

NEW ISSUE

PRELIMINARY LIMITED OFFERING MEMORANDUM DATED [\_\_\_\_\_] 2018

**THE BONDS ARE INITIALLY OFFERED ONLY TO “ACCREDITED INVESTORS” (AS DEFINED IN RULE 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT OF 1933) AND “QUALIFIED INSTITUTIONAL BUYERS” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT OF 1933). SEE “LIMITATIONS APPLICABLE TO INITIAL PURCHASERS.”**

*In the opinion of McCall, Parkhurst & Horton L.L.P., Bond Counsel, interest on the Bonds is excludable from gross income for federal income tax purposes under existing statutes, regulations, published rulings and court decisions existing on the date of such opinion, subject to the matters described under “TAX MATTERS”.*

**\$11,075,000\*****CITY OF SAN MARCOS, TEXAS****(a municipal corporation of the State of Texas located in Hays, Caldwell and Guadalupe Counties)****SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018****(TRACE PUBLIC IMPROVEMENT DISTRICT)****Dated Date: Date of Delivery****Due: \_\_\_\_\_ 1, as shown on the inside cover**

The City of San Marcos, Texas, Special Assessment Revenue Bonds, Series 2018 (Trace Public Improvement District) (the “Bonds”), are being issued by the City of San Marcos, Texas (the “City”). The Bonds will be issued in fully registered form, without coupons, in authorized denominations of \$100,000 of principal amount and any integral multiple of \$5,000 in excess thereof. The Bonds will bear interest at the rates set forth on the inside cover, calculated on the basis of a 360-day year of twelve 30-day months, payable on each March 1<sup>st</sup> and September 1<sup>st</sup>, commencing March 1, 2019<sup>\*</sup> until maturity or earlier redemption. The Bonds will be registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), New York, New York. No physical delivery of the Bonds will be made to the beneficial owners thereof. For so long as the book-entry only system is maintained, the principal of and interest on the Bonds will be paid from the sources described herein by UMB Bank, N.A., as trustee (the “Trustee”), to DTC as the registered owner thereof. See “BOOK-ENTRY ONLY SYSTEM.”

The Bonds are being issued by the City pursuant to the Public Improvement District Assessment Act, Subchapter A of Chapter 372, Texas Local Government Code, as amended (the “PID Act”), an ordinance expected to be adopted by the City Council of the City (the “City Council”) on December 12, 2018, and an Indenture of Trust, dated as of \_\_\_\_\_, 2018 (the “Indenture”), entered into by and between the City and the Trustee.

Proceeds of the Bonds will be used to provide funds for (i) paying or reimbursing all or a portion of the costs of certain public improvements that benefit all of the Trace Public Improvement District (the “District”), (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Public Improvements, (iii) funding a reserve fund for payment of principal of and interest on the Bonds, (iv) paying a portion of the costs incidental to the organization of the District, and (v) paying the costs of issuance of the Bonds. See “PUBLIC IMPROVEMENTS” and “APPENDIX B — Form of Indenture.” Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Indenture.

The Bonds, when issued and delivered, will constitute valid and binding special obligations of the City payable solely from and secured by the Pledged Revenues, consisting primarily of the Assessments levied against assessable properties in the District in accordance with a Service and Assessment Plan and other funds comprising the Trust Estate, all to the extent and upon the conditions described herein. The Bonds are not payable from funds raised or to be raised from taxation. See “SECURITY FOR THE BONDS.” The Bonds are subject to redemption at the times, in the amounts, and at the redemption price more fully described herein under the subcaption “DESCRIPTION OF THE BONDS — Redemption Provisions.”

**The Bonds involve a significant degree of risk and are not suitable for all investors. See “BONDHOLDERS’ RISKS” and “SUITABILITY FOR INVESTMENT.” Prospective purchasers should carefully evaluate the risks and merits of an investment in the Bonds, should consult with their legal and financial advisors before considering a purchase of the Bonds, and should be willing to bear the risks of loss of their investment in the Bonds. The Bonds are not credit enhanced or rated and no application has been made for a rating on the Bonds.**

THE BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE CITY PAYABLE SOLELY FROM THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE BONDS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE CITY AND ARE PAYABLE SOLELY FROM THE SOURCES IDENTIFIED IN THE INDENTURE. THE OWNERS OF THE BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF MONEY RAISED OR TO BE RAISED BY TAXATION, OR OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. NO OWNER OF THE BONDS SHALL HAVE THE RIGHT TO DEMAND ANY EXERCISE OF THE CITY’S TAXING POWER TO PAY THE PRINCIPAL OF THE BONDS OR THE INTEREST OR REDEMPTION PREMIUM, IF ANY, THEREON. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO PAY THE BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE. SEE “SECURITY FOR THE BONDS.”

This cover page contains certain information for quick reference only. It is not a summary of the Bonds. Investors must read this entire Limited Offering Memorandum to obtain information essential to the making of an informed investment decision.

The Bonds are offered for delivery when, as, and if issued by the City and accepted by the Underwriter (identified below), subject to, among other things, the approval of the Bonds by the Attorney General of Texas and the receipt of the opinion of McCall, Parkhurst & Horton L.L.P., Bond Counsel, as to the validity of the Bonds and the excludability of interest thereon from gross income for federal income tax purposes. See “APPENDIX D — Form of Opinion of Bond Counsel.” Certain legal matters will be passed upon for the City by the City Attorney, Michael Cosentino, for the Underwriter by its counsel, Orrick, Herrington & Sutcliffe LLP, and for the Developer (as defined herein) by its general counsel, Locke Lord, LLP and its special counsel, Metcalfe, Wolff, Stuart & Williams, LLP. It is expected that the Bonds will be delivered in book-entry form through the facilities of DTC on or about January 10, 2018 (the “Date of Delivery”).

**FMSbonds, Inc.**

\* Preliminary; subject to change.

MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, PRICES, YIELDS,  
AND CUSIP NUMBERS\*

CUSIP Prefix: <sup>(a)</sup>

\$11,075,000\*  
CITY OF SAN MARCOS, TEXAS  
(a municipal corporation of the State of Texas located in Hays, Caldwell and Guadalupe Counties)  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(TRACE PUBLIC IMPROVEMENT DISTRICT)

\$[\_\_\_\_\_] \_\_\_\_% Term Bonds, Due \_\_\_\_\_, 20\_\_\_\_, Priced to Yield \_\_\_\_%; CUSIP No.\_\_\_\_ <sup>(a) (b) (c)</sup>

\$[\_\_\_\_\_] \_\_\_\_% Term Bonds, Due \_\_\_\_\_, 20\_\_\_\_, Priced to Yield \_\_\_\_%; CUSIP No.\_\_\_\_ <sup>(a) (b) (c)</sup>

\$[\_\_\_\_\_] \_\_\_\_% Term Bonds, Due \_\_\_\_\_, 20\_\_\_\_, Priced to Yield \_\_\_\_%; CUSIP No.\_\_\_\_ <sup>(a) (b) (c)</sup>

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- (a) CUSIP numbers are included solely for the convenience of owners of the Bonds. CUSIP is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, managed by S&P Global Market Intelligence on behalf of The American Bankers Association. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Services. CUSIP numbers are provided for convenience of reference only. None of the City, the City's Financial Advisor or the Underwriter takes any responsibility for the accuracy of such numbers.
- (b) The Bonds are subject to redemption, in whole or in part, prior to stated maturity, at the option of the City, on any date on or after \_\_\_\_\_, 20\_\_\_\_, at the redemption price set forth herein under "DESCRIPTION OF THE BONDS — Redemption Provisions."
- (c) The Bonds are also subject to mandatory sinking fund redemption and extraordinary optional redemption as described herein under "DESCRIPTION OF THE BONDS — Redemption Provisions."

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\* Preliminary; subject to change.

## CITY OF SAN MARCOS, TEXAS

### Elected Officials

<u>City Council</u>	<u>Length of Service</u>	<u>Term Expires</u>
Jane Hughson <sup>(1)</sup> Mayor	4 Years	November 2020
Lisa Prewitt Councilmember, Place 1	4 Years	November 2019
Saul Gonzales Councilmember, Place 2	4 Years	November 2019
Ed Mihalkanin Councilmember, Place 3	4 Years	November 2020
To be determined <sup>(2)</sup> Councilmember, Place 4	-	November 2020
To be determined <sup>(2)</sup> Councilmember, Place 5	-	November 2021
Melissa Derrick Councilmember, Place 6	4 Years	November 2021

<sup>(1)</sup> Newly elected as Mayor, as of November 6, 2018. She previously served as a City Council member for four years.

<sup>(2)</sup> These City Council seats are subject to runoff elections, which will take place December 11, 2018 and will be canvassed on or about December 19, 2018.

