FIRST AMENDED AND RESTATED

DEVELOPMENT AGREEMENT BETWEEN

CITY OF NEW BRAUNFELS AND

SOUTHSTAR AT MAYFAIR, LP

FOR MAYFAIR DEVELOPMENT

Full Execution Date:
_____, 2024

STATE OF TEXAS	§	FIRST AMENDED AND RESTATED
	§	DEVELOPMENT AGREEMENT
	§	BETWEEN
COUNTY OF COMAL	§	CITY OF NEW BRAUNFELS
	§	AND SOUTHSTAR AT MAYFAIR,
	§	LP
CITY OF NEW BRAUNFELS	§	FOR MIXED USE DEVELOPMENT

THIS FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT, (this "Agreement") effective as of the Effective Date, is entered into by and between The City of New Braunfels, a Texas Home Rule Municipal Corporation (the "City"), and Southstar at Mayfair, LLC, a Texas limited liability company (the "Owner"), pursuant to the authority granted to the City by its powers as a home rule municipal corporation and the general laws of the State of Texas including § 212.172 of the Texas Local Government Code.

RECITALS

A. Capitalized terms in these recitals have the meaning set forth in Section 2 of this Agreement.

B. The Owner is a party to certain agreements that give the Owner options to purchase the Property, which is located in the ETJ and wholly within the boundaries of the District;

C. By Consent Resolution entitled "Resolution of City of New Braunfels, Texas Consenting to the Creation of Comal County Water Improvement District No. 3, which is in the Extraterritorial Jurisdiction of the City," the City consented to the creation of the District and the inclusion of the Property within the District;

D. Pursuant to Chapters 212 and 232 of the Texas Local Government Code, the City and Comal County, Texas are parties to that certain Interlocal Cooperation Agreement Between Comal County and City of New Braunfels For Subdivision Regulation Within the Extraterritorial Jurisdiction of the City of New Braunfels, dated January 18, 2008, whereby the County assigned and delegated to the City the County's authority to approve subdivision plats and issue related permits for property within the ETJ pursuant to the terms and conditions therein;

E. The City has established the Comprehensive Plan to guide the City in future growth and development, and the City and the Owner have determined that it is in the best interest of the City and the Owner for the Property to be developed in accordance with this Agreement;

F. This Agreement is entered into pursuant to Chapter 380 of the Texas Local Government Code to promote state or local economic development and to stimulate business and commercial activity in accordance with § 380.001, and this Agreement is further authorized by § 212.172 of the Texas Local Government Code and § 118-4 of the Code of Ordinances, which allow the City to enter agreements affecting land in the ETJ;

G. The City and Owner desire to enter into this Agreement establishing a structure for development of the Property, as well as the regulations that will govern such development;

including but not limited to provision of emergency services; provision of solid waste collection; traffic and roadway impacts; debt to be issued by the District, plan for division of the District; fire flow; prohibition against certain retail utilities; an agreement to comply with the City's building codes and ordinances, public health and safety codes and ordinances, and environmental regulation codes and ordinances; and an agreement to comply with the City's land use regulations as described hereunder;

H. The Landowner has executed this Agreement to evidence its consent to have the Property developed in accordance with this Agreement;

I. Pursuant to Section 8489.109 of the Creation Statute, upon the Full Execution Date, the ETJ of the City may be extended in accordance with Section 42.021(2) of the Texas Local Government Code; and

J. The City Council approved the initial Development Agreement on February 9, 2022 and approved this First Amended and Restated Agreement on _____ ___, 2024.

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the City and the Owner hereby agree as follows:

1. **FINDINGS AND RECITALS**. The facts and recitations contained in the preamble of this Agreement are hereby found and declared to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim. The City Council hereby finds that this Agreement is consistent with the policies and objectives of the City's Comprehensive Plan.

2. **DEFINITIONS**. For the purposes of this Agreement, all capitalized terms used herein but not otherwise defined herein shall have the respective meanings ascribed in this Section 2. All terms used herein, whether used in singular or plural form, shall be deemed to refer to the object of such term whether such is singular or plural in nature, as the context may suggest or require.

2.1. Agreement – This Development Agreement, including any and all exhibits attached to this Agreement, which are incorporated by reference and expressly made part of this Agreement as if copied verbatim.

2.2. Alternative Development Standard(s) – A standard above the Minimum Development Standard that is based upon design principles or objectives that cannot be fully measured until an Application is submitted. An Applicant may elect to submit an Application using Alternative Development Standards, provided that if the Planning Director does not recommend approval of any Alternative Development Standard (if the Planning Director is designated to provide Approval) or the City Council does not approve the Alternative Development Standard (if the City Council is designated to provide Approval), the Applicant may revert to the Minimum Development Standard and the Application will then be measured solely on the grounds of whether it satisfies the applicable Minimum Development Standard.

2.3. Applicant – An individual or entity that (a) applies for approval of a Major or Minor Amendment to the Master Framework Plan, Sector Plan, Sector Plan TIA, Major or Minor Amendment to a Sector Plan, Preliminary Plat, Final Plat, Final Plat TIA, Building Permit or any other City approval or permit applicable to the Project, or (b) is the Owner, as applicable.

2.4. Applicant's Notice of Amendment – The notice described in Section 4.1.2(C)(2).

2.5. Application – An application for a Major or Minor Amendment to the Master Framework Plan, Sector Plan, Major or Minor Amendment to Approved Sector Plan, Preliminary Plat (if any), Final Plat, Building Permit, and/or any other City application applicable to the Project.

2.6. Approval – An Approved Sector Plan, an Approved Sector Plan TIA, an Approved Preliminary Plat, an Approved Final Plat, an Approved Final Plat TIA, an Approved Building Permit, and/or any other City approval or permit applicable to the Project.

2.7. Approved Building Permit – A Building Permit within the Project, or required by the City in connection with the Project, that has been approved in accordance with Section 4.2 below and the City Code of Ordinances at the time the Final Plat is submitted.

2.8. Approved Final Plat – A Final Plat within the Project that has been approved in accordance with Section 4.1.4 below and the City Code of Ordinances at the time the Final Plat is submitted.

2.9. Approved TIA – TIA within the Project that has been approved by the City Engineer.

2.10. Approved Preliminary Plat – A Preliminary Plat within the Project that has been approved in accordance with Section 4.1.3 below and the City Code of Ordinances at the time the Preliminary Plat is submitted.

2.11. Approved Sector Plan – A Sector Plan within the Project that has been approved by the Planning Director in accordance with Section 4.1.2.

2.12. Approved Sector Plan TIA – A Sector Plan TIA within the Project that has been approved in accordance with Section 6.2 by the City Engineer.

2.13. BMP – a Best Management Practice: a schedule of activities, prohibitions, practices, maintenance procedures, and other management practices to prevent or reduce the pollution of water in the state or other BMPs that may be allowed from time to time by the TCEQ or in amendments to Texas Administrative Code Volume 30, TCEQ Chapter 213 or the TCEQ technical guidance. BMPs are those measures that are reasonable and necessary to protect groundwater and surface water quality, as provided in technical guidance prepared by the

executive director of the TCEQ or other BMPs described or allowed in the Development Standards.

2.14. Building Code – the set of International Building Codes most recently adopted by the City and currently referenced in Chapter 14 of the City Code of Ordinances, as such codes may change from time to time.

2.15. Building Official – The Building Official or Chief Building Official or his/her designee of the City.

2.16. Building Permit – A Building Permit application submitted in accordance with Section 4.2 and the City Code of Ordinances as it exists on the date of the application.

2.17. Build-Out – The permanent completion of all sales and development activities relating to the Project by the Owner.

2.18. CC&Rs - Covenants, Conditions and Restrictions or other deed restrictions imposed on any portion of the Property and recorded in the real property records of Comal County by the Owner and establishing one or more Homeowners Associations.

2.19. Charter – The City Charter of the City.

2.20. City – The City of New Braunfels, a Texas Home Rule Municipal Corporation, located in Comal and Guadalupe Counties, Texas.

2.21. City Council – The elective body of the City, as such term is defined in Section 1.02 of the Charter.

2.22. City Engineer – The designated City Engineer for the City.

2.23. City Sector Plan Determinations – Determinations made by the Planning Director as to whether the Sector Plan meets the Conforming Standards.

2.24. City Code of Ordinances – The City of New Braunfels Code of Ordinances, as may be amended from time to time; and, with regard to Applications, as in effect at the time of each Application.

2.25. Comprehensive Plan – The Comprehensive Plan adopted by the City Council, as amended from time to time.

2.26. Conforming Standards – The collective requirement that a Sector Plan conforms to the Master Framework Plan, (ii) identifies any Alternative Development Standards, and (iii) is consistent with all terms of Agreement.

2.27. Creation Statute – Chapter 8489, Texas Special District Local Laws.

2.28. Cure Period – A period of thirty (30) days after written notice to a party from the other party of the failure to perform or otherwise act in accordance with any term or provision of this Agreement; provided, however, that if the failure or delay is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then such party shall have an additional period of time up to one hundred twenty (120) days so long as such party commences performance or compliance within said thirty (30)-day period and diligently proceeds to complete such performance or fulfill such obligation within the additional one hundred twenty (120) day period.

2.29. Development Standards – The development standards applicable to the Property attached to this Agreement as **Exhibit D**, and any amendments or addendum to such **Exhibit D** that may be approved by the City Council pursuant to the terms of Section 4, provided that for purposes of any Approvals under an Approved Sector Plan, the term "Development Standards" shall be deemed to include any Alternative Development Standards approved by the City Council as part of an Approved Sector Plan.

2.30. District – The Comal County Water Improvement District Number 3, created by Chapter 8489, Texas Special Districts and Local Laws.

2.31. Effective Date – The date on which this Agreement is recorded in the real property records of Comal County, Texas pursuant to the terms of Section 24.14.

2.32. End Users – An entity or individual that purchases a subdivided lot reflected on an Approved Final Plat.

2.33. ESD – Emergency Services District.

2.34. ETJ –The extraterritorial jurisdiction of the City, as determined by Chapter 42 of the Texas Local Government Code.

