

TRACE PUBLIC IMPROVEMENT DISTRICT
FINANCING AGREEMENT

BETWEEN

HIGHPOINTE TRACE, LLC, a California limited liability company

AND

CITY OF SAN MARCOS, TEXAS

TRACE PUBLIC IMPROVEMENT DISTRICT FINANCING AGREEMENT

This Trace Public Improvement District Financing Agreement (this “**Agreement**”), dated as of _____, 2015, (the “**Effective Date**”), is entered into between Highpointe Trace, LLC, a California limited liability company (including its Designated Successors and Assigns, the “**Owner**”), and the City of San Marcos, Texas (the “**City**”), acting by and through its duly authorized representative.

Recitals:

WHEREAS, Owner owns a total of approximately 417.63 acres of land located within the City which is more particularly described in Exhibit “B” attached hereto and made a part hereof (the “**Property**”).

WHEREAS, it is intended that the Property will be developed as a mixed use development (the “**Project**”);

WHEREAS, the terms of annexation and zoning of the Property have been agreed to by the City and the Owner pursuant to the Trace Planned Development District agreement (the “**PDD**”) which was approved by the City on even date herewith;

WHEREAS, the Agreement Regarding Fire Station (defined herein) was also approved by the City on even date herewith;

WHEREAS, the City Council authorized the formation of the Trace Public Improvement District (the “**District**”) on October 20, 2015, pursuant to a City Resolution in accordance with the PID Act (as defined in Exhibit “A”);

WHEREAS, pursuant to the terms of this Agreement, the City has agreed to allow financing of certain public improvements conferring special benefits to the Property via a public improvement district;

WHEREAS, the Owner proposes to construct certain improvements over time to serve Property located in the District (or portions thereof) and transfer some or all of those improvements to the City or City in accordance with the terms and provisions of this Agreement;

WHEREAS, the City intends to (upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement) adopt the Service and Assessment Plan (as defined herein), approve the Assessment Ordinance and levy Special Assessments on all or a portion of the property located within the District and issue bonds in one or more series for payment of costs associated with construction and/or acquisition of the Public Improvements (as defined herein) included in the Service and Assessment Plan, as such plan may be amended from time to time; and

WHEREAS, the City has determined that it is in its best interests to contract with the Owner for the construction of the Public Improvements, which will result in the efficient and effective implementation of the Service and Assessment Plan.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I. SCOPE OF AGREEMENT

This Agreement establishes provisions for the apportionment, levying, and collection of Special Assessments on the Property (Article II), the Construction of Public Improvements to be acquired by the City (Article III), funding of Public Improvements through the issuance of PID Bonds (as hereinafter defined), acquisition and maintenance of Public Improvements within the District (Article IV), and the issuance of bonds for the financing of the Public Improvements (Article V). Definitions used herein are set forth in Exhibit "A" attached hereto and made a part hereof and in the Service and Assessment Plan.

ARTICLE II. APPORTIONMENT, LEVY AND COLLECTION OF ASSESSMENTS

Section 2.01. Preliminary Matters

(a) On October 20, 2015, the City authorized the formation of the District by Resolution No. _____. The District includes all of the Property.

(b) The Property will be developed in phases. It is anticipated that some Public Improvements will be constructed that benefit only an Additional Improvement Area, while other Public Improvements will benefit the entire District. As a result, Special Assessments will be levied on only certain Additional Improvement Areas from time to time as the development in the District progresses. As such, it is currently contemplated that there will be (i) bonds issued for the entire District, the "**Major Public Improvement PID Bonds**" (as further defined in Exhibit "A") and (ii) bonds issued for different Additional Improvement Areas, the "**Additional Improvement PID Bonds**" (as further defined in Exhibit "A").

(c) A draft of the initial Service and Assessment Plan for the Property is attached hereto as Exhibit "C." The Owner acknowledges and agrees that the Service and Assessment Plan must meet the requirements of Texas Local Government Code Sections 372.013 and 372.014 and be presented to the City Council for review and approval prior to approval of the Assessment Ordinance and PID Bonds being issued. The final Service and Assessment Plan approved pursuant to the Initial Assessment Ordinance shall be substantially similar to the draft attached hereto as Exhibit "C" hereto and shall be substituted for and replace Exhibit "C" hereto. Thereafter, the Service and Assessment Plan will be updated and amended by the City or its Administrator at least once per year, and submitted for the City Council's review and approval. Notwithstanding the above, it is hereby understood and acknowledged by the Parties that the Service and Assessment Plan may need to be amended over time if there are any changes in the Major Improvements, Additional Improvements, or Additional Improvement Areas in accordance with the terms set forth

in this Agreement. Nevertheless, the basic terms and methodology described in the Service and Assessment Plan will generally apply to the Major Improvement PID Bonds and the Additional Improvement PID Bonds.

(d) Special Assessments on any portion of the Property will bear a direct proportional relationship to and be less than or equal to the special benefit of the Public Improvements within the District (or Additional Improvement Area, as applicable).

(e) Special Assessments on any portion of the Property may be adjusted in connection with subsequent PID Bond issues or otherwise so long as the Special Assessments are determined in accordance with the Service and Assessment Plan.

(f) The Property may also be subject to an Owner's Association assessment.

(g) Promptly following submission to the City of the initial or an updated Service and Assessment Plan (or any subsequent amendment or supplement to the Service and Assessment Plan) acceptable in form and substance to the City and to the Owner with respect to the matters therein that require approval by the Owner as provided in this Agreement, the City Council shall consider, if applicable, an Assessment Ordinance relating to the applicable plan or amendment or supplement. If an Assessment Ordinance is adopted, the City shall use reasonable, good faith efforts to expeditiously initiate and approve all necessary documents and orders required to effectuate the Service and Assessment Plan and Assessment Ordinance.

(h) Prior to the levy of Special Assessments, the Owner shall provide an Appraisal to the City for the City's review and approval covering the portion of the Property that will be subject to the Special Assessments. The City shall select the appraiser, in consultation with the Owner and the Underwriter, and all reasonable fees of the Appraisal shall be paid by the Owner.

Section 2.02. Apportionment and Levy of Assessments

The City will levy Special Assessments on the Property in accordance herewith and with the Service and Assessment Plan (as such plan is amended from time to time) at such time as an Assessment Ordinance is approved by the City Council in accordance with Article IV hereof. The City's apportionment and levy of Special Assessments will be made in accordance with the PID Act.

Section 2.03. Collection of Assessments

(a) Subject to the terms and conditions of this Agreement, the City covenants and agrees that it shall, as authorized by the PID Act and other applicable law, continuously collect or cause to be collected Special Assessments levied pursuant to an Assessment Ordinance in accordance with the Service and Assessment Plan during the term of this Agreement in the manner and to the maximum extent permitted by applicable law. The City covenants and agrees that to the extent permitted by applicable law, it will not permit a reduction, abatement, or exemption in the Special Assessments due on any portion of the Property until the PID Bonds related to that particular portion of the Property are no longer outstanding, whether as a result of payment in full, defeasance, or otherwise. The City shall use best efforts to collect the Special Assessments

consistent with the City's policies and standard practices applicable to the collection of City taxes and assessments.

(b) It is hereby acknowledged that Special Assessments can be used for the following purposes: (i) after completion of the applicable Public Improvements, but prior to the issuance of PID Bonds for those Public Improvements, Owner will be reimbursed for Actual Costs associated with those Public Improvements from Special Assessments collected by the City and held by the City pursuant to an applicable Acquisition and Reimbursement Agreement and (ii) after PID Bonds are issued with respect to any given completed Public Improvements, the Special Assessments will be used first to secure such PID Bonds and second, to the extent any such Special Assessments are remaining after payments are made on the PID Bonds, to reimburse Owner for any Actual Costs not reimbursed by the PID Bonds. Any reimbursement obligation to Owner under an Acquisition and Reimbursement Agreement or as provided above will be subordinate to payment of the applicable Major Public Improvement PID Bonds and Additional Improvement PID Bonds.

(c) Notwithstanding anything to the contrary contained herein or in the Service and Assessment Plan, once PID Bonds have been issued the Special Assessment Revenues collected annually from the Property will be deposited in the Pledged Revenue Fund and thereafter transferred in the priority as set forth in the Indenture.

(d) Further notwithstanding anything to the contrary contained herein, the City covenants and agrees to use best efforts to contract with the Hays County Tax Collector for the collection of the Special Assessments such that the Special Assessments will be included on the ad valorem tax bill(s) for the Property and will be collected as part of and in the same manner as ad valorem taxes.

Section 2.04. Approval and Recordation of Special Assessments through Landowner Agreement

Concurrently with the levy of the Special Assessments for any portion of the Property, the Owner shall execute (and shall cause any other owner of any of the Property that will be subject to the future special assessments to execute) a Landowner Agreement (herein so called) in which the Landowner shall approve and accept the apportionment of assessments in the Service and Assessment Plan and the levy of the Special Assessments by the City. The Landowner Agreement further shall (a) evidence the Owner's intent that the Special Assessments be covenants running with the land that (i) will bind any and all current and successor owners of the Property to the Special Assessments, including applicable interest thereon, as and when due and payable thereunder and (ii) provide that subsequent purchasers of such land take their title subject to and expressly assume the terms and provisions of the Special Assessments; and (b) provide that the liens created by the levy of the Special Assessments are a first and prior lien on the Property, subject only to liens for ad valorem taxes of the State, County, City, or school district.

Section 2.05 Reimbursement Of Owner-Expended Costs

(a) Owner's right, title and interest into the payments of unreimbursed Actual Costs, as described herein, shall be the sole and exclusive property of Owner (or its Transferee) and no

other third party shall have any claim or right to such funds unless Owner transfers its rights to its unreimbursed Actual Costs to a Transferee in writing and otherwise in accordance with the requirements set forth herein. Subject to the terms of Section 8.03 hereof, Owner has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part, all or any portion of Owner's right, title, or interest under this Agreement including, but not limited to, any right, title or interest of Owner in and to payment of its unreimbursed Actual Costs (a "**Transfer**," and the person or entity to whom the transfer is made, a "**Transferee**"). Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City. The City may rely conclusively on any written notice of a Transfer provided by Owner without any obligation to investigate or confirm the Transfer.

Section 2.06. Obligations Secured by Pledged Revenues

THE PID BONDS ARE SPECIAL OBLIGATIONS OF THE CITY SECURED SOLELY BY PLEDGED REVENUES (AS DEFINED IN THE INDENTURE) AND ANY OTHER FUNDS HELD UNDER THE INDENTURE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE PID BONDS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY AND ARE NOT SECURED EXCEPT AS PROVIDED IN THE INDENTURE. THE OWNERS OF THE BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND ANY OTHER FUNDS HELD UNDER THE INDENTURE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO THE OWNERS OF THE BONDS TO PAY THE BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES.

ARTICLE III. CONSTRUCTION AND ACQUISITION

Section 3.01. Acquisition of Major Public Improvements and Additional Public Improvements

The Owner will dedicate some of the applicable Major Public Improvements identified in Exhibit "D" to the City upon completion of Major Public Improvements, and the City will accept dedication of such Major Public Improvements after confirming that the Major Public Improvements have been completed in accordance with this Agreement and the Regulatory Requirements. Some of the Major Public Improvements identified in Exhibit "D" will be dedicated to the City by easement and maintained by an Owner's Association.

The Owner will dedicate some of the applicable Additional Public Improvements identified in Exhibit "F-1" and Exhibit "F-2" to the City upon completion of the Additional Public Improvements, and the City will accept dedication of such Additional Public Improvements after confirming that the Additional Public Improvements have been completed in accordance with this Agreement and the Regulatory Requirements. Some of the Additional Public Improvements identified in Exhibit "F-1" and Exhibit "F-2" will be dedicated to the City by easement and maintained by an Owner's Association.

Section 3.02. Designation of Construction Manager, Construction Engineers

(a) The City hereby designates the Owner, or its assignees, as the Construction Manager with full responsibility for the design, the designation of easement locations, facilities site designations and acquisitions, supervision of construction, and the bidding and letting of construction contracts for the construction of the Public Improvements in accordance with the provisions of this Article III and in accordance with any requirements of the City and, as applicable, City approved plans.

(b) Except as otherwise provided herein, inspection of the construction of any Public Improvement being conveyed to the City will be by City Construction Representative or its designee. Any City inspection of a Public Improvement being conveyed to the City will be in accordance with any requirements of the City.

(c) The Owner shall be entitled to a separate Construction Management Fee for the construction of each Segment, unless Owner contracts with a third party to act as the Construction Manager with respect to construction of the Public Improvements. The Construction Management Fee is part of Actual Costs and will be paid as part of the Actual Costs.

(d) The City shall cooperate with the Owner in connection with its services as Construction Manager.

(e) The Owner shall designate the consulting engineers for the Public Improvements for the compensation specified by the Owner.

Section 3.03. Designation of Construction Manager Subcontractor

The City acknowledges and agrees that Owner may subcontract out all or some of the duties of Construction Manager to a third party. Owner may designate an individual, company, or partnership or other entity as a subcontractor for construction management services for one or more Public Improvements or distinct Segments thereof provided that such designee has the technical capacity, experience and expertise to perform such construction management duties or obligations. Owner may make such designation under the same terms as set out in Section 8.03(a) of this Agreement.

Section 3.04. Maintenance of Project, Warranties

Unless otherwise provided for, the Owner (or the Owner's Association, as applicable) shall maintain each Public Improvement (or Segment thereof) in good and safe condition until such Public Improvement (or Segment thereof) is accepted by the City. The City's acceptance of Public Improvements shall be in accordance with the City's standard rules and procedures for the type of improvements being constructed. Prior to such acceptance, the Owner shall be responsible for performing any required maintenance on such Public Improvement. On or before the acceptance by the City of a Public Improvement (or Segment thereof), the Owner shall assign to the City all of the Owner's rights in any warranties, guarantees, maintenance obligations, or other evidences of contingent obligations of third persons with respect to such Public Improvement (or Segment thereof).

Section 3.05. Sales and Use Tax Exemptions

(a) The parties agree that, as municipally and publicly owned and acquired properties, all costs of materials, other properties and services used in constructing the Public Improvements to be acquired by the City are exempt under the Texas Tax Code from sales and use taxes levied by the State of Texas, or by any County, City, special district, or other political subdivision of the State, as set forth in Texas Tax Code Section 151.309.

(b) The City will provide such certifications to the Owner and/or to suppliers and contractors as may be required to assure the exemptions claimed herein.

(c) The City and the Owner shall cooperate in structuring the construction contracts for the Public Improvements to comply with requirements (including those set forth in Texas Tax Code Section 151.309) for exemption from sales and use taxes.

Section 3.06. Exemption from Public Bidding

It is agreed that the PID will be exempt from any public bidding or other purchasing and procurement policies pursuant to Texas Local Government Code Section 252.022(a)(9) which states that a project is exempt from such policies if “paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements.”

Section 3.07 Project Timetable

(a) Construction plans for the Public Improvements for the Residential Phase 1 Parcels (Planning Area 1 and portions of Planning Area 2, as shown on Exhibit “I”) of the Public Improvements shall be submitted to the City for review within nine months of the Effective Date, subject to *force majeure*.

(b) Public Improvements for the Residential Phase 1 shall be constructed within eighteen months of City approval of construction plans for the Public Improvements, subject to *force majeure*.

(c) Construction Plans for the Public Improvements for the Multi-Family Parcels (Planning Areas 8 and 12, as shown on Exhibit “I”) of the Public Improvements shall be submitted to the City for review within nine months of the Effective Date, subject to *force majeure*.

(d) Authorized Improvements for the Multi-Family Parcels shall be constructed within eighteen months of City approval of construction plans for the Public Improvements, subject to *force majeure*.

(e) Construction plans for the Public Improvements for the Commercial Parcels (Planning Areas 3, 9, 10, and 11, as shown on Exhibit “I”) of the Public Improvements shall be submitted to the City for review within nine months of the Effective Date, subject to *force majeure*.

(f) Public Improvements for the Commercial Parcels shall be constructed within eighteen months of City approval of the construction plans for the Public Improvements, subject to *force majeure*.

(g) Construction Plans for the Water and Wastewater Public Improvements in the future Right of Way of Road Segment D for a portion of Residential Phase 2 Parcels that serve Planning Areas 7 and 13 as shown on Exhibit "I" of the Public Improvements that are to be constructed concurrent with the Residential Phase 1 Parcels shall be submitted to the City for review within nine months of the Effective Date, subject to *force majeure*.

(h) Water and Wastewater Public Improvements for a portion of the Residential Phase 2 Parcels that are to be constructed concurrent with the Residential Phase 1 Parcels as described in subparagraph (g) above shall be constructed within eighteen months of City approval of the construction plans for the Public Improvements, subject to *force majeure*.

Capitalized terms not defined in this Section 3.07 shall have the meanings ascribed to them in the PDD.

ARTICLE IV. PAYMENT FOR PUBLIC IMPROVEMENTS

Section 4.01. Overall Requirements

(a) The City shall not be obligated to provide funds for any Public Improvement except from the proceeds of the PID Bonds or from Special Assessments as provided in Section 2.03(b) above; provided, however the City and the Owner may enter into an Oversize Participation Agreement under which the City will agree to fund the costs of any Public Improvements or oversizing of Public Improvements above and beyond the infrastructure needed to serve the Project. The City makes no warranty, either express or implied, that the proceeds of the PID Bonds available for the payment of the Actual Cost of the Public Improvements to be constructed for or acquired by the City will be sufficient for the construction or acquisition of all of those particular Public Improvements. The Parties anticipate that the Actual Cost to construct the Public Improvements may be greater than the proceeds of the PID Bonds available for Public Improvements and any shortfalls will be funded by the Owner, subject to Section 2.03(b).

(b) Upon written acceptance of a Public Improvement, and subject to any applicable maintenance-bond period, the City shall be responsible for all operation and maintenance of such Public Improvements, including all costs thereof and relating thereto.

(c) The Public Improvements are intended to be constructed pursuant to one or more Acquisition and Reimbursement Agreements and paid for by the Owner prior to the issuance of PID Bonds intended to fund such Public Improvements. Such funding of the Public Improvements will be governed by the applicable Acquisition and Reimbursement Agreement and Section 4.02 of this Agreement.

Section 4.02. Payments for Completed Public Improvements

The costs of all Public Improvements will be initially financed through Acquisition and Reimbursement Agreements. Pursuant to the terms of an Acquisition and Reimbursement Agreement entered into concurrently with letting the construction contract for an applicable Public Improvement, the Owner shall convey, and the City shall acquire, the given Public Improvement for the Actual Cost, after such Public Improvement is completed and has been accepted by the City. The general process for funding of Public Improvements is as follows:

(a) Major Public Improvements

(1) Concurrently with letting the construction contract for the Major Public Improvements, the City and Owner will execute an Acquisition and Reimbursement Agreement for the Major Public Improvements which will provide for Special Assessments (to be levied and collected after completion of the Major Public Improvements) that will reimburse the Owner for Actual Costs incurred in connection with the Major Public Improvements until the Major Public Improvement PID Bonds are issued in amount necessary to reimburse Owner for the Actual Costs of the Major Public Improvements less any amounts already reimbursed to Owner pursuant to the Acquisition and Reimbursement Agreement, as provided in Section 2.03(b).

(2) As soon as practical after the Effective Date, the City will approve the Initial Assessment Ordinance which will include the Service and Assessment Plan. The City will levy and collect the Special Assessment for the Major Public Improvements.

(3) Owner will construct or cause the construction of the Major Public Improvements.

(4) After the completion of the Major Public Improvements, the City will begin collecting the Special Assessments on the Property. Upon collection of such Special Assessments, the City will place such Special Assessments in a designated account separate from the City's other accounts. As set forth in Section 2.03(b), the funds within the account will be used to reimburse Owner for the Actual Costs of the Major Public Improvements pursuant to the terms of the Acquisition and Reimbursement Agreement (See step # 5 below).

(5) Prior to the first bond issue, Highpointe shall demonstrate to the City that the Landowner has sold and or has contractual obligations for the sale of lots to homebuilders, a minimum of 130 of the 390 lots in the Residential Phase 1, as shown on page 60 of the Trace Public Improvement District Financing Agreement, Exhibit C, Draft of Service and Assessment Plan, Table IV-C, Major Public Improvements PID Bonds, Special Assessment Allocation.

(6) Upon completion of the Major Public Improvements contemplated by the Acquisition and Reimbursement Agreement and the Trustee's receipt of proceeds from the Major Public Improvement PID Bonds, the City will issue the Major Public Improvement PID Bonds, subject to meeting the requirements and conditions stated herein and State law, to reimburse the Owner for Actual Cost of the Major Public Improvements less any amounts already reimbursed to Owner pursuant to the Acquisition and Reimbursement Agreement. The City shall commence the documentation and preparation for sale of the Major Public Improvement PID Bonds based on

written notice by the Owner of the anticipated completion date of the Major Public Improvements within 120 days.

(b) To receive funds from the proceeds of the Major Public Improvement PID Bonds to pay the Actual Cost of a given Major Public Improvement, the Owner shall deliver to the City and the Project Engineer (i) documentation evidencing the Actual Cost, (ii) documentation evidencing the acceptance of the Major Public Improvement by the City or Owner's execution of an easement granting the City and the public the right of access to and use of such Major Public Improvement (as set forth in the PDD), and (iii) an assignment of the warranties and guaranties, if applicable, for such Public Improvement, in form reasonably acceptable to the City. Nothing herein shall prohibit Owner from being reimbursed for design costs associated with a Major Public Improvement.

(c) At the time of the closing of the Major Public Improvement PID Bonds, Owner shall, concurrently with the initial draw from the proceeds of the Major PID Bonds submit to the City a Closing Disbursement Request to the City and the Trustee to be reimbursed for (i) the Unpaid Balance under the applicable Acquisition and Reimbursement Agreement and (ii) any other qualified and permitted costs approved by the City (collectively, the **"Initial Owner Expended Funds"**). The total amount of Initial Owner Expended Funds approved by the City pursuant to this Section shall be referred to herein as the **"Initial Reimbursement Payment."** Prior to disbursement of proceeds of the Major Public Improvement PID Bonds, the City will sign the Closing Disbursement Request and deliver said Closing Disbursement Request to the Trustee. At the closing of the Major Public Improvement PID Bonds, Owner shall be reimbursed an amount equal to the Initial Reimbursement Payment and such amount shall be transferred to the Trustee for distribution to the Owner or the Owner's designee.

(d) Additional Public Improvements (Additional Public Improvements No. 1 and Additional Public Improvements No. 2)

(1) The Owner and the City intend to enter into one or more Acquisition and Reimbursement Agreements to finance the Additional Public Improvements required for that particular Additional Improvement Area, which will provide for Special Assessments (to be levied and collected after completion of the Additional Public Improvements) that will reimburse the Owner for Actual Costs incurred in connection with the Additional Public Improvements until Additional Improvement PID Bonds are issued in amount necessary to reimburse Owner for the Actual Costs of the Additional Public Improvements less any amounts already reimbursed to Owner pursuant to the Acquisition and Reimbursement Agreement, as set forth in Section 2.03(b). Concurrently with letting the construction contract for the applicable Additional Public Improvements, the City and Owner will execute an Acquisition and Reimbursement Agreement.

(1a) Simultaneously, the Service and Assessment Plan will be amended to reflect the Special Assessments and the Additional Public Improvements associated with the Additional Improvement Area in question, and as contemplated by the Acquisition and Reimbursement Agreement. The City will levy and collect the Special Assessment for the associated Additional Improvement Area.

(2) Owner will construct or cause the construction of the Additional Public Improvements for the associated Additional Improvement Area.

(3) After the completion of the Additional Public Improvements contemplated by an Acquisition and Reimbursement Agreement, the City will begin collecting the Special Assessments for the associated Additional Improvement Area. Upon collection of such Special Assessments, the City will place such Special Assessments in a designated account separate from the City's other accounts. The funds within the account will be used to reimburse Owner for the Actual Costs of the Additional Improvement Area Public Improvements pursuant to the terms of the Acquisition and Reimbursement Agreement (See step # 4 below).