### Selected Administrative Staff

<u>Name</u>	<u>Position</u>
Bert Lumbreras	City Manager
Collette Jamison	Assistant City Manager
Steve Parker	Assistant City Manager
Heather Hurlbert	Director of Finance
Jamie Lee Case	City Clerk
Michael Cosentino	City Attorney

#### **BOND COUNSEL**

McCall, Parkhurst & Horton L.L.P.  
Austin, Texas

#### **FINANCIAL ADVISOR**

Specialized Public Finance Inc.  
Austin, Texas

#### **PID ADMINISTRATOR**

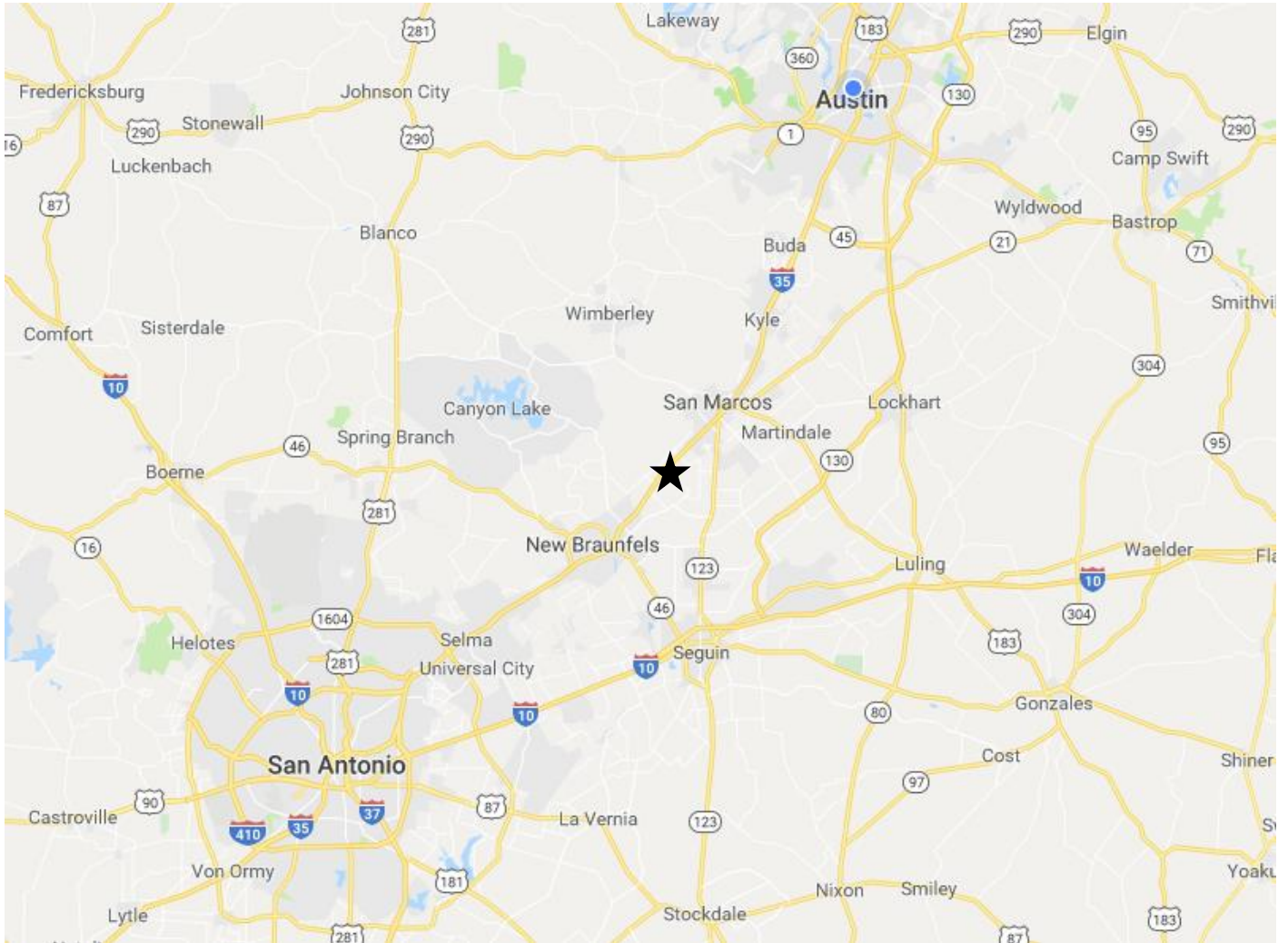
P3Works, LLC  
Austin and Keller, Texas

For additional information regarding the City, please contact:

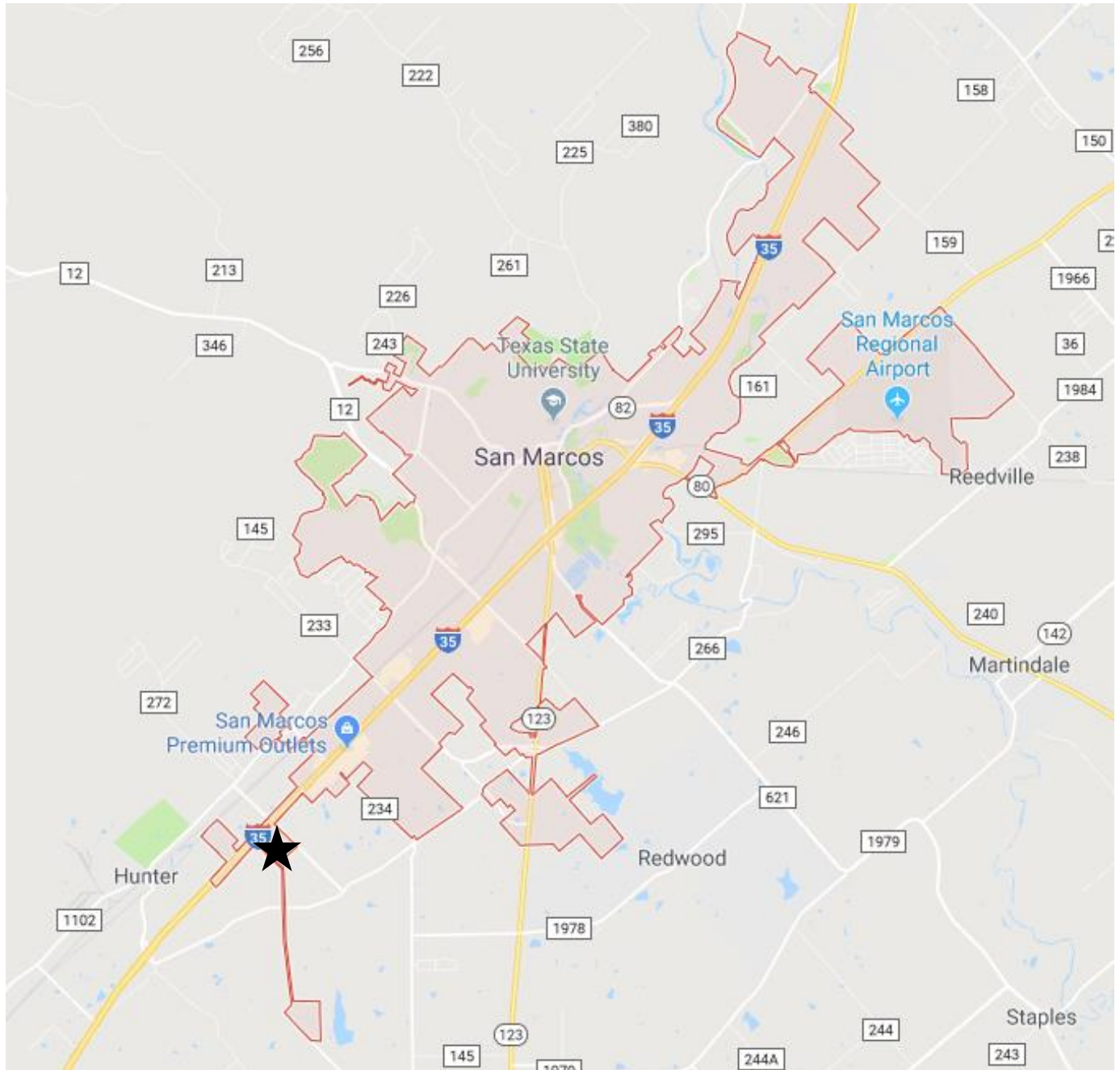
Ms. Heather Hurlbert  
Director of Finance  
City of San Marcos, Texas  
630 East Hopkins  
San Marcos, Texas 78666  
(512) 393-8170

Mr. Dan Wegmiller  
Managing Director  
Specialized Public Finance Inc.  
248 Addie Roy Road, Suite B-103  
Austin, Texas 78746  
(512) 275-7300