2.35. Event of Default – The failure of either party to comply with the terms of this Agreement after the expiration of the Cure Period.

2.36. External Access Point – A ROW connection at the boundary of the Project intended to facilitate vehicular access to the thoroughfare network external to the Project.

2.37. Fees – The list of fees contemplated in Section 15, as they may be adjusted by the City from time to time.

2.38. Final Plat – A Final Plat application submitted in accordance with Section 4.14 below and the City Code of Ordinances as it exists on the date of the application.

2.39. Homeowners Association – An incorporated or unincorporated association, whether one or more, owned by or whose members consist primarily of the owners of the residential or commercial property covered by the dedicatory

instrument and through which the owners, or the board of directors or similar governing body, manage or regulate the residential or commercial subdivision or similar planned development. This definition includes any Property Owner's Association.

2.40. Initial Term – The period beginning on the Effective Date of the Initial Development Agreement and continuing until the fifteenth (15^{th}) annual anniversary of that Effective Date.

2.41. Issuing District - The District whose board of directors approves the issuance or sale of bonds by such District.

2.42. LUE – A Living Unit Equivalent, being the standardized unit of measure for water and wastewater services as defined in Section 130-336 of Code of Ordinances.

2.43. Major Amendment to an Approved Sector Plan – A proposed change to an Approved Sector Plan that is not a Minor Amendment to an Approved Sector Plan.

2.44. Major Amendment to the Master Framework Plan – A proposed change to the Master Framework Plan that is not a Minor Amendment to the Master Framework Plan.

2.45. Master Framework Plan – The Master Framework Plan described in the Development Standards and in Section 4.1.1, attached as **Exhibit E**, as amended from time to time in accordance with the terms of Section 4.3.

2.46. Minimum Development Standards – The minimum standards an Application is required to achieve in order to be approved by the City, as set forth in the Development Standards.

2.47. Minor Amendment to an Approved Sector Plan – A proposed change to an Approved Sector Plan is considered minor if it meets all of the following criteria, as determined by the Planning Director:

2.47.1. Criteria 1: Master Framework Plan. The change does not require a Major Amendment to the Master Framework Plan and is consistent with this Agreement;

2.47.2. Criteria 2: Land Area. The land/boundary area of the Approved Sector Plan does not change (grow or decrease) by more than ten percent (10%), excluding the amount of Sector Plan acreage that is added as a Park that is open to the public;

2.47.3. Criteria 3: Residential Density. Dwelling unit density within the Approved Sector Plan does not increase by more than ten percent (10%), except if a change of more than ten percent (10%) is a result of:

(A) ROW dedication or placement (public or private streets);

(B) dedication of land for Parks that are open to the public; or

(C) a Minor Amendment to the Master Framework Plan;

2.47.4. Criteria 4: Non-Residential Density. Density of non-residential land uses in the Approved Sector Plan does not change (increase or decrease) by more than ten percent (10%);

2.47.5. Criteria 5: Realignment of Minor Roadways – The change does not require modifications to the Minor Roadways shown on the Approved Sector Plan in a manner that moves any such street by more than one hundred fifty feet (150') or in a manner that causes the density of any block to increase by more than ten percent (10%);

2.47.6. Criteria 6: Traffic. The AM peak hour site trips, the PM peak hour site trips, or daily trips in the Approved Sector Plan do not increase by more than ten (10%); and

2.47.7. Criteria 7: No Other Substantial Changes. The change does not propose any change to any criteria in the Approved Sector Plan not specifically covered by the terms of Sections 2.47.1-2.47.6 above.

2.48. Minor Amendment to the Master Framework Plan – A proposed change to the Master Framework Plan is considered minor if it meets all of the following criteria, as determined by the Planning Director:

2.48.1. Criteria 1: Land Use. A change in the amount of acreage dedicated to a specific land use by not more than ten percent (10%);

2.48.2. Criteria 2: Residential Density. The proposed change results in a total of 6,000 or fewer dwelling units within the Project;

2.48.3. Criteria 3: External Access Points – If the proposed change requires moving External Access Points, it does so in a manner that meets state and City access management plans (as reflected in Chapters 114 and 118 of the City Code of Ordinances and TxDOT's access management policy, as each may be amended from time to time) and does not cause an amendment to the Regional Transportation Plan (as reflected in the Comprehensive Plan);

2.48.4. Criteria 4: Realignment of Major Roadways. If the proposed change realigns a roadway designated on the Master Framework Plan, it does so within the allowable five hundred foot (500') buffer for such as depicted on the Master Framework Plan;

2.48.5. Criteria 5: Traffic. The proposed change does not result in an increase of more than ten percent (10%) in the total number of peak hour trips or daily trips attributed to the Project under the TIA, using the same methodology for calculating peak hour trips and daily trips as recommended by the then current ITE Manual and utilized in the TIA;

2.48.6. Criteria 6: Total Park Acreage – The proposed change does not result in a reduction of the combined total acreage of all parks that are open to the public to below three hundred (300) acres;

2.48.7. Criteria 7: No Other Substantial Change. The change does not propose any change to any criteria in the Master Framework Plan not specifically covered by the terms of Sections 2.48.1-2.48.6 above.

2.49. Minor Roadway – has the meaning stated in the Development Standards.

2.50. NBU – New Braunfels Utilities.

2.51. Owner – Southstar at Mayfair, LLC, a Texas limited liability company, its successors or assigns.

2.52. Park(s) – a Community Park, Greenbelt/Conservation Parks/Trails, Natural/Conservation Area, Neighborhood Park, Regional Park, Pocket Park, Trail Heads, or a Recreation Center as described below. For further description of each type of Park, please see the Development Standards **Exhibit D** attached hereto.

2.52.1. Community Park – A Park intended to be accessible to multiple neighborhoods and focusing on meeting community-based recreational needs. Community parks are generally larger in scale than Neighborhood Parks or Pocket Parks, but smaller than Regional Parks and are designed typically for residents within a three (3)-mile radius, co-located with a school, where possible. Additional details on Park Classification and Park Design Principles for Community Parks are set forth in the Development Standards.

2.52.2. Greenbelt/Conservation Parks/Trails – Park land that connects people and places, including paved or unpaved trails, and is aligned with the City's Hike and Bike Trail Plan. These Parks typically connect to Natural/Conservation Areas, and other Parks as defined herein. Greenbelt/Conservation Parks/Trails include paved or unpaved trails for walking, biking, running, and equestrian activities. Additional details on Park Classification and Park Design Principles for Greenbelt/Conservation Parks/Trails are set forth in the Development.

2.52.3. Natural/Conservation Area – Park land that consists of floodplain, natural drainage and stormwater runoff capture infrastructure that also provides features for the community. These Parks are typically larger

than twenty (20) acres and serve multiple communities. Natural/Conservation Areas can include natural features such as reestablished forest or grass/prairie lands, ponds, and creekways. Recreational features typically include, pavilions, tables, campsites, trails (paved and unpaved), dog parks, pump tracks or other acceptable features in floodplains. Natural/Conservation Areas may include Natural Areas/Easements.

2.52.4. Neighborhood Park – Serves the recreational and social focus of adjoining neighborhoods and contributes to a distinct neighborhood identity. Neighborhood Parks should be three (3) to ten (10) acres with a service radius of up to one mile. Such Parks may be owned and maintained by one or more Homeowners Associations.

2.52.5. Pocket Park – A small outdoor space, usually less than a quarter (0.25) of an acre up to three (3) acres, most often located in urban areas surrounded by commercial buildings or mixed land uses. The service area for a pocket park is usually less than a quarter of a mile and is intended for uses within close walking distance of the park. Such Parks may be owned and maintained by one or more Homeowners Associations. Additional detail on Park Classification and Park Design Principles for Pocket Parks are set forth the Development Standards.

2.52.6. Regional Park – Serves a large area of several communities, residents within a city or county or across multiple counties. Typical size for a Regional Park is seventy-five (75) to one thousand (1,000) acres. Regional parks focus on activities and natural features not included in most types of parks and often based on specific scenic or recreation opportunity. Service area is three-miles or greater.

2.52.7. Trail Heads – Facilities providing shade, seating, restrooms, trash/recycling receptacles, drinking fountains, and parking as set forth in the Development Standards.

2.52.8. Recreation Center – Private facilities, such as clubhouses, gyms, swimming pools, tennis courts, etc., which are intended to function as private parks under the Development Standards.

2.53. Park Development Fees – Refers to park development fees stated in the City Code of Ordinances.

2.54. Parks and Recreation Department – the Parks and Recreation Department of the City.

2.55. Parks and Recreation Strategic Master Plan – the City's 2017 Parks and Recreation Strategic Master Plan as may be amended or renamed from time to time.

2.56. Parks Director – The Parks Director of the City.

2.57. Parties – Together, the City and the Owner.

2.58. Planning Level TIA – The Planning Level TIA referenced in Section 6 of the Agreement.

2.59. Planning Commission – The Planning Commission of the City, as provided for in Section 10.01 of the Charter.

2.60. Planning and Development Services Department – The Planning and Development Services Department of the City or any successor department.

2.61. Planning Director – The Planning and Development Services Director or his/her designee for the City. The Planning Director may designate any team member at his/her discretion to make determinations as noted in this agreement for purposes of expediency.

2.62. Preliminary Plat – A Preliminary Plat application submitted in accordance with the City Code of Ordinances as it exists on the date of the application**.**

2.63. Private Park – park land that developed as part of the Project, but not generally open to the public, including Pocket Parks and Recreation Centers.

2.64. Project – The master-planned, mixed-use development with commercial and residential uses to be developed by the Owner on the Property as contemplated by this Agreement.

2.65. Property – Approximately 1,888 acres of real property in Comal County, Texas, more particularly described in **Exhibit B**, which is located in the ETJ, and all of which can be included within the District as contemplated herein.

2.66. Public Park – a Neighborhood Park, Community Park, Greenbelts/Conservation Parks/Trails, Natural/Conservation Area, or Regional Park, as provided for in this Agreement.

2.67. Recreation Center – a private recreation facility developed in accordance with this Agreement for use by the Project's residents.