(4) Upon completion of the Additional Public Improvements contemplated by the Acquisition and Reimbursement Agreement and receipt of a Bond Issuance Request, the City will issue Additional Improvement PID Bonds, subject to meeting the requirements and conditions stated herein and State law, to reimburse the Owner for Actual Cost of the Additional Improvement Area Public Improvements less any amounts already reimbursed to Owner pursuant to the Acquisition and Reimbursement Agreement and the Trustee's receipt of proceeds from the Additional Improvement PID Bonds. The City shall commence the documentation and preparation for sale of the Additional Improvement PID Bonds based on written notice by the Owner of the anticipated completion date of the Additional Major Public Improvements within 120 days.

(e) To receive funds from the proceeds of the Additional Improvement PID Bond to pay the Actual Cost of a given Additional Public Improvement, the Owner shall deliver to the City and the Project Engineer (i) documentation evidencing the Actual Cost, (ii) documentation evidencing the acceptance of the Additional Public Improvement by the City or Owner's execution of an easement granting the City and the public the right of access to and use of such Public Improvements, and (iii) an assignment of the warranties and guaranties, if applicable, for such Public Improvement, in form reasonably acceptable to the City. Nothing herein shall prohibit Owner from being reimbursed for design costs associated with an Additional Public Improvement.

(f) At the time of the closing of any Additional Improvement PID Bonds, Owner shall, concurrently with the initial draw from the applicable Additional Improvement PID Bonds and under substantially the same procedures as set forth above, be reimbursed for (i) the Unpaid Balance under the applicable Acquisition and Reimbursement Agreement and (ii) any other qualified and permitted costs approved by the City under substantially the same procedures as set forth above (collectively, the "**Owner Expended Funds**"). The total amount of Owner Expended Funds approved by the City pursuant to this Section shall be referred to herein as the "**Reimbursement Payment.**"

ARTICLE V. PID BONDS

Section 5.01. Issuance of PID Bonds

(a) Subject to the terms and conditions set forth in this Section V, the City intends to pay for the Public Improvements, by issuing PID Bonds in one or more series. The City will use

diligent, reasonable and good faith efforts, subject to meeting the requirements and conditions stated herein and State law, to issue PID Bonds within four (4) to six (6) months after receiving a Bond Issuance Request from Owner and the completion of the applicable Public Improvements contemplated to be paid for by the PID Bonds to be issued, provided that Owner can reasonably demonstrate to the City and its financial advisors that (i) the applicable Future PID Bond Test has been satisfied and (ii) there is sufficient security for the PID Bonds, based upon the bond market conditions existing at the time of such proposed sale. The planning and documentation of a PID Bond issuance shall begin no later than 120 days in advance of the expected completion date of the construction of the Public Improvements to be reimbursed by such PID Bond issuance, as evidenced by a Bond Issuance Request.

(b) The aggregate principal amount of PID Bonds required to be issued hereunder shall not exceed an amount sufficient to fund: (i) the Actual Costs of the Public Improvements, (ii) required reserves and capitalized interest of not more than 12 months after the completion of construction of the applicable Public Improvements funded by the PID Bond issue in question and in no event for a period greater than 12 months from the date of the initial delivery of the applicable PID Bonds and (iii) Bond Issuance Costs. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future PID Bond issuances.

(c) The final maturity for each series of PID Bonds shall occur no later than 30 years from the issuance date of said PID Bonds.

(d) It is the intent of the Owner to request the issuance of at least three but no more than four PID Bonds, with each bond issue permitted to include more than one series of PID Bonds as allocated to a separate components of the Project, to provide the agreed upon reimbursements. However, the Owner retains the right to request the agreed upon reimbursements through additional PID Bond issues subject to the condition that the maximum cost of Public Improvements to be reimbursed shall not exceed \$15,500,000.

(e) The maximum annual PID installment equivalent tax rate shall be \$0.50. Special assessments on any given portion of the Property may be adjusted in connection with subsequent PID Bond issues, as long as the maximum annual PID annual installment equivalent tax rate, as described in the foregoing sentence, is not exceeded, and the Special Assessments are determined in accordance with the Service and Assessment Plan. Special Assessments on any portion of the Property shall bear a direct proportionate relationship to the special benefit of the Public Improvements to that portion of the Property.

(f) The minimum value to lien ratio at the issuance date of each series of PID Bonds shall be 3 to 1.

(g) The maximum annual permitted increase in PID annual installments shall be 2%.

(h) In addition to any other requirements of this Agreement, including but not limited to City Council approval, PID Bonds are not required to be issued under this Article V unless (i)

the statutory requirements set forth in Chapter 372 of the Texas Local Government Code have been satisfied; (ii) the City receives at the time of issuance of such PID Bonds an opinion of counsel selected by the City stating in effect that the PID Bonds are legal and valid obligations under Texas law and that all preconditions to their issuance under State law have been satisfied; and (iii) the Attorney General of the State of Texas has issued an opinion approving issuance of the bonds as required by the PID Act.

(i) The City will deliver a certificate relating to any PID Bonds authorized by the City Council (such certificate, as it may be amended and supplemented from time to time, being referred to herein as the “**Tax Certificate**”) containing covenants and agreements designed to satisfy the requirements of Sections 103 and 141 through 150, inclusive, of the Tax Code and the income tax regulations issued thereunder relating to the use of the proceeds of the PID Bonds or of any monies, securities or other obligations on deposit to the credit of any of the funds and accounts created by the Indenture or this Agreement or otherwise that may be deemed to be proceeds of the Bonds within the meaning of Section 148 of the Tax Code (collectively, “**Bond Proceeds**”).

(j) The foregoing requirements apply to each series of Major Public Improvement PID Bonds and Additional Improvement PID Bonds issued, if any.

Section 5.02. Project Fund

The City hereby covenants and agrees that if PID Bonds are issued, the Indenture will establish a Project Fund as a separate fund to be held by the Trustee under the Indenture. The portion of the proceeds of the PID Bonds issued to pay Actual Costs of Public Improvements and Bond Issuance Costs shall be deposited upon issuance into separate accounts within the Project Fund.

Section 5.03. Denomination, Maturity, Interest, and Security for Bonds

(a) Each series of PID Bonds is subject to authorization by the City Council. If authorized, the PID Bonds shall be issued in the denominations, shall mature and be prepaid, shall bear interest, and shall be secured by and payable solely from the PID Bond Security, all to be as described and provided in the PID Bond Ordinance or Indenture, as applicable.

(b) The final and adopted versions of the PID Bond Ordinance and the Indenture (and all documents incorporated or approved therein) shall contain provisions relating to the withdrawal, application, and uses of the proceeds of the PID Bonds when and as issued and delivered and otherwise contain such terms and provisions as are mutually approved by the City and the Owner.

Section 5.04. Sale of PID Bonds.

The PID Bonds, if issued by the City, shall be marketed and sold through a negotiated competitive or privately placed sale to an approved third party or parties with the cooperation and assistance of the Owner in all respects with respect to the preparation of marketing documents, such as preliminary and final official statements or in such other marketing and/or sales method mutually agreed upon by the City and the Owner.

Section 5.05. Sale of Major Public Improvement PID Bonds and Additional Improvement PID Bonds

The Major Public Improvements to be constructed and funded in connection with the Major Public Improvement PID Bonds are more particularly described on Exhibit “D” attached hereto. Additional Public Improvements No. 1 to be constructed and funded in connection with the Additional Improvement PID Bond No. 1 are more particularly described on Exhibit “F-1” attached hereto. The Additional Public Improvements No. 2 to be constructed and funded in connection with the Additional Improvement PID Bond No. 2 are more particularly described on Exhibit “F-2” attached hereto.

Section 5.06. Phased Issuance of Debt

As previously stated, the proposed bond issuance program is anticipated to entail a series of bond financings that will finance the Public Improvements required for the development of the Project. This financing will be undertaken in phases to coincide with the private investment and development of the Public Improvements. Following the issuance of the Major Public Improvement PID Bonds, Additional Improvement PID Bonds No. 1, and Additional PID Bonds No. 2 may be issued over the upcoming years as the subsequent phases of the Project are constructed.

The purpose of this phased issuance of any Additional Improvement PID Bonds is to mirror the actual private development of the Public Improvements. The Additional Improvement PID Bonds to be issued are most prudently and efficiently utilized when directly coinciding with construction of public infrastructure needed for private development that is to occur once the infrastructure is completed; it is most effective to issue the Additional Improvement PID Bonds when the infrastructure is needed, not before. Furthermore, there is no economic advantage, and several disadvantages, to issuing debt and encumbering property within the District prior to the need for the Public Improvements.

Section 5.07. Phased Assessments

On the Effective Date, the Parties recognize that it is not possible to determine with sufficient certainty the amount of special benefit each Parcel within the District will receive from Public Improvements that are to be financed with the PID Bonds. Therefore, until the Service and Assessment Plan is approved, Parcels will not be assessed. Once the Service and Assessment Plan has been approved, the Parcels will only be assessed for the special benefits conferred upon the Parcel because of the Major Public Improvements and Parcels within Additional Improvement Area No. 1 will only be assessed for the special benefits conferred upon the Parcel because of Additional Public Improvements No. 1 (in addition to the Special Assessments previously levied for Major Public Improvements), and Parcels within Additional Improvement Area No. 2 will only be assessed for the special benefits conferred upon the Parcel because of Additional Public Improvements No. 2 (in addition to the Special Assessments previously levied for Major Public Improvements).

It is hereby acknowledged and agreed that Additional Improvement PID Bonds may be

covered under a new and separate Indenture; however all of the Special Assessments pledged for the payment of any future PID Bonds will have the same lien priority as the Special Assessments pledged for the payment of the Initial Bonds.

If the total Special Assessments levied on a particular Parcel within the Project consist of Special Assessments stemming from two or more different types of PID Bonds and an owner of an Assessed Parcel pays only a portion of the Annual Installment due for such Special Assessments, then such payment will be allocated pro-rata to the payment of the Annual Installment based on the portions of each Special Assessment as it relates to the total Special Assessments. For example, assume that a parcel has Special Assessments totaling \$20,000, \$12,000 of which is for the Major Public Improvement Bonds and \$8,000 of which is for a Additional Improvement Area Bond. Further assume that the Annual Installment for such Parcel is \$1,000 which consists of a \$550 annual installment from the Major Public Improvement PID Bonds and a \$450 annual installment from the Additional Improvement PID Bonds and an owner of an Assessed Parcel pays \$600, then the \$600 will be allocated as follows:

\$360 (60% of \$600) will go towards the Special Assessment for the Major Public Improvement PID Bonds; and

\$240 (40% of \$600) will go towards the Special Assessment for the Additional Improvement PID Bonds

Total: \$600

Further detail regarding partial payments of the Annual Installments will be contained in the Indenture relating to Future Major Improvement PID Bonds or Additional Improvement PID Bonds.

Section 5.08. Acquisition and Reimbursement Agreements

The costs of all Public Improvements will be initially financed through Acquisition and Reimbursement Agreements. As provided in Section 4.02 above, concurrently with letting the construction contract of any Public Improvements, the Owner and the City will enter into an Acquisition and Reimbursement Agreement, which will provide for Special Assessments (to be levied and collected after completion of the applicable Public Improvements, as provided in Section 2.03(b) above) that will reimburse the Owner for Actual Costs incurred in connection with the Public Improvements until PID Bonds are issued in amount necessary to reimburse Owner for the Actual Costs of the Public Improvements less any amounts already reimbursed to Owner pursuant to the Acquisition and Reimbursement Agreement.

Section 5.09 Dissolution Upon Non-Issuance

Owner or its Designated Successor and Assign shall petition the City to dissolve the District if no PID Bonds have been issued within seven (7) years from the Effective Date.

ARTICLE VI. REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION

Section 6.01. Representations and Warranties of City

The City makes the following covenant, representation and warranty for the benefit of the Owner:

The City is a political subdivision of the State of Texas, duly incorporated, organized and existing under the Constitution and general laws of the State, and has full legal right, power and authority under the PID Act and other applicable law (i) to enter into, execute and deliver this Agreement, (ii) to adopt the Assessment Ordinance, and (iii) to carry out and consummate the transactions contemplated by this Agreement.

Section 6.02. Covenants, Representation, and Warranties of Owner

The Owner makes the following representations, warranties and covenants for the benefit of the City:

(a) The Owner represents and warrants that the Owner is a limited liability company duly organized and validly existing under the laws of the State of California, is in compliance with the laws of the State of Texas, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(b) The Owner represents and warrants that the Owner has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered on behalf of the Owner.

(c) The Owner represents and warrants that this Agreement is valid and enforceable obligation of the Owner and is enforceable against the Owner in accordance with its terms, subject to bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) The Owner covenants that once it commences construction of a Segment it will use its reasonable and diligent efforts to do all things which may be lawfully required of it in order to cause such Segment of the Public Improvements to be completed in accordance with this Agreement.

(e) The Owner represents and warrants that (i) it will not request payment from the City for the acquisition of any Public Improvements that are not part of the Project, and (ii) it will diligently follow all procedures set forth in this Agreement with respect to Payment Requests.

(f) For a period of three (3) years after the final Acceptance Date of each applicable Public Improvement, the Owner covenants to maintain proper books of record and account for the Public Improvements and all costs related thereto. The Owner covenants that such accounting books will be maintained in accordance with sound accounting practices, and will be available for inspection by the City or its agent at any reasonable time during regular business hours upon at least 72 hours' notice.

(g) The Owner agrees to provide the information required pursuant to the Owner Continuing Disclosure Agreement executed by the Owner in connection with the PID Bonds.

(h) The Owner covenants to provide, or cause to be provided, such facts and estimates as the City reasonably considers necessary to enable it to execute and deliver its Tax Certificate. The Owner further covenants that (i) such facts and estimates will be based on its reasonable expectations on the date of issuance of the PID Bonds and will be, to the best of the knowledge of the officers of the Owner providing such facts and estimates, true, correct and complete as of that date, and (ii) the Owner will make reasonable inquiries to ensure such truth, correctness and completeness. The Owner covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use or investment of the Bond Proceeds that would cause any of the covenants or agreements of the City contained in the Tax Certificate to be violated or that would otherwise have an adverse effect on the tax-exempt status of the interest payable on the PID Bonds for federal income tax purposes.

Section 6.03. Indemnification and Hold Harmless by Owner

THE OWNER WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, AND ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES, AND AGENTS (IN THIS SECTION, THE "CITY") AGAINST AND FROM, AND WILL PAY TO THE CITY, THE AMOUNT OF, ALL ACTIONS, DAMAGES, CLAIMS, LOSSES, OR EXPENSE OF ANY TYPE, WHETHER OR NOT INVOLVING A THIRD-PARTY CLAIM (COLLECTIVELY, "DAMAGES"), ARISING DIRECTLY OR INDIRECTLY, FROM (i) THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE OWNER; (ii) THE NEGLIGENT DESIGN, ENGINEERING, OR CONSTRUCTION BY THE OWNER OF ANY PUBLIC IMPROVEMENT ACQUIRED BY THE CITY; OR (iii) THE OWNER'S NONPAYMENT UNDER CONTRACTS WITH THE OWNER FOR ANY PUBLIC IMPROVEMENT UNDER THIS AGREEMENT. THE OWNER WILL DEFEND THE CITY AGAINST ALL SUCH CLAIMS AND THE CITY WILL REASONABLY COOPERATE AND ASSIST IN PROVIDING SUCH DEFENSE. THIS SECTION SURVIVES THE TERMINATION OF THIS AGREEMENT INDEFINITELY, SUBJECT TO APPROPRIATE STATUTES OF LIMITATIONS, AS THEY MAY BE TOLLED OR EXTENDED BY AGREEMENT OR OPERATION OF LAW.

ARTICLE VII. DEFAULT AND REMEDIES

(a) A Party shall be deemed in default under this Agreement (which shall be deemed a breach hereunder) if such Party fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement.

(b) Before any failure of any Party to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such failure shall notify, in writing, the Party alleged to have failed to perform of the alleged failure and shall demand performance. No breach of this Agreement may be found to have occurred if performance has

commenced to the reasonable satisfaction of the complaining Party within thirty (30) days of the receipt of such notice (or five (5) days in the case of a monetary default), subject, however, in the case of non-monetary default, to the terms and provisions of subparagraph (c). Upon a breach of this Agreement, the non-defaulting Party in any court of competent jurisdiction, by an action or proceeding at law or in equity, may secure the specific performance of the covenants and agreements herein contained (and/or an action for mandamus as and if appropriate). Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Article VII or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any Party at law or in equity. Each of the Parties shall have the affirmative obligation to mitigate its damages in the event of a default by the other Party. Notwithstanding any provision contained herein to the contrary, the Owner shall not be required to construct any portion of the Public Improvements (or take any other action related to or in furtherance of same) while the City is in default under this Agreement).

(c) Notwithstanding any provision in this Agreement to the contrary, if the performance of any covenant or obligation to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, widespread pestilence, fire or other casualty, shortage of materials, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or tornadoes, labor action, strikes, changes in the law affecting the obligations of the Parties hereunder, or similar acts), the time for such performance shall be extended by the amount of time of the delay directly caused by and relating to such uncontrolled circumstances. The Party claiming delay of performance as a result of any of the foregoing “force majeure” events shall deliver written notice of the commencement of any such delay resulting from such force majeure event not later than seven (7) days after the claiming Party becomes aware of the same, and if the claiming Party fails to so notify the other Party of the occurrence of a “force majeure” event causing such delay, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this Article.

ARTICLE VIII. GENERAL PROVISIONS

Section 8.01. Notices.

Any notice, communication, or disbursement required to be given or made hereunder shall be in writing and shall be given or made by facsimile, hand delivery, overnight courier, or by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below or at such other addresses as any be specified in writing by any Party hereto to the other parties hereto. Each notice which shall be mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent, and received for all purpose at such time as it is received by the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such receipt) at the following addresses:

If to City: City of San Marcos
Attn: City Manager

630 East Hopkins
San Marcos, TX 78666
Facsimile: 512-396-2683

If to Owner: Highpointe Trace, LLC
Attn.: Timothy D. England
2 Venture Suite 350
Irvine, California 92618
Facsimile: 949-472-0198

With a copy to: Metcalfe Wolff Stuart & Williams, LLP
Attn: Steven C. Metcalfe
221 W. 6th, Suite 1300
Austin, Texas 78701
Facsimile: 512.404.2244

Section 8.02. Fee Arrangement /Administration of District

(a) The Owner agrees that it will pay all of the City's costs and expenses (including the City's third party advisors and consultants) related to the creation and administration of the District, as well as costs and expenses relating to the development and review of the Service and Assessment Plan (including legal fees and financial advisory fees) ("**City PID Costs**"). Prior to closing of the Major Public Improvement PID Bonds, the City shall (i) submit to the Owner and the Trustee invoices and other supporting documentation evidencing the City PID Costs and (ii) direct the Trustee to pay these fees, as applicable, to the City or on behalf of the City from proceeds of the PID Bonds. In addition to any City PID Costs pursuant to the preceding sentences, all fees of legal counsel related to the issuance of the Major Public Improvement PID Bonds, including fees for the review of the District creation and District administration documentation, the preparation of customary bond documents and the obtaining of Attorney General approval for the Major Public Improvement PID Bonds, will be paid at closing from proceeds of the Major Public Improvement PID Bonds. Further, the Owner agrees that it will be responsible for paying the Administrative Expenses.

(b) The Owner shall be solely responsible for the costs associated with the issuance of any Additional Improvement PID Bonds. The terms of subparagraph (a) above shall apply to the Owner in the event that any Additional Improvement PID Bonds are issued.

(c) The City may enter into a separate agreement with an Administrator to administer the District after Closing. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts set forth in the Service and Assessment Plan.

Section 8.03. Assignment

(a) Owner may, in its sole and absolute discretion, transfer or assign its rights or obligations under this Agreement with respect to all or part of the Project from time to time to an

Affiliate without the consent of the City. Prior to the completion of the Major Public Improvements, however, Owner shall not transfer or assign its rights or obligations under this Agreement with respect to all or part of the Project to a non-affiliated entity without the prior consent of the City. After the completion of the Major Public Improvements, the Owner may transfer or assign its rights or obligations under this Agreement to any party without the City's consent. Owner shall provide the City thirty (30) days prior written notice of any such assignment. Upon such assignment or partial assignment, Owner shall be fully released from any and all future obligations under this Agreement and shall have no liability for such obligations with respect to this Agreement for the part of the Project so assigned.

(b) The City hereby acknowledges and agrees that Owner shall have the right to make a collateral assignment of any reimbursements and/or proceeds under this Agreement to any lender on the Project and the City shall execute any documentation reasonably requested by such lender evidencing such fact.

(c) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a sale or assignment to a Designated Successor or Assign unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.

(d) Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a Transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed to be a Transfer.

Section 8.04. Construction of Certain Terms

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:

(a) Words importing a gender include either gender.

(b) Words importing the singular include the plural and vice versa.

(c) A reference to a document includes an amendment, supplement, or addition to, or replacement, substitution, or novation of, that document but, if applicable, only if such amendment, supplement, addition, replacement, substitution, or novation is permitted by and in accordance with that applicable document.

(d) Any term defined herein by reference to another instrument or document shall continue to have the meaning ascribed thereto whether or not such other instrument or document remains in effect.

(e) A reference to any Party includes, with respect to Owner, its Designated Successors and Assigns, and reference to any Party in a particular capacity excludes such Party in any other capacity or individually.

(f) All references in this Agreement to designated "Articles," "Sections," and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Agreement. All references in this Agreement to "Exhibits" are to the designated Exhibits to this Agreement.

(g) The words "herein," "hereof," "hereto," "hereby," "hereunder," and other words of similar import refer to this Agreement as a whole and not to the specific Section or provision where such word appears.

(h) The words "including" and "includes," and words of similar import, are deemed to be followed by the phrase "without limitation."

(i) Unless the context otherwise requires, a reference to the "Property," the "Public Improvements," or the "District" is deemed to be followed by the phrase "or a portion thereof."

(j) Every "request," "order," "demand," "direction," "application," "appointment," "notice," "statement," "certificate," "consent," "approval," "waiver," "identification," or similar action under this Agreement by any Party shall, unless the form of such instrument is specifically provided, be in writing duly signed by a duly authorized representative of such Party.

(k) The Parties hereto acknowledge that each such party and their respective counsel have participated in the drafting and revision of this Agreement. Accordingly, the Parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Agreement.

Section 8.05. Table of Contents; Titles and Headings

The titles of the articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 8.06. Amendments.

This Agreement may be amended, modified, revised or changed by written instrument executed by the Parties and approved by the City Council.

Section 8.07. Time

In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

Section 8.08. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 8.09. Entire Agreement

This Agreement contains the entire agreement of the Parties.

Section 8.10. Severability; Waiver

If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 8.11. Owner as Independent Contractor

In performing under this Agreement, it is mutually understood that the Owner is acting as an independent contractor, and not an agent of the City.

Section 8.12. Supplemental Agreements

Other agreements and details concerning the obligations of the Parties under and with respect to this Agreement are/or will be included in the Service and Assessment Plan, the Assessment Ordinance, PID Bond Ordinance and/or Indenture. The Owner will provide any continuing disclosures required under the Indenture and will execute a separate agreement outlining Owner's continuing disclosure obligations, if required.

Section 8.13. City's Acceptance of Public Improvements

The City hereby agrees that it will not unreasonably withhold the final acceptance of any of the Public Improvements and will work with the Owner in good faith to expedite review and acceptance of such Public Improvements.

Section 8.14. Agreement Regarding Fire Station

The City hereby acknowledges and agrees that Owner's obligation to provide the Owner Contribution (as defined in the Agreement Regarding Fire Station) is contingent on the City having issued the Major Public Improvement PID Bonds. Owner will dedicate the fire station site pursuant to the terms of the Agreement Regarding Fire Station which has been approved by the City Council on even date herewith.