## REGIONAL LOCATION MAP OF THE DISTRICT

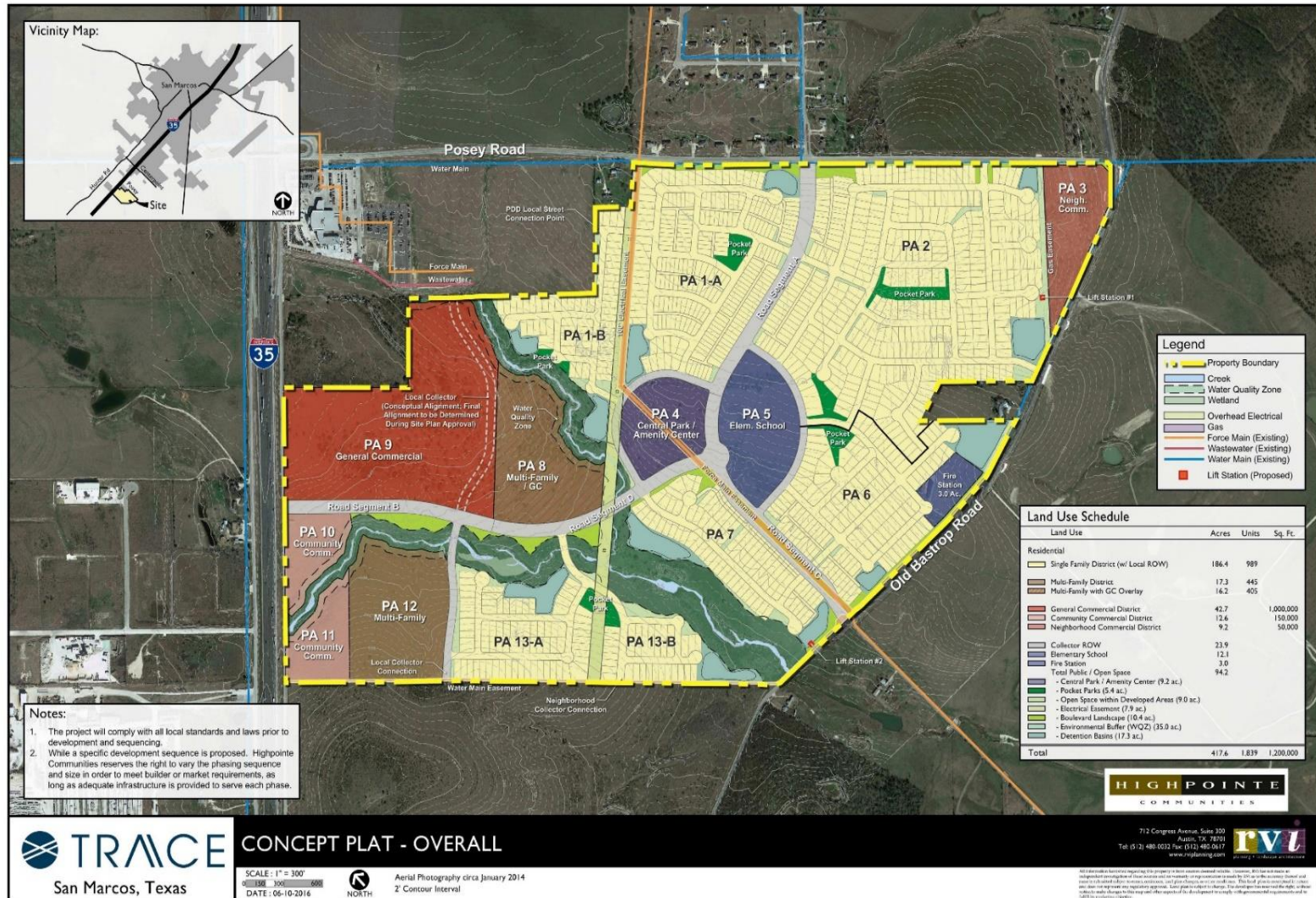


## AREA LOCATION MAP OF THE DISTRICT



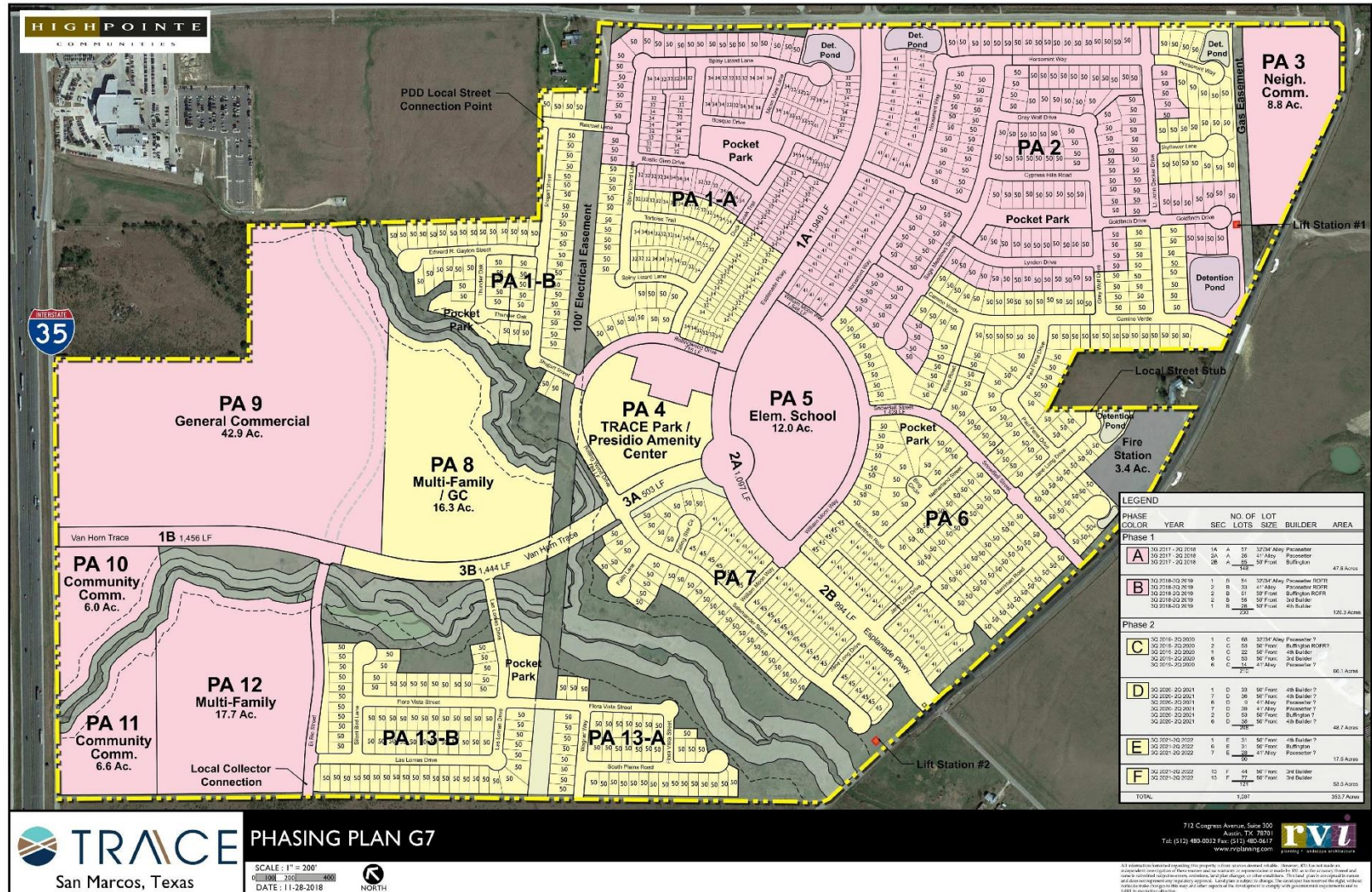


## MAP SHOWING CONCEPT PLAN OF THE DISTRICT



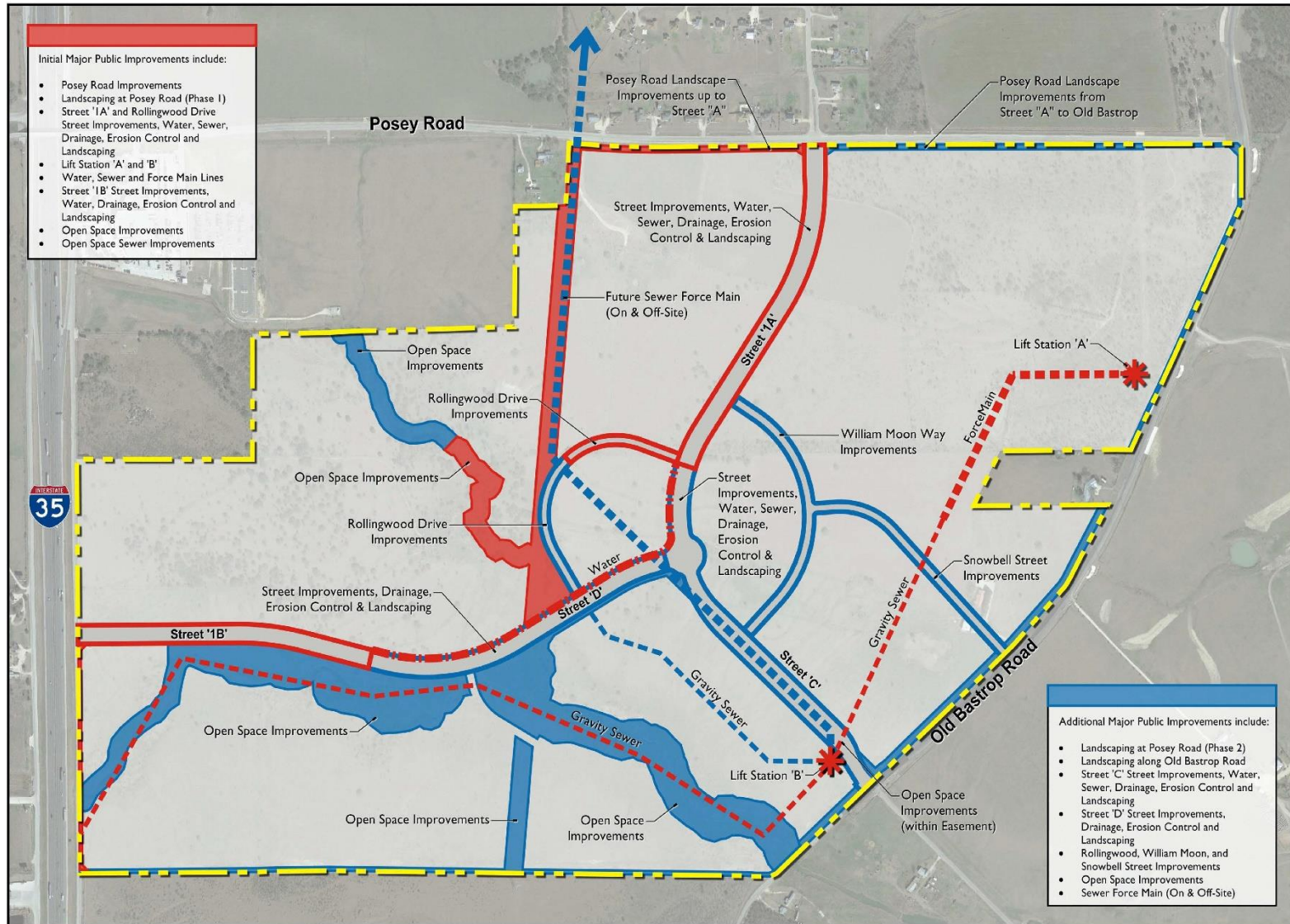


# MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT





## MAP SHOWING INITIAL AND ADDITIONAL PUBLIC IMPROVEMENTS IN THE DISTRICT





*FOR PURPOSES OF COMPLIANCE WITH RULE 15C2-12 OF THE SECURITIES AND EXCHANGE COMMISSION AS AMENDED AND IN EFFECT ON THE DATE OF THIS PRELIMINARY LIMITED OFFERING MEMORANDUM, THIS DOCUMENT CONSTITUTES AN OFFICIAL STATEMENT OF THE CITY WITH RESPECT TO THE BONDS THAT HAS BEEN “DEEMED FINAL” BY THE CITY AS OF ITS DATE EXCEPT FOR THE OMISSION OF NO MORE THAN THE INFORMATION PERMITTED BY RULE 15C2-12.*

NO DEALER, BROKER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED BY THE CITY OR THE UNDERWRITER TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THOSE CONTAINED IN THIS LIMITED OFFERING MEMORANDUM, AND IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY EITHER OF THE FOREGOING. THIS LIMITED OFFERING MEMORANDUM DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY AND THERE SHALL BE NO OFFER, SOLICITATION OR SALE OF THE BONDS BY ANY PERSON IN ANY JURISDICTION IN WHICH IT IS UNLAWFUL FOR SUCH PERSON TO MAKE SUCH OFFER, SOLICITATION OR SALE.

THE INITIAL PURCHASERS ARE ADVISED THAT THE BONDS BEING OFFERED PURSUANT TO THIS LIMITED OFFERING MEMORANDUM ARE BEING OFFERED AND SOLD ONLY TO “ACCREDITED INVESTORS” AS DEFINED IN RULE 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT OF 1933”) AND “QUALIFIED INSTITUTIONAL BUYERS” AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933. SEE “LIMITATIONS APPLICABLE TO INITIAL PURCHASERS” HEREIN. EACH PROSPECTIVE INITIAL PURCHASER IS RESPONSIBLE FOR ASSESSING THE MERITS AND RISKS OF AN INVESTMENT IN THE BONDS, MUST BE ABLE TO BEAR THE ECONOMIC AND FINANCIAL RISK OF SUCH INVESTMENT IN THE BONDS, AND MUST BE ABLE TO AFFORD A COMPLETE LOSS OF SUCH INVESTMENT. CERTAIN RISKS ASSOCIATED WITH THE PURCHASE OF THE BONDS ARE SET FORTH UNDER “BONDHOLDERS’ RISKS” HEREIN. EACH INITIAL PURCHASER, BY ACCEPTING THE BONDS, AGREES THAT IT WILL BE DEEMED TO HAVE MADE THE ACKNOWLEDGMENTS AND REPRESENTATIONS DESCRIBED UNDER THE HEADING “LIMITATIONS APPLICABLE TO INITIAL PURCHASERS.”