2.68. Renewal Term – The period beginning upon the expiration of the Initial Term and continuing for so long as this Agreement remains in effect under Section 19.

2.69. Regional Transportation Plan – The Regional Transportation Plan as adopted by the City on March 12, 2012, and as amended or renamed from time to time.

2.70. ROW – The right-of-way for roadways, as determined by the City Engineer.

2.71. Section – A numbered or lettered section of this Agreement, as well as all subsections of said Section.

2.72. Sector – The land area subject to a Sector Plan.

2.73. Sector Plan – A Sector Plan application submitted in accordance with the Development Standards and Section 4.1.2 below. The minimum size of a Sector Plan must be at least one hundred (100) acres.

2.74. Sector Plan Completeness Notice – The notice from the Planning Director required by Section 4.1.2 as to the Planning Director's decision as to completeness of a proposed Sector Plan.

2.75. Sector Plan TIA – Any Sector Plan TIA submitted in accordance with Section 6 of the Agreement.

2.76. Strategic Partnership Agreement – The Strategic Partnership Agreement that will be entered into by and between the City and the District in the form attached as **Exhibit G**, as amended from time to time.

2.77. TCEQ – The Texas Commission on Environmental Quality, or any successor agency.

2.78. Term – The period including the Initial Term and the Renewal Term, if any.

2.79. TIA – Any TIA submitted pursuant to Section 6 of the Agreement.

2.80. TIA Worksheet – The TIA Worksheet to be submitted in accordance with Section 6.3 below by the Applicant with each Final Plat and Building Permit detailing the total peak hour trips and daily trips to be generated by the land uses reflected on the Final Plat or Building Permit, and showing the cumulative peak hour trips and daily trips generated to date by all Approved Final Plats and Building Permits from the same Sector Plan and all other Final Plats and Building Permits from the same Sector Plan that have been submitted but have not been finally approved or disapproved by the Planning Director, City Engineer, Planning Commission or the City Council.

2.81. TxDOT – The Texas Department of Transportation, or any successor organization.

2.82. Utility Agreement – The Utility Construction Cost Sharing Agreement required to be entered into by and between NBU, the Owner, and the City (limited joinder for purposes of Section 8489.004(a)(2) of the Creation Statute), as amended from time to time.

3. **THE PROJECT**. The Owner plans to develop the Project and, in conjunction therewith, shall obtain the Approvals for the Project in accordance with this Agreement.

3.1 Land Uses. The designated land uses within the Property may include any or all allowed land uses, provided that any land use requiring a special use permit under the Development Standards must obtain such a permit before establishing such a use.

3.2 Development Standards. The only standards applicable to the Property and governing the approval of Applications for the Property under this Agreement are the Development Standards and the City Code of Ordinances. In the event of a conflict between the City Code of Ordinances and the Development Standards, the Development Standards shall control.

3.3 Maximum Number of Dwelling Units. Subject to the Owner's compliance with this Agreement, the City approves a maximum number of 6,000 residential units on the Property.

3.4 Vesting of Rights. The City and the Owner acknowledge that the Owner has vested authority to develop the Project only in accordance with this Agreement. For purposes of determining such vested authority, the City and the Owner agree that (a) the terms of this Section 3.4 and the other terms of this Agreement shall fully govern and determine all aspects of the Owner's vested rights and (b) without limiting the generality of the foregoing, the Owner (i) hereby waives any and all right pursuant to Section 212.172(g) and Section 245.002(b) of the Texas Local Government Code that are not consistent with the terms of this Section 3.4 and (ii) acknowledges and agrees that such waiver and the terms of this Section 3.4 are material to the City in entering into this Agreement.

3.5 Enforcement Jurisdiction of the City. Notwithstanding any language in this Agreement to the contrary, the Owner and the City agree that the City is authorized to enforce the Code Chapter 14 (Buildings and Building Regulations); Article I (Building Standards Commission) of Chapter 50 (Environment); Chapter 62 (Health and Sanitation); Division I (Substandard Structures) of Article II (Nuisance Abatement) of Chapter 50 (Environment); and Division III (Abandoned Property) of Article II (Nuisance Abatement) of Chapter 50 (Environment) in their entirety, as each may be amended or reorganized from time to time, provided any such amendments (a) are effective Citywide or to all or all similarly situated land in the City as of the Effective Date, (b) do not conflict with this Agreement, (c) do not affect landscaping, tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, building size, impervious cover, setbacks, or purport to reduce the total developable area of the Property, and (d) do not affect or alter the stormwater drainage or stormwater managements requirements set forth in this Agreement. This list of specific ordinances in this Section 3.5 may be amended in the future upon mutual agreement of the Parties reflected in a written amendment to this Agreement.

4. DEVELOPMENT APPROVAL PROCESS.

4.1. General Framework for Development Approval Process. All development in the Project must comply with the following multi-step approval process:

4.1.1. Master Framework Plan. The first step in the approval process is approval of the Master Framework Plan by the City Council. The Master Framework Plan is attached hereto as **Exhibit E** to this Agreement and is approved contemporaneously with this Agreement.

4.1.2. Sector Plan. The second step in the approval process is approval of a Sector Plan. Each Sector Plan must conform to the Master Framework Plan and this Agreement, and must be approved by the Planning Director. A Sector Plan shall be submitted to the Planning and Development Services Department.

(A) Completeness. The Planning Director shall determine within thirty (30) days if the application is complete and will notify the Applicant in writing of its decision with regard to completeness of the Sector Plan (the "**Sector Plan Completeness Notice**"). The Sector Plan shall be deemed complete if the Planning Director fails to notify the Applicant of its decision within such thirty (30)-day period. If a submitted Sector Plan is deemed incomplete by the Planning Director, the Applicant shall have thirty (30) days from receipt of the Sector Plan Completeness Notice to submit a supplement(s) to complete the application. The Planning Director shall have five (5) business days from receipt of the supplement to notify the Applicant in writing of its decision with regard to completeness of the supplemented Sector Plan; or, if no notice is provided within the five (5) day period, the supplemented Sector Plans shall be deemed complete.

(B) Administrative Approval of Sector Plan That Meets Conforming Standards:

(1) Within thirty (30) days after issuance of the Sector Plan Completeness Notice, the Planning Director shall determine if the Sector Plan (i) conforms to the Master Framework Plan, (ii) contains any Alternative Development Standards; and (iii) is consistent with all the terms of this Agreement (the "**Conforming Standards**").

(2) If the Planning Director determines that a Sector Plan meets the Conforming Standards, the Planning Director shall approve the Sector Plan.

(C) Discretionary Approval of Sector Plan That Does Not Meet Conforming Standards:

(1) If the Planning Director determines that the submitted Sector Plan does not meet the Conforming Standards, then the Sector Plan shall be processed in accordance with this Section 4.1.2(C).

(2) Within thirty (30) days after issuance of the Sector Plan Completeness Notice, the Planning Director shall deliver written notice to the Applicant specifying each item that does not meet the Conforming Standards. If the Applicant wishes to proceed with the Sector Plan despite this determination, then the Applicant shall notify the Planning Director in writing within sixty (60) days of the notice of nonconformance sent by the Planning Director to the Applicant specified above (the "**Applicant's Notice of Amendment**").

(3) If the Applicant timely notifies the Planning Director of its desire to proceed with the Sector Plan as contemplated in Section 4.1.2(C)(1) above, the Sector Plan shall not be further reviewed by the Planning Director unless and until (i) a Minor Amendment to the Master Framework Plan or a Major Amendment to the Master Framework Plan, as applicable, is submitted pursuant to Section 4.3 below, or (ii) a proposed amendment to this Agreement is submitted, in such a manner that all such issues raised by the Planning Director are addressed to the reasonable satisfaction of the Planning Director. If Applicant fails to submit the necessary amendment(s) described above within sixty (60) days from the delivery of the Applicant's Notice of Amendment, the proposed Sector Plan shall be considered null and void and a new Sector Plan submittal shall be required.

(4) If the Applicant satisfies all of the matters described in the Planning Director's notice described in Section 4.1.2(C)(1) above, the Planning Director will consider: (i) whether the Sector Plan conforms to the Master Framework Plan or whether an acceptable Minor Amendment to the Master Framework or a Major Amendment to the Master Framework Plan has been submitted, (ii) whether any proposed Alternative Development Standards are acceptable, and (iii) whether the Sector Plan is consistent with all terms of the Agreement or an acceptable amendment to this Agreement has been submitted; and make a City Sector Plan Determination.

(D) Failure to Provide Timely Notice. If the Planning Director does not deliver the written notice described in 4.1.2(C)(2) within the thirty (30) day period provided for, then the Applicant must notify the Planning Director in writing of its failure to do so and the Planning Director shall have an additional fifteen (15) days in order to respond in the manner described above. If the Planning Director does not respond within the additional fifteen (15) day period, then it shall be deemed that the Planning Director has determined that the Sector Plan meets the Conforming Standards.

(E) Sector Plans Incorporating Alternative Development Standards. If the Sector Plan incorporates any Alternative Development Standards, the acceptability of such Alternative Development Standards as proposed by the Applicant shall be a decision for the Planning Director. If the Planning Director approves any Alternative Development Standards as part of an Approved Sector Plan, for all purposes hereunder, those approved Alternative Development Standards shall be considered to be Development Standards for all further Approvals for that Approved Sector Plan. Any Alternative Development Standards approved in connection with an Approved Sector Plan shall be applicable to that Sector Plan only, and shall not be applicable to any other Sector Plan unless specifically so indicated by the Planning Director.

(F) Rejected Sector Plans. The Applicant shall have the right to submit a new Sector Plan covering all or part of the Property covered by a rejected Sector Plan, and such new Sector Plan, at Applicant's request, shall be reviewed by the City Council for approval. If a Sector Plan is rejected by City Council, no Sector Plan shall be submitted which is substantially the same as the rejected Sector Plan, as determined by the Planning Director, within twelve (12) months of such rejection.

(G) Expired Approved Sector Plans. An Approved Sector Plan shall expire and be of no further effect if the Owner or any Applicant does not record a Final Plat in the real property records of Comal County within five (5) years of the date of approval of the Approved Sector Plan.