Section 8.15. Exhibits

The following exhibits are attached to and incorporated into this Agreement for all purposes:

Exhibit A	-	Definitions
Exhibit B	-	Property
Exhibit B-1	-	Additional Improvement Area No. 1
Exhibit B-2	-	Additional Improvement Area No. 2
Exhibit C	-	Draft of Service and Assessment Plan
Exhibit D	-	Major Public Improvements
Exhibit E	-	Form of Certification for Payment
Exhibit F-1	-	Additional No. 1 Public Improvements
Exhibit F-2	-	Additional No. 2 Public Improvements
Exhibit G	-	Closing Disbursement Request
Exhibit H	-	Form of Acquisition and Reimbursement Agreement
Exhibit I	-	Phasing Plan

[Signature Pages to Follow]

City of San Marcos, Texas

By: _____
Name: _____
Title: _____

[Signatures Continue on Next Page]

HIGHPOINTE TRACE, LLC,
a California limited liability company

By: Highpointe Posey, L.P., a California
limited partnership, Its Managing
Member

By: Highpointe Investments, Inc.,
a California corporation, Its
General Partner

By: _____
Timothy D. England, SVP

Exhibit “A”

DEFINITIONS

Unless the context requires otherwise, and in addition to the terms defined above, each of the following terms and phrases used in this Agreement has the meaning ascribed thereto below:

“Acceptance Date” means, with respect to a Segment, the date that the Actual Cost thereof is paid to the Owner pursuant to the terms hereof.

“Acquisition and Reimbursement Agreement” means (whether one or more) an agreement that provides for construction and dedication of a Public Improvement (or Segment) to the City or City prior to the Owner being paid out of the applicable Additional Improvement PID Bond proceeds, whereby all or a portion of the Actual Costs will be paid to Owner initially from Special Assessment Revenues (and ultimately from Additional Improvement PID Bonds) to reimburse the Owner for actual costs paid by the Owner that are eligible to be paid with PID Bond proceeds. The form of Acquisition and Reimbursement Agreement shall be reasonably acceptable to both City or City (as applicable) and Owner and substantially in accordance with the form attached hereto as Exhibit “H”.

“Actual Cost(s)” means, with respect to the Public Improvements, the Owner’s demonstrated, reasonable, allocable, and allowable costs of constructing such Authorized Improvement, as specified in a payment request in a form that has been reviewed and approved by the City and in an amount not to exceed the amount for each Public Improvements as set forth in the Service and Assessment Plan (subject to cost overruns in Section 5.01(e)). Actual Costs may include (a) the costs incurred by or on behalf of the Owner (either directly or through affiliates) for the design, planning, financing, administration/management, acquisition, installation, construction and/or implementation of such Public Improvements, (b) the fees paid for obtaining permits, licenses or other governmental approvals for such Public Improvements, (c) Construction Management Fee, (d) the costs incurred by or on behalf of the Owner for external professional costs, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, (e) all labor, bonds and materials, including equipment and fixtures, by contractors, builders and materialmen in connection with the acquisition, construction or implementation of the Public Improvements, (f) all related permitting and public approval expenses, architectural, engineering, and consulting fees, financing charges, taxes, governmental fees and charges, insurance premiums, and all payments for Administrative Expenses after the date of a resolution authorizing such reimbursement, plus Interest, if any, at the lower of (x) the maximum interest rate permitted by the PID Act or (y) the interest rate of the Bonds calculated from the respective dates of the expenditures until the date of reimbursement therefore.

“Additional Improvement Area(s)” means one or more Parcels that are anticipated to be developed in the same general time period as generally depicted on Exhibit B-1 and Exhibit B-2 attached hereto. The depiction of the Additional Improvement Area No. 1 on Exhibit B-1 and Additional Improvement Area No. 2 on Exhibit B-2 are for illustrative purposes only and are subject to adjustment, as such Additional Improvement Areas may be adjusted over time. The

Parcels within an Additional Improvement Area will be assessed in connection with the issuance of Additional Improvement PID Bonds for the Additional Public Improvements (or the portion thereof) designated in an update to the Assessment Plan that specially benefit the Assessed Parcels within said Additional Improvement Area, but any Parcels outside of the Additional Improvement Area will not be assessed.

“Additional Improvement Area No. 1” means the Additional Improvement Area described and/or depicted on Exhibit “B-1” attached hereto.

“Additional Improvement Area No. 2” means the Additional Improvement Area described and/or depicted on Exhibit “B-2” attached hereto

“Additional Improvement PID Bonds” means collectively Additional Improvement PID Bond No. 1 and Additional Improvement PID Bond No. 2.

“Additional Improvement PID Bond No. 1 ” means Additional Improvement PID Bonds to be issued by the City to be secured by Special Assessments levied on Assessed Parcels within the Additional Improvement Area No. 1.

“Additional Improvement PID Bond No. 2” means Additional Improvement PID Bonds to be issued by the City to be secured by Special Assessments levied on Assessed Parcels within the Additional Improvement Area No. 2.

“Additional Public Improvements” means those Public Improvements constructed that benefit any designated Additional Improvement Area within the District, financed with Additional Improvement PID Bonds and that confer a special benefit upon property within that Additional Improvement Area. Additional Public Improvements shall mean Additional Public Improvements No. 1 and / or Additional Public Improvements No. 2.

“Additional Public Improvements No. 1” means those Additional Public Improvements benefitting Additional Improvement Area No. 1 as are further described on Exhibit “F-1”.

“Additional Public Improvements No. 2” means those Additional Public Improvements benefitting Additional Improvement Area No. 2 as are further described on Exhibit “F-2”.

“Administrator” has the meaning given in the Indenture.

“Administrative Expenses” means the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the District, including, but not limited to, the costs of (i) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, (ii) creating and organizing the District and preparing the assessment roll, (iii) computing, levying, collecting and transmitting the Special Assessments or the installments thereof, (iv) maintaining the record of installments, payments and reallocations and/or cancellations of the Special Assessments, (v) issuing, paying and redeeming the PID Bonds, (vi) investing or depositing the Special Assessments, (vii) complying with the PID Act with respect to

the PID Bonds, (viii) paying the paying agent/registrar's and trustee's fees and expenses (including the fees and expenses of its legal counsel), and (ix) administering the construction of the Public Improvements, in accordance with the terms of this Agreement.

"Affiliate" means entity which is controlled by, controls, or is under common control with Owner.

"Agreement" has the meaning given in the recitals to this Agreement.

"Agreement Regarding Fire Station" means that certain Agreement Regarding Fire Station dated of even date herewith by and between the City and Owner.

"Annual Installment" shall have the meaning given in the Service and Assessment Plan.

"Appraisal" means each appraisal of the Property (or applicable component thereof, as required by Section 2.01(h) hereof.

"Assessed Planning Area" means for any year, Planning Areas within the District other than Non-Benefited Property.

"Assessment Ordinance" means each ordinance, resolution or order adopted by the City Council levying the Special Assessments on the Property, as required by Article II of this Agreement.

"Attorney General" means the Texas Attorney General's Office.

"Bond Counsel" means McCall Parkhurst & Horton or their successor.

"Bond Improvement Account" means an account established pursuant to an Indenture and into which the Trustee will deposit Bond Proceeds to be used for the construction of any Public Improvements.

"Bond Issuance Costs" means costs relating to the authorization, sale and issuance of the PID Bonds including, printing costs, costs of reproducing and binding documents, closing costs, filing and recording fees, initial fees, expenses and charges of the Trustee, including its first annual administration fee, expenses incurred by the City or Owners in connection with the issuance of the PID Bonds (provided such expenses are defined as "issuance costs" under the Tax Code), the SAP Consultant's fees, bond (underwriter's) discount or underwriting fee, legal fees and charges, including Bond Counsel, charges for execution, transportation and safekeeping of the PID Bonds and other costs, charges and fees in connection with the issuance of the PID Bonds.

"Bond Issuance Request" means written request made by Owner to the City in good faith as evidenced by Owner's expenditure of necessary amounts for market studies, financial analysis, legal counsel, and other professional services and due diligence necessary to support the request.

"Bond Ordinance" shall mean the order or ordinance of the City Council that will authorize and approve the issuance and sale of the PID Bonds and provide for their security and payment, either by the terms of the Bond Ordinance or an Indenture related to the PID Bonds.

“Bond Proceeds” shall have the meaning given to them in Section 6.01(a) hereof.

“Certification for Payment” means the certificate (whether one or more) in substantially the same form as Exhibit “E” attached hereto.

“City” means the City of San Marcos, Texas.

“City Construction Representative” means the City Engineer or such other person selected by the City to oversee the construction of the Public Improvements on behalf of the City.

“City Council” means the City Council of City of San Marcos, Texas.

“City PID Costs” shall have the meaning given in Section 8.02 of this Agreement.

“Closing Disbursement Request” means the request (whether one or more) in substantially the same form as Exhibit “G” attached hereto.

“Construction Manager” means initially the Owner, and thereafter subject to change in accordance with Section 3.03 of this Agreement. The City acknowledges and agrees that (i) the Owner intends to subcontract out the duties of Construction Manager to a third party and (ii) Owner’s hiring of the initial subcontractor to serve as the Construction Manager shall not be deemed a change in the Construction Manager pursuant to the terms and conditions of Section 3.03.

“Construction Management Fee” means 4% of the costs incurred by or on behalf of Owner for the construction of each Segment. The Construction Management Fee is part of the Actual costs as shown on Exhibit “D”, Exhibit “F-1” and Exhibit “F-2”.

“Cost of Issuance Account” shall have the meaning given in the Indenture.

“County” means Hays County, Texas.

“Debt” means any bond, note, or other evidence of indebtedness incurred, entered into, or issued by the City related exclusively to the District.

“Designated Successors and Assigns” shall mean (i) an entity to which Owner assigns (in writing) its rights and obligations contained in this Agreement pursuant to Section 8.03 related to all or a portion of the Property, (ii) any entity which is the successor by merger or otherwise to all or substantially all of Owner’s assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of Owner.

“District” has the meaning given in the recitals to this Agreement.

“Effective Date” has the meaning given in the recitals to this Agreement.

“force majeure” shall mean delays due to strikes, acts of God, inability to obtain labor or materials, litigation, enemy action, civil commotion, fire, rain or windstorm, governmental action

or inaction, or similar causes, provided such similar causes are beyond the reasonable control of the party whose obligations are affected by such acts.

“Indenture” means the applicable Indenture of Trust between the City and a trustee relating to the issuance of a series of PID Bonds for financing costs of Public Improvements, as it may be amended from time to time.

“Initial Assessment Ordinance” means the ordinance, resolution or order to be adopted by the City County that will levy the Special Assessments associated with the Major Public Improvements.

“Initial Owner Expended Funds” has the meaning given in Section 4.02(c) of this Agreement.

“Initial Reimbursement Payment” has the meaning given in Section 4.02(c) of this Agreement.

“Interest” shall mean the interest rate charged for the PID Bonds or such other interest rate as may be required by applicable law.

“Issue Date” means the date of the initial delivery of any of the PID Bonds.

“Major Public Improvement PID Bonds” means those certain City of San Marcos, Texas Special Assessment Revenue Bonds, Series [20____] (Trace Public Improvement District Major Public Improvement Project) that will be secured by Special Assessments levied on an Assessed Parcel in order to fund the Major Public Improvements.

“Major Public Improvements” means those Public Improvements that confer special benefit on the entire District and are to be financed with Major Improvement PID Bonds, and as further described in Exhibit D attached hereto and in Table III-A of the Service and Assessment Plan.

“Non-Benefited Property” means Parcels within the boundaries of the District that accrue no special benefit from the Public Improvements, including Owner Association Property, Public Property and easements that create an exclusive use for a public utility provider. Property identified as Non-Benefited Property at the time the Special Assessments (i) are imposed or (ii) are reallocated pursuant to a subdivision of a Parcel is not assessed.

“Notice” means any notice, writing, or other communication given under this Agreement.

“Owner” has the meaning given in the recitals to this Agreement.

“Owner’s Association” means a homeowner’s association or property owner’s association.

“Owner Association Property” means property within the boundaries of the District that is owned by or irrevocably offered for dedication to, whether in fee simple or through an exclusive

use easement, an Owner's Association established for the benefit of a group of homeowners or property owners within the District.

"Owner Continuing Disclosure Agreement" shall have the meaning given in the Indenture or any purchase agreement relating to the sale of the PID Bonds.

"Owner Expended Funds" has the meaning given in Section 4.02(f).

"Party" means the Owner or the City, as parties to this Agreement, and **"Parties"** means collectively, the Owner and the City.

"Payment Request" means the document to be provided by the Owner to substantiate the Actual Cost of one or more Segments.

"PDD" has the meaning given in the recitals to this Agreement.

"PID Act" means Chapter 372, Local Government Code, as amended.

"PID Bonds" means the special assessment revenue bonds to be issued by the City, in one or more series, to finance the Public Improvements that confer special benefit on the land within the District, which may include funds for any required reserves and amounts necessary to pay the PID Bond issuance costs, and to be secured by the revenues and funds pledged under an Indenture, consisting primarily of the Special Assessments, pursuant to the authority granted in the PID Act, and as described by this Agreement for the purposes of (i) financing the costs of Public Improvements and related costs and (ii) reimbursing the Owner for Actual Costs paid prior to the issuance of the PID Bonds. This term is used to collectively refer to the Major Improvement PID Bonds, the Additional Improvement PID Bond No. 1, and the Additional Area No. 2 PID Bonds throughout this Agreement.

"PID Bond Ordinance" means and refers to the order(s) or ordinances of the City Council that will authorize and approve the issuance and sale of the PID Bonds and provide for their security and payment, either under the terms of the bond order or a trust indenture related to the PID Bonds.

"PID Bond Security" means the funds that are to be pledged in or pursuant to the PID Bond Ordinance or the Indenture to the payment of the debt service requirements on the PID Bonds, consisting of the Special Assessments, including earnings and income derived from the investment or deposit of Special Assessments in the special funds or accounts created and established for the payment and security of the PID Bonds, unless such earnings are required to be deposited into a rebate fund for payment to the federal government.

"Planning Area" means a property identified by either a tax map identification number assigned by the City of San Marcos Appraisal District for real property tax purpose, by metes and bounds description, by lot and block number in a final subdivision plat recorded in the Official Public Records of City of San Marcos, or by any other means determined by the City.

“Pledged Revenue Fund” means the separate and unique fund established by the City under such name pursuant to the Indenture wherein the Special Assessment Revenues are deposited.

“Prepayment” means the payment of all or a portion of a Special Assessment before the due date thereof. Amounts received at the time of a Prepayment which represent a payment of principal, interest or penalties on a delinquent installment of a Special Assessment are not to be considered a Prepayment, but rather are to be treated as the payment of the regularly scheduled Special Assessment.

“Project” has the meaning given in the recitals to this Agreement.

“Project Costs” means the total of all Actual Costs.

“Project Engineer” means the civil engineer or firm of civil engineers selected by the Owner to perform the duties set forth herein, which is currently Texas Engineering Solutions. Owner reserves the right to replace the Project Engineer at any time in Owner’s sole discretion.

“Project Fund” means the separate and unique fund established by the City under such name pursuant to the Indenture as described in Section 5.02 hereof.

“Property” has the meaning given in the recitals to this Agreement.

“Public Improvements” means collectively the Major Public Improvements described in Exhibit “D”, Additional Public Improvements No. 1 described in Exhibit “F-1”, and Additional Public Improvements No. 2 described in Exhibit “F-2” together with any and all of the improvements which are included in the Service and Assessment Plan as such plan is amended and updated from time to time.

“Public Property” means property, plat, real property, right of way and easements located within the boundaries of the District that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, the County, the City, a school district, a public utility provider or any other political subdivision or public agency, whether in fee simple, through an exclusive use easement, or through a public utility easement.

“Regulatory Requirements” means the requirements and provisions of the City over the Public Improvements, as adjusted by the PUD.

“Reimbursement Payment” has the meaning given in Section 4.02(c).

“SAP Consultant” means Development Planning & Financing Group, Inc.

“Segment” or “Segments” means the discrete portions of the Public Improvements identified as such.

“Service and Assessment Plan” means the Trace Public Improvement District Service and Assessment Plan a draft of which is attached hereto as Exhibit “C” (as such plan is amended, supplemented and updated from time to time), to be initially adopted by the City Council in the

Initial Assessment Ordinance for the purpose of assessing allocated costs against property located within the boundaries of the District having terms, provisions and findings approved and agreed to by the Owner, as required by Article II of this Agreement.

“Special Assessments” means the assessments levied against properties in the District, as provided for in the applicable Assessment Ordinance and in the Service and Assessment Plan, including any supplemental assessments or reallocation of assessments levied in accordance with Sections 372.019 and 372.020 of the PID Act.

“Special Assessment Revenues” means money collected by or on behalf of the City from any one or more of the following: (i) a Special Assessment levied against an Assessed Parcel, or Annual Installment payment thereof, including any interest on such Special Assessment or Annual Installment thereof during any period of delinquency, (ii) a Prepayment, (iii) Delinquent Collection Costs (as defined in the Indenture), and (iv) Foreclosure Proceeds (as defined in the Indenture).

“State” means the State of Texas.

“Tax Certificate” shall have the meaning given in Section 6.02(a) hereof.

“Tax Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“Transfer” shall have the meaning given in Section 2.05(b) hereof.

“Transferee” shall have the meaning given in Section 2.05(b) hereof.

“Trustee” means the trustee under the Indenture, and any successor thereto permitted under such Indenture and any other Trustee under a future Indenture.

“Underwriter” means (Company to be Determined) _____.

“Unpaid Balance” shall have the meaning given in the applicable Acquisition and Reimbursement Agreement.

Exhibit "B"

PROPERTY DESCRIPTION FOR PROJECT

BEING A 417.630 ACRE TRACT OUT OF THE WILLIAM H. VAN HORN SURVEY, ABSTRACT NO. 464, HAYS COUNTY, TEXAS, AND BEING A PORTION OF THOSE CERTAIN 100.22 ACRE, 67.53 ACRE, 248.77 ACRE, AND 5.01 ACRE TRACTS CONVEYED TO JOQ-SAN MARCOS VENTURES L.P. BY DEED OF RECORD IN VOLUME 1820, PAGE 715, OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS; SAID 417.630 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a 1-inch iron pipe found in the east right-of-way line of Interstate Highway 35 (300' R.O.W.), being the called northeast corner of that certain 85.00 acre tract conveyed to San Marcos 197 Acre Associates, LLC, by Deed of record in Volume 4015, Page 562, of said Official Public Records, also being the northwest corner of said 248.77 acre tract, for the northwesterly corner hereof;

THENCE, N43°34'33"E, along said east right-of-way line of Interstate Highway 35, being the north line of said 248.77 acre tract, a distance of 2222.49 feet to a 1/2-inch iron rod found near the base of a fence post at the called northeast corner of said 248.77 acre tract, being the northwest corner of that certain 14.86 acre tract conveyed to Kimberley Gunnarson, by Deed of record in Volume 3281, Page 47, of said Official Public Records, for the northeasterly corner hereof;

THENCE, S45°57'08"E, leaving said east right-of-way line, along the west line of said 14.86 acre tract, being an east line of said 248.77 acre tract, generally with the remnants of an old barbed-wire fence (a new barbed-wire fence meanders parallel and several feet to the west), a distance of 976.48 feet to a calculated point at the called southwest corner of said 14.86 acre tract, being an angle point of said 248.77 acre tract, for an angle point hereof, from which an 8-inch cedar fence post found bears S45°57'08"E, a distance of 0.87 feet;

THENCE, N44°02'46"E, along the south line of said 14.86 acre tract, generally with a barbed-wire fence, at 14.92 feet passing a 1/2-inch iron rod found at the base of an 8-inch cedar fence post, being approximately at an angle point in the east line of said 248.77 acre tract and the approximate northwest corner of said 67.53 acre tract, and continuing along the north line of said 67.53 acre tract for a total distance of 673.37 feet to a 1/2-inch iron rod found at the base of a leaning 10-inch cedar fence post at the called southeast corner of said 14.86 acre tract, being the northeast corner of said 67.53 acre tract, also being in the west line of Lot 2, Final Plat of San Marcos Toyota Subdivision, of record in Book 9, Pages 155-156, of the Plat Records of Hays County, Texas, for an angle point hereof;

THENCE, S46°27'25"E, in part along the west line of said Lot 2 and in part along the remainder of that certain 56.288 acre tract conveyed to JMC Realty, LP, by Deed of record in Volume 1662, Page 628, of said Official Public Records, being the east line of said 67.53 acre tract, generally with a barbed-wire fence as called in said Volume 1662, Page 628 and Volume 1820, Page 715, a distance of 181.47 feet to a 3-inch cedar fence post found, for an angle point hereof;

THENCE, continuing along the west line of said 56.288 acre tract, being the east line of said 67.53 acre tract, generally with a barbed-wire fence as called in said Volume 1662, Page 628 and said Volume 1820, Page 715, the following four (4) courses and distances:

- 1) S46°59'15"E, a distance of 232.69 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 2) S49°30'26"E, deviating from a re-established fence line over a creek, a distance of 126.95 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 3) S47°20'32"E, rejoining and continuing generally with a barbed-wire fence line, a distance of 387.84 feet to a 1/2-inch iron rod found in the base of a hackberry tree, as called in said Volume 1662, Page 628, for an angle point hereof;
- 4) S47°39'57"E, a distance of 528.76 feet to a 1/2-inch iron rod found at the called southwest corner of said 56.288 acre tract, being at the base of a 10-inch cedar fence post at a called angle point in the east line of said 67.53 acre tract, for an angle point hereof;

THENCE, N44°31'00"E, along the south line of said 56.288 acre tract, being an east line of said 67.53 acre tract, generally with a barbed-wire fence, a distance of 646.04 feet to a 1/2-inch iron rod found at an angle point in the east line of said 67.53 acre tract, being the northwest corner of that certain 1.000 acre tract conveyed to Wilford L. Wootan, Jr., et ux, by Deed of record in Volume 536, Page 849, of the Real Property Records of Hays County, Texas, for an angle point hereof;

THENCE, S46°59'32"E, leaving the south line of said 56.288 acre tract, along the west line of said 1.000 acre tract, being an east line of said 67.53 acre tract, generally with a barbed-wire fence, a distance of 280.51 feet to a 1/2-inch iron rod found at the base of a fence post at the called southwest corner of said 1.000 acre tract, for an angle point hereof;

THENCE, N47°03'15"E, along the south line of said 1.000 acre tract and that certain 1.335 acre tract conveyed to Wilford L. Wootan, Jr., et ux, by Deed of record in Volume 401, Page 769, of said Real Property Records, being an east line of said 67.53 feet, generally with a barbed-wire fence, a distance of 335.24 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the northwest corner of that certain 0.8521 acre tract conveyed to Hays County, Texas for right-of-way purposes, by Deed of record in Volume 2927, Page 699, of said Official Public Records, being the southwest right-of-way line of Posey Road (R.O.W. varies), for an angle point hereof;

THENCE, leaving the south line of said 1.335 acre tract, over and across said 67.53 acre tract and said 100.22 acre tract, along said southwest right-of-way line of Posey Road, being the west line of said 0.8521 acre tract, and those certain 0.5415 acre and 2.4004 acre tracts conveyed to Hays County, Texas for right-of-way purposes, by said Deed of record in Volume 2927, Page 699, the following eight (8) courses and distances:

- 1) S41°53'43"E, a distance of 78.28 feet to a disturbed 1/2-inch iron rod found at the point of curvature of a curve to the left;
- 2) Along said curve, having a radius of 6075.00 feet, a central angle of 04°47'50", an arc length of 508.66 feet, and a chord which bears S44°20'45"E, a distance of 508.51 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the point of tangency of said curve;