THE UNDERWRITER HAS REVIEWED THE INFORMATION IN THIS LIMITED OFFERING MEMORANDUM IN ACCORDANCE WITH, AND AS PART OF, ITS RESPONSIBILITIES TO INVESTORS UNDER THE UNITED STATES FEDERAL SECURITIES LAWS AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION. THE INFORMATION SET FORTH HEREIN HAS BEEN FURNISHED BY THE CITY AND OBTAINED FROM SOURCES, INCLUDING THE DEVELOPERS, WHICH ARE BELIEVED BY THE CITY AND THE UNDERWRITER TO BE RELIABLE, BUT IT IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS, AND IS NOT TO BE CONSTRUED AS A REPRESENTATION OF THE UNDERWRITER. THE INFORMATION AND EXPRESSIONS OF OPINION HEREIN ARE SUBJECT TO CHANGE WITHOUT NOTICE, AND NEITHER THE DELIVERY OF THIS LIMITED OFFERING MEMORANDUM, NOR ANY SALE MADE HEREUNDER, SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE CITY OR THE DEVELOPERS SINCE THE DATE HEREOF.

NEITHER THE CITY NOR THE UNDERWRITER MAKE ANY REPRESENTATION AS TO THE ACCURACY, COMPLETENESS, OR ADEQUACY OF THE INFORMATION SUPPLIED BY THE DEPOSITORY TRUST COMPANY FOR USE IN THIS LIMITED OFFERING MEMORANDUM.

THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, NOR HAS THE INDENTURE BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH LAWS. THE REGISTRATION OR QUALIFICATION OF THE BONDS UNDER THE SECURITIES LAWS OF ANY JURISDICTION IN WHICH THEY MAY HAVE BEEN REGISTERED OR QUALIFIED, IF ANY, SHALL NOT BE REGARDED AS A RECOMMENDATION THEREOF. NONE OF SUCH JURISDICTIONS, OR ANY OF THEIR AGENCIES, HAVE PASSED UPON THE MERITS OF THE BONDS OR THE ACCURACY OR COMPLETENESS OF THIS LIMITED OFFERING MEMORANDUM.

CERTAIN STATEMENTS INCLUDED OR INCORPORATED BY REFERENCE IN THIS LIMITED OFFERING MEMORANDUM CONSTITUTE “FORWARD-LOOKING STATEMENTS” WITHIN THE MEANING OF THE UNITED STATES PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995, SECTION 21E OF THE UNITED STATES EXCHANGE ACT OF 1934, AS AMENDED, AND SECTION 27A OF THE SECURITIES ACT. SUCH STATEMENTS ARE GENERALLY IDENTIFIABLE BY THE TERMINOLOGY USED, SUCH AS

“PLAN,” “EXPECT,” “ESTIMATE,” “PROJECT,” “ANTICIPATE,” “BUDGET” OR OTHER SIMILAR WORDS. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE CITY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ANY OF ITS EXPECTATIONS OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR, OTHER THAN AS DESCRIBED UNDER “CONTINUING DISCLOSURE” HEREIN.

THE TRUSTEE HAS NOT PARTICIPATED IN THE PREPARATION OF THIS LIMITED OFFERING MEMORANDUM AND ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION CONTAINED IN THIS LIMITED OFFERING MEMORANDUM OR THE RELATED TRANSACTIONS AND DOCUMENTS OR FOR ANY FAILURE BY ANY PARTY TO DISCLOSE EVENTS THAT MAY HAVE OCCURRED AND MAY AFFECT THE SIGNIFICANCE OR ACCURACY OF SUCH INFORMATION.