4.1.3. Preliminary Plat. An Applicant may, following an approval of a Sector Plan, and before submitting a Final Plat, file a Preliminary Plat. The process for submittal, review and approval of a Preliminary Plat shall be the same as the process provided in the City Code of Ordinances at the time of the City's receipt of the Preliminary Plat. Filing of a Preliminary Plat is optional, not required.

4.1.4. Final Plat. Unless the Applicant elects to file a Preliminary Plat, the third step in the approval process is approval of a Final Plat. Except as otherwise approved by the City Council, each Final Plat must conform to the Master Framework Plan, the applicable Sector Plan containing the portion of the Property covered by the Final Plat, and all other terms of this Agreement.

(A) Rejected Final Plat. The Applicant shall have the right to appeal any Final Plat that is rejected by the Planning Commission to the City Council, but only to the extent of the decision of the Planning Director that the Final Plat does not meet the Conforming Standards. In such event, the City Council shall consider whether the Final Plat meets the Conforming Standards; provided, however, the decision of the Planning Commission shall be final with respect to whether the Final Plat conforms to the Code of Ordinances. Additionally, the Applicant shall have the right to submit a new Final Plat covering all or part of the Property covered by a rejected Final Plat, and such new Final Plat shall be processed in accordance with the terms of this Section 4; provided, however, no Final Plat shall be submitted in the same form as the rejected Final Plat, as determined by the Planning Director, within twelve (12) months of such rejection.

(B) Waiver. Any waiver in a Preliminary Plat, Final Plat, or Building Permit from the Development Standards or Approved Sector Plans shall be submitted to the Planning Commission for approval using the process and procedures generally found in the plat waiver provision of the City Code of Ordinances, § 118-11, or as may be reorganized from time to time. A waiver may be granted where the Planning Commission finds that undue hardships will result from strict compliance with certain provision(s) of the Development Standards, or where the purposes of the Development Standards may be served to a greater extent by an alternative proposal. The findings required by Sections 118-11(a)(1)-(a)(2) shall also be met, and waivers may be approved, disapproved, or approved with conditions.

4.2. Building Permits. The final step in the approval process is the issuance of a Building Permit. Each Building Permit must conform to an Approved Sector Plan, an Approved Final Plat, and all other terms of this Agreement, including, without limitation, the terms of the Building Code. The process for submittal, review and approval of a Building Permit for non-residential and multifamily uses shall be the same process provided in the City Code of Ordinances at the time of receipt of the Building Permit application by the City.

4.3. Amendments to Master Framework Plan. Proposed Major Amendments to the Master Framework Plan shall be submitted to the City Council for approval

unless such change meets the criteria for a Minor Amendment to the Master Framework Plan. Any Minor Amendment to the Master Framework Plan shall be reflected in an updated Master Framework Plan, containing the information set forth in the original Master Framework Plan. A Minor Amendment to the Master Framework Plan shall be approved by the Planning Director.

4.4. Amendments to Approved Sector Plans. Proposed amendments to an Approved Sector Plan shall be submitted to the Planning Director for approval. Any Minor Amendment to an Approved Sector Plan shall be reflected in an updated Sector Plan, containing all the information set forth in the original Sector Plan. A Minor Amendment to an Approved Sector Plan shall be approved by the Planning Director. Without limiting the generality of this Section 4.4 or the provisions of the definitions in Section 2, any change to a specific condition placed on the development within a Sector Plan at the time of approval of such Sector Plan shall not be considered a Minor Amendment to such Approved Sector Plan.

4.5. Amendments to Approved Final Plats. Any amendments to a Final Plat shall be submitted to the Planning Commission for approval unless the change meets the criteria for a Minor Amendment to an Approved Final Plat, in which case the change shall be considered and approved by the Planning Director as provided for in the City Code of Ordinances.

4.6. Amendments to Building Permits. In all instances, the process for approval or rejection of a proposed amendment to an Approved Building Permit shall be consistent with the process for consideration of amendments to building permits in the planning jurisdiction of the City at the time of the proposed amendment.

4.7. Determination of Minor or Major Amendment. Whenever in this Agreement there is a reference to a percentage change or other type of change that is determinative as to whether a proposed amendment to a document is a Major Amendment or Minor Amendment, the comparison shall be to the most recently approved version of the document, provided that if an amendment is proposed that, if considered cumulatively with prior minor amendments previously approved within the prior six (6) months, would have constituted a Major Amendment as compared to the first approved version of the document, then the Planning Director may, in its reasonable discretion, determine that the proposed amendment constitutes a Major Amendment. For purpose of clarity, it is agreed that if the Planning Director determines that a series of Minor Amendments was prepared for the purpose of avoiding Major Amendment review and that cumulatively the series of Minor Amendments cause a change to the original version of the applicable document that would have constituted a Major Amendment, then the Planning Director may declare that the proposed Minor Amendment is, in fact, a Major Amendment. However, if the Planning Director determines that the Minor Amendments were not coordinated and each represents a unique Minor Amendment consistent with the spirit of this Agreement, then the Planning Director may conclude each is a Minor Amendment.

4.8. Incorporation of Exhibits. The Parties agree that wherever in this Section 4 there is any reference to compliance with this Agreement, such reference shall mean all terms of this Agreement, including, without limitation, all exhibits attached hereto, the Development Standards, and the applicable portion of the Code of Ordinances.

4.9. Recording/Filing Fees. The Applicant shall be responsible for paying recording fees and other administrative fees at the time of recording for any plan, document or plat, and any amendment to any of the foregoing, and any easements, option agreements, or other documents contemplated herein or reasonably requested by the City in connection with this Agreement.

4.10. Form of Application, Building Permit, or other permits. The Applicant shall utilize any then-current City form in making an Application of any kind, unless this Agreement specifically provides differently.

5. **STORMWATER MANAGEMENT**. The Owner shall be fully obligated to comply with all requirements in the City Code of Ordinances and Development Standards relating to stormwater, including without limitation, the detention and treatment of same and riparian buffer protection. Additionally, the Owner acknowledges and agrees the Owner must at all times comply with all applicable federal or state laws regarding the Property, or development thereon, including without limitation any federal or state laws regarding flood plains, stormwater drainage, management detention, or water quality, and nothing herein shall be interpreted as either (i) removing or minimizing such obligation on behalf of the Owner or (ii) requiring the City to determine what the Owner's obligations are in that regard. There shall be no Event of Default arising from a breach of this Section 5 or in relation to an alleged breach of state or federal laws until and unless the relevant governmental authority enforcing such state or federal laws notifies Owner that Owner is in violation of such law and Owner fails to cure such violation within the cure period allowed by such governmental authority or, if none is specified, within thirty (30) days of Owner's receipt of such notice of violation; provided, however, the limitation in this sentence shall not be applicable if the action or inaction causing the failure to comply with federal or state laws otherwise causes an Event of Default under the terms this Agreement.

6. **TRAFFIC AND ROADWAY IMPACTS**. The terms of this Section 6 shall supplement any provisions of the City Code of Ordinances relating to traffic improvements, traffic mitigation, and traffic impact fees.

6.1. Approval of Planning Level TIA. The Planning Level TIA shall be submitted with and approved with the Master Framework Plan.

6.2. Sector Plan TIA. With each Sector Plan, the Owner or Applicant shall submit a Sector Plan TIA in the form specified by the City Engineer. Each Sector Plan TIA shall follow the requirements of the Development Standards and must be approved by the City Engineer. Subsequent submittals of each Preliminary Plat, Final Plat and Building Permit within the Sector Plan shall include a running

summary of land use, size, AM and PM peak hour traffic, and daily traffic generated by all approved Preliminary Plats, Final Plats and Building Permits within the Sector. The summary shall be in a form acceptable to the City Engineer.

6.3. TIA Worksheet/TIA. Following Sector Plan Approval, with each Preliminary Plat, Final Plat and Building Permit, if applicable, submitted for any portion of that Sector, the Owner or Applicant shall submit a TIA Worksheet in the form specified in the Development Standards. In the event that any TIA Worksheet is inconsistent with the applicable Approved Sector Plan TIA, the City Engineer may require a TIA and an updated comparison between the Preliminary Plat, Final Plat, Sector Plan, and developments approved/constructed to date. Each TIA must be approved by the City Engineer.

6.4. Traffic Mitigation. The Owner shall be responsible for all dedications of land and transportation improvements, whether on-site or off-site, described in each Approved Sector Plan TIA and, if applicable, each Approved TIA.

6.5. Regional Transportation Plan. The City agrees to amend the Regional Transportation Plan so that it is consistent with the Master Framework Plan and, to the extent that the City agrees to any amendments to the Master Framework Plan pursuant to the processes established herein, then the City shall thereafter further amend the Regional Transportation Plan so that it is consistent with such approved amendments to the Master Framework Plan.

6.6. ROW. The ROW for all streets and roads shall be in accordance with the Regional Transportation Plan, the Development Standards, the Planning Level TIA, the applicable Sector Plan TIA, and the applicable Final Plat TIA.

6.7. Wayfinding. A community wayfinding plan facilitating non-vehicular travel shall be submitted and approved by the City Engineer prior to installation of any wayfinding signage.

7. **PARKS AND COMMUNITY FACILITIES**. The Parties agree to the "Park Schedule" attached as Schedule 7, including (i) Public Parks (comprised of a combination of Community Parks, Greenbelts/Conservation Parks/Trails and Natural/Conservation Areas); and (ii) Private Parks (comprised of Pocket Parks and Recreation Centers). The Parks will be improved, maintained, and programmed in accordance with Section 7.2.

7.1. Park Schedule. The Park Schedule (attached as Schedule 7) outlines (i) the minimum acreage of dedicated land for Parks (including Public Parks and Private Parks and as measured by the total Park Schedule, not by Sector Plan); (ii) the minimum investment for Community Parks; and (iii) an estimated schedule for such investment based on single family units developed. The Park Schedule, along with the requirements provided in this Section 7, represent the Owner's minimum obligations with regard to Parks. The Owner may satisfy its obligations under Section 7.2.1 in the Park Schedule in advance of the schedule.