- 3) S46°43'43"E, at 327.46 feet passing a 1/2-inch iron rod found on the south line of said 67.53 acre tract, being the north line of said 100.22 acre tract, and continuing for a total distance of 865.99 feet to a calculated point at the point of curvature of a curve to the right;
- 4) Along said curve, having a radius of 15031.48 feet, a central angle of 00°34'12", an arc length of 149.56 feet, and a chord which bears S46°08'19"E, a distance of 149.56 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the point of tangency of said curve;
- 5) S46°08'26"E, a distance of 1770.49 feet to a calculated point at the point of curvature of a curve to the left;
- 6) Along said curve, having a radius of 14862.04 feet, a central angle of 00°34'49", an arc length of 150.53 feet, and a chord which bears S46°25'49"E, a distance of 150.53 feet to a 1/2-inch iron rod with "Capital Surveying Company" cap found at the point of tangency of said curve;
- 7) S46°41'07"E, a distance of 195.22 feet to a 1/2-inch iron rod with "Capital Surveying Company" stamp found near the base of a 2-inch steel fence post, for an angle point hereof;
- 8) S01°32'03"E, a distance of 28.03 feet to a calculated point at the southwest corner of said 2.4004 acre tract, being in the south line of said 100.22 acre tract, also being the intersection of said southwest right-of-way line of Posey Road and the northeast right-of-way line of County Road 266/Old Bastrop Highway/El Camino Real (R.O.W. varies), for the southeasterly corner hereof;

THENCE, along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 100.22 acre tract, generally with a barbed-wire fence, the following two (2) courses and distances:

- 1) S43°45'05"W, a distance of 70.45 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 2) S44°04'56"W, a distance of 207.09 feet to a calculated point at the point of curvature of a curve to the right, being near the base of a 2-inch steel fence post, also being the east corner of that certain 0.0123 acre tract conveyed to Hays County, Texas for right-of-way purposes, by Deed of record in Volume 4600, Page 118, of said Official Public Records;

THENCE, continuing along said northeast right-of-way line, over and across said 100.22 acre tract, along said curve to the right, having a radius of 950.00 feet, a central angle of 08°05'19", an arc length of 134.11 feet, and a chord which bears S62°20'44"W, a distance of 134.00 feet to a calculated point near the base of a 2-inch steel fence post at the west corner of said 0.123 acre tract, being on the called south line of said 100.22 acre tract, for an angle point hereof;

THENCE, continuing along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 100.22 acre tract, generally with a barbed-wire fence, the following four (4) courses and distances:

- 1) S68°39'21"W, a distance of 769.76 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 2) S69°15'47"W, a distance of 221.52 feet to a 60D nail found in an 8-inch cedar fence post, for an angle point hereof;

- 3) S70°25'00"W, a distance of 127.68 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 4) S69°14'26"W, a distance of 228.32 feet to a calculated point at the called southwest corner of said 100.22 acre tract, being the southeast corner of that certain 5.0000 acre tract conveyed to Pleasant F. Rexroat and wife, Elwanda J. Rexroat, by Deed of record in Volume 1898, Page 98, of said Official Public Records, for an angle point hereof;

THENCE, N45°06'19"W, leaving said northeast right-of-way line of County Road 266, along the called west line of said 100.22 acre tract, generally with the remnants of an old barbed-wire fence (new wire fence meanders approximately parallel and several feet southwest of old fence), a distance of 85.52 feet to a 6-inch cedar fence post found leaning, for an angle point;

THENCE, N46°36'04"W, continuing generally with the remnants of an old-barbed wire fence as called in said Volume 1820, Page 715, a distance of 642.34 feet to a 1/2-inch iron pipe found near the base of a fence post, being the called northeast corner of said Rexroat 5.0000 acre tract, also being an angle point in the occupied east line of said 248.77 acre tract, for an angle point hereof;

THENCE, S70°39'07"W, leaving the occupied west line of said 100.22 acre tract, along the called and occupied north line of said Rexroat 5.0000 acre tract, being the occupied east line of said 248.77 acre tract, generally with a barbed-wire fence, a distance of 329.36 feet to a 1/2-inch iron pipe found near the base of a fence post at the called northwest corner of said Rexroat 5.0000 acre tract, being the occupied northeast corner of said 5.01 acre tract, for an angle point hereof;

THENCE, S46°20'51"E, leaving the east line of said 248.77 acre tract, along the called and occupied west line of said Rexroat 5.0000 acre tract, being the occupied east line of said 5.01 acre tract, generally with a barbed-wire fence, a distance of 747.43 feet to a 1/2-inch iron pipe found near the base of a fence post at the called southwest corner of said Rexroat 5.0000 acre tract, being the southeast corner of said 5.01 acre tract, also being in said used and occupied northeast right-of-way line of County Road 266, for an angle point hereof;

THENCE, S72°25'29"W, along the used and occupied northeast right-of-way of County Road 266, being the called south line of said 5.01 acre tract, generally with a barbed-wire fence, a distance of 335.30 feet to a calculated point in a fence line, being the called southwest corner of said 5.01 acre tract, being the occupied southeast corner of said 248.77 acre tract, from which a 1/2-inch iron pipe found bears N46°20'31"W, a distance of 2.00 feet, for an angle point hereof;

THENCE, continuing along the used and occupied northeast right-of-way line of County Road 266, being the called south line of said 248.77 acre tract, generally with a barbed-wire fence, the following nine (9) courses and distances:

- 1) S71°40'15"W, a distance of 115.86 feet to a calculated point in a fence line, for an angle point hereof;
- 2) S76°06'10"W, a distance of 46.03 feet to an 8-inch cedar fence post found, for an angle point hereof;
- 3) S86°28'05"W, a distance of 428.20 feet to an 8-inch cedar fence post found, for an angle point hereof;

- 4) N89°34'56"W, a distance of 321.83 feet to a T-post found, for an angle point hereof;
- 5) N89°02'24"W, a distance of 554.59 feet to a calculated point in a fence line, for an angle point hereof;
- 6) S89°48'27"W, a distance of 68.91 feet to an 8-inch creosoted fence post found, for an angle point hereof;
- 7) N81°53'25"W, a distance of 50.53 feet to an 8-inch creosoted fence post found, for an angle point hereof;
- 8) N88°55'45"W, at approximately 713 feet leaving said barbed-wire fence line, and continuing for a distance of 802.47 feet to a 1/2-inch iron rod with "Macias" cap found, for an angle point hereof;
- 9) N70°06'57"W, a distance of 39.04 feet to an 8-inch creosoted fence post found, for the southwesterly corner hereof;

THENCE, N46°27'14"W, continuing along the used and occupied northeast right-of-way line of County Road 266, being the called west line of said 248.77 acre tract, generally with a barbed-wire fence, a distance of 79.93 feet to a 1/2-inch iron pipe found at the called southeast corner of said 85.00 acre tract, for an angle point hereof;

THENCE, leaving said northeast right-of-way line of County Road 266, along the occupied east line of said 85.00 acre tract, being the called and occupied west line of said 248.77 acre tract, generally with a barbed wire fence, the following eight (8) courses and distances:

- 1) N41°35'30"W, a distance of 51.65 feet to a 1/2-inch iron pipe found, for an angle point hereof;
- 2) N45°22'24"W, a distance of 1221.06 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 3) N45°15'48"W, a distance of 427.82 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 4) N45°19'43"W, a distance of 673.22 feet to a 10-inch cedar fence post found, for an angle point hereof;
- 5) N46°33'40"W, a distance of 275.02 feet to a calculated point in a fence line, for an angle point hereof;
- 6) N47°51'30"W, a distance of 124.53 feet to a 6-inch cedar fence post found, for an angle point hereof;
- 7) N46°26'02"W, a distance of 218.87 feet to a T-post found, for an angle point hereof;
- 8) N46°25'10"W, at 158.03 feet passing a 1/2-inch iron pipe found, and continuing for a total distance of 769.08 feet to the **POINT OF BEGINNING**, and containing 417.630 acres (18,191,980 square feet) of land, more or less.

BEARING BASIS: TEXAS COORDINATE SYSTEM, NAD 83(2011), SOUTH CENTRAL ZONE,
REFERENCING THE LEICA SMARTNET REFERENCE NETWORK.

Exhibit “B-1”

ADDITIONAL IMPROVEMENT AREA No. 1

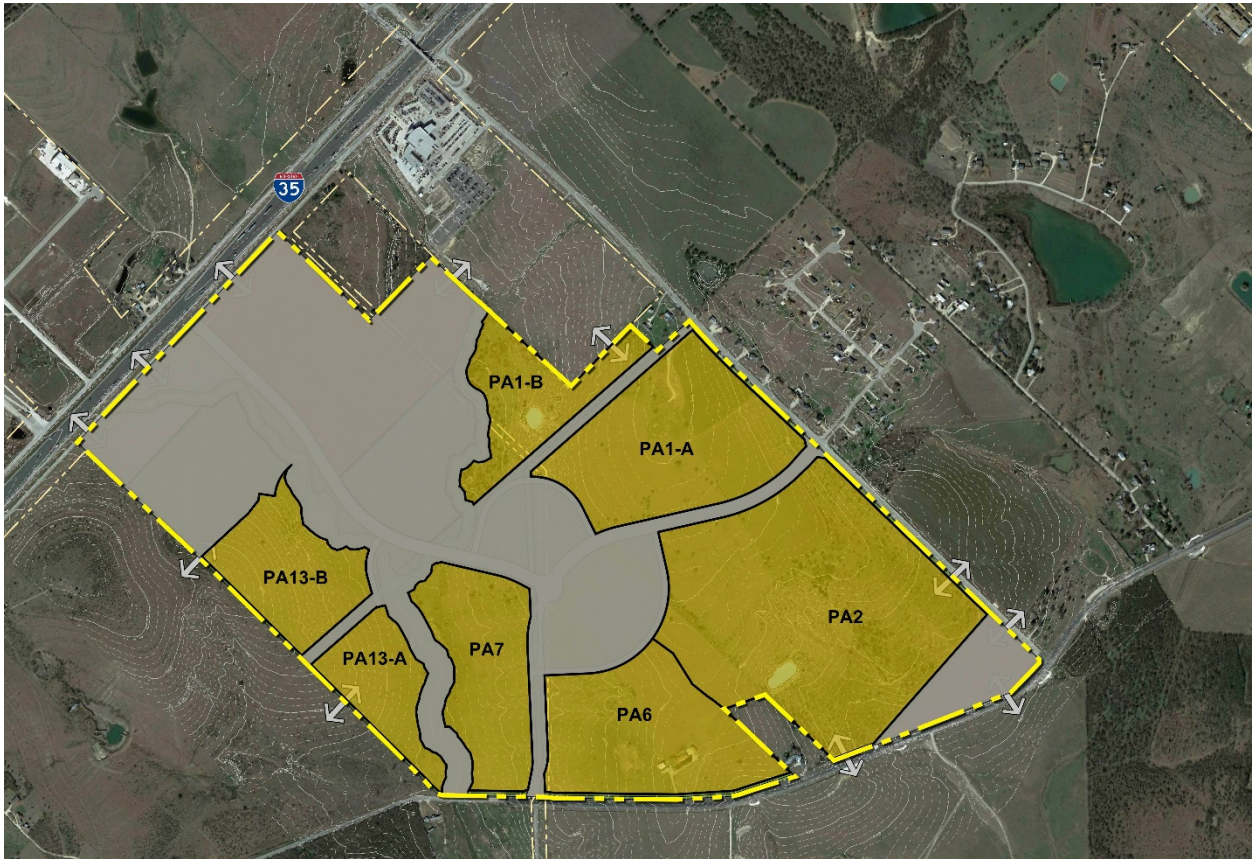


Exhibit “B-2”

ADDITIONAL IMPROVEMENT AREA No. 2

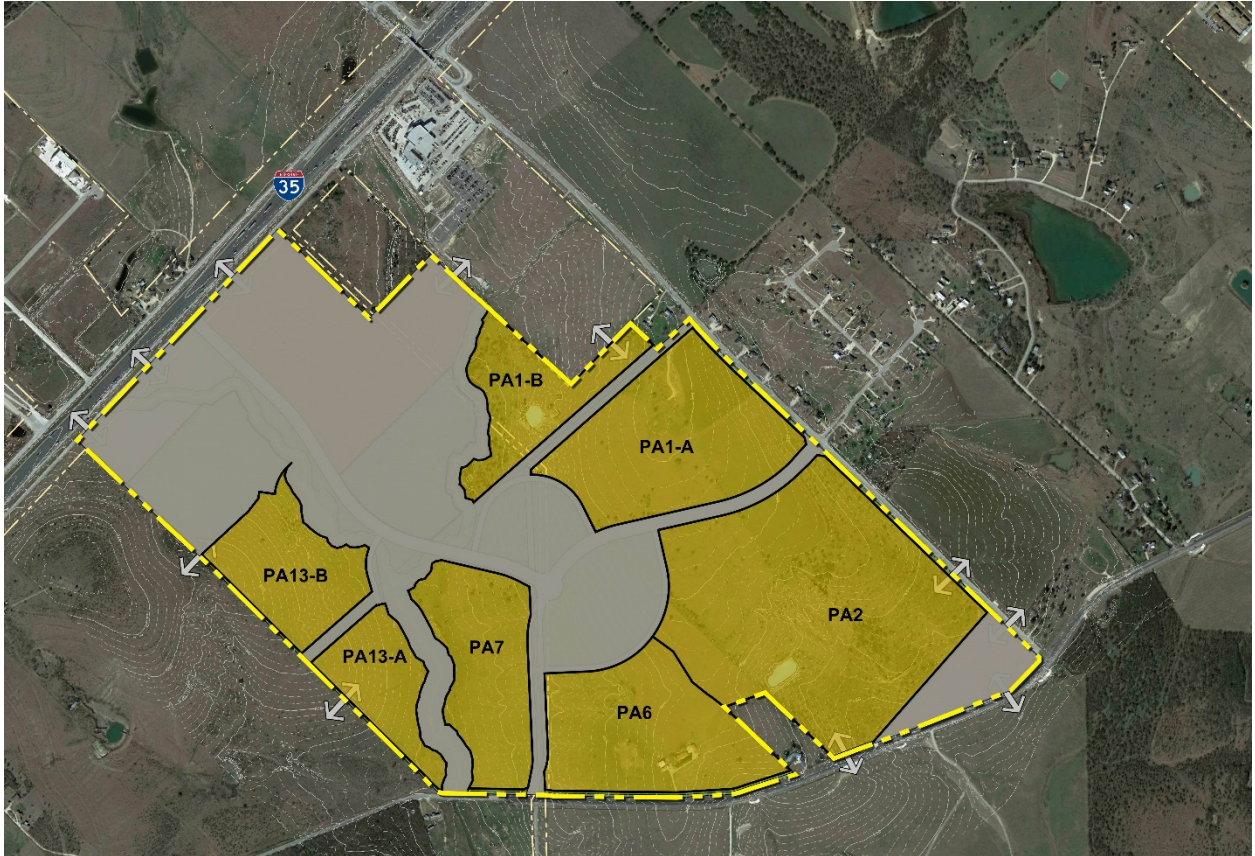


Exhibit “C”

DRAFT OF SERVICE AND ASSESSMENT PLAN

[See Attached]

DRAFT

Trace Public Improvement District

Service and Assessment Plan

Section I

PLAN DESCRIPTION AND DEFINED TERMS

A. Introduction

On _____, (the "**Creation Date**"), the City Council (the "**City Council**") of the City of San Marcos, Texas (the "**City**") approved Resolution No. _____, which authorized the creation of the Trace Public Improvement District (the "**PID**") to finance the Actual Costs of the Public Improvements for the benefit of certain property in the PID, all of which is located within the city limits of the City of San Marcos, Texas (the "**City**"). The City Council, on _____, approved a Planned Development District agreement (the "**PDD**") to establish certain development standards for portions of the property within the PID.

Chapter 372 of the Texas Local Government Code (as amended, the "**PID Act**"), governs the creation and operation of public improvement districts within the State of Texas. This Service and Assessment Plan (the "**SAP**") was prepared pursuant to the PID Act. The PID Act requires that a service plan "cover a period of at least five years and must also define the annual indebtedness and the projected costs for improvements." The PID Act also requires a service plan "be reviewed and updated annually for the purpose of determining the annual budget for improvements." The service plan for the PID is described in more detail in **Section V** herein.

The Assessment Roll for the PID is attached hereto as **Appendix A**, and is addressed in **Section VII** of this SAP. The Special Assessments as shown on the Assessment Roll are based on the method for establishing and levying the Special Assessment described in **Sections IV** and **VI** of this SAP.

B. Definitions

Capitalized terms shall have the meanings ascribed to them as follows:

"Acquisition and Reimbursement Agreement" means (whether one or more) an agreement that provides for construction and dedication of a Public Improvement to the City prior to the Landowner being paid out of the applicable PID Bonds proceeds, whereby all or a portion of the Actual Costs will be paid to Landowner initially from Special Assessment Revenues (and ultimately from the applicable PID Bonds) to reimburse the Landowner for Actual Costs paid by the Landowner that are eligible to be paid with PID Bond proceeds. The form of Acquisition and Reimbursement Agreement shall be reasonably acceptable to both City and Landowner and substantially in accordance with the form attached as **Exhibit "H"** to the PID Financing Agreement. It is intended that Acquisition and Reimbursement Agreements will be used in connection with the Major Improvement Public Improvement and the Additional Improvement PID Bonds.

“Actual Cost(s)” means, with respect to the Public Improvements, the Owner’s demonstrated, reasonable, allocable, and allowable costs of constructing such Authorized Improvement, as specified in a payment request in a form that has been reviewed and approved by the City and in an amount not to exceed the amount for each Public Improvements as set forth in the Service and Assessment Plan (subject to cost overruns in Section 5.01(e)). Actual Costs may include (a) the costs incurred by or on behalf of the Owner (either directly or through affiliates) for the design, planning, financing, administration/management, acquisition, installation, construction and/or implementation of such Public Improvements, (b) the fees paid for obtaining permits, licenses or other governmental approvals for such Public Improvements, (c) Construction Management Fee, (d) the costs incurred by or on behalf of the Owner for external professional costs, such as engineering, geotechnical, surveying, land planning, architectural landscapers, advertising, marketing and research studies, appraisals, legal, accounting and similar professional services, (e) all labor, bonds and materials, including equipment and fixtures, by contractors, builders and materialmen in connection with the acquisition, construction or implementation of the Public Improvements, (f) all related permitting and public approval expenses, architectural, engineering, and consulting fees, financing charges, taxes, governmental fees and charges, insurance premiums, and all payments for Administrative Expenses after the date of a resolution authorizing such reimbursement, plus Interest, if any, at the lower of (x) the maximum interest rate permitted by the PID Act or (y) the interest rate of the Bonds calculated from the respective dates of the expenditures until the date of reimbursement therefore.

“Additional Improvement PID Bonds” means bonds issued to fund the remaining Public Improvements (or a portion thereof) that are secured by Special Assessments levied on Assessed Property and were not included in the Major Improvement Public Improvement PID Bond issue. In connection with Additional Improvement PID Bonds, Special Assessments related to such Additional Improvement PID Bonds will be levied only on property located within the applicable Parcels or portion of the District to finance Public Improvements which will only benefit the applicable Parcels or portion of the District.

“Additional Public Improvements No. 1” means those Public Improvements that confer special benefit only on property located within the applicable Parcels or portion of the District to finance Public Improvements that will be financed with Additional Improvement PID Bond No. 1 and as generally depicted in **Appendix E-2**.

“Additional Public Improvements No. 2” means those Public Improvements that confer special benefit only on property located within the applicable Parcels or portion of the District to finance Public Improvements that will be financed with Additional Improvement PID Bond No. 1 and as generally depicted in **Appendix E-3**.

“Additional Special Assessments” means the additional Special Assessment to be levied on a Parcel or Lot subsequent to the issuance of the Additional Improvement PID Bonds with the consent of the Landowner and prior to the creation of any homestead on such Parcel or Lot.

“Administrative Expenses” means the administrative, organization, maintenance and operation costs and expenses associated with, or incident to, the administration, organization, maintenance and operation of the PID, including, but not limited to, the costs of (i) legal counsel, engineers, accountants, financial advisors, investment bankers or other consultants and advisors, (ii) creating and organizing the PID and preparing the Assessment Roll, (iii) computing, levying, collecting and transmitting the Special Assessments or the Annual Installments thereof, (iv) maintaining the record

of installments, payments and reallocations and/or cancellations of the Special Assessments, (v) paying and redeeming the PID Bonds, (vi) investing or depositing the Special Assessments or other monies, (vii) complying with the PID Act with respect to the PID Bonds, (viii) paying the paying agent/registrar's and trustee's fees and expenses (including the fees and expenses of its legal counsel) related to the PID Bonds, and (ix) administering the construction of the Public Improvements.

"Administrator" means an employee of the City or third party designee of the City who shall have the responsibilities provided for herein, in an Indenture relating to PID Bonds or in any other agreement approved by the City Council.

"Annual Installment" means, with respect to each Parcel, each annual payment of: (i) the Special Assessment (including the principal of and interest on), as shown on the Assessment Roll attached hereto as **Appendix A**, as applicable, or in an Annual Service Plan Update, and calculated as provided in **Section VI** of this SAP, (ii) Administrative Expenses, (iii) the Prepayment Reserve described in **Section IV** of this SAP, and (iv) the Delinquency Reserve described in Section IV of this SAP.

"Annual Service Plan Update" has the meaning set forth in **Section V** of this SAP.

"Assessed Property" or **"Assessed Properties"** means property on which Special Assessments have been levied as shown on the Assessment Roll (as the same may be updated each year by the Annual Service Plan Update) and which includes any and all Parcels within the PID other than Non-Benefited Property.

"Assessment Ordinance" means each ordinance adopted by the City Council approving this SAP (or amendments or supplements to the SAP) and levying the Special Assessments.

"Assessment Roll" means the Assessment Roll included in this SAP as **Appendix A**, which may be updated, modified or amended from time to time in accordance with the procedures set forth herein and in the PID Act, including updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Update.

"Authorized Improvements" means improvements authorized by Section 372.003 of the PID Act including those listed in **Section III.A** of this SAP.

"City" means the City of San Marcos, Texas.

"City Council" means the City Council of City of San Marcos, Texas.

"Commercial Parcel" means a Parcel located within the PID which has been designated at the time of the adoption of the initial Assessment Roll and approval of this SAP for the future development of commercial uses such as, but not limited to, office buildings and retail shopping centers. In accordance with the PDD, Parcels identified as Planning Areas 3, 9, 10 and 11 are designated as Commercial Parcels.

"County" means Hays County, Texas.

“Delinquency Reserve” has the meaning set forth in **Section IV.K** of this SAP.

“Delinquent Collection Costs” means interest, penalties and expenses incurred or imposed with respect to any delinquent Special Assessment, or an Annual Installment thereof, in accordance with the PID Act which includes the costs related to pursuing collection of such delinquent Special Assessment, or an Annual Installment thereof, and the costs related to foreclosing the lien against the Assessed Property, including attorney’s fees.

Major Improvement Public ImprovementMajor Improvement Public ImprovementMajor Improvement Public ImprovementMajor Improvement Public ImprovementMajor Improvement Public ImprovementMajor Improvement Public Improvement.

“Indenture” means the applicable Indenture of Trust between the City and a trustee relating to the issuance of a series of PID Bonds for financing costs of Public Improvements, as it may be amended from time to time.

“Landowner” means Highpointe Trace, LLC, a California limited liability corporation, or other entity affiliated with Highpointe Communities, Inc.

“Lot” means (i) for any portion of the Property for which a subdivision plat has been recorded in the official public records of the County, a tract of land described as a “lot” in such subdivision plat, and (ii) for any portion of the Property for which a subdivision plat has not been recorded in the official public records of the County, a tract of land anticipated to be described as a “lot” in a final recorded subdivision plat.

