		\$56,000	\$50,000	\$46,000	\$41,920	\$30,000	\$31,500
Public Works		\$252,900	\$23,000	\$38,000	\$23,319	\$24,000	\$39,976
TOTAL		\$504,900	\$258,000	\$291,850	\$212,513	\$221,000	\$257,503
OPERATING SURPLUS		\$369,335	\$333,000	\$243,350	\$350,303	\$198,270	\$244,931
NON OPERATING		2023	2023	2022	2022	2021	2021
		Budget Amend	Budget	Budget	YTD 7/14	Budget	Actual
Interest Revenue		\$80,000	\$20,000	\$2,500	\$2,355	\$6,000	\$5,136
Capital Outlay Expenditure		\$0	\$0		\$31,093	(\$375,000)	
Asset Sale							
Developer Agreement							
Reimbursements					\$8,925		
SURPLUS / DEFICIT		\$80,000	\$20,000	\$2,500	(\$19,813)	(\$369,000)	\$5,136
TRANSFERS							
In: Admin Fee		\$60,000	\$60,000	\$60,000	\$60,000	\$54,400	\$56,400
Out: Debt Servicing from M&O		\$0	(\$93,300)	(\$156,050)	(\$135,000)	(\$176,858)	(\$172,200)
In: UF Debt Servicing		\$93,700	\$0				
TOTAL TRANSFERS		\$153,700	(\$33,300)	(\$96,050)	(\$75,000)	(\$122,458)	(\$115,800)
NET CASH FLOW		\$603,035	\$319,700	\$149,800	\$255,490	(\$293,188)	\$134,267
DEBT SERVICING FUND							
I&S Property Taxes		\$323,000	\$314,000	\$250,000	\$256,893	\$220,000	\$222,604
General Fund Transfer		\$0	\$93,300	\$156,050	\$135,000	\$176,858	\$172,200
MDD Interest Payment		\$0	\$5,433	\$8,925	\$8,925	\$12,318	\$12,318
CO 2014 Debt Service (Interest)		\$0	(\$5,433)	(\$8,925)	(\$5,323)	(\$12,318)	(\$12,318)
CO 2014 Debt Service (Principle)		\$0	(\$178,000)	(\$173,000)	(\$173,000)	(\$168,000)	(\$168,000)
CO 2020 Debt Service (Interest)		(\$154,300)	(\$154,300)	(\$158,050)	(\$79,963)	(\$213,858)	(\$213,858)
CO 2020 Debt Service (Principle)		(\$75,000)	(\$75,000)	(\$75,000)	(\$75,000)	(\$15,000)	(\$15,000)
CO 2022 Debt Service (Interest)		(\$93,700)	\$0				
CO 2022 Debt Service (Principle)							
TOTAL		\$0	\$0	\$0	\$67,532	\$0	(\$2,054)
					(\$81,689)		

Utility Fund

		2023	2023	2022	2022	2021	2021
REVENUES		Budget Amend	Budget	Budget	YTD 7/14	Budget	Actual
Water		\$230,000	\$230,000	\$210,000	\$266,426	\$185,000	\$184,691
Sewer		\$145,000	\$145,000	\$135,000	\$131,448	\$116,000	\$127,509
Sanitation		\$75,000	\$75,000	\$67,500	\$70,293	\$67,000	\$66,041
Fees and Services		\$19,760	\$19,760	\$19,760	\$22,692	\$16,960	\$29,259
Other Income		\$0	\$0	\$121,000	\$123,252	\$1,040	\$123,871
	TOTAL	\$469,760	\$469,760	\$553,260	\$614,111	\$386,000	\$531,371
EXPENDITURES		2023	2023	2022	2022	2021	2021
		Budget Amend	Budget	Budget	YTD 7/14	Budget	Actual
Contract Services		\$48,000	\$48,000	\$75,000	\$67,338	\$40,800	\$65,688
Administrative		\$91,000	\$115,000	\$74,700	\$81,296	\$69,200	\$78,767
Repairs and Maintenance		\$35,000	\$35,000	\$77,580	\$88,530	\$31,000	\$65,296
Miscellaneous		\$2,000	\$2,000	\$2,000	\$2,458	\$2,000	\$3,006
Garbage Collections		\$63,000	\$63,000	\$55,000	\$45,510	\$55,000	\$60,716
	TOTAL	\$239,000	\$263,000	\$284,280	\$285,132	\$198,000	\$273,473
OPERATING SURPLUS		\$230,760	\$206,760	\$268,980	\$328,979	\$188,000	\$257,898
NON OPERATING		2023	2023	2022	2022	2021	2021
		Budget Amend	Budget	Budget	YTD 7/14	Budget	YTD 6/30
Interest Revenue		\$16,000	\$5,000	\$2,000	\$36,595	\$2,000	\$2,368
Capital Outlay Expenditure		\$0	\$0	\$53,000	\$114,239	\$97,000	\$120,812
	SURPLUS / DEFICIT	\$16,000	\$5,000	(\$51,000)	(\$77,644)	(\$95,000)	(\$118,444)
TRANSFERS							
Out: GF I&S		(\$93,700)					
Out: Admin Fee		(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)
	TOTAL TRANSFERS	(\$143,700)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)
I&S From GF		\$93,700					
Debt Servicing (Principle)		(\$25,000)	(\$25,000)				
Debt Servicing (Interest)		(\$174,113)	(\$174,113)				
	DEBT SERVICE	(\$105,413)	(\$199,113)				
NET CASH FLOW		(\$2,353)	(\$37,353)	\$167,980	\$201,335	\$43,000	\$89,454

Long Range Debt Servicing Plan - Elimination of Debt

	This Year FYE 9/30/23	FYE 9/30/24	FYE 9/30/25	FYE 9/30/26	FYE 9/30/27
Operating Surplus	\$369,000	\$369,000	\$450,000	\$500,000	\$600,000
Interest	\$80,000	\$90,000	\$100,000	\$110,000	\$110,000
Admin Fee from UF / RP/ LR	\$60,000	\$60,000	\$80,000	\$100,000	\$100,000
Debt Servicing from Utility Fund	\$94,000	\$114,000	\$13,000	\$35,000	--
Total Cash Flow	\$603,000	\$633,000	\$643,000	\$745,000	\$810,000
Starting Cash Reserves	\$1,520,000	\$2,123,000	\$2,756,000	\$3,399,000	\$4,144,000
Ending Cash Reserves	\$2,123,000	\$2,756,000	\$3,399,000	\$4,144,000	\$4,954,000
		Tax Rate = \$0.45 +5% M&O (161M to 169M) 2020 CO 226K; I&S 340K No New Development Houses	Tax Rate = \$0.45 +5% M&O (169M to 177M) 2020 CO 344K; I&S 357K TM Houses 80 Complete	Tax Rate = \$0.46 +5% M&O (177M to 186M) 2020 CO 340K; I&S 375K TM Houses 100 Complete	Tax Rate = \$0.25 +5% M&O (186M to 195M) NO D/S TM Houses 80 Complete

**01-Jan-27
Loan Payoff
\$3,971,175**