7.2. Park Fees.

7.2.1. Park Development Fees. The Park Schedule modifies Park Development Fee obligations required by the City Code of Ordinances.

(A) Onsite Fee Credit. To the extent Owner complies with the minimum investment in Parks according to the schedule provided for in the Park Schedule, Owner will be credited with having paid seventy-five percent (75%) percent of required Park Development Fees under the City Code of Ordinances. But if the Owner fails to satisfy the minimum investment in Parks according to the schedule provided for in the Park Schedule, Owner agrees that the Owner or the District shall, within fifteen (15) business days of notice by the City, escrow, for Park purposes, the balance of the investment required under the schedule for Parks. Such escrowed funds shall be expended on Parks in accordance with an amendment to the Park Schedule agreed to by the City and the Owner.

(B) Offsite Fees. Owner shall be required to pay the remaining twenty-five percent (25%) of required Park Development Fees under the City Code of Ordinances. For the avoidance of doubt, such fees are required irrespective of Owner's compliance with the minimum investment in Parks according to the schedule provided for in the Park Schedule.

7.2.2. Park Maintenance. For any Park proposed to be dedicated to the District, the relevant Sector Plan shall include a three (3)-year rolling maintenance schedule to be made available to the public online and to be included in the annual report of the District. The schedule will be updated at three (3)-year intervals to reflect the dedication of Parks to the District and whether the Owner or District is correspondingly responsible for such maintenance. The Owner or the District must meet or exceed the maintenance standards provided in the Parks Operations Maintenance Plan designated by the City, as amended from time to time. For any Park, the Parties agree that they may negotiate in their sole and absolute discretion a maintenance agreement that allows the City to maintain all or a portion of a Park if the Parties agree that such maintenance agreement is in the best interests of the Parties. In such event, the Owner or District shall pay for relevant costs for such maintenance activities upon terms mutually satisfactory to the Parties.

7.3. Public Parks.

7.3.1. Neighborhood Parks. Neighborhood Parks, if any, will be included in an amended Master Framework Plan and will be included in an applicable Sector Plan. Neighborhood Parks shall be open to the public and maintained by the District, until such time, if any, as the land on

which such parks are located is annexed for park purposes by the City, at which time the City may assume the ownership of, and obligation to maintain the Neighborhood Parks. Neighborhood Parks, if any, shall be designed in accordance with the Development Standards and the City's Parks and Recreation Strategic Master Plan.

7.3.2. Community Parks. Community Parks are reflected in the Park Schedule and the Master Framework Plan. Community Parks will be included in the applicable Sector Plan. The District shall maintain Community Parks open to the public until the land on which such parks are located is annexed for park purposes by the City, at which time the City shall assume the ownership of, and obligation to maintain the Community Parks, unless the City and District mutually agree otherwise. Community Parks shall be designed in accordance with the Development Standards.

7.3.3. Greenbelts/Conservation Parks/Trails and Natural/Conservation Areas. Greenbelts/Conservation Parks/Trails and Natural/Conservation Areas are reflected in the Park Schedule and the Master Framework Plan. The District shall maintain Greenbelts/Conservation Parks/Trails and Natural/Conservation Areas open to the public until the land on which the is annexed for full purposes by the City under this Agreement, at which time the City shall assume the ownership of, and obligation to maintain, the Greenbelts/Conservation Parks/Trails and Natural/Conservation Areas, unless the City and the District mutually agree otherwise. Greenbelts/Conservation Parks/Trails and Natural/Conservation Areas shall be designed in accordance with the Development Standards.

7.3.4. Regional Parks. Regional Parks, if any, will be included in an amended Master Framework Plan and will be included in an applicable Sector Plan. The District shall maintain Regional Parks, if any, open to the public until the land on which such parks are located is annexed for park purposes by the City under this Agreement, at which time the City shall assume the ownership of, and obligation to maintain, the Regional Parks, unless the City and the District mutually agree otherwise. Any Regional Parks shall be designed in accordance with the Development Standards and the City's Parks and Recreation Strategic Master Plan.

7.4 Private Parks**.**

2.83.1. Pocket Parks. All Pocket Parks will be reflected in applicable Sector Plans, as well as each applicable Final Plat. Seven (7) Pocket Parks are anticipated for the Project. Pocket Parks will be developed in accordance with the Development Standards and each will be privately maintained by the appropriate HOA pursuant to the Development Standards.

2.83.2. Recreation Center. The Owner shall develop two (2) Recreation Centers of approximately ten (10) acres combined for use by the residents of the Project. The location of the Recreation Centers shall be designated in the applicable Sector Plan. The Recreation Centers shall be maintained by an HOA and developed in accordance with the Development Standards.

7.5 Other Community Facilities**.**

2.84.1. Fire Station. If requested by the City or the ESD, the Owner shall donate and convey to the City or the ESD at least two (2) and up to three (3) acres of land within the Project for the construction of a fire station. Provided that the Owner approves of such designation, which shall not unreasonably be withheld, the City shall designate the site for the donated land and the location of the fire station based on various factors, including but not limited to the firefighting industry standards related to response time and the availability of the land in the proposed areas of the Project. The location of the site to be donated for the fire station shall be designated on the Sector Plan containing the site. The Owner shall convey the land to the City within ninety (90) days after the City or the ESD delivers written notice to the Owner that funds are available to construct the fire station and construction is expected to commence within one hundred and eighty (180) days after receipt of the deed for the land and thereafter complete construction and begin operating the fire station within thirty-six (36) months after commencement of construction (the "Construction Period"). The deed to the City may be assigned to the ESD and shall contain a reverter in favor of the Owner providing that if the land ceases to be used for a fire station for twenty-four (24) consecutive months or does not commence to be used as fire station within twelve (12) months after the expiration of the Construction Period, fee simple ownership of the land shall automatically revert to Owner; provided, however, such reverter shall specify that in calculating the time periods above, delays due to events of force majeure shall be excluded. The reverter shall expire upon annexation by the City of the site containing the fire station.

7.6 Restrictive Covenant. For all Public Parks, the Owner must file a restrictive covenant in the form designated by the City for parkland dedication, and as amended from time to time, limiting the Public Parks to recreational and park uses, as defined in the City Code of Ordinances. For all Public Parks, the City shall be a beneficiary of any such covenant and will have the right to enforce it.

7.7. Park Planning. The Owner agrees to collaborate with the City's Parks and Recreation Department on the park planning process, including with regard to any requirement in this Section 7, so that Community Parks and Regional Parks, if any, shall be designed to support the City's Parks and Recreation Strategic Master Plan in effect at the time such park is developed.

8. THE DISTRICT AND INDEBTEDNESS.

3.1. Authority of the District to Issue Bonds. The District and each District created by division of a District shall have the authority to issue, sell, and deliver bonds from time to time, as deemed necessary and appropriate by its board of directors, for the purposes, in such forms and manner, and as permitted or provided by federal law, the general laws of the State of Texas and the Consent Resolution. Unless otherwise agreed by the City:

3.1.1. The aggregate amount of bonds, excluding refunding bonds, the Districts collectively may issue shall not exceed a total of Six Hundred Twenty Million Dollars ($620,000,000.00) in principal amount;

3.1.2. No District shall sell bonds unless its financial advisor determines that the bonds and any other indebtedness of such District payable from ad valorem taxes can be amortized with a projected ad valorem tax rate (including debt service on the bonds and all other ad valorem taxes being levied by such District) of $1.50 per $100 of assessed valuation or less; and

3.1.3. Unless approved by resolution of the City in its reasonable discretion, no District shall issue bonds or enter into any contractual obligation with any other District, the State of Texas or any agency or political subdivision thereof, covenanting to make payments in support of bonds later than the earlier of (y) thirty-five (35) years after the Effective Date of the Development Agreement, or (z) twenty-five (25) years after the date such District issued its first series of bonds.

3.1.4. No less than thirty (30) days prior to selling a series of bonds, an Issuing District (defined below) shall provide the City with a certified copy of the Texas Commission on Environmental Quality Order approving the bond issue (if applicable), a copy of the Preliminary Official Statement for the bonds, and a draft of the District's Order authorizing issuance of the bonds.

3.2. Bond Provisions. To ensure compliance by a District with each applicable condition or restriction imposed in connection with this Agreement, the Consent Resolution, or other applicable agreement, resolution or ordinance, the City Council is entitled to approve the issuance or sale of bonds by a District before such District issues a bid invitation for such bonds. If an Issuing District is in compliance with each applicable condition set forth below, the City shall consent to such issuance or sale within thirty (30) days of written request so long as either (a) during the ninety (90) days preceding the commencement of such thirty (30)-day period, the Issuing District made a presentation to the City Council with a summary of the proposed issuance of bonds, or (b) at least ninety (90) days preceding the commencement of the 30-day period, the Issuing District informed the City Manager in writing that the Issuing District was available to make such

a presentation to the City Council and such presentation was not placed on an agenda of the City Council during the ninety (90)-day period. Unless otherwise agreed by the City, an Issuing District shall not sell, issue or deliver any bonds unless:

3.2.1. The terms of such bonds expressly provide that the Issuing District has the right to redeem the bonds no later than on any interest payment date subsequent to the tenth (10^{th}) anniversary of the date of issuance, without premium;

3.2.2. The bonds, other than refunding bonds, are sold after the taking of public bids therefor;

3.2.3. None of such bonds, other than refunding bonds, are sold for less than ninety-five percent (95%) of par;

3.2.4. The net effective interest rate on bonds so sold, taking into account any discount or premium as well as the interest rate borne by such bonds, does not exceed two percent above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the one-month period next preceding the date notice of the sale of such bonds is given and bids for the bonds will be received not more than forty-five (45) days after notice of sale of the bonds is given;

3.2.5. Such bonds shall not have a final maturity date more than twenty-five (25) years from the date of issuance;

3.2.6. The bonds and the Issuing District's other outstanding bonded indebtedness have a combined level debt service schedule, meaning that the highest year's debt service does not exceed the average year's debt service by more than five percent (5%);

3.2.7. Any refunding bonds of a District must provide for a minimum of three percent (3%) net present value savings, and, if such refunding occurs after the last date a District is permitted to issue bonds, the refunding bonds must not mature later than the original, final maturation date of the bonds to be refunded; and

3.2.8. No Event of Default has occurred that relates to (a) the improvements or other matters that are the subject of such proposed bonds, (b) the obligations of the District and the Owner pursuant to Section 5, or (c) the obligations of the District and the Owner pursuant to Section 7.