“Lot Type” means a classification of final building Lots with similar characteristics (e.g. commercial, light industrial, multifamily residential, single family residential, etc.), as determined by the Administrator and confirmed by the City Council. In the case of single family residential Lots, the Lot Type shall be further defined by classifying the residential Lots based on the front footage of the Lot, as determined by the Administrator and confirmed by the City Council.

“Major Improvement Public Improvement Assessed Property” means, for any year, all Parcels within the District other than Non-Benefited Property and listed in the Assessment Roll against which Special Assessments relating to the Authorized Improvements are levied.

“Major Public Improvement PID Bonds” means those certain City of San Marcos, Texas Special Assessment Revenue Bonds, Series [20__] (Trace Public Improvement District Major Public Improvement Project) that will be secured by Special Assessments levied on an Assessed Parcel in order to fund the Major Public Improvements.

“Major Public Improvements” means those Public Improvements that confer special benefit on the entire District and are to be financed with Major Improvement PID Bonds, and as further described in **Exhibit D of the PID Financing Agreement** and in **Table III-A** of this Service and Assessment Plan and as generally depicted in **Appendix E-1**.

“Multi-Family Parcel” means a Parcel located within the PID which has been designated at the time of the adoption of the initial Assessment Roll and approval of this SAP for the future development of multi-family residences. In accordance with the PDD, Parcels identified as Planning Areas 8 and 12 are designated as Multi-Family Parcels.

“Non-Benefited Property” means Parcels within the boundaries of the District that accrue no special benefit from the Public Improvements, including Owner Association Property, Public Property and easements that create an exclusive use for a public utility provider. Property identified as Non-Benefited Property at the time the Special Assessments (i) are imposed or (ii) are reallocated pursuant to a subdivision of a Parcel is not assessed. Assessed Property converted to Non-Benefited Property, if the Special Assessments may not be reallocated pursuant to **Section VI.D** or **Section VI.E**, remains subject to the Special Assessments and requires the Special Assessments to be prepaid as provided for in **Section VI.F**.

“Owner’s Association” means a homeowner’s association or property owner’s association.

“Owner’s Association Special Assessment Allocation” means 1% of the total Special Assessment for a specific Parcel or phase that is allocated to cover the PID benefit received by the Owner’s Association from the Owner’s Association Property.

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

“Parcel” means a property identified by either a tax map identification number assigned by the Hays County Appraisal District for real property tax purposes, by metes and bounds description, by lot and block number in a final subdivision plat recorded in the official public records of the County, or by any other means determined by the City.

“PID” means the Trace Public Improvement District created by the City pursuant to Resolution No. ____ approved October __, 2015.

“PID Act” means Chapter 372 of the Texas Local Government Code, as amended.

“PID Bonds” means the special assessment revenue bonds to be issued by the City, in one or more series, to finance the Public Improvements that confer special benefit on the land within the District, which may include funds for any required reserves and amounts necessary to pay the PID Bond issuance costs, and to be secured by the revenues and funds pledged under an Indenture, consisting primarily of the Special Assessments, pursuant to the authority granted in the PID Act, and as described by this Agreement for the purposes of (i) financing the costs of Public Improvements and related costs and (ii) reimbursing the Landowner for Actual Costs paid prior to the issuance of the PID Bonds. This term is used to collectively refer to the Major Improvement PID Bonds, the Additional No. 1 PID Bonds, the Additional No. 2 PID Bonds and any Additional PID Bonds throughout this Agreement.

“Planning Area(s)” means means one or more individual Parcels within the Project which are designated by the Landowners for specific land uses. At the time of the issuance of the PID Bonds, the Planning Areas are designated as follows: Planning Areas 1, 2, 6, 7 and 13 – Single Family Residential; Plannings Areas 8 and 12 – Multi-Family; Planning Areas 3, 10 and 11 – Retail; and Planning Area 9 – Business Park and as depicted on **Appendix C** attached hereto.

“Prepayment Costs” mean interest and expenses to the date of prepayment, plus any additional expenses related to the prepayment, reasonably expected to be incurred by or imposed upon the City as a result of any prepayment of a Special Assessment and the PID Bonds secured by such Special Assessment.

“Prepayment Reserve” has the meaning set forth in **Section IV.H** of this SAP.

“Property” means the approximately 320.28 acres of property depicted and described by metes and bounds on Exhibit A to Resolution No. _____ as adopted by City Council on _____. The Property is located within the City and is legally described in **Appendix B** to this SAP and is depicted in **Table II.A** of this SAP.

“Public Improvements” mean the Authorized Improvements designed, constructed, and installed in accordance with this SAP for which Special Assessments are levied against the Assessed Property that receives a special benefit from such improvement and depicted in **Appendix E**.

“Public Property” means property, real property, right of way and easements located within the boundaries of the PID that is owned by or irrevocably offered for dedication to the federal government, the State of Texas, the County, the City, a school district, a public utility provider or any other political subdivision or public agency, whether in fee simple, through an exclusive use easement, plat, or a public utility easement.

“Residential Parcel” means a Parcel located within the PID which has been designated at the time of the adoption of the initial Assessment Roll and approval of this SAP for the future development of single family residential homes. In accordance with the PDD, Parcels identified as Planning Areas 1, 2, 6, 7 and 13 are designated as Residential Parcels.

“Service and Assessment Plan” or “SAP” or “Assessment Plan” means this Trace Public Improvement District Service and Assessment Plan (as such plan is amended, supplemented or updated from time to time) approved by the City Council in the first Assessment Ordinance.

“Special Assessment(s)” means the assessments levied against properties in the District, as provided for in the applicable Assessment Order and in the Service and Assessment Plan, including any supplemental assessments or reallocation of assessments levied in accordance with Sections 372.019 and 372.020 of the PID Act.

“Trustee” means the trustee under the Indenture, and any successor thereto permitted under such Indenture and any other Trustee under a future Indenture.

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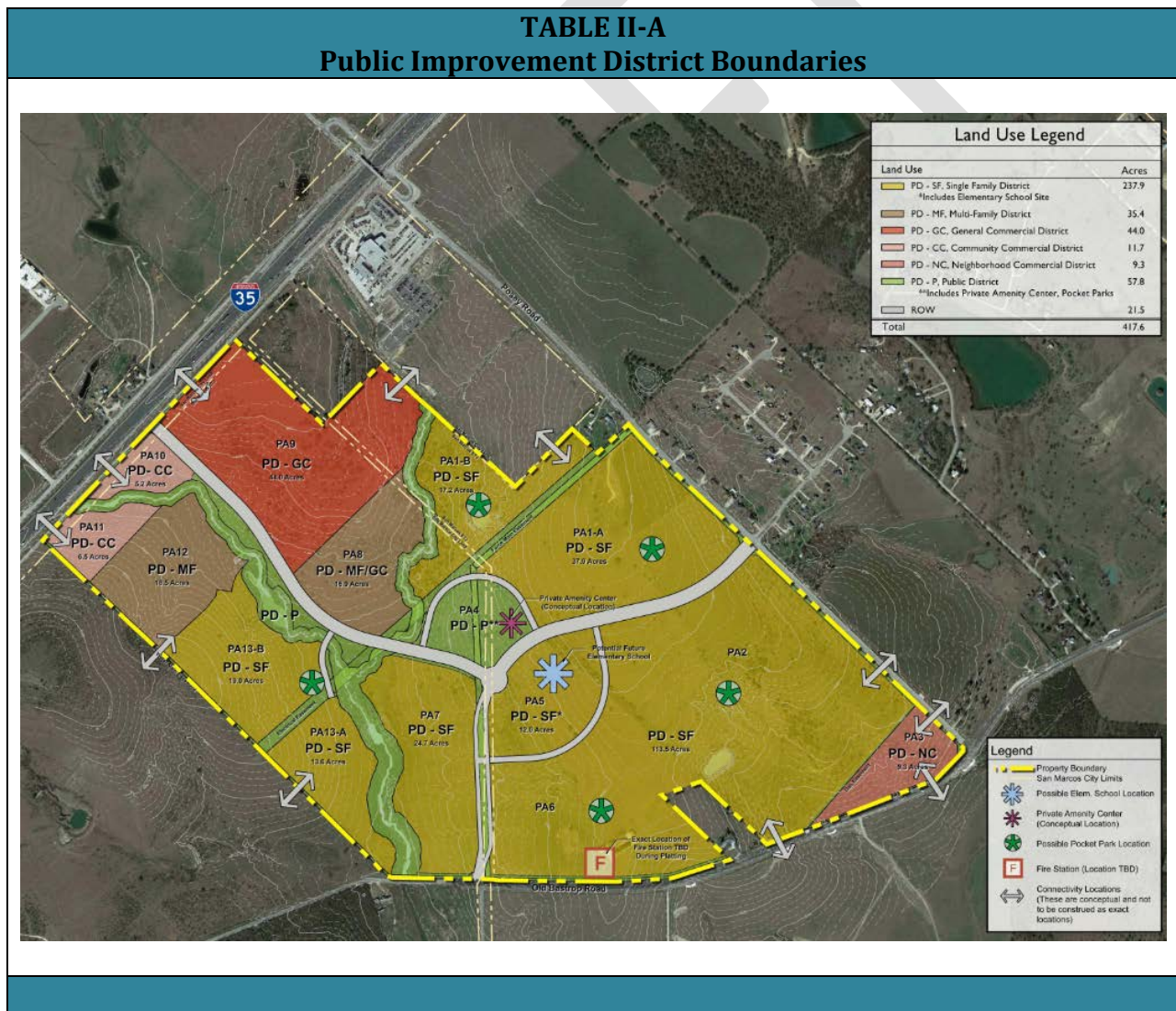
Section II

PROPERTY INCLUDED IN THE PID

A. Property Included in the PID

The PID is comprised of the Property. The PID is located entirely within the City's jurisdiction. It contains approximately 320.28 acres planned for development to include a combination of residential and commercial development as well as the associated rights of way, landscaping, and infrastructure necessary to provide roadways, drainage, and utilities to the PID.

A map of the property within the PID is shown in **Table II-A**. Legal descriptions for all Parcels within the PID are included in **Appendix C**.



Section III

DESCRIPTION OF THE PUBLIC IMPROVEMENTS

A. Authorized Improvement Overview

Section 372.003 of the PID Act identifies the authorized improvements that a City may choose to undertake with the establishment of a PID. The Authorized Improvements identified in the PID Act include:

- (i) landscaping;
- (ii) erection of fountains, distinctive lighting, and signs;
- (iii) acquiring, constructing, improving, widening, narrowing, closing, or rerouting of sidewalks or of streets, any other roadways, or their rights-of way;
- (iv) construction or improvement of pedestrian mall;
- (v) acquisition and installment of pieces of art;
- (vi) acquisition, construction or improvement of libraries;
- (vii) acquisition, construction or improvement of off-street parking facilities;
- (viii) acquisition, construction or improvement of rerouting of mass transportation facilities;
- (ix) acquisition, construction or improvement of water, wastewater, or drainage facilities or improvements;
- (x) the establishment or improvement of parks;
- (xi) projects similar to those listed in Subdivisions (i)-(x)
- (xii) acquisition, by purchase or otherwise, of real property in connection with an authorized improvement;
- (xiii) special supplemental services for improvement and promotion of the district, including services relating to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development recreation and cultural enhancement;
- (xiv) payment of expenses incurred in the establishment, administration and operation of the district; and
- (xv) the development, rehabilitation, or expansion of affordable housing.

The City has determined that of the improvements authorized under the PID Act, it will undertake at this time only those Public Improvements more particularly described in **Section III.B and Section III.C.**

B. Descriptions and Estimated Costs of the Major Public Improvements

The Major Public Improvements are described below and generally depicted in **Appendix E-1. Table III-A** shows the estimated Actual Costs of the Major Public Improvements to be funded by the Major Public Improvement PID Bonds. The estimated Actual Costs to construct the initial Major Public Improvements, is \$9,334,058. The costs shown in **Table III-A** are estimates and may be revised in Annual Service Plan Updates.

A description of the initial Major Public Improvements to be funded by the Major Public Improvement PID Bonds follows:

- *Street Improvements*
 - To be added
- *Drainage Improvements*
 - To be added
- *Erosion & Sedimentation Control*
 - To be added
- *Water Line Distribution*
 - To be added
- *Waste Water*
 - To be added
- *Sewer Lift Station A*
 - To be added
- *Sewer Lift Station B*
 - To be added
- *Landscaping – Arterial Roads*
 - To be added
- *Landscaping – Open Space including Trail Systems*
 - To be added
- *Posey Road – Street Improvements*
 - To be added
- *Public Safety Facilities*
 - To be added
- *Entry Monumentation – Highway 35 and Segment B*
 - To be added

Table III-A
Major Public Improvement PID Bonds
Estimated Authorized Improvements

Description	Total
<i>Authorized Improvements</i>	
Street Improvements	\$ 1,471,151
Drainage Improvements	\$ 468,538
Erosion & Sedimentation Control	\$ 48,500
Water Line Distribution	\$ 384,645
Waste Water	\$ 122,250
Sewer Lift Station A	\$ 640,411
Sewer Lift Station B	\$ 1,384,544
Landscaping - Arterial Roads	\$ 787,000
Landscaping - Open Space incl. Trails Systems	\$ 435,000
Posey Road - Street Improvements	\$ 200,000
Offsite Improvements/ROW/Offsite Easements	\$ -
Public Safety Facilities	\$ 500,000
Entry Monumentation - Hwy 35 and Seg B	\$ 200,000
Soft Costs	\$ 996,306
Contingency	\$ 1,336,710
Construction Management	\$ 359,002
Total Authorized Improvements	\$ 9,334,058

Note: Cost estimates provided by Texas Engineering Solutions, LLC and Highpointe Communities. The figures shown in Table III-A are estimates, and may be revised in Annual Service Plan Updates.

Section IV

ASSESSMENT PLAN

A. Introduction

The PID Act requires the City Council to apportion the cost of the Public Improvements based on the special benefits conferred to each Parcel or Lot from the Public Improvements. The PID Act provides that the Actual Costs may be assessed: (i) equally per front foot or square foot; (ii) according to the value of the property as determined by the governing body, with or without regard to improvements on the property; or (iii) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The PID Act further provides that the City Council may establish the methods of assessing the special benefits for various classes of improvements.

Table IV-A details the estimated allocation of costs of the Major Improvement Improvements funded by the Major Public Improvement PID Bonds to the Assessed Property. When Additional Improvement PID Bonds are issued, this SAP will be updated to include a **Table IV-B**.

This section of this Service and Assessment Plan is intended to describe the special benefit conferred to each Parcel within the PID as a result of the Major Improvements funded by the Major Public Improvement PID Bonds, to provide the basis and justification for the determination that this special benefit exceeds the amount of the Special Assessments, and to explain the methodologies by which the City Council allocates and reallocates the special benefit of the Major Public Improvements to Parcels or Lots so that there is an equal share of the Actual Cost being apportioned to Parcels or Lots similarly benefited. The determination by the City Council of the assessment methodology set forth below is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Landowners and all future owners and developers of any Assessed Property.

B. Special Benefit

The Assessed Property must receive a direct and special benefit from the Public Improvements, which must be equal to or greater than the amount of the Special Assessments. The Major Public Improvements are provided solely for the benefit of the Assessed Property.

When the City Council approved this SAP, the Landowner owned 100% of the Assessed Property. The Landowner has acknowledged that the Major Public Improvements confer a special benefit on the Assessed Property and consented to the imposition of the Special Assessments to pay for the Actual Costs associated therewith. The Owner has ratified, confirmed, accepted, agreed to and approved: (i) the determinations and findings by the City Council as to the special benefits described herein and the Assessment Ordinance; (ii) the SAP and the Assessment Ordinance, and (iii) the levying of Special Assessments on the Assessed Property.

The City Council determined that funding the Actual Costs for the Major Public Improvements through the PID is beneficial to the City. Accordingly, the Major Public Improvements confer a special benefit to the Assessed Property, and such special benefit exceeds the amount of the Special Assessment levied on the Assessed Property from the Major Public Improvement PID Bonds. This conclusion is supported by the evidence, information, and testimony provided to the City Council.

C. Allocation of Actual Costs of Major Public Improvements

The Major Public Improvements funded by the Major Public Improvement PID Bonds will provide a special benefit to the property, other than the Non-Benefited Property, in the District. The Actual Costs of the Major Public Improvements funded by the Major Public Improvement PID Bonds are, therefore, allocated to the Assessed Property, as shown in **Table IV-A**. The costs detailed in **Table IV-A** represent only estimates and are subject to revision through the Annual Service Plan Updates, but may not result in increased Special Assessments except as authorized under this SAP or the PID Act.

If and when Additional Improvement PID Bonds are issued, this Service and Assessment Plan will be updated with a **Table IV-B** to reflect the revised allocation of Actual Costs of the Additional Public Improvements to be funded at that time.

**Table IV-A
Major Public Improvement PID Bonds
Cost Allocations**

Authorized Improvement	Total Cost (a)	Residential Phase 1		Multi-Family		Commercial		Residential Phase 2	
		% Allocation	Share of Costs	% Allocation	Share of Costs	% Allocation	Share of Costs	% Allocation	Share of Costs
Street Improvements	\$ 1,471,151	33%	\$ 488,820	17%	\$ 252,450	30%	\$ 442,857	20%	\$ 287,025
Drainage Improvements	\$ 468,538	33%	\$ 155,681	17%	\$ 80,401	30%	\$ 141,043	20%	\$ 91,413
Erosion & Sedimentation Control	\$ 48,500	33%	\$ 16,115	17%	\$ 8,323	30%	\$ 14,600	20%	\$ 9,462
Water Line Distribution	\$ 384,645	33%	\$ 127,806	17%	\$ 66,005	30%	\$ 115,789	20%	\$ 75,045
Waste Water	\$ 122,250	25%	\$ 31,153	33%	\$ 40,253	27%	\$ 33,078	15%	\$ 17,766
Sewer Lift Station A	\$ 640,411	61%	\$ 389,292	0%	\$ -	5%	\$ 29,110	35%	\$ 222,009
Sewer Lift Station B	\$ 1,384,544	25%	\$ 352,820	33%	\$ 455,887	27%	\$ 374,629	15%	\$ 201,209
Landscaping - Arterial Roads	\$ 787,000	33%	\$ 261,497	17%	\$ 135,049	30%	\$ 236,909	20%	\$ 153,545
Landscaping - Open Space incl. Trails Systems	\$ 435,000	29%	\$ 127,845	53%	\$ 232,087	0%	\$ -	17%	\$ 75,068
Posey Road - Street Improvements	\$ 200,000	36%	\$ 72,028	15%	\$ 30,610	27%	\$ 53,696	22%	\$ 43,666
Offsite Improvements/ROW/Offsite Easements	\$ -	0%	\$ -	0%	\$ -	0%	\$ -	0%	\$ -
Public Safety Facilities	\$ 500,000	36%	\$ 180,069	15%	\$ 76,524	27%	\$ 134,241	22%	\$ 109,166
Entry Monumentation - Hwy 35 and Seg B	\$ 200,000	0%	\$ -	36%	\$ 72,615	64%	\$ 127,385	0%	\$ -
Soft Costs	\$ 996,306	33%	\$ 330,469	22%	\$ 217,531	26%	\$ 255,500	19%	\$ 192,806
Contingency	\$ 1,336,710	44%	\$ 593,258	8%	\$ 101,975	11%	\$ 142,935	37%	\$ 498,543
Construction Management	\$ 359,002	35%	\$ 125,074	20%	\$ 70,788	23%	\$ 84,071	22%	\$ 79,069
Total Authorized Improvements	\$ 9,334,058		\$ 3,251,926		\$ 1,840,497		\$ 2,185,842		\$ 2,055,793

(a) See Table III-A for details. Any Public Improvement that is allocated 100% to the Assessed Property would be required to be built on a stand-alone basis.

1. **Special Assessment Methodology**

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

- *Assessment Methodology for Major Improvement Area*

For purpose of this SAP, the City Council has determined that the Actual Costs of the portion of the Major Public Improvements to be financed with the Major Public Improvement PID Bonds shall be allocated to the Assessed Property by spreading the entire Special Assessment across all Parcels and Lots within Assessed Property based on the ratio of the estimated build out value of each Lot to the total build out value for all Parcels with such Special Assessment not to exceed the Actual Costs allocated to a particular portion of the Project. **Table IV-C** summarizes the allocation of the Special Assessments relating to the Major Public Improvement PID Bonds for the Assessed Property.

Based on the cost estimates provided by the Landowner for the Public Improvements, the City Council has determined that the benefit to the Assessed Property from the Public Improvements is at least equal to the Special Assessments levied on the Assessed Property.

The Special Assessments and Annual Installments for each Parcel or Lot is shown on the Assessment Roll, attached as **Appendix A**, and no Special Assessment shall be changed except as authorized by this SAP or the PID Act. **Table IV-C** summarizes the initial allocation of the Special Assessment relating to the Major Public Improvement PID Bonds for the Assessed Property at the time the Assessment Ordinance relating to the PID was adopted by the City Council. This SAP will be modified as appropriate based on the actual amount of the PID Bonds that are sold.

Table IV-C Major Public Improvement PID Bonds Special Assessment Allocation												
	Planning Area	Land Use	Units	Square Feet	Gross AV	Total Assessment	Annual Installment	Assessment per Unit	Assessment per Square Foot	Annual Installment per Unit	Annual Installment per Square Foot	
Residential Phase 1	1	Single Family	275	-	\$ 55,615,200	\$ 2,516,885	\$ 206,368	\$ 9,152	\$ -	\$ 750	\$ -	
	2	Single Family	115	-	\$ 28,060,000	\$ 1,269,865	\$ 104,121	\$ 11,042	\$ -	\$ 905	\$ -	
	HOA					\$ 38,250	\$ 3,136					
	Subtotal		390	-	\$ 83,675,200	\$ 3,825,000	\$ 313,625					
Multi-Family	8	Multi-Family	338	-	\$ 45,630,000	\$ 1,027,964	\$ 85,723	\$ 3,041	\$ -	\$ 254	\$ -	
	12	Multi-Family	370	-	\$ 49,950,000	\$ 1,125,286	\$ 93,839	\$ 3,041	\$ -	\$ 254	\$ -	
	HOA					\$ 21,750	\$ 1,814					
	Subtotal		708	-	\$ 95,580,000	\$ 2,175,000	\$ 181,375					
Commercial	3	Retail	-	69,696	\$ 10,454,400	\$ 212,530	\$ 17,116	\$ -	\$ 3.05	\$ -	\$ 0.25	
	9	Business Park	-	479,160	\$ 95,832,000	\$ 1,948,189	\$ 156,895	\$ -	\$ 4.07	\$ -	\$ 0.33	
	10	Retail	-	63,707	\$ 9,555,975	\$ 194,265	\$ 15,645	\$ -	\$ 3.05	\$ -	\$ 0.25	
	11	Retail	-	63,707	\$ 9,555,975	\$ 194,265	\$ 15,645	\$ -	\$ 3.05	\$ -	\$ 0.25	
	HOA					\$ 25,750	\$ 2,074					
	Subtotal		-	676,269	\$125,398,350	\$ 2,575,000	\$ 207,375					
Residential Phase 2	2	Single Family	229	-	\$ 64,091,600	\$ 1,011,597	\$ 71,590	\$ 4,417	\$ -	\$ 313	\$ -	
	6	Single Family	107	-	\$ 32,560,100	\$ 513,916	\$ 36,369	\$ 4,803	\$ -	\$ 340	\$ -	
	7	Single Family	86	-	\$ 26,169,800	\$ 413,054	\$ 29,232	\$ 4,803	\$ -	\$ 340	\$ -	
	13	Single Family	133	-	\$ 40,259,100	\$ 635,434	\$ 44,969	\$ 4,778	\$ -	\$ 338	\$ -	
	HOA					\$ 26,000	\$ 1,840					
	Subtotal		555	-	\$163,080,600	\$ 2,600,000	\$ 184,000					
Total			1,653	676,269	\$467,734,150	\$ 11,175,000	\$ 886,375					

Note: Estimates based on information available as of XX/XX/15, the date the original SAP was adopted by the City Council. The actual unit counts may vary from the estimates shown above, the initial assessment allocation for each Lot Type will not change unless modified in a Service Plan Update approved by the City Council, subject to the terms of this SAP, the PID Act, and any other documents associated with PID Bonds. The above estimate assumes an average 6.50% interest rate and a 30 year term for the PID Bonds and an annual administrative expense of \$60,000 increasing at 2.0% per year.