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## **PRELIMINARY LIMITED OFFERING MEMORANDUM**

**\$11,075,000\***

**CITY OF SAN MARCOS, TEXAS**

**(a municipal corporation of the State of Texas located in Hays, Caldwell and Guadalupe Counties)**

**SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018**

**(TRACE PUBLIC IMPROVEMENT DISTRICT)**

### **INTRODUCTION**

The purpose of this Limited Offering Memorandum, including the cover page, and appendices hereto, is to provide certain information in connection with the issuance and sale by the City of San Marcos, Texas (the “City”), of its \$11,075,000\* aggregate principal amount of Special Assessment Revenue Bonds, Series 2018 (Trace Public Improvement District) (the “Bonds”).

INITIAL PURCHASERS ARE ADVISED THAT THE BONDS BEING OFFERED PURSUANT TO THIS LIMITED OFFERING MEMORANDUM ARE BEING OFFERED INITIALLY TO AND ARE BEING SOLD ONLY TO “ACCREDITED INVESTORS” AS DEFINED IN RULE 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT OF 1933”) AND “QUALIFIED INSTITUTIONAL BUYERS” AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933. PROSPECTIVE INVESTORS SHOULD BE AWARE OF CERTAIN RISK FACTORS, ANY OF WHICH, IF MATERIALIZED TO A SUFFICIENT DEGREE, COULD DELAY OR PREVENT PAYMENT OF PRINCIPAL OF, AND/OR INTEREST ON THE BONDS. THE BONDS ARE NOT A SUITABLE INVESTMENT FOR ALL INVESTORS. SEE “LIMITATIONS APPLICABLE TO INITIAL PURCHASERS,” “BONDHOLDERS’ RISKS,” AND “SUITABILITY FOR INVESTMENT.”

The Bonds are being issued by the City pursuant to the Public Improvement District Assessment Act, Subchapter A of Chapter 372, Texas Local Government Code, as amended (the “PID Act”), the ordinance authorizing the issuance of the Bonds expected to be adopted by the City Council of the City (the “City Council”) on December 12, 2018 (the “Bond Ordinance”), and an Indenture of Trust, dated as of \_\_\_\_\_, 2018 (the “Indenture”), entered into by and between the City and UMB Bank, N.A., as trustee (the “Trustee”). The Bonds will be secured by special assessments (the “Assessments,” which consist of the Initial Assessments (as defined below) and the Additional Assessments (as defined below)) levied against assessable property (the “Assessed Property”) located within the Trace Public Improvement District (the “District”). Special assessments (the “Initial Assessments”) were levied pursuant to Ordinance No. 2016-42 (the “2016 Assessment Ordinance”), adopted by the City Council on October 18, 2016. Special assessments (the “Additional Assessments”) were levied pursuant to Ordinance No. 2018-38 (the “October 2018 Assessment Ordinance”), adopted by the City Council on October 16, 2018. Thereafter, the City Council determined it was necessary to defer collection of the Additional Assessments. To accomplish such deferral, the City Council expects to adopt Ordinance No. 2018-\_\_ on December 12, 2018, which ordinance will amend and restate the October 2018 Assessment Ordinance (the “December 2018 Assessment Ordinance” and, together with the 2016 Assessment Ordinance and the October 2018 Assessment Ordinance, the “Assessment Ordinance”).

Reference is made to the Indenture for a full statement of the authority for, and the terms and provisions of, the Bonds. All capitalized terms used in this Limited Offering Memorandum that are not otherwise defined herein shall have the meanings set forth in the Indenture. See “APPENDIX B — Form of Indenture.”

Set forth herein are brief descriptions of the City, the District, the Assessment Ordinance, the Bond Ordinance, the Service and Assessment Plan (as defined herein), Highpointe Trace, LLC, a California limited liability company (the “Developer”), P3Works, LLC (the “PID Administrator”), Development, Planning & Financing Group, Inc. (the “Special Assessment Consultant”), the Reimbursement Agreement (as defined herein), the Financing Agreement (as defined herein), the Elementary School Agreement (as defined herein) and the Fire Station Agreement (as defined herein), together with summaries of terms of the Bonds and the Indenture and certain provisions of the PID Act. All references herein to such documents and the PID Act are qualified in their entirety by reference to such

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\* Preliminary; subject to change.



documents or such PID Act and all references to the Bonds are qualified by reference to the definitive forms thereof and the information with respect thereto contained in the Indenture. Copies of these documents may be obtained during the period of the offering of the Bonds from the Underwriter, FMSbonds, Inc., 100 Crescent Court, Suite 700, Dallas, Texas 75201, telephone number (214) 302-2246. The form of Indenture appears in “APPENDIX B – Form of Indenture” and the form of Service and Assessment Plan, as updated, appears as “APPENDIX C – Form of Service and Assessment Plan.” The information provided under this caption “INTRODUCTION” is intended to provide a brief overview of the information provided in the other captions herein and is not intended, and should not be considered, fully representative or complete as to the subjects discussed hereunder.

## **PLAN OF FINANCE**

### **Development Plan**

The Developer acquired the approximately 417.63 acres within the District in April of 2016 for a master planned, mixed use development (the “Development”), which is zoned to allow single-family residential, multi-family residential, office/business park, retail and other uses, as well as public and private parks and trails. The Developer’s development plans for the District consist of the construction of certain public improvements that benefit the entire District in two separate stages, beginning with the construction of the initial public improvements (the “Initial Public Improvements”) followed by the construction of the additional public improvements (the “Additional Public Improvements” and, together with the Initial Public Improvements, the “Public Improvements”). Concurrent with the construction of the Public Improvements, the Developer plans to develop the lots within the District in five separate phases (each a “Phase” and, collectively the “Phases”). The Development is expected to include approximately 1,007 single-family residential units, 777 units of multi-family housing, 233,155 square feet of retail space and 467,181 square feet of office/business park space. The Development is also planned to include an elementary school (the “Elementary School” or “Rodriguez Elementary School”), an approximately 3,500 square foot private amenity center (the “Amenity Center”), which center is only available for use by the single-family residents, and certain parks and city trails (which are part of the Public Improvements). See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT,” “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” and “MAP SHOWING INITIAL AND ADDITIONAL PUBLIC IMPROVEMENTS WITHIN THE DISTRICT” on pages v, vi and vii.

The cost of all of the Public Improvements (excluding Bond issuance costs) is expected to be approximately \$22,386,420\*. A portion of the costs of the Public Improvements, in the approximate amount of \$[9,335,341]\*, is expected to be paid with proceeds of the Bonds. The balance of the costs of the Public Improvements, in the total approximate amount of \$[13,051,079]\*, is being financed by the Developer as construction of the Public Improvements progresses. A portion of such costs in the total approximate amount of \$[8,764,659]\* (which includes reimbursement for the Commercial Assessment Prepayment (as defined herein), if made) will be reimbursed over time to the Developer from the Assessments, or the proceeds of Additional Bonds (as defined below), if issued, pursuant to the Amended and Restated Trace Public Improvement District Reimbursement Agreement dated September 18, 2018, (the “Reimbursement Agreement”), between the Developer and the City. See “THE DEVELOPMENT — Reimbursement Agreement.” The City expects that it will, but is under no obligation to, issue additional bonds (“Additional Bonds”) to finance its payment obligations under the Reimbursement Agreement (the “Reimbursement Obligation”) (see “SECURITY FOR THE BONDS — Other Obligations or Other Liens; Refunding Bonds; Additional Bonds” for details on criteria which must be met before the City may issue Additional Bonds). The Bonds, any Additional Bonds and the Reimbursement Obligation will be secured by the Pledged Revenues (as defined herein), including the Assessments; however, the payment of debt service on the Bonds from the Assessments is superior in right to the Reimbursement Obligation under the Reimbursement Agreement. If Additional Bonds are issued to finance the Reimbursement Obligation, such bonds will be on parity with the Bonds. See “SECURITY FOR THE BONDS — Pledged Revenue Fund,” “THE DEVELOPMENT — Reimbursement Agreement” and “APPENDIX G — Form of Financing Agreement.”

The City and the Developer entered into the Trace Public Improvement District Financing Agreement (the “Financing Agreement”) on October 20, 2015, which was amended and restated on September 18, 2018. Additionally,

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\* Preliminary; subject to change.

Pacesetter (as defined herein) and Buffington (as defined herein) are consenting parties to the Financing Agreement. The Financing Agreement provides, among other things, for the construction, acquisition and maintenance of the Public Improvements, the payment of the costs of the Public Improvements, the issuance of the Bonds and any Additional Bonds secured by the Assessments, and the reimbursement of a portion of the costs to the Developer from the proceeds of such bonds and/or the Assessments. See “THE DEVELOPMENT — Financing Agreement” and “APPENDIX G — Form of Financing Agreement.” In order to make the Assessments, as a tax rate equivalent, for the office/business park and retail space in the Development more competitive, pursuant to the Financing Agreement, the Developer is required to prepay \$2,600,000 in Assessments levied against the office/business park and retail sites (the “Commercial Assessment Prepayment”), by the earlier of (i) the issuance of the Additional Bonds, if any, or (ii) August 31, 2022. The Commercial Assessment Prepayment, if made, will be used to pay the Reimbursement Obligation and is not security for the Bonds. See “SECURITY FOR THE BONDS — Pledged Revenues,” “— Pledged Revenue Fund” and “— Reimbursement Fund,” “ASSESSMENT METHODOLOGY — Prepayment of Assessments — Commercial Assessment Prepayment” and “— Reduction of Assessments” and “APPENDIX C — Form of Service and Assessment Plan.”