3.3. **Distribution of Bond Proceeds**. The proceeds of bonds issued by a District shall be used and may be invested or reinvested, from time to time, as provided in the order or orders of the District authorizing the issuance, sale, and delivery of such bonds and in accordance with the federal, state, and local laws and regulations governing the proceeds of the District's sale of its bonds.

3.4. **Division of District**. The plan for dividing the District into new Districts will be submitted in advance of the election of directors to the District. The District may, from time to time, without any further City consent, be divided into two or more Districts in accordance with the provisions of Section 8489.107 of the Creation Statute so long as (i) the division complies with applicable laws and each District created by a division of the original District encompasses a minimum of one hundred (100) acres; (ii) the division does not cause the area within a Final Plat (as defined in the Development Agreement) to be located within more than one District; and (iii) the District shall give the City no less than sixty (60) days advance written notice of the intent to divide and create a new District with such notice including a metes and bounds description of the new District. Owner agrees that the City shall not be required to grant a certificate of occupancy for a structure located within a District unless the District encompassing such structure complies with the preceding limitations. In no event shall the division of the District and creation of one or more new Districts be construed to permit any land use inconsistent with the Master Framework Plan as amended from time to time. The creation of any new District not complying with the above limitations shall require the prior consent of the City.

3.5. **Annexation or Exclusion of Land.** The District shall give the City no less than sixty (60) days advance written notice of its intent to realign the boundaries of an existing District through the method of adding land to or excluding land from a District. Unless approved by resolution of the City in its reasonable discretion or consented to by the City in the Development Agreement, no District shall add land to such District that is located outside of the Property initially comprising the District as set forth in the Creation Statute.

3.6. **References.** All references to the District in this Section 8 apply equally to each District and any new District created by division, and the terms of this Agreement regarding development on any portion of the Property shall apply to any new Districts.

4. **ANNEXATION**. The City may, at its sole and absolute discretion, choose to annex any District at such time as the City deems annexation is appropriate. Except for limited purpose annexation, as provided for in the Strategic Partnership Agreement, the City may not annex any District unless it annexes the entirety of such District. The City agrees not to annex any District until (a) the City Council by ordinance has assumed, or will assume, all obligations, and performed, or will perform, all actions required by Sections 43.0715 and 43.075 of the Texas Local Government Code, or any other then applicable law, and (b) any one of the following has occurred:

4.1. The earlier of (i) the fifteenth (15^{th}) annual anniversary of the confirmation election date of the District to be annexed, such confirmation election being the first election held for the District created pursuant to Section 8.4, but excluding the original confirmation election of the original District, and (ii) the thirtieth (30^{th}) annual anniversary of the Effective Date, provided that, in the event that the Owner validly extends the Term beyond the thirtieth (30^{th}) annual

anniversary date pursuant to the terms of Section 18, such thirtieth (30th) annual anniversary date shall be extended to be equal to the then current Term, not to exceed the forty-fifth (45th) annual anniversary date of the Effective Date.

4.2. At least ninety percent (90%) of the improvements within the District that are eligible for reimbursement in accordance with the rules of the TCEQ have been constructed, provided that, for purposes of the foregoing calculation, (i), except as described in subpart (ii) below, the applicable percentage of the improvements (i.e., 90%) shall be based upon the total value of the eligible improvements, as reasonably estimated by the Owner at the time that the Sector Plan containing such improvements is filed with the City, (ii) the City shall have the right to approve the Owner's estimate of the value of the improvements that are eligible for reimbursement in accordance with the rules of the TCEQ, such approval not to be unreasonably withheld, and (iii) the list of improvements that are eligible for reimbursement in accordance with the rules of the TCEQ, and the value thereof, designated by the Owner and approved as to value by the City in accordance with subpart (ii) above, shall control for all purposes under this Section 9.2, regardless of the actual cost of such improvements or the value placed upon same by any other private entity or public authority, and provided further that the City and the Owner acknowledge that the Owner's estimated value at the time of Sector Plan (A) may not be based upon design engineering and (B) shall in no way limit, restrict or inhibit the Owner's right to seek reimbursement from the District for the actual costs of construction of such improvements; or

4.3. The expiration or termination of this Agreement, as provided herein.

4.4. The Owner and the District acknowledge and agree that, by entering into this Agreement, any such annexation that complies with the requirements listed above in Sections 9.2–9.3 shall be voluntary, and the Owner and District hereby to such annexation as though a petition for such annexation had been tendered by the Owner.

5. **DEED RESTRICTIONS.** Prior to conveying any portion of the Property to an End User, Owner shall encumber the applicable portion of the Property with CC&Rs containing at least the following restrictions or, to the extent approved by the Planning Director, alternative restrictions:

5.1. **Construction and Other Codes.** All buildings or dwellings constructed on the Property must comply with Chapter 14 of the Code of Ordinances (Buildings and Building Regulations), as it may be amended from time to time in accordance with this Agreement, to the same extent as if such buildings or dwellings were located in the corporate limits of the City. City building officials and inspectors may enter into the Property that is subject to the CC&Rs to perform inspections and take other actions under Chapter 14 of the Code of Ordinances to the same extent as if such property were located in the corporate limits of the City. The Homeowners Association may not enforce Article X of

Chapter 14 of the Code of Ordinances (Violations, Penalties, Fee Refund Policy, Board of Appeals and Administrative), or any successor ordinance; provided however that a violation of this Section may be enforced by the Homeowners Association in the same manner as any other violation of the CC&Rs.

5.2. **Unsafe Buildings and Nuisances.** The Property made subject to the CC&Rs must comply with the sections of Chapter 50 of the Code of Ordinances listed in Sections 10.2.1-10.2.5, as they may be amended from time to time, to the same extent as if the Property was located in the corporate limits of the City. A violation of this Section may be enforced by the Homeowners Association in the same manner as any other violation of the CC&Rs.

5.2.1. Section 50-26 (unsafe buildings);

5.2.2. Section 50-27 (unoccupied buildings);

5.2.3. Section 50-56 (Definitions);

5.2.4. Section 50-57 (Prohibited accumulations; litter, weeds, graffiti, duty of property owner, occupant); and

5.2.5. Chapter 6 (Animals).

5.3. **Maintenance of BMPs in Easements.** Prior to conveying any portion of the Property to the District or a Homeowners Association, the Owner shall encumber the applicable portion of the Property with CC&Rs requiring that the District or the Homeowners Association, as applicable, shall be responsible for maintenance of BMPs located in easements.

6. WATER AND WASTEWATER.

6.1. **NBU Agreement**. The Utility Agreement shall govern the provision of water and wastewater services to the Property. The Agreement is contingent on Owner and NBU negotiating and executing the Utility Agreement by March 1, 2022("Utility Agreement Requirement Date"). If the Utility Agreement is not executed by the Utility Agreement Requirement Date, this Agreement shall not be applicable and shall be null and void. The Utility Agreement may be amended from time to time, and the City hereby consents to such amendments and agrees no additional notice or agreement by the City is required to amend the Utility Agreement so long as the amendment does not create a conflict with this Agreement. Amendments to the Utility Agreement shall not be considered to alter, modify or expand the Project or alter the vested rights established by this Agreement. The Owner and NBU separately plan to build and convey an interim wastewater facility, to be managed by NBU; provided that the City approves the plans and specifications of the facility pursuant to Section 8489.105 of the Creation Statute. Notwithstanding any other provision of this Agreement, the Utility Agreement shall not govern the provision of services from this interim facility.

6.2. **Prohibition Against Other Retail Public Utilities**. Other than NBU, no retail public utility, as defined by Section 13.002 of the Texas Water Code, may provide retail water or wastewater service to the Property. Notwithstanding the foregoing, the Owner and the District shall at all times retain the right to develop, transmit, sell and otherwise use for its own benefit or the benefit of others non-potable water in, on or under the Property. The Parties agree that the interim waste water treatment facility agreed to in the Utility Agreement is not a retail public utility under this Section 11.2.

7. **CONSTRUCTION STAGING**.

7.1. **Construction Staging.** No approvals will be required in connection with the location of customary construction staging areas, storage yards and temporary construction offices so long as they are not located within two hundred fifty feet (250') of inhabited single-family homes, duplexes, or attached townhouses.

8. **ECONOMIC INCENTIVES**.

8.1. **Strategic Partnership Agreement**. The City and the District must enter into the Strategic Partnership Agreement.

8.2. **Future Additional City Incentives**. The City agrees to consider in good faith applications for economic incentives in the future in connection with the proposed development within the Project that will provide jobs, attract tourism or otherwise stimulate economic activity in the City if the City determines that such requests are consistent with this Agreement and the general policies of the City at such time.

8.3. **Other Incentives**. The City agrees not to oppose and to provide reasonable support for the Owner or the District to enter into economic incentive agreements with other governmental entities, including but not limited to the County, so long as the proposed economic incentive agreement is consistent with this Agreement and the general policies of the City at such time; provided, however, notwithstanding the foregoing, it is expressly understood that (a) the City has no authority over the decisions of other governmental or quasi-governmental entities and the City cannot commit other governmental or quasi-governmental entities with respect to any economic incentive agreements.

9. **ECONOMIC PHASING INFORMATION AND ESTIMATES**. Owner agrees to provide to the City copies of any economic phasing information or estimates submitted by Owner to NBU under the Utility Agreement. All economic phasing information and estimates submitted by the Owner in connection with this Agreement or the Utility Agreement is an informational estimate only and subject to revision based on market conditions and actual development activities. The Owner agrees to update its economic phasing information and estimates on a yearly basis in a manner and at a time as may be agreed between the Owner and the Planning Director. The Owner reserves the right at all times to make adjustments or modifications to economic phasing information and estimates

previously supplied by the Owner to reflect changing market or other conditions and any such adjustment or modification shall not be construed as an amendment to this Agreement and shall be effective upon delivery to the City.

