

## **CHANGE ORDER #3 AMENDMENT TO PARTICIPATION AGREEMENT**

This Change Order #3 Amendment to Participation Agreement (the “Third Amendment”) is entered into by and between the City of San Marcos, Texas, a municipal corporation (the “City”) and Lazy Oaks Ranch, LP, a Texas limited partnership (the “Owner”), and hereby amends, supplements and modifies that certain Participation Agreement (the “Agreement”) between the City and Owner approved by resolution of the City numbered 2017-43R and dated to be effective March 7, 2017.

### **I. RECITALS**

**1.1** Under the terms of the Agreement, the Owner is constructing certain public improvements on behalf of the City within the La Cima land development project area.

**1.2** The City is cost participating in the intersection improvements at Centerpoint Road and Wonder World Drive, including additional lanes and a traffic signal (the “Improvements”);

**1.3** The City’s cost participation for the Improvements was defined by a percentage of the construction cost estimated under the Agreement. The construction of these improvements have now commenced and construction costs have increased from original estimates. This Third Amendment maintains the City’s percent participation but increases funding to an additional \$550,000.00 due to escalation of construction and materials. The foregoing improvements, as further shown and described in the map and Description of Work attached as Attachment 1 are collectively referred to as the “Additional Public Improvements.”

**1.4** The City has determined that portions of the Improvements qualify for cost participation by the City pursuant to TEXAS LOCAL GOVERNMENT CODE SECTION 212.071 and the City desires to have the Owner design and construct both the Owner’s and the City’s portion of the Improvements under the Agreement.

**1.5** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owner enter into this Third Amendment.

### **II. AMENDMENT**

**2.1** Paragraph 2.2.2 of the Agreement is amended to increase the City’s maximum cost participation amount from \$1,466,968.81 to \$2,016,968.81.

**2.2** Exhibit B of the Agreement is amended to include the cost proposal attached hereto as Attachment 2.

**2.3** All other terms of the Agreement not amended, modified or supplemented by this Second Amendment shall remain the same and in full force and effect.

**SIGNATURES ON NEXT PAGE**

**EXECUTED** to be effective as of \_\_\_\_\_, 2022.

**CITY:**

**OWNER:**

**CITY OF SAN MARCOS, TEXAS**

**LAZY OAKS RANCH, LP**

By: Lazy Oaks GP, LLC, its general partner

By: \_\_\_\_\_  
Stephanie Reyes, Interim City Manager

By: \_\_\_\_\_  
Bryan W. Lee, Manager

**ATTACHMENT 1**  
**(Next Page)**

**ATTACHMENT 2**  
**(Next Page)**