- *Special Assessment Methodology for Additional Improvement PID Bonds*

When, and if, the issuance of Additional Improvement PID Bonds are contemplated, this SAP will be amended to determine the assessment methodology necessary to apply equal shares of the Additional Special Assessments to the Actual Costs of the Additional Public Improvements on the Assessed Property similarly benefited.

The Special Assessment and Annual Installments for each Parcel or Lot located in the PID are shown on the Assessment Roll. The Special Assessment allocated to each such Parcel or Lot will not be changed except as authorized by this SAP or the PID Act. **Table IV-C** summarizes the initial allocation of the Special Assessment relating to the Major Public Improvement PID Bonds for the Assessed Property at the time the Assessment Ordinance relating to the Major Public Improvement PID Bonds was adopted by the City Council.

Appendix D presents the estimated Additional Special Assessment for each Parcel or Lot assuming the issuance of Additional Improvement PID Bonds. It is expected that these Additional Special Assessments will be levied prior to sale of homes to homeowners.

The calculation of the estimated valuation prior to and assuming the issuance of the Additional Improvement PID Bonds, the Additional Special Assessment allocation, the sources and uses of funds, the projected debt service and administrative expenses and special benefit summary assuming the issuance of Additional Improvement PID Bonds are attached as **Appendix D**. The costs presented in **Appendix D** are estimates only and subject to adjustment. The Additional Improvement Costs are generally depicted in **Appendix E-2** and **Appendix E-3**.

2. Special Assessment and Annual Installments

The Special Assessments for the Major Public Improvement PID Bonds, will be levied on each Parcel or Lot according to the Assessment Roll, as applicable. The Annual Installments for the Major Public Improvement PID Bonds will be collected on the dates and in the amounts shown on the Assessment Roll, subject to any revisions made during an Annual Service Plan Update.

3. Administrative Expenses

The cost of administering the PID and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel or Lot based on the amount of outstanding assessment remaining on the Parcel or Lot. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts shown on the Assessment Roll shown on **Appendix A**, which is subject to revision through Annual Service Plan Updates.

4. Additional Interest

Pursuant to the PID Act, the interest rate for Special Assessments may exceed the actual interest rate per annum paid on bonds issued by a PID by no more than one half of one percent (0.50%) per annum, (the "Additional Interest"). For the PID, there will be forty percent (40.0%) of the funds generated by the Additional Interest (i.e. 0.20%) per annum that is dedicated to fund the Prepayment Reserve as described in **Section IV.H** below. The remaining sixty percent (60.0%) balance of the funds generated by the Additional Interest (i.e. 0.30%) per annum is dedicated to the Delinquency Reserve as described in **Section IV.I** below.

5. Prepayment Reserve

As described above, a portion of the funds generated by the Additional Interest will be allocated to fund the associated interest charged between the date of prepayment of a Special Assessment and the date on which related PID Bonds are actually redeemed (the "**Prepayment Reserve**"). The Prepayment Reserve shall be funded each year until it reaches 1.5% of the par amount of the related PID Bonds, but in no event will the annual collections be more than 0.20% per annum higher than the actual interest rate paid on the related PID Bonds. If the PID Act is subsequently amended to allow a prepayment of a Special Assessment to include all applicable interest from the date of prepayment through and including the date of the regularly scheduled PID Bond payments to be charged upon the prepayment of the Special Assessment, the 0.20% per annum allocated to fund the associated interest charged between the date of prepayment of the Special Assessment and the date on which PID Bonds are actually prepaid may be eliminated at the election of the City. If the Prepayment Reserve requirement is so eliminated or in a given year the additional reserve is fully funded at 1.5% of the par amount of the PID Bonds, the City can allocate the Prepayment Reserve component of the Additional Interest collected during that year to the Delinquency Reserve or to pay Administrative Expenses or for any other use that benefits the Assessed Property as set forth in the Indenture related to such PID Bonds and as determined by the City.

6. Delinquency Reserve

As described above, a portion of the funds generated by the Additional Interest will be allocated to offset any possible delinquent payments. This additional reserve (the "**Delinquency Reserve**") shall be funded each year up to 4.0% of the par amount of the related PID Bonds, but in no event will the annual collection of the Delinquency Reserve be more than 0.30% per annum higher than the actual interest rate paid on the related PID Bonds. If in a given year the additional reserve is fully funded at 4.0% of the par amount of the related PID Bonds, the City can allocate the Delinquency Reserve component of the Additional Interest collected during that year to redeem PID Bonds or for any other use that benefits the Assessed Property as set forth in the Indenture related to such PID Bonds and as determined by the City.

Section V

SERVICE PLAN

The PID Act requires the Service Plan (i) cover a period of at least five years, and (ii) define the annual projected costs and indebtedness for the Public Improvements undertaken within the PID during the five year period. It is anticipated that it will take approximately 18 months for the Major Public Improvements to be constructed.

The estimated Actual Costs for the Major Public Improvements plus costs related to the issuance of the Major Public Improvement PID Bonds, and payment of expenses incurred in the establishment, administration and operation of the PID is \$11,194,308 as shown in **Table V-A**. The Service Plan shall be reviewed and updated at least annually for purposes of determining the annual budget for Administrative Expenses, updating the estimated costs of the Public Improvements, and updating Assessment Roll shown on **Appendix A**. Any update to this SAP is herein referred as an "Annual Service Plan Update."

Table V-A summarizes the sources and uses of funds required to construct the Major Improvements, establish the PID, and issue the Major Improvement Public Improvement PID Bonds. The sources and uses of funds shown in **Table V-A** shall be updated each year in the Annual Service Plan Update to reflect any revisions to the Actual Costs and Additional PID Bond issues, if any.

Table V-A Major Public Improvement PID Bonds Sources and Uses of Funds	
Sources of Funds	
Gross Bond Amount	\$ 11,175,000
Owner Contribution (a)	19,308
	<u>\$ 11,194,308</u>
Uses of Funds	
Authorized Improvements (b):	<u>\$ 9,334,058</u>
Other Fund Deposits:	
Debt Service Reserve Fund (c):	\$ 869,000
Capitalized Interest (d):	156,000
	<u>\$ 1,025,000</u>
Cost of Issuance:	<u>\$ 500,000</u>
Underwriter's Discount/Underwriter Counsel (e):	\$ 335,250
	<u>\$ 11,194,308</u>
(a) Owners will fund all costs not covered by the PID Bonds.	
(b) See Table III-A and Table IV-A for details.	
(c) The PID Bonds will include a debt service reserve fund equal to the average annual debt service.	
(d) The PID Bonds will include 12 months of capitalized interest for Phase 2A only.	
(e) The PID Bonds will have an Underwriters Discount and Underwriter Counsel Fee equal to 3.0% of the Gross Bond Amount.	

The projected Annual Installments for the first five years after the approval of this SAP for the Major Improvement Public Improvement PID Bonds are presented in **Table V-B**. The annual projected Annual Installments are subject to revision and shall be updated in the Annual Service Plan Update to reflect any change expected for each year.

Table V-B Major Public Improvement PID Bonds Projected Annual Installments								
Period Ending June 1	Principal Payments	Interest Expense	Administrative Expenses	Prepayment Reserve	Delinquency Reserve	Capitalized Interest	Annual PID Installments	
2018	\$ 100,000	\$ 670,500	\$ 60,000	\$ 22,350	\$ 33,525	\$ 156,000	\$	\$ 1,042,375
2019	\$ 125,000	\$ 664,500	\$ 61,200	\$ 22,150	\$ 33,225	\$ -	\$	\$ 906,075
2020	\$ 125,000	\$ 657,000	\$ 62,424	\$ 21,900	\$ 32,850	\$ -	\$	\$ 899,174
2021	\$ 175,000	\$ 649,500	\$ 63,672	\$ 21,650	\$ 32,475	\$ -	\$	\$ 942,297
2022	\$ 175,000	\$ 639,000	\$ 64,946	\$ 21,300	\$ 31,950	\$ -	\$	\$ 932,196
2023	\$ 200,000	\$ 628,500	\$ 66,245	\$ 20,950	\$ 31,425	\$ -	\$	\$ 947,120
Total	\$ 900,000	\$ 3,909,000	\$ 378,487	\$ 130,300	\$ 195,450	\$ 156,000	\$	\$ 5,669,237

Note: The Projected Annual Installments are the expenditures associated with the formation of the PID, the costs of issuance and repayment of the PID Bonds and the administration of the PID. The debt service estimates are based on an average 6.50% interest rate and a 30 year term for the initial series of PID Bonds. Administrative expenses are estimated to increase at a rate of 2.0% per year.

Section VI

TERMS OF THE SPECIAL ASSESSMENTS

A. Amount of Special Assessments and Annual Installments for Parcels

The Special Assessments and Annual Installments for the Assessed Property are shown on the Assessment Roll in **Appendix A**. The Special Assessment and Annual Installments shall not be changed except as authorized under the terms of this SAP and the PID Act. The Annual Installments shall be collected in an amount sufficient to pay (i) the principal and interest on the Major Public Improvement PID Bonds, (ii) to fund the Prepayment Reserve for the Major Public Improvement PID Bonds, (iii) to fund the Delinquency Reserve for the Major Public Improvement PID Bonds, and (iv) to cover the Administrative Expenses of the Major Improvement Public Improvement PID Bonds.

B. Reallocation of Assessments for Parcels Located Within Major Improvement Area

1. *Upon Division Prior to Recording of Subdivision Plat*

The Special Assessments for each initial Parcel are based on the estimated build out value for the number and type of expected Lots within that Parcel shown on the parcel map attached hereto as **Appendix D** ("the Parcel Map"). The number of each type of Lot contained in each Parcel was counted and the amount of Special Assessments shown on **Table IV-C** for each Lot Type was added up to calculate the amount of the Special Assessment for each Parcel. For example, as shown for phase 1A on **Table IV-C**, it includes 390 single family Lots, 275 in Planning Area One, and 115 in Planning Area Two, as well as the Owner's Association Fee. Accordingly, the Special Assessment for the Phase 1A portion of the Assessed Property, funded by the Major Public Improvement PID Bonds, is \$3,825,000, (\$2,516,885 + \$1,269,865 + \$38,250). As Lots are platted in accordance with the Parcel Map, each Lot will be assessed the Special Assessment that it was assigned pursuant to **Table IV-C**.

If Lots are not platted in accordance with the parcel map as depicted in Appendix C, the Special Assessments for each affected Lot will be allocated in an equitable manner, but in no event will such new allocation increase the total Special Assessment for each Lot as identified in **Table IV-C**.

2. *Upon Subdivision by a Recorded Subdivision Plat*

Once a Lot has a Special Assessment applied to it, as shown in **Table IV-C**, and then proceeds to be subdivided again, in no event will the new subdivision cause the sum of the Special Assessments for the subdivided Lots to be greater than the Special Assessment for the Lot prior to its subdivision.

The allocation method used above is to insure there will not be an increase in the Special Assessment for each specific Parcel. If Lots are not platted in accordance with the Parcel Map, the Special Assessments for each affected Lot will be allocated in an equitable manner, but in no event will such new allocation increase the total Special Assessment for each Lot as identified in **Table IV-C**.

3. Upon Consolidation

Upon the consolidation of two or more Assessed Properties, the Special Assessment for the consolidated Assessed Property shall be the sum of the Special Assessments for the Assessed Properties prior to consolidation. The reallocation of a Special Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Special Assessment prior to the reallocation. Any reallocation pursuant to this section shall be calculated by the Administrator and reflected in an update to this SAP approved by the City Council. The consolidation of any Assessed Property as described herein shall be considered an administrative action and will not require any notice or public hearing (as defined in the PID Act) by the City Council.

C. Mandatory Prepayment of Assessments

If Assessed Property or a portion thereof is transferred to a party that is exempt from the payment of the Special Assessment under applicable law, or if an owner causes a Parcel or portion thereof to become Non-Benefited Property, the owner of such Parcel or portion thereof shall pay to the City the full amount of the Special Assessment, plus all Prepayment Costs, for such Parcel, Lot or portion thereof prior to any such transfer or act.

D. Reduction of Special Assessments

If after all Public Improvements to be funded with PID Bonds have been completed and the Actual Costs for the Public Improvements are less than the Actual Costs used to calculate the Special Assessments securing such PID Bonds, resulting in excess PID Bond proceeds, then the City may, at its discretion and in accordance with the Indenture related to such series of PID Bonds, reduce the Special Assessment securing the series of PID Bonds for each Assessed Property pro rata such that the sum of the resulting reduced Special Assessments for all Assessed Properties equals the reduced Actual Costs and such excess PID Bond proceeds shall be applied to redeem PID Bonds of such series. Additionally, the City may, at its discretion and in accordance with the Indenture related to such series of PID Bonds, use such excess bond proceeds to fund additional Public Improvements in the PID. The Special Assessments shall not be reduced to an amount less than the principal amount of the related outstanding series of PID Bonds.

Similarly, if the City does not undertake some of the Public Improvements to be funded with a series of PID Bonds resulting in excess PID Bond proceeds then the City may, at its discretion and in accordance with the related Indenture related to such series of PID Bonds, reduce the Special Assessment securing the PID Bonds for each Assessed Property pro-rata to reflect only the Actual Costs that were expended and apply such excess PID Bond proceeds

as described in the paragraph immediately above. The Special Assessments shall not be reduced to an amount less than the principal amount of the related outstanding series of PID Bonds.

E. Payment of Special Assessments

1. Payment in Full

- The Special Assessment for any Parcel or Lot may be paid in full at any time in accordance the PID Act. The Payment shall include all Prepayment Costs, if any. If prepayment in full will result in redemption of PID Bonds, the payment amount shall be reduced by the applicable portion of the proceeds from a debt service reserve fund applied to the redemption pursuant to the Indenture, net of any other costs applicable to the redemption of PID Bonds.
- If an Annual Installment has been billed prior to payment in full of a Special Assessment, the Annual Installment shall be due and payable and shall be credited against the payment-in-full amount upon payment.
- Upon payment in full of a Special Assessment and all Prepayment Costs, the City shall deposit the payment in accordance with the related Indenture; whereupon, the Special Assessment for the Parcel or Lot shall be reduced to zero, and the Parcel or Lot owner's obligation to pay the Special Assessment and Annual Installments thereof shall automatically terminate. The City shall provide the owner of the affected Assessed Property a recordable "Notice of PID Assessment Termination."
- At the option of a Parcel or Lot owner, the Special Assessment on any Parcel or Lot may be paid in part in an amount equal to the amount of prepaid Special Assessments plus Prepayment Costs, if any, with respect thereto. Upon the payment of such amount for a Parcel or Lot, the Special Assessment for the Parcel or Lot shall be reduced by the amount of such partial payment, the Assessment Roll shall be updated to reflect such partial payment, and the obligation to pay the Annual Installment for such Parcel or Lot shall be reduced to the extent the partial payment is made.

2. Payment of Annual Installments

- The PID Act provides that a Special Assessment for a Parcel or Lot may be paid in full at any time. If not paid in full, the PID Act authorizes the City to collect interest and collection costs on the outstanding Special Assessment. A Special Assessment for a Parcel or Lot that is not paid in full will be collected in Annual Installments each year in the amounts shown in the Assessment Roll, which includes interest on the outstanding Special Assessment and Administrative Expenses.

- The Annual Installments as listed on the Assessment Roll have been calculated assuming a weighted average interest rate on the Major Public Improvement PID Bonds of 6.0%. The Annual Installments may not exceed the amounts shown on the Assessment Roll except pursuant to any amendment or update to this SAP.
- The Annual Installments shall be reduced to equal the actual costs of repaying the related series of PID Bonds and actual Administrative Expenses (as provided for in the definition of such term), taking into consideration any other available funds for these costs, such as interest income on account balances.
- The City reserves and shall have the right and option to refund PID Bonds in accordance with Section 372.027 of the PID Act and the Indenture related to such PID Bonds. In the event of issuance of refunding bonds, the Administrator shall recalculate the Annual Installments, and if necessary, may adjust, or decrease, the amount of the Annual Installment so that total Annual Installments of Special Assessments will be produced in annual amounts that are required to pay the debt service on the refunding bonds when due and payable as required by and established in the ordinance and/or the indenture authorizing and securing the refunding bonds, and such refunding bonds shall constitute "PID Bonds" for purposes of this SAP.

F. Collection of Annual Installments

The Administrator shall, no less frequently than annually, prepare and submit to the City for its approval, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and a calculation of the Annual Installment for each Assessed Property. Administrative Expenses shall be allocated among Assessed Properties in proportion to the amount of the Annual Installments for the Assessed Property. Each Annual Installment shall be reduced by any credits applied under the applicable Indenture, such as capitalized interest, interest earnings on any account balances, and any other funds available to the Trustee for such purpose, and existing deposits for a Prepayment Reserve.

Annual Installments may be collected by the City (or such entity to whom the City directs) in the same manner and at the same time as ad valorem taxes. Annual Installments shall be subject to the penalties, procedures, and foreclosure sale in case of delinquencies as set forth in the PID Act. The City may provide for other means of collecting the Annual Installments to the extent permitted under the PID Act. The Assessments shall have lien priority as specified in the PID Act.

Any sale of Assessed Property for nonpayment of the delinquent Annual Installments shall be subject to the lien established for the remaining unpaid Annual Installments against such Assessed Property and such Assessed Property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-delinquent Annual Installments against such Assessed Property as they become due and payable.

Each Annual Installment, including the interest on the unpaid amount of a Special Assessment, shall be assessed annually. Each Annual Installment together with interest thereon shall be delinquent if not paid prior to February 1 of the following year. The initial Annual Installments relating to the Major Improvement Public Improvement PID Bonds will be due when billed, and will be delinquent if not paid prior to February 1, of each year during the life of the bonds.

G. Surplus Funds Remaining in the Major Improvement Public Improvement PID Bond Account

If proceeds from the Major Public Improvement PID Bonds still remain after all of the Major Public Improvements are constructed and accepted by the City, the proceeds may be utilized in accordance with **Section VI.E** of this SAP.

Section VII

THE ASSESSMENT ROLL

A. Assessment Roll

The City Council has evaluated each Parcel within the Project (based on numerous factors such as the applicable zoning for developable area, the use of proposed Owners Association Property, the Public Property, the types of Public Improvements, and other development factors deemed relevant by the City Council) to determine the amount of Assessed Property within the Parcels.

The Assessed Property will be assessed for the special benefits conferred upon the property resulting from the Major Public Improvements and funded by the Major Public Improvement PID Bonds. **Table VII-A** summarizes the \$11,194,308 in special benefit received by the Assessed Property from the Major Public Improvements, the costs of the PID formation, and the Major Improvement Public Improvement PID Bond issuance costs. The par amount of the Major Public Improvement PID Bonds are \$11,175,000, which is less than the benefit received by the Assessed Property. The Special Assessment for each Parcel or Lot within the Assessed Property is calculated based on the allocation methodologies described in **Section IV-D**. The Assessment Roll is attached hereto as **Appendix A**.

As Additional Improvement PID Bonds are issued, this Assessment Roll, located in **Appendix A**, will be updated to reflect the revised assessments levied on the Parcels and Lots.

Table VII-A Major Public Improvement PID Bonds Special Benefit Summary	
Authorized Improvement	Total Cost (a)
<i>Master Improvements</i>	
Total Authorized Improvements	\$ 9,334,058
<i>PID Formation/Bond Cost of Issuance</i>	
Reserve Fund	\$ 869,000
Capitalized Interest	\$ 156,000
Underwriter Discount/Underwriter Counsel	\$ 335,250
Cost of Issuance	\$ 500,000
PID Formation/Bond Cost of Issuance	\$ 1,860,250
<i>Special Benefit</i>	
Total Special Benefit	\$ 11,194,308
Projected PID Special Assessment	\$ 11,175,000
Excess Benefit	\$ 19,308

B. Annual Assessment Roll Updates

The Administrator shall prepare, and shall submit to the City for approval, updates to the Assessment Roll and the Annual Service Plan Update to reflect changes such as (i) the identification of each Parcel (ii) the Special Assessment for each Assessed Property, including any adjustments authorized by this SAP or in the PID Act; (iii) the Annual Installment for the Assessed Property for the year (if the Special Assessment is payable in installments); and (iv) payments of the Special Assessment, if any, as provided by **Section VI.E** of this SAP.

The Service and Assessment Plan Update shall reflect the actual interest on the Major Public Improvement PID Bonds and any Additional Improvement PID Bonds on which the Annual Installments shall be paid, any reduction in the Special Assessments, and any revisions in the Actual Costs to be funded by the Major Public Improvement PID Bonds and the Additional Improvement PID Bonds and Landowner funds.

Section VIII

MISCELLANEOUS PROVISIONS

A. Administrative Review

The City may elect to designate a third party to serve as Administrator of the PID. The City shall notify the Landowners in writing upon appointing a third party Administrator.

To the extent consistent with the PID Act, if an owner of the Assessed Property claims that a calculation error has been made in the Assessment Roll, including the calculation of the Annual Installment, that owner must send a written notice describing the error to the Administrator no later than thirty (30) days after the date the invoice or other bill for the Annual Installment is received. If the owner fails to give such notice, such owners shall be deemed to have accepted the calculation of the Assessment Roll (including the Annual Installments) and to have waived any objection to the calculation. The Administrator shall promptly review the notice, and if necessary, meet with the Assessed Property owner, consider written and oral evidence regarding the alleged error and decide whether, in fact, such a calculation error occurred.

If the Administrator determines that a calculation error has been made and the Assessment Roll should be modified or changed in favor of the Assessed Property owner, such change or modification shall be presented to the City for approval, to the extent permitted by the PID Act. A cash refund may not be made for any amount previously paid by the Assessed Property owner (except for the final year during which the Annual Assessment shall be collected), but an adjustment may be made in the amount of the Annual Installment to be paid in the following year. The decision of the Administrator regarding a calculation error relating to the Assessment Roll may be appealed to City Council for determination. Any amendments made to the Assessment Roll pursuant to calculation errors shall be made pursuant to the PID Act.

B. Termination of Assessments

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

C. Amendments

Amendments to the Service and Assessment Plan can be made as permitted or required by the PID Act and under Texas law.

D. Administration and Interpretation of Provisions

The City Council shall administer (or cause the administration of) the PID, this SAP, and all Annual Service Plan Updates consistent with the PID Act.

E. Severability

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

If any provision of this SAP is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this SAP and the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the City.

Appendix A

Assessment Roll

To be added upon final approval of this Service and Assessment Plan and approval of the Assessment Ordinance.