### **Status of Public Improvements and Lot Development**

The Developer commenced construction of the Public Improvements in May of 2017 and expects to complete construction of the Public Improvements by December of 2021. As of November 30, 2018, the Developer has spent approximately \$[8,835,341] (which excludes the \$500,000 payment to be made to the City concurrent with the closing of the Bonds, pursuant to the Fire Station Agreement) on the construction of the Initial Public Improvements. In November of 2018, the Developer completed construction of the Initial Public Improvements and completed lot development within Phase A, which is expected to include approximately 148 single-family residential units, 402 multi-family units, 21.41 acres of retail space and 42.9 acres of office/business park space. See “THE PUBLIC IMPROVEMENTS” and “THE DEVELOPMENT — Construction Plan and Status of Construction.”

### **Homebuilders and Status of Home Construction**

The Developer has executed lot purchase and sale agreements for 378 lots within Phases A and B with merchant homebuilders, including Pacesetter Homes, LLC (“Pacesetter”), Buffington Texas Classic Homes, LLC (“Buffington”) and M/I Homes of Austin, LLC (“M/I Homes” and together with Pacesetter and Buffington, the “Homebuilders”). As of November 1, 2018, Pacesetter has purchased 83 completed lots, has finished construction of 13 homes and has sold 14 homes (including homes under contract, but not yet closed on) to individual homeowners, all of which are in Phase A. As of November 1, 2018, Buffington has purchased 28 completed lots, has finished construction of 13 homes and has sold 12 homes (including homes under contract, but not yet closed on) to individual homeowners, all of which are in Phase A. Presently, M/I Homes has only contracted to purchase lots only within Phase B, which does not currently contain any finished lots. Therefore, M/I Homes has yet to purchase any lots. See “THE DEVELOPMENT — Homebuilder Lot Purchase and Sale Agreements.”

### **Status of Multi-family, Retail and Office/Business Park Sites**

All parcels designated for retail and office/business park space and a portion of the parcels designated for multi-family units are fully serviced with Public Improvements and are available for sale to third parties for future vertical development. See “THE DEVELOPMENT — Construction Plan and Status of Construction” and “— Build-Out and Sale Schedule of Lots.”

### **The Bonds**

Proceeds of the Bonds will be authorized to be used to provide funds for (i) paying or reimbursing all or a portion of the costs of the Public Improvements; (ii) paying a portion of the interest on the Bonds during and after the period of acquisition and construction of the Public Improvements; (iii) funding a reserve fund for the payment of principal of and interest on the Bonds; (iv) paying a portion of the costs incidental to the organization of the District; and (v) paying the costs of issuance of the Bonds. See “SOURCES AND USES OF FUNDS,” “THE PUBLIC IMPROVEMENTS,” and “APPENDIX C — Form of Indenture.”

Payment of the Bonds is secured by a pledge of and a lien upon the Pledged Revenues (as defined herein), consisting primarily of the Assessments levied against the assessable parcels or lots within the District and other funds comprising the Trust Estate, all to the extent and upon the conditions described herein and in the Indenture. See “SECURITY FOR THE BONDS” and “ASSESSMENT PROCEDURES.” The Assessments are a first and prior lien (the “Assessment Lien”) against the property assessed, superior to all other liens and claims, except liens and claims for the State, county, school district, or municipality for ad valorem taxes and are a personal liability of and charge against the owners of property, regardless of whether the owners are named. The Assessment Lien is superior to any homestead rights of a property owner that were properly claimed after the adoption of the Assessment Ordinance. However, an Assessment Lien may not be foreclosed upon if any homestead rights of a property owner were properly claimed prior to the adoption of the Assessment Ordinance for as long as such rights are maintained on the property. See “SECURITY FOR THE BONDS — Pledged Revenues” and “BONDHOLDERS’ RISKS — Assessment Limitations.” **The Bonds shall never constitute an indebtedness or general obligation of the City, the State or any other political subdivision of the State, within the meaning of any Constitutional provision or statutory limitation whatsoever, but the Bonds are limited and special obligations of the City payable solely from the Trust Estate as provided in the Indenture. Neither the full faith and credit nor the taxing power of the City, the State or any other political subdivision of the State is pledged to the payment of the Bonds.**

**The Bonds and any Additional Bonds issued by the City are separate and distinct issues of securities. Any Additional Bonds are not offered pursuant to this Limited Offering Memorandum.**

#### **LIMITATIONS APPLICABLE TO INITIAL PURCHASERS**

Each initial purchaser is advised that the Bonds being offered pursuant to this Limited Offering Memorandum are being offered and sold only to “accredited investors” as defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933 and “qualified institutional buyers” as defined in Rule 144A promulgated under the Securities Act of 1933. Each initial purchaser of the Bonds (each, an “Investor”) will be deemed to have acknowledged, represented and warranted to the City as follows:

1. The Investor has authority and is duly authorized to purchase the Bonds and to execute the investment letter and any other instruments and documents required to be executed by the Investor in connection with the purchase of the Bonds.
2. The Investor is an “accredited investor” under Rule 501 of Regulation D of the Securities Act of 1933 or a “qualified institutional buyer” under Rule 144A of the Securities Act of 1933, and therefore, has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the Bonds.
3. The Bonds are being acquired by the Investor for investment and not with a view to, or for resale in connection with, any distribution of the Bonds, and the Investor intends to hold the Bonds solely for its own account for investment purposes and for an indefinite period of time, and does not intend at this time to dispose of all or any part of the Bonds. However, the investor may sell the Bonds at any time the Investor deems appropriate. The Investor understands that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.
4. The Investor understands that the Bonds are not registered under the Securities Act of 1933 and that such registration is not legally required as of the date hereof; and further understands that the Bonds (a) are not being registered or otherwise qualified for sale under the “Blue Sky” laws and regulations of any state, (b) will not be listed in any stock or other securities exchange, and (c) will not carry a rating from any rating service.
5. The Investor acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, and the Investor has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City, the Authorized Improvements, the Bonds, the security therefor, and such other information as the Investor has deemed necessary or desirable in connection with its decision to purchase the Bonds (collectively, the “Investor Information”). The Investor has received a copy of this Limited Offering Memorandum relating to the Bonds. The Investor acknowledges that it has assumed responsibility for its review of the Investor Information and it has not relied upon any advice, counsel, representation or information from the City in connection with the Investor’s purchase of the Bonds. The Investor agrees that none of the City, its councilmembers, officers, or employees shall have any liability to the Investor whatsoever for or in connection with



the Investor's decision to purchase the Bonds except for gross negligence, fraud or willful misconduct. For the avoidance of doubt, it is acknowledged that the underwriter is not deemed an officer or employee of the City.

6. The Investor acknowledges that the obligations of the City under the Indenture are special, limited obligations payable solely from amounts paid to the City pursuant to the terms of the Indenture and the City shall not be directly or indirectly or contingently or morally obligated to use any other moneys or assets of the City for amounts due under the Indenture. The Investor understands that the Bonds are not secured by any pledge of any moneys received or to be received from taxation by the City, the State of Texas (the "State") or any political subdivision or taxing district thereof; that the Bonds will never represent or constitute a general obligation or a pledge of the faith and credit of the City, the State or any political subdivision thereof; that no right will exist to have taxes levied by the State or any political subdivision thereof for the payment of principal and interest on the Bonds; and that the liability of the City and the State with respect to the Bonds is subject to further limitations as set forth in the Bonds and the Indenture.

7. The Investor has made its own inquiry and analysis with respect to the Bonds and the security therefor. The Investor is aware that the development of the District involves certain economic and regulatory variables and risks that could adversely affect the security for the Bonds.

8. The Investor acknowledges that the sale of the Bonds to the Investor is made in reliance upon the certifications, representations and warranties described in items 1-7 above.

## DESCRIPTION OF THE BONDS

### General Description

The Bonds will mature on the dates and in the amounts set forth in the inside cover page of this Limited Offering Memorandum. Interest on the Bonds will accrue from their date of delivery to the Underwriter and will be computed on the basis of a 360-day year of twelve 30-day months. Interest on the Bonds will be payable on each March 1\* and September 1\*, commencing March 1, 2019\* (each an "Interest Payment Date"), until maturity or prior redemption. UMB Bank, N.A. is the initial Trustee, Paying Agent and Registrar for the Bonds.