10. FEES.

10.1. No Impact Fees. No impact fees, including roadway impact fees, shall be assessed by the City on the Owner or any Applicant; provided, however, nothing herein shall in any way modify the other provisions of this Agreement that specifically require the payment of fees or the funding of costs.

10.2. Other Development Fees. The only other development fees imposed in relation to the Project shall be the Fees. Development Fees are to be calculated based on rules in place at the time of Final Plat.

10.3. Consultant Reimbursement. Unless the Parties agree otherwise, the Owner shall have no obligation to reimburse the City for its consultant fees incurred following the Full Execution Date; provided, however, the Owner shall be responsible for reimbursing the City for its consultant fees related to the consideration of Development Standards, including the Original Development Standards whether such consideration occurs prior to the Effective Date, at the time of a Sector Plan, as long as there is a prior written agreement between the City and the Owner with respect to the scope and fees for consultant work.

11. ADDITIONAL LANDS. The Owner may subject lands contiguous to the Project to this Agreement only upon approval by the City Council of an amended Master Framework Plan reflecting such additional lands, and such other requirements as shall be imposed by the Planning Director or the City Council, provided that the City shall not unreasonably withhold its approval to the annexation to the Project and the District of roadways or other lands immediately adjacent to the Project containing (or planned to contain) infrastructure intended to be owned and operated by the District, so long as such annexation (a) does not increase the LUEs allocated to the Project under the Utility Agreement, (b) does not otherwise cause a Major Amendment to the Master Framework Plan and (c) is legally allowed at such time pursuant to applicable provisions of the Texas Local Government Code.

12. COORDINATION OF CITY REVIEWS OF FUTURE SUBDIVISION APPROVALS AND INSPECTIONS. City agrees to use good faith in accepting and reviewing all Applications relating to the Project and to provide adequate human and other resources to the Application review processes applicable to the Project, including any applicable inspections and document reviews, such that all Project Applications are accepted and reviewed by the City in a timely manner and in the same manner and timeliness as other applications in the City.

13. EMERGENCY AND OTHER SERVICES.

13.1. Fire and EMS Services. Fire and emergency medical services shall be provided through a written agreement by and between the District and Emergency

Services District. This agreement shall be in place in advance of the election of directors to the District.

13.2. **Public Safety and Police Services**. Public Safety and Police services shall be provided in the District. The City may in its sole and absolute discretion enter into a written agreement with the District to be the provider of Public Safety and Police Services. The District may alternatively enter into such a written agreement with Comal County. This agreement shall be in place in advance of the election of directors to the District.

13.3. **Solid Waste Services**. Solid Waste Collection Services shall be provided in the District. The City may in its sole and absolute discretion enter into a written agreement with the District to be the provider of Solid Waste Services in the District. Upon the City's approval, which shall not be unreasonably withheld, the District may alternatively enter into such a written agreement with a private provider of Solid Waste Services. This agreement shall be in place in advance of the election of directors to the District.

14. **TERM OF AGREEMENT**. This Agreement shall be in effect during the Term. If the Build-Out of the Project has not occurred within the Initial Term, the Owner may (a) upon written notice to the City prior to expiration of the then-current Term, and (b) compliance with all other applicable provisions of this Agreement that must be satisfied in order for the Owner to extend the Initial Term, elect to extend the Initial Term for up to two (2) additional fifteen (15) year terms; provided, however, in no event shall (i) the Initial Term be extended, nor shall any Term be extended beyond thirty (30) years if the Owner is in default under the terms of this Agreement at the time of such extension, and (ii) the Term of this Agreement be extended under any circumstances beyond the forty-fifth (45^{th}) annual anniversary of the Effective Date.

15. **EVENT OF DEFAULT BY THE OWNER.** In the event of an Event of Default by Owner or the District with respect to the District Obligations, the City shall have the following rights and the right to pursue the remedies set forth in this Section 20.

15.1. **Rights of City**.

15.1.1. **Entry.** To enter upon the Property, or any portion thereof, by and through the City's authorized employees or enforcement agents, at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Agreement; provided that, except in cases where the City reasonably determines that immediate entry is required to prevent, terminate, or mitigate a violation of this Agreement causing immediate and irreparable harm, such entry shall be upon prior reasonable notice to the owner of the portion of the Property upon which the City is to enter, and the City will not in any case unreasonably interfere with such owner's use and quiet enjoyment of such portion of the Property. No entry onto an occupied platted single

family residential or duplex residential lot will be authorized by this Section 20.1.1 which is not otherwise authorized by law; and

15.1.2. **Prevent Activity.** To prevent any activity on, or use of, any portion of the Property that is inconsistent with the terms of this Agreement and to require the restoration of such areas or features of such portions of the surface of the Property that may be damaged by any activity or use which is inconsistent with the terms of this Agreement, pursuant to the remedies set forth in Section 20.2 of this Agreement.

15.1.3. **Reimbursement.** The Owner shall reimburse the City all reasonable costs or expenses incurred by the City in exercising its rights set forth in Section 20.1, if any.

15.2. **City's Remedies**. Following an Event of Default by Owner, or the District with respect to the District Obligations, the City's remedies shall include, without limitation, any one or more of the following remedies:

15.2.1. bring an action at law or in equity to enforce the terms of this Agreement, as applicable, including seeking a temporary restraining order, temporary injunction and/or permanent injunction to enjoin the non-compliance;

15.2.2. bring an action to require the restoration of the surface of the affected Property to its previous condition;

15.2.3. bring an action for specific enforcement of this Agreement;

15.2.4. recover any damages arising from the non-compliance;

15.2.5. terminate this Agreement in full without thereby incurring any liability to the Owner whatsoever;

15.2.6. refuse to accept, process, continue to process, or approve any Application for any portion of the Property;

15.2.7. annex any portion or all portions of the Property, notwithstanding any limitation to the contrary in this Agreement; and

15.2.8. refuse to consent to the sale or issuance of any bonds by a District.

15.3. **Limitations on City Remedies**. Notwithstanding the foregoing:

15.3.1. the City may not exercise the remedies specified in Sections 20.2.5, 20.2.6, 20.2.7 and 20.2.8 if the Event of Default arises from a breach of Section 5;

15.3.2. the City may not exercise the remedies specified in Section 20.2.6 (refuse to accept or process Applications) or Section 20.2.7 (early annexation) and the limitations contained in Sections 20.4.1 and 20.4.2 shall not apply with respect to (a) lot(s) contained in an Approved Final Plat that are owned by an End User, or (b) lot(s) contained in an Approved Final Plat that are owned by an individual or entity who does not qualify as an End User of such lot(s), but only if the Event of Default does not arise from the failure to perform an obligation reflected on the Approved Final Plat; and

15.3.3. the City may not exercise the remedy specified in Section 20.2.8, or enforce the limitation on the Owner and the District described in Section 20.4.3, for any unsold or unissued bonds that relate to improvements that have been completed as of the date of the Event of Default unless the Event of Default relates to (a) the improvements or other matters that are the subject of such proposed bonds, (b) the obligations of the District and the Owner pursuant to Section 5, or (c) the obligations of the District and the Owner pursuant to Section 7.2.1. Nothing herein shall restrict the City in the exercise of the remedy specified in Section 20.2.8, or the limitation on the Owner and the District in Section 20.4.3, for any unsold or unissued bonds that relate to improvements that have not been completed as of the date of the Event of Default.

15.4. **Limitations on the Owner**. Except as provided in Sections 20.3.2, 20.3.3 and 20.4.4, in the event of an Event of Default by the Owner or the District with respect to the District Obligations, the Owner or the District, as applicable, shall not have the right to:

15.4.1. submit any Application for any portion of the Property;

15.4.2. receive from the City any permit, Approval, or similar permission; and

15.4.3. issue any debt, including without limitation, any bonds that were previously approved by the City. This limitation, subject to the terms of Section 20.3.3, shall explicitly control over any law or agreement to the contrary and to the extent any such right would exist at law, in equity or otherwise, same is hereby RELEASED, WAIVED and RELINQUISHED by Owner on behalf of themselves and their respective successors and assigns, if any, until and unless the City provides written notice that the Event of Default has been cured or remedied to the satisfaction of the City.

15.4.4. Notwithstanding anything to the contrary, this Section 20.4 does not apply to an Event of Default arising from a breach of Section 10.2.5 of this Agreement.

15.5. **Prior Notice Required**. If the City becomes aware of a violation of the terms of this Agreement, the City shall, except as expressly set forth herein, notify the defaulting party and the owner(s) of the portion(s) of the Property involved in such violation and request corrective action sufficient to abate such violation and, if applicable, restore the surface of the affected portions of the Property to its previous condition prior to the violation. Failure to abate the violation and take such other corrective action as may be required to cure the violation within the Cure Period will entitle the City to exercise any and all rights and remedies available to it at law or in equity as a result of such failure. Prior to exercising the City's rights to one or more available remedies, the City shall provide written notice as stated in this Section 20.5.

15.6. **Failure to Act or Delay**. Forbearance by the City from exercising any of its rights under this Agreement in the event of any breach of any term of this Agreement by Owner, or the District with respect to the District Obligations, shall not be deemed or construed to be a waiver by the City of such term or of any subsequent breach of the same or any other term of this Agreement or of any of the City's rights under this Agreement. No delay or omission by the City in the exercise of any right or remedy upon any breach by Owner, or the District with respect to the District Obligations, or any subsequent Owner shall impair such right or remedy or be construed as a waiver. No covenant, term, condition or restriction of this Agreement or the breach thereof by Owner, or the District with respect to the District Obligations, will be deemed waived, except by written consent of the City, and any waiver of the breach of any such covenant, term, condition or restriction will not be deemed or construed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, condition or restriction. The City shall retain the right to take any action as may be necessary to ensure compliance with this Agreement notwithstanding any prior failure to act.