Appendix B

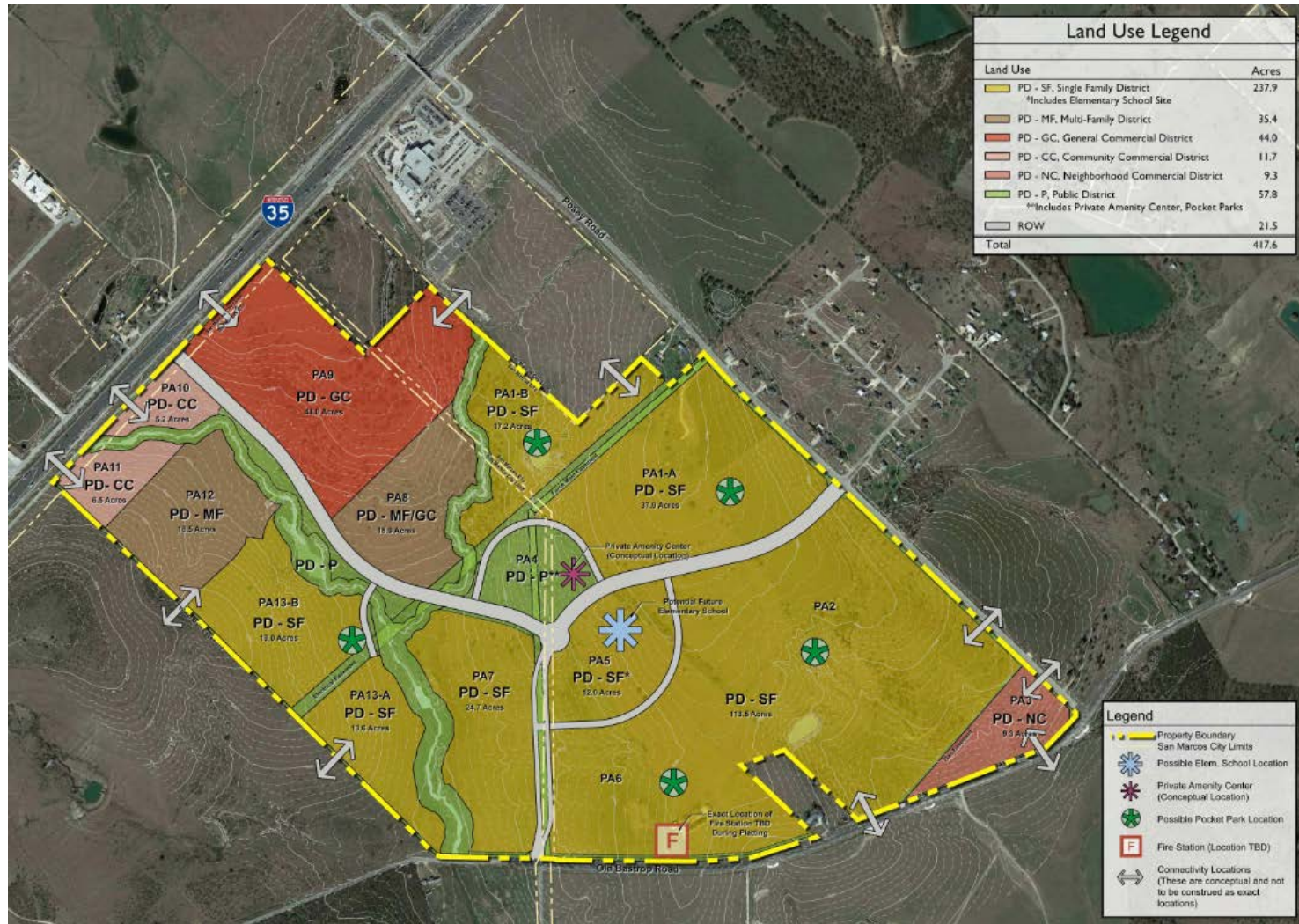
Legal Descriptions for Parcels within PID

To be added upon final approval of this Service and Assessment Plan and approval of the Assessment Ordinance.

Appendix C

Parcel Map (Conceptual)

To be added upon final approval of this Service and Assessment Plan and approval of the Assessment Ordinance.



Appendix D

Additional Improvement PID Bonds

Appendix D-1

Additional Improvement PID Bond No. 1

Additional Improvement PID Bond No. 1 Estimated Authorized Improvements	
Description	Total
<i>Authorized Improvements</i>	
Street Improvements	\$ 955,493
Drainage Improvements	\$ 273,754
Erosion & Sedimentation Control	\$ 26,000
Water Line Distribution	\$ 154,375
Waste Water	\$ 13,250
Sewer Lift Station A	\$ -
Sewer Lift Station B	\$ -
Landscaping - Arterial Roads	\$ 324,638
Landscaping - Open Space incl. Trails Systems	\$ -
Posey Road - Street Improvements	\$ -
Offsite Improvements/ROW/Offsite Easements	\$ 296,012
Public Safety Facilities	\$ -
Entry Monumentation - Hwy 35 and Seg B	\$ -
Soft Costs	\$ 306,528
Contingency	\$ 407,965
Construction Management	\$ 110,321
Total Authorized Improvements	\$ 2,868,336
Note: Cost estimates provided by Texas Engineering Solutions, LLC and Highpointe Communities. The figures shown in are estimates as of XX/XX/15.	

**Additional Improvement PID Bond No. 1
Cost Allocations**

Authorized Improvement	Total Cost (a)	Residential Phase 1		Residential Phase 2	
		% Allocation	Share of Costs	% Allocation	Share of Costs
Street Improvements	\$ 955,493	24%	\$ 232,285	76%	\$ 723,208
Drainage Improvements	\$ 273,754	24%	\$ 66,551	76%	\$ 207,203
Erosion & Sedimentation Control	\$ 26,000	24%	\$ 6,321	76%	\$ 19,679
Water Line Distribution	\$ 154,375	24%	\$ 37,529	76%	\$ 116,846
Waste Water	\$ 13,250	24%	\$ 3,221	76%	\$ 10,029
Sewer Lift Station A	\$ -	24%	\$ -	76%	\$ -
Sewer Lift Station B	\$ -	24%	\$ -	76%	\$ -
Landscaping - Arterial Roads	\$ 324,638	24%	\$ 78,921	76%	\$ 245,717
Landscaping - Open Space incl. Trails Systems	\$ -	24%	\$ -	76%	\$ -
Posey Road - Street Improvements	\$ -	24%	\$ -	76%	\$ -
Offsite Improvements/ROW/Offsite Easements	\$ 296,012	24%	\$ 71,962	76%	\$ 224,050
Public Safety Facilities	\$ -	24%	\$ -	76%	\$ -
Entry Monumentation - Hwy 35 and Seg B	\$ -	24%	\$ -	76%	\$ -
Soft Costs	\$ 306,528	24%	\$ 74,518	76%	\$ 232,010
Contingency	\$ 407,965	24%	\$ 99,178	76%	\$ 308,787
Construction Management	\$ 110,321	24%	\$ 26,819	76%	\$ 83,501
Total Authorized Improvements	\$ 2,868,336		\$ 697,306		\$ 2,171,030

**Additional Improvement PID Bond No. 1
Special Assessment Allocation**

	Planning Area	Land Use	Units	Square Feet	Gross AV	Total Assessment	Annual Installment	Assessment per Unit	Assessment per Square Foot	Annual Installment per Unit	Annual Installment per Square
Residential Phase 1	1	Single Family	275	-	\$ 55,615,200	\$ 575,758	\$ 47,294	\$ 2,094	\$ -	\$ 172	\$ -
	2	Single Family	115	-	\$ 28,060,000	\$ 290,492	\$ 23,862	\$ 2,526	\$ -	\$ 207	\$ -
	HOA					\$ 8,750	\$ 719				
	Subtotal		390		\$ 83,675,200	\$ 875,000	\$ 71,875				
Residential Phase 2	2	Single Family	229	-	\$ 64,091,600	\$ 1,040,777	\$ 83,214	\$ 4,545	\$ -	\$ 363	\$ -
	6	Single Family	107	-	\$ 32,560,100	\$ 528,740	\$ 42,275	\$ 4,941	\$ -	\$ 395	\$ -
	7	Single Family	86	-	\$ 26,169,800	\$ 424,969	\$ 33,978	\$ 4,941	\$ -	\$ 395	\$ -
	13	Single Family	133	-	\$ 40,259,100	\$ 653,764	\$ 52,271	\$ 4,916	\$ -	\$ 393	\$ -
	HOA					\$ 26,750	\$ 2,139				
	Subtotal		555		\$ 163,080,600	\$ 2,675,000	\$ 213,875				
Total			945		\$ 246,755,800	\$ 3,550,000	\$ 285,750				

Note: Estimates based on information available as of XX/XX/15, the date the original SAP was adopted by the City Council. The actual unit counts, assessments, and annual installments may vary from the estimates shown above once issued.

**Additional Improvement PID Bond No. 1
Sources and Uses of Funds**

Sources of Funds	
Gross Bond Amount	\$ 3,550,000
Owner Contribution	10,836
	<u>\$ 3,560,836</u>
Uses of Funds	
Authorized Improvements:	<u>\$ 2,868,336</u>
Other Fund Deposits:	
Debt Service Reserve Fund:	\$ 286,000
Capitalized Interest:	-
	<u>\$ 286,000</u>
Cost of Issuance:	<u>\$ 300,000</u>
Underwriter's Discount/Underwriter Counsel:	<u>\$ 106,500</u>
	<u>\$ 3,560,836</u>

Note: These amounts are estimates as of XX/XX/15.

**Additional Improvement PID Bond No. 1
Projected Annual Installments**

Period Ending June 1	Principal Payments	Interest Expense	Administrative Expenses	Prepayment Reserve	Delinquency Reserve	Capitalized Interest	Annual PID Installments
2021	\$ 25,000	\$ 213,000	\$ 30,000	\$ 7,100	\$ 10,650	\$ -	\$ 285,750
2022	\$ 25,000	\$ 211,500	\$ 30,600	\$ 7,050	\$ 10,575	\$ -	\$ 284,725
2023	\$ 25,000	\$ 210,000	\$ 31,212	\$ 7,000	\$ 10,500	\$ -	\$ 283,712
2024	\$ 50,000	\$ 208,500	\$ 31,836	\$ 6,950	\$ 10,425	\$ -	\$ 307,711
2025	\$ 75,000	\$ 205,500	\$ 32,473	\$ 6,850	\$ 10,275	\$ -	\$ 330,098
2026	\$ 75,000	\$ 201,000	\$ 33,122	\$ 6,700	\$ 10,050	\$ -	\$ 325,872
Total	\$ 275,000	\$ 1,249,500	\$ 189,244	\$ 41,650	\$ 62,475	\$ -	\$ 1,817,869

**Additional Improvement PID Bond No. 1
Special Benefit Summary**

Authorized Improvement	Total Cost (a)
<i>Master Improvements</i>	
Total Authorized Improvements	\$ 2,868,336
<i>PID Formation/Bond Cost of Issuance</i>	
Reserve Fund	\$ 286,000
Capitalized Interest	\$ -
Underwriter Discount/Underwriter Counsel	\$ 106,500
Cost of Issuance	\$ 300,000
PID Formation/Bond Cost of Issuance	\$ 692,500
<i>Special Benefit</i>	
Total Special Benefit	\$ 3,560,836
Projected PID Special Assessment	\$ 3,550,000
Excess Benefit	\$ 10,836

Appendix D-2

Additional Improvement PID Bond No. 2

Additional Improvement PID Bond No. 2 Estimated Authorized Improvements	
Description	Total
<i>Authorized Improvements</i>	
Street Improvements	\$ 1,165,612
Drainage Improvements	\$ 109,175
Erosion & Sedimentation Control	\$ 22,780
Water Line Distribution	\$ -
Waste Water	\$ 13,250
Sewer Lift Station A	\$ -
Sewer Lift Station B	\$ -
Landscaping - Arterial Roads	\$ 397,435
Landscaping - Open Space incl. Trails Systems	\$ 435,000
Posey Road - Street Improvements	\$ -
Offsite Improvements/ROW/Offsite Easements	\$ 203,988
Public Safety Facilities	\$ -
Entry Monumentation - Hwy 35 and Seg B	\$ -
Soft Costs	\$ 352,086
Contingency	\$ 475,675
Construction Management	\$ 127,000
Total Authorized Improvements	\$ 3,302,000
Note: Cost estimates provided by Texas Engineering Solutions, LLC and Highpointe Communities. The figures shown in are estimates as of XX/XX/15.	

**Additional Improvement PID Bond No. 2
Cost Allocations**

Authorized Improvement	Total Cost (a)	Residential Phase 2	
		% Allocation	Share of Costs
Street Improvements	\$ 1,165,612	100%	\$ 1,165,612
Drainage Improvements	\$ 109,175	100%	\$ 109,175
Erosion & Sedimentation Control	\$ 22,780	100%	\$ 22,780
Water Line Distribution	\$ -	100%	\$ -
Waste Water	\$ 13,250	100%	\$ 13,250
Sewer Lift Station A	\$ -	100%	\$ -
Sewer Lift Station B	\$ -	100%	\$ -
Landscaping - Arterial Roads	\$ 397,435	100%	\$ 397,435
Landscaping - Open Space incl. Trails Systems	\$ 435,000	100%	\$ 435,000
Posey Road - Street Improvements	\$ -	100%	\$ -
Offsite Improvements/ROW/Offsite Easements	\$ 203,988	100%	\$ 203,988
Public Safety Facilities	\$ -	100%	\$ -
Entry Monumentation - Hwy 35 and Seg B	\$ -	100%	\$ -
Soft Costs	\$ 352,086	100%	\$ 352,086
Contingency	\$ 475,675	100%	\$ 475,675
Construction Management	\$ 127,000	100%	\$ 127,000
Total Authorized Improvements	\$ 3,302,000		\$ 3,302,000

**Additional Improvement PID Bond No. 2
Special Assessment Allocation**

	Planning Area	Land Use	Units	Square Feet		Gross AV	Total Assessment	Annual Installment	Assessment per Unit	Assessment per Square Foot	Annual Installment per Unit	Annual Installment per Square
Residential Phase 2	2	Single Family	229	0	\$	64,091,600	\$ 1,536,912	\$ 115,398	\$ 6,711	\$ -	\$ 504	\$ -
	6	Single Family	107	0	\$	32,560,100	\$ 780,789	\$ 58,625	\$ 7,297	\$ -	\$ 548	\$ -
	7	Single Family	86	0	\$	26,169,800	\$ 627,550	\$ 47,119	\$ 7,297	\$ -	\$ 548	\$ -
	13	Single Family	133	0	\$	40,259,100	\$ 1,039,500	\$ 72,518	\$ 7,816	\$ -	\$ 545	\$ -
	HOA						\$ 40,250	\$ 2,966				
	Total		555	-	\$	163,080,600	\$ 4,025,000	\$ 296,625				

Note: Estimates based on information available as of XX/XX/15, the date the original SAP was adopted by the City Council. The actual unit counts, assessments, and annual installments may vary from the estimates shown above once issued.

**Additional Improvement PID Bond No. 2
Sources and Uses of Funds**

Sources of Funds	
Gross Bond Amount	\$ 4,025,000
Owner Contribution	13,750
	<u>\$ 4,038,750</u>
Uses of Funds	
Authorized Improvements:	<u>\$ 3,302,000</u>
Other Fund Deposits:	
Debt Service Reserve Fund:	\$ 316,000
Capitalized Interest:	-
	<u>\$ 316,000</u>
Cost of Issuance:	<u>\$ 300,000</u>
Underwriter's Discount/Underwriter Counsel:	<u>\$ 120,750</u>
	<u>\$ 4,038,750</u>

Note: These amounts are estimates as of XX/XX/15.

**Additional Improvement PID Bond No. 2
Projected Annual Installments**

Period Ending June 1	Principal Payments	Interest Expense	Administrative Expenses	Prepayment Reserve	Delinquency Reserve	Capitalized Interest	Annual PID Installments
2023	\$ 25,000	\$ 241,500	\$ 10,000	\$ 8,050	\$ 12,075	\$ -	\$ 296,625
2024	\$ 75,000	\$ 240,000	\$ 10,200	\$ 8,000	\$ 12,000	\$ -	\$ 345,200
2025	\$ 75,000	\$ 235,500	\$ 10,404	\$ 7,850	\$ 11,775	\$ -	\$ 340,529
2026	\$ 75,000	\$ 231,000	\$ 10,612	\$ 7,700	\$ 11,550	\$ -	\$ 335,862
2027	\$ 75,000	\$ 226,500	\$ 10,824	\$ 7,550	\$ 11,325	\$ -	\$ 331,199
2028	\$ 75,000	\$ 222,000	\$ 11,041	\$ 7,400	\$ 11,100	\$ -	\$ 326,541
Total	\$ 400,000	\$ 1,396,500	\$ 63,081	\$ 46,550	\$ 69,825	\$ -	\$ 1,975,956

Note: These amounts are estimates as of XX/XX/15.

**Additional Improvement PID Bond No. 2
Special Benefit Summary**

Authorized Improvement	Total Cost (a)
<i>Master Improvements</i>	
Total Authorized Improvements	\$ 3,302,000
<i>PID Formation/Bond Cost of Issuance</i>	
Reserve Fund	\$ 316,000
Capitalized Interest	\$ -
Underwriter Discount/Underwriter Counsel	\$ 120,750
Cost of Issuance	\$ 300,000
PID Formation/Bond Cost of Issuance	\$ 736,750
<i>Special Benefit</i>	
Total Special Benefit	\$ 4,038,750
Projected PID Special Assessment	\$ 4,025,000
Excess Benefit	\$ 13,750

Appendix D-3

All Public Improvement Bonds Special Assessment Allocation

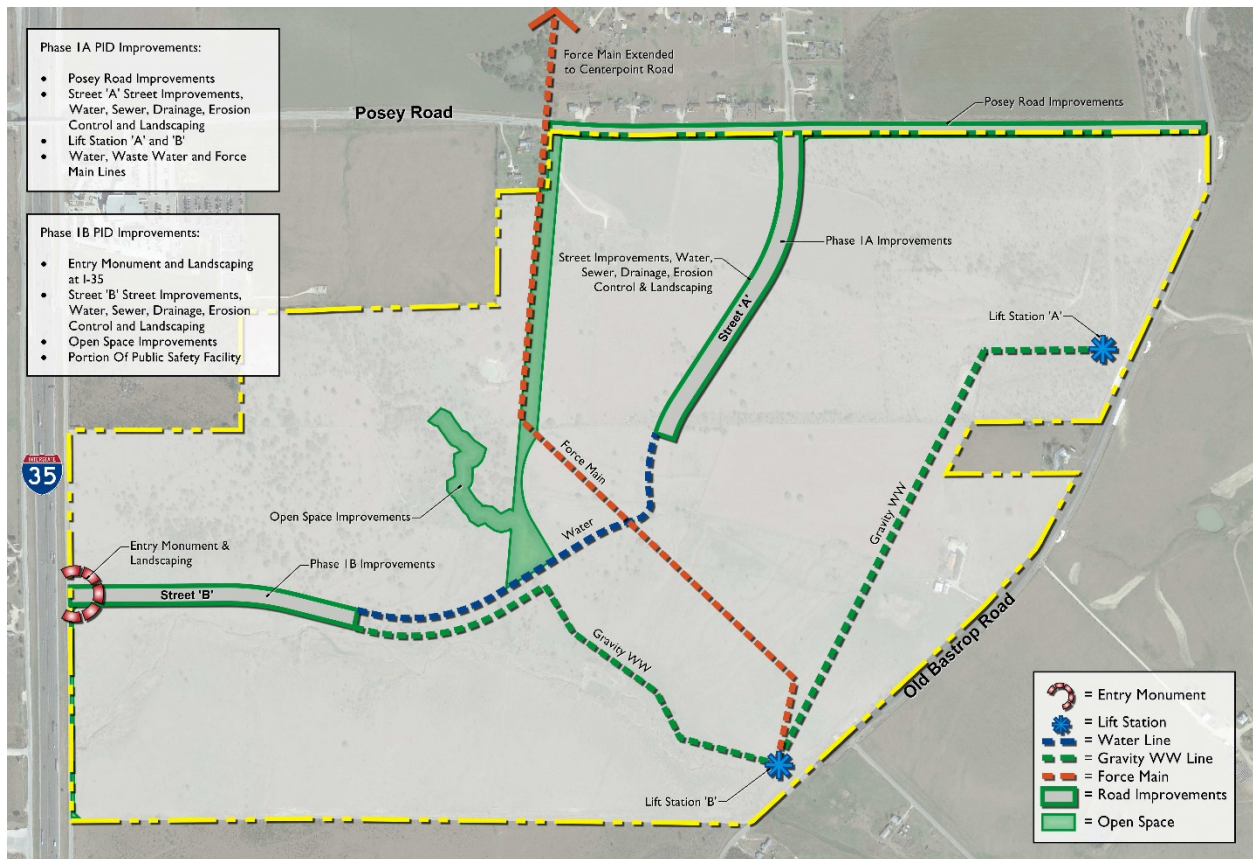
All Public Improvement Bonds Special Assessment Allocation												
	Planning Area	Land Use	Units	Square Feet	Gross AV	Total Assessment	Annual Installment	Assessment per Unit	Assessment per Square Foot	Annual Installment per Unit	Annual Installment per Square Foot	
Residential Phase 1	1	Single Family	275	-	\$ 55,615,200	\$ 3,092,643	\$ 253,663	\$ 11,246	\$ -	\$ 922	\$ -	
	2	Single Family	115	-	\$ 28,060,000	\$ 1,560,357	\$ 127,982	\$ 13,568	\$ -	\$ 1,113	\$ -	
	HOA					\$ 47,000	\$ 3,855					
	Subtotal				\$ 83,675,200	\$ 4,700,000	\$ 385,500					
Multi-Family	8	Multi-Family	338	-	\$ 45,630,000	\$ 1,027,964	\$ 85,723	\$ 3,041	\$ -	\$ 254	\$ -	
	12	Multi-Family	370	-	\$ 49,950,000	\$ 1,125,286	\$ 93,839	\$ 3,041	\$ -	\$ 254	\$ -	
	HOA					\$ 21,750	\$ 1,814					
	Subtotal				\$ 95,580,000	\$ 2,175,000	\$ 181,375					
Commercial	3	Retail	-	69,696	\$ 10,454,400	\$ 212,530	\$ 17,116		\$ 3.05		\$ 0.25	
	9	Business Park	-	479,160	\$ 95,832,000	\$ 1,948,189	\$ 156,895		\$ 4.07		\$ 0.33	
	10	Retail	-	63,707	\$ 9,555,975	\$ 194,265	\$ 15,645		\$ 3.05		\$ 0.25	
	11	Retail	-	63,707	\$ 9,555,975	\$ 194,265	\$ 15,645		\$ 3.05		\$ 0.25	
	HOA					\$ 25,750	\$ 2,074					
Subtotal					\$125,398,350	\$ 2,575,000	\$ 207,375					
Residential Phase 2	2	Single Family	229	-	\$ 64,091,600	\$ 3,589,285	\$ 270,201	\$ 15,674	\$ -	\$ 1,180	\$ -	
	6	Single Family	107	-	\$ 32,560,100	\$ 1,823,445	\$ 137,269	\$ 17,042	\$ -	\$ 1,283	\$ -	
	7	Single Family	86	-	\$ 26,169,800	\$ 1,465,572	\$ 110,328	\$ 17,042	\$ -	\$ 1,283	\$ -	
	13	Single Family	133	-	\$ 40,259,100	\$ 2,328,697	\$ 169,757	\$ 17,509	\$ -	\$ 1,276	\$ -	
	HOA					\$ 93,000	\$ 6,945					
Subtotal					\$ 163,080,600	\$ 9,300,000	\$ 694,500					
Total					\$ 467,734,150	\$ 18,750,000	\$ 1,468,750					

Note: Estimates based on information available as of XX/XX/15, the date the original SAP was adopted by the City Council. The actual unit counts, assessments, and annual installments may vary from the estimates shown above once issued.