The Bonds will be issued in fully registered form, without coupons, in authorized denominations of \$100,000 of principal and any integral multiple of \$5,000 in excess thereof (or such smaller amounts of not less than \$5,000 as authorized under the Indenture as a result of partial redemption) ("Authorized Denominations"). Upon initial issuance, the ownership of the Bonds will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), and purchases of beneficial interests in the Bonds will be made in book-entry only form. See "BOOK-ENTRY ONLY SYSTEM" and "SUITABILITY FOR INVESTMENT."

### Redemption Provisions

*Optional Redemption.* The City reserves the right and option to redeem the Bonds maturing on \_\_\_\_\_, 20\_\_ before their scheduled maturity dates, in whole or in part, on any date on or after \_\_\_\_\_, 20\_\_, such redemption date or dates to be fixed by the City, at a redemption price equal to the principal amount to be redeemed plus accrued interest to the date fixed for redemption.

*Extraordinary Optional Redemption.* The City reserves the right and option to redeem Bonds before their respective scheduled maturity dates, in whole or in part, on any date, at a redemption price equal to the principal amount of the Bonds called for redemption, plus accrued and unpaid interest to the date fixed for redemption, from amounts on deposit in the Redemption Fund as a result of Prepayments (including related transfers to the Redemption Fund as provided in the Indenture) or any other transfers to the Redemption Fund under the terms of the Indenture. See "ASSESSMENT PROCEDURES — Prepayment of Assessments" for the definition and description of Prepayments.

*Mandatory Sinking Fund Redemption.* The Bonds maturing on \_\_\_\_\_ in the years \_\_\_\_ and \_\_\_\_ (collectively, the "Term Bonds") are subject to mandatory sinking fund redemption prior to their respective maturities

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\* Preliminary; subject to change.

and will be redeemed by the City in part at a redemption price equal to the principal amount called for redemption, plus accrued interest to the redemption date, from moneys available for such purpose in the Principal and Interest Account of the Bond Fund pursuant to the Indenture, on the dates and in the respective Sinking Fund Installments as set forth in the following schedule:

<u>\$                      Term Bonds due                      1, 20</u>	
<u>Redemption Date</u>	<u>Sinking Fund Installment</u>
_____, 20	\$
_____, 20	
_____, 20	
_____, 20†	
† Stated maturity.	
<u>\$                      Term Bonds due                      1, 20</u>	
<u>Redemption Date</u>	<u>Sinking Fund Installment</u>
_____, 20	\$
_____, 20	
_____, 20	
_____, 20†	
† Stated maturity.	

At least thirty (30) days prior to each mandatory sinking fund redemption date, the Trustee shall select a principal amount of Bonds of such maturity equal to the Sinking Fund Installment amount of such Bonds to be redeemed, shall call such Bonds for redemption on such scheduled mandatory sinking fund redemption date, and shall give notice of such redemption, as provided in the Indenture.

The principal amount of Bonds required to be redeemed on any mandatory sinking fund redemption date shall be reduced, at the option of the City, by the principal amount of any Bonds of such maturity which, at least thirty (30) days prior to the sinking fund redemption date shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued unpaid interest to the date of purchase thereof, and delivered to the Trustee for cancellation.

The principal amount of Bonds required to be redeemed on any mandatory sinking fund redemption date shall be reduced on a pro rata basis among Sinking Fund Installments for each maturity of Bonds by the principal amount of any Bonds which, at least thirty (30) days prior to the mandatory sinking fund redemption date, shall have been redeemed pursuant to the optional redemption or extraordinary optional redemption provisions of the Indenture and not previously credited to a mandatory sinking fund redemption.

Notice of Redemption. The Trustee shall give notice of any redemption of Bonds by sending notice by first class United States mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Bond or portion thereof to be redeemed, at the address shown in the Register. The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed, any conditions to such redemption and that on the redemption date, if all conditions, if any, to such redemption have been satisfied, such Bond shall become due and payable. Any such notice shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. Notice of redemption having been given as provided in the Indenture, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption provided that funds for the payment of the redemption price of such Bonds to the date fixed for redemption are on deposit with the Trustee; thereafter, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

The City has the right to rescind any optional redemption or extraordinary optional redemption by written notice to the Trustee prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled

if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default under the Indenture. The Trustee shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

*Additional Provisions with Respect to Redemption.* If less than all of the Bonds are to be redeemed, Bonds shall be redeemed in increments of \$5,000 by any method selected by the Trustee that results in a random selection, provided that no redemption shall cause the principal amount of any Bond to be less than the minimum Authorized Denomination for such Bond, except as described in the following sentence. Notwithstanding the foregoing, if any Bonds are to be partially redeemed and such redemption results in the redemption of a portion of a single Bond in an amount less than the Authorized Denomination in effect at the time, a Bond in the principal amount equal to the unredeemed portion, but not less than \$5,000, may be issued. Each Bond shall be treated as representing the number of Bonds that is obtained by dividing the principal amount of such Bond by the minimum Authorized Denomination for such Bond.

Upon surrender of any Bond in part, the Trustee, in accordance with the provisions of the Indenture, shall authenticate and deliver in exchange thereof a Bond or Bonds of like tenor, maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Bond or Bonds so surrendered, such exchange being without charge.

### **BOOK-ENTRY ONLY SYSTEM**

*This section describes how ownership of the Bonds is to be transferred and how the principal of, premium, if any, and interest on the Bonds are to be paid to and credited by DTC while the Bonds are registered in its nominee name. The information in this section concerning DTC and the Book-Entry-Only System has been provided by DTC for use in disclosure documents such as this Limited Offering Memorandum. The City and the Underwriter believe the source of such information to be reliable, but neither the City nor the Underwriter takes responsibility for the accuracy or completeness thereof.*

*The City cannot and does not give any assurance that (1) DTC will distribute payments of debt service on the Bonds, or redemption or other notices, to DTC Participants, (2) DTC Participants or others will distribute debt service payments paid to DTC or its nominee (as the registered owner of the Bonds), or redemption or other notices, to the Beneficial Owners, or that they will do so on a timely basis or (3) DTC will serve and act in the manner described in this Limited Offering Memorandum. The current rules applicable to DTC are on file with the Securities and Exchange Commission, and the current procedures of DTC to be followed in dealing with DTC Participants are on file with DTC.*

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered security certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its registered subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing companies that clear through or maintain a



custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has an S&P Global Ratings rating of “AA+”. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all Bonds of the same maturity are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant of such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC’s Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, interest and all other payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail information from the City or Paying Agent/Registrar, on the payment date in accordance with their respective holdings shown on DTC’s records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in “street name,” and will be the responsibility of such Participant and not of DTC nor its nominee, the Trustee, the Paying Agent/Registrar, or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, interest and payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Trustee, the Paying Agent/Registrar or the City, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the City or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered.

The City may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered. Thereafter, Bond certificates may be transferred and exchanged as described in the Indenture.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but none of the City, the City's Financial Advisor or the Underwriter take any responsibility for the accuracy thereof.

NONE OF THE CITY, THE TRUSTEE, THE PAYING AGENT, THE CITY'S FINANCIAL ADVISOR OR THE UNDERWRITER WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO THE DTC PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEE WITH RESPECT TO THE PAYMENTS TO OR THE PROVIDING OF NOTICE FOR THE DTC PARTICIPANTS, THE INDIRECT PARTICIPANTS OR THE BENEFICIAL OWNERS OF THE BONDS. THE CITY CANNOT AND DOES NOT GIVE ANY ASSURANCES THAT DTC, THE DTC PARTICIPANTS OR OTHERS WILL DISTRIBUTE PAYMENTS OF PRINCIPAL OF OR INTEREST ON THE BONDS PAID TO DTC OR ITS NOMINEE, AS THE REGISTERED OWNER, OR PROVIDE ANY NOTICES TO THE BENEFICIAL OWNERS OR THAT THEY WILL DO SO ON A TIMELY BASIS, OR THAT DTC WILL ACT IN THE MANNER DESCRIBED IN THIS LIMITED OFFERING MEMORANDUM. THE CURRENT RULES APPLICABLE TO DTC ARE ON FILE WITH THE SECURITIES AND EXCHANGE COMMISSION, AND THE CURRENT PROCEDURES OF DTC TO BE FOLLOWED IN DEALING WITH DTC PARTICIPANTS ARE ON FILE WITH DTC.

## **SECURITY FOR THE BONDS**

### **General**

THE BONDS ARE SPECIAL OBLIGATIONS OF THE CITY PAYABLE SOLELY FROM THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE BONDS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE CITY AND ARE PAYABLE SOLELY FROM THE SOURCES IDENTIFIED IN THE INDENTURE. THE OWNERS OF THE BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF MONEY RAISED OR TO BE RAISED BY TAXATION, OR OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. NO OWNER OF THE BONDS SHALL HAVE THE RIGHT TO DEMAND ANY EXERCISE OF THE CITY'S TAXING POWER TO PAY THE PRINCIPAL OF THE BONDS OR THE INTEREST OR REDEMPTION PREMIUM, IF ANY, THEREON. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO PAY THE BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE. SEE "APPENDIX B — FORM OF INDENTURE."