15.7. **Waiver of Certain Defenses**. Owner and District hereby waive any defense of laches, estoppel, or prescription.

16. **EVENT OF DEFAULT BY CITY.** In the event of an Event of Default by the City, the Owner shall be entitled to seek an injunction without posting bond and/or a writ of mandamus from a court of competent jurisdiction compelling and requiring the City and its officers to observe and perform the covenants, obligations and conditions of this Agreement. The City shall not be liable to Owner for monetary damages and nothing herein shall be deemed to waive the City's right to immunity. The City shall have no liability to the Owner, except in accordance with the terms hereof.

17. **DISTRICT OBLIGATIONS.** The District must agree to the terms of this Development Agreement and the District Obligations described in Sections 5, 6, 7, and 8 within sixty (60) days of the District's creation. The City agrees that for so long as the District collects no or nominal ad valorem tax, the City will not seek to impose liability on the District for failure to perform the District Obligations and the City will look solely to the Owner to meet the District Obligations. The District agrees that any amendments to this Agreement

that do not expressly modify Sections 5-8, including but not limited to Major Amendments to the Master Framework Plan, will not require the consent of the District.

18. PORTION OF PROPERTY LOCATED WITHIN CITY LIMITS

18.1. The portion of the Property identified on **Exhibit H** (Overlapping Property) is located within the District and the corporate limits of the City. Development of any portion of that property will be regulated by Chapter 144 (Zoning), City Code of Ordinances, until such date that the any portion of such property is disannexed from the City.

19. MISCELLANEOUS PROVISIONS.

19.1. **Actions Performable**. The City and the Owner agree that all actions to be performed under this Agreement are performable solely in Comal County, Texas.

19.2. **Governing Law**. The City and the Owner agree that this Agreement has been made under the laws of the State of Texas in effect on this date, and that any interpretation of this Agreement at a future date shall be made under the laws of the State of Texas.

19.3. **Non-Severability**. In the event that any provision of this Agreement regarding the land use and development approvals granted to the Owner or the commitment for utility services and costs for facilities to be provided is subsequently determined to be unenforceable or otherwise materially altered by a court of competent jurisdiction, then the Owner or the City shall have the right to terminate the remainder of this Agreement within sixty (60) days of such determination whereupon any bonds posted by the Owner pursuant to this Agreement shall be immediately released by the City. If a court of competent jurisdiction or any other governmental entity with appropriate jurisdiction determines that any portion of this Agreement is beyond the scope or authority of applicable Texas law, then, subject to the immediately preceding sentence, the City and the Owner agree to immediately amend this Agreement so as to conform to such ruling or decision in such a manner that is most consistent with the original intent of this Agreement as legally possible.

19.4. **Representation of Authority**. The City represents and warrants to the Owner that the City is duly authorized and empowered to enter into this Agreement. The Owner represents and warrants to the City that it has the requisite authority to enter into this Agreement.

19.5. **Exhibits**. All exhibits attached to this Agreement are incorporated by reference and expressly made part of this Agreement as if copied verbatim.

19.6. **Complete Agreement; Amendments**. This Agreement represents a complete Agreement of the Parties and supersedes all prior written and oral matters related to this Agreement. Any amendment to this Agreement must be signed by the

Owner and the City, but not the other Parties provided however the District must consent to amendments to the extent required in Section 22. All amendments shall be incorporated herein by reference as if they were part of the Agreement as of the Effective Date.

19.7. **Assignment**. This Agreement is for the benefit of the City and the Owner. The City expressly agrees that the Owner may assign all or part of its rights and obligations under this Agreement to subsequent purchasers of all of part of the Property and/or one or more Homeowners' Associations or a similar non-profit entity owned either by residents or by the Owner, and following receipt of notice of such assignment, the City shall look only to such assignee(s) with respect to such assigned rights or obligations. The foregoing shall not apply to the obligations of the Owner pursuant to Section 15.3.

19.8. **Covenants Running With the Property; Recording Fees**. This Agreement is intended to and shall create conditions or exceptions to title or covenants running with the Property, provided that, in accordance with § 212.172(f) of the Texas Local Government Code, this Agreement is not binding on, and does not create any encumbrance to title as to any End User within the Project, except as to land use and development regulations specified in this Agreement that apply to that specific lot. In the event the Owner elects to record the fully executed Development Agreement in accordance with the terms of Section 24.14, all recording costs shall be the responsibility of the Owner. Additionally, in the event that (a) any amendment to this Agreement is executed in accordance with Section 24.6 or (b) any amendment of an exhibit of this Agreement, or any addendum to an exhibit of this Agreement, is properly made pursuant to the terms of this Agreement, the cost of recording such amendment or addendum to an exhibit to this Agreement shall be the responsibility of the Owner.

19.9. **Notice**. All notices, requests or other communications required or permitted by this Agreement shall be in writing and shall be sent by (a) telecopy or electronic mail, with the original delivered by hand or overnight carrier, (b) by overnight courier or hand delivery, or (c) certified mail, postage prepaid, return receipt requested, and addressed to the parties at the following addresses:

City:

City of New Braunfels
Attn: City Manager
550 Landa St.
New Braunfels, Texas 78130

with copies to:

City Attorney
550 Landa St.
New Braunfels, Texas 78130

Owner:

Southstar at Mayfair, LP
118 Vintage Way
New Braunfels, TX 78132

with copies to:

Bracewell LLP
Attn: Blakely Fernandez
300 Convent St., Suite 2700
San Antonio, Texas 78205

19.10. **Contest of Agreement**. In the event of a third party lawsuit, a taxpayer suit or other claim relating to the validity of this Agreement or any actions taken in compliance therewith, (a) the Owner and the City agree to cooperate in the defense of such claim and the City and the Owner shall use their respective reasonable efforts to resolve the conflict in the mutual best interest of the City and the Owner, and (b) the Owner agrees to indemnify, defend and hold harmless the City against the reasonable costs and expenses incurred by the City in connection with such third party lawsuit, taxpayer suit or other claim relating to the validity of this Agreement or any actions taken in compliance therewith, provided that the Owner shall not be obligated to indemnify the City for claims arising out of (i) the intentional constructed willful misconduct of the City or its agents, or (ii) claims arising from actions taken by the City pursuant to Section 3.5. Nothing in this Agreement shall be construed as a waiver of governmental and sovereign immunity by the City.

19.11. **Force Majeure.** The Owner and the City agree that the obligations of each party, except the obligation to make financial payments, shall be subject to force majeure events such as acts of God, natural calamity, fire or strike.

19.12. **District Approval.** By its signature below, the District agrees to this Agreement and agrees to abide by this Agreement applicable to the District. The District may enforce any rights established in favor of the District under this Agreement.

19.13. **Signature Warranty Clause**. The signatories to this Agreement represent and warrant that they have the authority to execute this Agreement on behalf of the City and the Owner, respectively.

19.14. **Effective Date and Recording**. This Agreement shall be executed by City, the Owner, the District, and the Landowner promptly following approval of this Agreement by the City Council, provided that this Agreement shall not be

binding upon the Property until and unless this Agreement is recorded by the Owner in the real property records of the County.

19.15. **Captions**. The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

(EXECUTION PAGE(S) TO FOLLOW)

APPROVED AND AGREED:

CITY OF NEW BRAUNFELS

By:_____

_____, Mayor

Date:_____

STATE OF TEXAS §
§ **ACKNOWLEDGMENT**
COUNTY OF COMAL §

This instrument was acknowledged before me on this the _____ day of _____ 2024, by _____, a person known to me in her capacity as Mayor of the City of New Braunfels, on behalf of the City of New Braunfels.

_____
Notary Public, in and for the State of Texas

SOUTHSTAR AT MAYFAIR, LLC, a Texas limited liability company

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
§ **ACKNOWLEDGMENT**
COUNTY OF _____ §

This instrument was acknowledged before me on this the _____ day of _____ 2024, by _____, persons known to me in their capacities _____, _____ on behalf of the partnership.

_____
Notary Public, in and for the State of Texas

LIST OF EXHIBITS

Exhibit A	Consent Resolution
Exhibit B	Description of Property (1888 acres)
Exhibit C	Code of Ordinances
Exhibit D	Development Standards (Development & Design Control Document)
Exhibit E	Master Framework Plan
Exhibit F	Traffic Impact Analysis (Project Transportation Plan)
Exhibit G	Form of Strategic Partnership Agreement
Exhibit H	Overlapping Property
Schedule 7	Parks Schedule

Schedule 7

PARK SCHEDULE (Draft based on Projections)

Total Projected Residential Units: 6,000

		Pre-Quartile	Quartile 1	Quartile 2	Quartile 3	Quartile 4	TOTAL
Residential Units		**750**	**750**	**1,500**	**1,500**	**1,500**	**6,000 units**
PARK TYPE (Minimum Dedication)		**Minimum Development Schedule**					
Private Parks	*Pocket Parks Dedication*	*1 park*	*1 park*	*1 park*	*2 parks*	*2 parks*	*7 Pocket Parks*
	Recreation Centers Dedication	*0*	*1 Rec Center*	*0*	*0*	*1 Rec Center (5 acres)*	*2 Rec Centers*
Public Parks	*Greenbelt/Conservation Parks/ Trails Dedication*	*16 acres*	*15 acres*	*28 acres*	*TBD (combined w/ Community parks = 75 acres) TBD*	*TBD (combined w/ Community parks = 95 acres) TBD*	*133 acres*
	Community Parks Dedication	*31 acres*	*0*	*40 acres*			*120 acres*
	Natural/Conservation Area	*TBD (pending utility easement agreements and development progression)*					*77 acres*
Minimum Total Dedicated Public Parks Acreage		**47 acres**	**15 acres**	**68 acres**	**75 acres**	**95 acres**	**331 acres**
Total Parks Investment*		$1,528,500	$1,528,500	$3,057,000	$3,057,000	$3,057,000	$12,228,000.00

Note: Owner may satisfy any or all of its obligations in the Park Schedule in advance of the schedule.

*These figures include both the onsite fee credit and offsite payment required in Section 7.2.1.