All Public Improvement Bonds Special Assessment Allocation by PID Bond					
Planning Area	Land Use	Major Improvement PID Bond	Additional Improvement PID Bond No. 1	Additional Improvement PID Bond No. 2	Total
1	Single Family	\$ 2,516,885	\$ 575,758	\$ -	\$ 3,092,643
2	Single Family	2,281,462	1,331,269	1,536,912	5,149,642
3	Retail	212,530	-	-	212,530
6	Single Family	513,916	528,740	780,789	1,823,445
7	Single Family	413,054	424,969	627,550	1,465,572
8	Multi-Family	1,027,964	-	-	1,027,964
9	Business Park	1,948,189	-	-	1,948,189
10	Retail	194,265	-	-	194,265
11	Retail	194,265	-	-	194,265
12	Multi-Family	1,125,286	-	-	1,125,286
13	Single Family	635,434	653,764	1,039,500	2,328,697
	HOA	111,750	35,500	40,250	187,500
Total Special Assessment		\$ 11,175,000	\$ 3,550,000	\$ 4,025,000	\$ 18,750,000

Appendix E-1

Major Public Improvements



Draft SAP

Appendix E-3

Additional Public Improvements No. 2



Draft SAP

Exhibit “D”

**MAJOR PUBLIC IMPROVEMENTS
PID BOND CHART**

<u>Major Public Improvement</u>	<u>Estimated Cost</u>
Street Improvements	\$1,471,151
Drainage Improvements	\$468,538
Erosion & Sedimentation Control	\$48,500
Water Line Distribution	\$384,645
Waste Water	\$122,250
Sewer Lift Station A	\$640,411
Sewer Lift Station B	\$1,384,544
Landscaping – Arterial Roads	\$787,000
Landscaping – Open Space incl. Trails Systems	\$435,000
Posey Road- Street Improvements	\$200,000
Offsite Improvements /ROW/ Offsite Easements	--
Fire Station	\$500,000
Entry Monumentation – HWY 35 and Seg B	\$200,000
Soft Costs	\$996,306
Contingency	\$1,336,710
Construction Management	\$359,002
TOTAL	\$9,334,058

EXHIBIT "E"
FORM OF CERTIFICATION FOR PAYMENT
(Design – Trace)

_____ (“**Construction Manager**”)
hereby requests payment for the percentage of design costs completed (the “**Design Costs**”) described in Attachment A attached hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Trace Public Improvement District Financing Agreement between Highpointe TRACE, LLC., a California limited liability company, and the City of San Marcos (the “**City**”), dated as of _____ (the “**Finance Agreement**”). In connection with this Certification for Payment, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of Construction Manager, qualified to execute this request for payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.
2. The design work described in Attachment A has been completed in the percentages stated therein.
3. The true and correct Design Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted request for payment.
4. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed design work described in Attachment A has been paid in full for all work completed through the previous Certification for Payment.
5. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Design Costs for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO
FORM OF CERTIFICATION FOR PAYMENT

Date : _____

[Construction Manager Signature Block to be
added]

APPROVAL BY THE CITY

The Design described in Attachment A has been reviewed, verified and approved by the City Construction Representative. Payment of the Design Costs are hereby approved.

Date: _____

CITY OF SAN MARCOS, TEXAS

By: _____

ATTACHMENT A TO CERTIFICATION OF PAYMENT (DESIGN)

<u>Description of Design Work</u>	<u>Percentage of Design Work Completed under this Certification for Payment</u>	<u>Design Costs</u>	<u>Total Percentage of Design Work Completed</u>
---------------------------------------	---	---------------------	--

ATTACHMENT B TO CERTIFICATION OF PAYMENT (DESIGN)

[attached – bills paid affidavit]

ATTACHMENT C TO CERTIFICATION OF PAYMENT (DESIGN)

[attached – receipts]

FORM OF CERTIFICATION FOR PAYMENT
(Construction – Trace)

_____ (“**Construction Manager**”)
hereby requests payment of the Actual Cost of the work described in Attachment A attached hereto (the “**Draw Actual Costs**”). Capitalized undefined terms shall have the meanings ascribed thereto in the Trace Public Improvement District Financing Agreement between Highpointe TRACE, LLC. and the City of San Marcos, Texas (the “**City**”), dated as of _____. In connection with this Certification for Payment, the undersigned, in his or her capacity as the _____ of Construction Manager, to his or her knowledge, hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of Construction Manager, qualified to execute this request for payment on behalf of the Construction Manager and knowledgeable as to the matters forth herein.
2. The true and correct Draw Actual Costs for which payment is requested is set forth in Attachment A and payment for such requested amounts and purposes has not been subject to any previously submitted request for payment.
3. Attached hereto as Attachment B is a true and correct copy of a bills paid affidavit evidencing that any contractor or subcontractor having performed work on a Segment described in Attachment A has been paid in full for all work completed through the previous Certification for Payment.
4. Attached hereto as Attachment C are invoices, receipts, worksheets and other evidence of costs which are in sufficient detail to allow the City to verify the Draw Actual Costs of each Segment for which payment is requested.

[Signature Page Follows]

SIGNATURE PAGE TO
FORM OF CERTIFICATION FOR PAYMENT

Date : _____

[Construction Manager Signature Block to
Be inserted]

JOINDER OF PROJECT ENGINEER

The undersigned Project Engineer joins this Certification for Payment solely for the purposes of certifying that the representations made by Construction Manager in Paragraph 2 above are true and correct in all material respects.

Project Engineer

APPROVAL BY THE CITY

The Draw Actual Costs of each Segment described in Attachment A has been reviewed, verified and approved by the City Construction Representative of the City. Payment of the Draw Actual Costs of each such Segment is hereby approved.

Date: _____

CITY OF SAN MARCOS, TEXAS

By: _____

ATTACHMENT A TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

<u>Segment</u>	<u>Description of Work Completed under this Certification for Payment</u>	<u>Draw Actual Costs</u>
----------------	---	----------------------------------

ATTACHMENT B TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

[bills paid affidavit – attached]

ATTACHMENT C TO CERTIFICATION OF PAYMENT (CONSTRUCTION)

[receipts – attached]

Exhibit “F-1”**Additional Public Improvements No. 1**

<u>Additional Public Improvement</u>	<u>Estimated Cost</u>
Street Improvements	\$955,493
Drainage Improvements	\$273,754
Erosion & Sedimentation Control	\$26,000
Water Line Distribution	\$154,375
Waste Water	\$13,250
Sewer Lift Station A	\$-
Sewer Lift Station B	\$-
Landscaping – Arterial Roads	\$324,638
Landscaping – Open Space incl. Trails Systems	--
Posey Road- Street Improvements	--
Offsite Improvements /ROW/ Offsite Easements	\$296,012
Fire Station	--
Entry Monumentation – HWY 35 and Seg B	--
Soft Costs	\$306,528
Contingency	\$407,965
Construction Management	\$110,321
TOTAL	\$2,868,336

Exhibit “F-2”

Additional Public Improvements No. 2

<u>Additional Public Improvement</u>	<u>Estimated Cost</u>
Street Improvements	\$1,165,612
Drainage Improvements	\$109,175
Erosion & Sedimentation Control	\$22,780
Water Line Distribution	--
Waste Water	\$13,250
Sewer Lift Station A	--
Sewer Lift Station B	--
Landscaping – Arterial Roads	\$397,435
Landscaping – Open Space incl. Trails Systems	\$435,000
Posey Road- Street Improvements	--
Offsite Improvements /ROW/ Offsite Easements	\$203,988
Fire Station	--
Entry Monumentation – HWY 35 and Seg B	--
Soft Costs	\$352,086
Contingency	\$475,675
Construction Management	\$127,000
TOTAL	\$3,302,000

Exhibit "G"

FORM OF CLOSING DISBURSEMENT REQUEST

The undersigned is a lawfully authorized representative for Highpointe Trace, LLC (the "**Owner**") and requests payment from the Costs of Issuance Account of the Project Fund (as defined in the Trace Public Improvement District Financing Agreement) from _____ (the "**Trustee**") in the amount of _____ (\$_____) to be transferred from the [Cost of Issuance Account of the Project Fund] upon the delivery of the [_____ Bonds] for costs incurred in the establishment, administration, and operation of the Trace Public Improvement District (the "**District**"), as follows.

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

1. The undersigned is a duly authorized officer of the Owner, is qualified to execute this Closing Disbursement Request on behalf of the Owner, and is knowledgeable as to the matters set forth herein.

2. The payment requested for the below referenced establishment, administration, and operation of the District at the time of the delivery of the Bonds has not been the subject of any prior payment request submitted to the City.

3. The amount listed for the below itemized costs is a true and accurate representation of the Actual Costs incurred by Owner with the establishment of the District at the time of the delivery of the Bonds, and such costs are in compliance with the Service and Assessment Plan. The itemized costs are as follows:

[insert itemized list of costs here]

TOTAL REQUESTED: \$_____

4. The Owner is in compliance with the terms and provisions of the Trace Public Improvement District Financing Agreement, the Indenture and the Service and Assessment Plan.

5. All conditions set forth in the Indenture and [the Acquisition and Reimbursement Agreement for _____] for the payment hereby requested have been satisfied.

6. The Owner agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete its review.

Payments requested hereunder shall be made as directed below:

[Information regarding Payee, amount, and deposit instructions]

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

HIGHPOINTE TRACE, LLC,
a California limited liability company

By: Highpointe Posey, L.P., a California
limited partnership, Its Managing
Member

By: Highpointe Investments, Inc.,
a California corporation, Its
General Partner

By: _____
Timothy D. England, SVP

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Closing Disbursement Request. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request and shall include said payments in the City Certificate submitted to the Trustee directing payments to be made from Costs Issuance Account upon delivery of the Bonds.

CITY OF SAN MARCOS, TEXAS

By: _____
Name: _____
Title: _____

Exhibit “H”

FORM OF ACQUISITION AND REIMBURSEMENT AGREEMENT

[See Attached]

DRAFT

TRACE PUBLIC IMPROVEMENT DISTRICT REIMBURSEMENT AGREEMENT

This Trace Public Improvement District Reimbursement Agreement (this “Reimbursement Agreement”) is executed between San Marcos, Texas (“City”) and Highpointe Trace, LLC, a California limited liability company (including its Designated Successors and Assigns, the “Owner”) to be effective _____, 20__ (each individually referred to as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, on _____, 2015, the City Council of City of San Marcos, Texas (the “City Council”) passed and approved Resolution No. ____ (the “Creation Resolution”) authorizing the creation of the Trace Public Improvement District (the “District”) covering approximately 417.63 acres of land described by a map thereof in the Creation Resolution (the “District Property”); and

WHEREAS, on _____, 2015, the City Council approved that certain Trace Public Improvement District Financing Agreement by and between the Owner and City (the “PID Finance Agreement”);

WHEREAS, the purpose of the District is to finance certain improvements authorized by Chapter 372, Texas Local Government Code (as may be amended, the “Act”) that promote the interests of the City and confer a special benefit on the Assessed Property within the District; and

WHEREAS, the District Property is being developed in phases and the Owner intends to construct certain Public Improvements over time to serve District Property (or portions thereof); and

WHEREAS, Special Assessments have been levied against the Assessed Property within the District for the construction of the Major Public Improvements pursuant to an ordinance of the City Council in accordance with the Trace Public Improvement District Service and Assessment Plan (as the same may be amended or updated from time to time, the “SAP”) which was approved by the City Council on _____, 20____;

WHEREAS, Owner is ready to commence the construction of the Major Public Improvements (herein so called) which are more particularly described in the SAP and on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the SAP Consultant recommended a Special Assessment be levied against the District Property in the amount of \$_____ (the “MPI Special Assessment”); and

WHEREAS, all revenue received and collected by the City from the MPI Special Assessment (excluding any reasonable collection and/or administrative costs, the “MPI Special Assessment”

Revenue”) shall be deposited into an account held by the City that is segregated from all other funds of the City and used solely for the purposes set forth herein (the “MPI Project Fund”); and

WHEREAS, the Parties intend that the Periodic Repayment Amount (defined below) shall be reimbursed to Owner from (i) the MPI Project Fund (ii) the net proceeds of Major Public Improvement PID Bonds issued by the City and secured by the MPI Project Fund; and

WHEREAS, capitalized terms not defined herein shall have the meaning ascribed to them in the PID Finance Agreement.

NOW THEREFORE, FOR VALUABLE CONSIDERATION THE RECEIPT AND ADEQUACY OF WHICH ARE ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. Recitals. The recitals in the “WHEREAS” clauses of this Reimbursement Agreement are true and correct, and are incorporated as part of this Reimbursement Agreement for all purposes.
2. Project Fund. The City shall cause the MPI Special Assessment Revenue to be deposited into the MPI Project Fund.
3. Periodic Repayment Amount. Subject to the terms, conditions, and requirements contained herein, the City agrees to reimburse the Owner, and the Owner shall be entitled to receive from the City, the amount equal to the Actual Cost of the Major Public Improvements (the “Periodic Repayment Amount”) plus interest on the unpaid balance in accordance with the terms of this Reimbursement Agreement until _____, 20____ (the “Maturity Date”); provided, however, the Periodic Repayment Amount shall not exceed \$_____. The Periodic Repayment Amount shall be payable to the Owner upon completion of the Major Public Improvements, solely from: (i) the MPI Special Assessment Revenues deposited in the MPI Project Fund; or (ii) the net proceeds (after payment of costs of issuance) of the Major Public Improvement PID Bonds issued by the City and secured by the MPI Special Assessment Revenues; or (iii) a combination of items (i), and (ii). The Periodic Repayment Amount is authorized by the Act, was approved by the City Council, and represents the total costs to be assessed against the Assessed Property within the District for the Major Public Improvements which, upon completion, will be dedicated in fee or by easement and accepted by the City. The unpaid Periodic Repayment Amount shall bear simple interest per annum at the rate of (x) ____ % for years one through five and (y) ____% for years six through the Maturity Date or until Major Public Improvement PID Bonds are sold. If any portion of the Periodic Repayment Amount remains unpaid after the City has elected to sell Major Public Improvement PID Bonds, the interest rate paid to the Owner shall be the same as the interest rate on the Major Public Improvement PID Bonds; provided, however, that such rate shall not exceed ____%. The interest rate has been approved by the City Council and complies with the Act.

4. Unpaid Balance. The Periodic Repayment Amount, plus interest as described above (collectively, the “Unpaid Balance”), is payable to the Owner and secured under this Reimbursement Agreement solely as described herein. No other City funds, revenue, taxes, income, or property shall be used even if the Unpaid Balance is not paid in full at the Maturity Date. The City acknowledges and agrees that until the Unpaid Balance is paid in full, the obligation of the City to use the MPI Project Fund to pay the Unpaid Balance to Owner is absolute and unconditional and that the City does not have, and will not assert, any defenses to such obligation.
5. City Collection Efforts. The City will use all reasonable efforts to receive and collect MPI Special Assessment Revenue (including the foreclosure of liens resulting from the nonpayment of the MPI Special Assessments created by the Major Improvement PID Bonds, the MPI Special Assessments or other charges due and owing under the SAP), and upon receipt and collection, immediately deposit the same into the MPI Project Fund. Notwithstanding its collection efforts, if the City fails to receive all or any part of the MPI Special Assessments, such failure and inability shall not constitute default by the City under this Reimbursement Agreement. This Reimbursement Agreement and/or the Major Public Improvement PID Bonds shall never give rise to or create:
 - a. a charge against the general credit or taxing powers of the City or any other taxing unit; or
 - b. a debt or other obligation of the City payable from any source of revenue, taxes, income, or properties of the City other than from the MPI Special Assessments or from the net proceeds of the Major Public Improvement PID Bonds.
6. Process for Payment of the Periodic Repayment Amount. After completion of construction of the Major Public Improvements, Owner may submit (but not more frequently than monthly) to the City a written request for payment from the MPI Project Fund in the form attached hereto as Schedule 1 (each a “Payment Request”) to disburse a portion of the Periodic Repayment Amount to pay for the cost of constructing the applicable Major Public Improvements. Each Payment Request shall designate the Major Public Improvements (or portion thereof) to which the Payment Request pertains. This process will continue until the Unpaid Balance is paid in full, whether through the issuance of Major Public Improvement PID Bonds or not.
7. Issuance of Major Public Improvement PID Bonds. Upon completion of the Major Public Improvements, the City intends to issue Major Public Improvement PID Bonds to reimburse the Developer for the Unpaid Balance. If the Major Public Improvement PID Bonds are not sufficient to fully reimbursement the Developer for the Unpaid Balance, then, in addition to receiving the net proceeds of the Major Public Improvement PID Bonds, the Owner may continue to receive the Periodic Repayment Amounts.

8. Termination. Once all payments paid to the Owner under this Reimbursement Agreement (including net proceeds of the Major Public Improvement PID Bonds) equal the Unpaid Balance, this Reimbursement Agreement shall terminate; provided, however that if on the Maturity Date, after application of the net proceeds of any Major Public Improvement PID Bonds, any portion of the Unpaid Balance remains unpaid, such Unpaid Balance shall be canceled and for all purposes of this Reimbursement Agreement shall be deemed to have been conclusively and irrevocably PAID IN FULL; provided further that if any MPI Assessment Revenue remain due and payable and are uncollected on the Maturity Date, such MPI Assessment Revenue, when, as, and if collected after the Maturity Date, shall be applied to any amounts due in connection with outstanding Major Public Improvement PID Bonds, and then paid to the Owner and applied to the Unpaid Balance.
9. Non-Recourse Obligation. The obligations of the City under this Reimbursement Agreement are non-recourse and payable only from (i) MPI Special Assessments, or (ii) net proceeds of Major Public Improvement PID Bonds; and such obligations do not create a debt or other obligation payable from any other City revenues, taxes, income, or property. None of the City or any of its elected or appointed officials or any of its employees shall incur any liability hereunder to the Owner or any other party in their individual capacities by reason of this Reimbursement Agreement or their acts or omission under this Reimbursement Agreement.
10. No Defense. Following the City's inspection and approval of the Major Public Improvements, there will be no conditions or defenses to the obligation of the City to use the proceeds of the Major Public Improvement PID Bonds to pay the Unpaid Balance and to pledge the MPI Special Assessment Revenues as security for such bonds, other than the City's right to pay costs of issuance of such bonds and/or other costs incurred by the City relating to the Major Public Improvements. As applicable, the City hereby agrees to transfer such portion of the MPI Special Assessment Revenues to the Trustee under the applicable Indenture.
11. No Waiver. Nothing in this Reimbursement Agreement is intended to constitute a waiver by the City of any remedy the City may otherwise have outside this Reimbursement Agreement against any person or entity involved in the design, construction, or installation of the Major Public Improvements.
12. Governing Law Venue. This Reimbursement Agreement is being executed and delivered, and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Reimbursement Agreement. In the event of a dispute involving this Reimbursement Agreement, venue for such dispute shall lie in any court of competent jurisdiction in San Marcos, Texas.

13. Notice. Any notice required or contemplated by this Reimbursement Agreement shall be deemed given at the addresses shown below: (i) when delivered by a national company such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person was the named addressee; or (ii) 24 hours after the notice was deposited with the United States Postal Service, Certified Mail, Return Receipt Requested. Any Party may change its address by delivering written notice of such change in accordance with this section.

If to City: City of San Marcos
Attn: _____

San Marcos, TX 78666
Facsimile: _____

If to Owner: Highpointe Trace, LLC
Attn.: Timothy D. England
2 Venture Suite 350
Irvine, California 92618
Facsimile: 949-472-0198

With a copy to:
Metcalf Wolff Stuart & Williams, LLP
Attn: Steven C. Metcalfe
221 W. 6th, Suite 1300
Austin, Texas 78701
Facsimile: 512.404.2244

14. Invalid Provisions. If any provision of this Reimbursement Agreement is held invalid by any court, such holding shall not affect the validity of the remaining provisions, and the remainder of this Reimbursement Agreement shall remain in full force and effect.
15. Exclusive Rights of Owner. Owner's right, title and interest into the payments of Periodic Repayment Amounts, as described herein, shall be the sole and exclusive property of Owner (or its Transferee) and no other third party shall have any claim or right to such funds unless Owner transfers its rights to its Unpaid Balance to a Transferee in writing and otherwise in accordance with the requirements set forth herein. Subject to the terms of Section 16 hereof, Owner has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part, all or any portion of Owner's right, title, or interest under this Agreement including, but not limited to, any right, title or interest of Owner in and to payment of its Unpaid Balance (a "Transfer," and the person or entity to whom the transfer is made, a "Transferee"). Notwithstanding the foregoing, no Transfer shall be effective until written notice of the Transfer, including the name and address of the Transferee, is provided to the City. The City may rely conclusively on any written notice of a Transfer provided by Owner without any obligation to investigate or confirm the Transfer.
16. Assignment.

- a. Subject to subparagraph (b) below, Owner may, in its sole and absolute discretion, assign this Reimbursement Agreement with respect to all or part of the Property from time to time to any third party. Owner shall provide the City thirty (30) days prior written notice of any such assignment. Upon such assignment or partial assignment, Owner shall be fully released from any and all obligations under this Reimbursement Agreement and shall have no further liability with respect to this Reimbursement Agreement for the part of the Project so assigned.
- b. Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a sale or assignment to a Designated Successor or Assign unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is to a Designated Successor or Assign.
- c. Any sale of a portion of the Property or assignment of any right hereunder shall not be deemed a Transfer unless the conveyance or transfer instrument effecting such sale or assignment expressly states that the sale or assignment is deemed to be a Transfer.
- d. “Designated Successors and Assigns” shall mean (i) an entity to which Owner assigns (in writing) its rights and obligations contained in this Reimbursement Agreement pursuant to this Section 16; (ii) any entity which is the successor by merger or otherwise to all or substantially all of Owner’s assets and liabilities including, but not limited to, any merger or acquisition pursuant to any public offering or reorganization to obtain financing and/or growth capital; or (iii) any entity which may have acquired all of the outstanding stock or ownership of assets of Owner.

17. Failure; Default; Remedies.

- a. If either Party fails to perform an obligation imposed on such Party by this Reimbursement Agreement (a “Failure”) and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a “Default.” Upon the occurrence of a Failure by a non-performing Party, the other Party shall notify the non-performing Party in writing specifying in reasonable detail the nature of the Failure. The non-performing Party to whom notice of a Failure is given shall have at least 30 days from receipt of the notice within which to cure the Failure; however, if the Failure cannot reasonably be cured within 30 days and the non-performing Party has diligently pursued a cure within such 30-day period and has provided written notice to the other Party that additional time is needed, then the cure period shall be extended for an additional period (not to exceed 90 days) so long as the non-performing Party is diligently pursuing a cure.
- b. If the Owner is in Default, the City’s sole and exclusive remedy shall be to seek specific enforcement of this Reimbursement Agreement. No Default by the Owner, however, shall: (1) affect the obligations of the City to use the net proceeds of Major Public Improvement PID Bonds as provided in Section 6 of

this Reimbursement Agreement; or (2) entitle the City to terminate this Reimbursement Agreement. In addition to specific enforcement, the City shall be entitled to attorney's fees, court costs, and other costs of the City to obtain specific enforcement.

- c. If the City is in Default, the Owner's sole and exclusive remedies shall be to: (1) seek a writ of mandamus to compel performance by the City; or (2) seek specific enforcement of this Reimbursement Agreement.

18. Miscellaneous.

- a. The failure by a Party to insist upon the strict performance of any provision of this Reimbursement Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the provisions of this Reimbursement Agreement.
- b. The City does not waive or surrender any of its governmental powers, immunities, or rights except to the extent permitted by law and necessary to allow the Owner to enforce its remedies under this Reimbursement Agreement.
- c. Nothing in this Reimbursement Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the City and the Owner any rights, remedies, or claims under or by reason of this Reimbursement Agreement, and all covenants, conditions, promises, and agreements in this Reimbursement Agreement shall be for the sole and exclusive benefit of the City and the Owner.
- d. This Reimbursement Agreement may be amended only by written agreement of the Parties.
- e. This Reimbursement Agreement may be executed in counterparts, each of which shall be deemed an original.

[Signature pages to follow]

IN WITNESS WHEREOF, the Parties have caused this Reimbursement Agreement to be executed as of _____, 20__, to be effective as of the date written on the first page of this Reimbursement Agreement.

City of San Marcos, Texas

By: _____
Name: _____
Title: _____

HIGHPOINTE TRACE, LLC,
a California limited liability company

By: Highpointe Posey, L.P., a California
limited partnership, Its Managing
Member

By: Highpointe Investments, Inc.,
a California corporation, Its
General Partner

By: _____
Timothy D. England, SVP

Schedule 1
Form of Payment Request

Exhibit “T”

PHASING PLAN