The principal of, premium, if any, and interest on the Bonds are secured by a pledge of and a lien upon the pledged revenues (the "Pledged Revenues"), consisting primarily of Assessments levied against the assessable parcels or lots within the District and other funds comprising the Trust Estate, all to the extent and upon the conditions described herein and in the Indenture. SEE "APPENDIX B — Form of Indenture." The District contains approximately 417.63 acres, of which approximately 303 acres constitutes assessed parcels (each a "Parcel" and together the "Assessed Property"). In accordance with the PID Act, on October 18, 2016 the City Council approved and adopted a Service and Assessment Plan (the "Initial Service and Assessment Plan"), which described the special benefit received by the property within the District, provided the basis and justification for the determination of special benefit on such property and established the methodology for the levy of the Initial Assessments. On October 16, 2018 the City Council approved and adopted an amended and restated service and assessment plan (the "Amended and Restated Service and Assessment Plan"), which amended and restated the Initial Service and Assessment Plan, established the methodology for the levy of the Additional Assessments, provided for the allocation of both the Initial Assessments and the Additional Assessments and included a revised description of the Public Improvements to be constructed within the District. Thereafter, the City Council determined it was necessary to defer collection of the

Additional Assessments. To accomplish such deferral, on December 12, 2018, the City Council expects to approve and adopt an amended and restated service and assessment plan (as amended and supplemented, the “Service and Assessment Plan”), which will amend and restate the Initial Service and Assessment Plan and the Amended and Restated Service and Assessment Plan, defer the collection of the Additional Assessments and provide for the allocation of Pledged Revenues for payment of principal of, premium, if any, and interest on the Bonds. The Service and Assessment Plan is reviewed and updated annually for the purpose of determining the annual budget for improvements and the Annual Installments (as defined below) of Assessments due in a given year. The determination by the City of the assessment methodology set forth in the Service and Assessment Plan is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on all current and future Developers within the District. See “APPENDIX C — Form of Service and Assessment Plan.”

## **Pledged Revenues**

The City is authorized by the PID Act, the Assessment Ordinance and other provisions of law to finance the Public Improvements by levying Assessments upon properties in the District benefitted thereby. For a description of the assessment methodology and the amounts of Assessments anticipated to be levied in the District, see “ASSESSMENT PROCEDURES” and “APPENDIX C — Form of Service and Assessment Plan.”

Pursuant to the Indenture, Pledged Revenues are the sum of (i) Assessment Revenue (excluding the portion of Annual Installments collected for the payment of Annual Collection Costs and Delinquent Collection Costs, as set forth in the Service and Assessment Plan, and further excluding the Assessment associated with the Commercial Prepayment Assessment); (ii) the moneys held in any of the Pledged Funds; and (iii) any additional revenues that the City may pledge to the payment of the Bonds and Additional Bonds. “Assessment Revenues” means the revenues received by the City from the collection of Assessments, including Prepayments, Annual Installments and Foreclosure Proceeds. “Annual Installments” means, with respect to each Parcel, each annual payment of: (i) the Assessments (including the principal and interest thereon) as shown on the Assessment Roll or in an annual update to the Service and Assessment Plan, and calculated as provided in the Service and Assessment Plan; (ii) Annual Collection Costs; and (iii) the Additional Interest. “Additional Interest” means the amount collected by application of the Additional Interest Rate (as defined below). The City will covenant in the Indenture that it will take and pursue all actions permissible under Applicable Laws to cause the Assessments to be collected and the liens thereof to be enforced continuously. See “— Pledged Revenue Fund,” “APPENDIX B — Form of Indenture” and “APPENDIX C — Form of Service and Assessment Plan.”

The PID Act provides that the Assessments (including any reassessment, with interest, the expense of collection and reasonable attorney’s fees, if incurred) are a first and prior lien (the “Assessment Lien”) against the property assessed, superior to all other liens and claims, except liens and claims for the State, county, school district, or municipality for ad valorem taxes and are a personal liability of and charge against the owners of property, regardless of whether the owners are named. Pursuant to the PID Act, the Assessment Lien is effective from the date of the Assessment Ordinance until the Assessments are paid (or otherwise discharged), and is enforceable by the City Council in the same manner that an ad valorem property tax levied against real property may be enforced by the City Council. See “ASSESSMENT PROCEDURES” herein.

Based on existing home sale contracts, the Developer expects that, as of December 12, 2018, there will be 19 individual homeowners within the District, whose properties are estimated to collectively represent approximately \$93,085\* of Additional Assessments levied within the District. These homeowners may have the ability to claim homestead rights under State law, which, if claimed, prohibits these properties from being foreclosed for purposes of collecting their Additional Assessments. The Initial Assessments were in place prior to any individual homeowners having the ability to claim homestead rights upon their properties, and, therefore, foreclosure remains available for collecting the Initial Assessments on these properties. See “BONDHOLDERS’ RISKS — Assessment Limitations” and “— Existing Homestead Rights.”

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\* Preliminary; subject to change.

If and to the extent an Assessment has been prepaid in full, along with all Prepayment Costs, the real property associated with such Assessment prepayment, including the Assessment Lien against such real property, shall be released from the Trust Estate and shall no longer constitute a part of the Trust Estate.

### **Collection and Deposit of Assessments**

The Assessments shown on the Assessment Roll, together with the interest thereon, shall be deposited to the Pledged Revenue Fund for the payment of the principal of and interest on the Bonds as and to the extent provided in the Service and Assessment Plan and the Indenture.

The Assessments assessed to pay debt service on the Bonds and amounts owed under the Reimbursement Agreement, together with interest thereon, are payable in Annual Installments established by the Assessment Ordinance and the Service and Assessment Plan to correspond, as nearly as practicable, to the debt service requirements for the Bonds and amounts owed under the Reimbursement Agreement. An Annual Installment of an Assessment has been made payable in the Assessment Ordinance in each City fiscal year preceding the date of final maturity of the Bonds which, if collected, will be sufficient to first pay debt service requirements attributable to Assessments in the Service and Assessment Plan. Each Annual Installment is payable as provided in the Service and Assessment Plan and the Assessment Ordinance.

A record of the Assessments on each parcel, tract or lot which are to be collected in each year during the term of the Bonds as shown on the Assessment Roll. Sums received from the collection of the Assessments to pay the debt service requirements (excluding the Commercial Assessment Prepayment and including delinquent installments, Foreclosure Proceeds and penalties and interest thereon) shall be deposited into the Pledged Revenue Fund. The Trustee shall deposit amounts received as Prepayments, other than the Commercial Assessment Prepayment, in the Pledged Revenue Fund and shall promptly transfer such amounts into the Redemption Fund. The Trustee shall deposit Foreclosure Proceeds in the Pledged Revenue Fund and as soon as practical after such deposit shall transfer the Foreclosure Proceeds *first* to the Reserve Fund to restore any transfers from the Reserve Fund made to which the Foreclosure Proceeds relate, and *second* to the Redemption Fund.

After the deposit of the Assessments in the Bond Pledge Revenue Account of the Pledged Revenue Fund to pay principal of and interest on the Bonds, to fund any deficiency that may exist in accounts within the Reserve Fund and to fund any obligations due to the Developer with funds deposited to the Reimbursement Fund, the Trustee shall transfer any Pledged Revenues remaining in the Pledged Revenue Fund to the City, which moneys may be used for any lawful purpose for which Assessments may be used under the PID Act. See “— Pledged Revenue Fund.” The portions of the Annual Installments of Assessments collected to pay Annual Collection Costs and Delinquent Collection Costs shall be deposited in the Administrative Fund and shall not constitute Pledged Revenues.

### **Unconditional Levy of Assessments**

The City has imposed Assessments on the property within the District sufficient to pay the principal of and interest on the Bonds scheduled for payment from Pledged Revenues as described in the Indenture and in the Service and Assessment Plan and coming due during each fiscal year the Bonds are outstanding. The Assessments shall be effective on the date of, and strictly in accordance with the terms of, the Assessment Ordinance. Each Assessment may be paid immediately in full or in periodic Annual Installments over a period of time equal to the term of the Bonds, which installments shall include interest on the Assessments. Pursuant to the Assessment Ordinance, interest on the Assessments will be calculated at the rate of interest on the Bonds plus the 0.50% additional interest charged on Assessments pursuant to Section 372.018 of the PID Act (the “Additional Interest Rate”) calculated on the basis of a 360-day year of twelve 30-day months. Such rate may be adjusted as described in the Service and Assessment Plan. Each Annual Installment, including the interest on the unpaid amount of an Assessment, shall be calculated and billed in the same manner and at the same time that the City collects ad valorem taxes, and shall generally shall be billed before October 1 of each year. 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 of Initial Assessments should have been, but were not, billed on October 1, 2017. The initial Annual Installments of Initial Assessments were billed on November 26, 2018 and paid by the respective landowners by December \_\_, 2018. The initial Annual Installments of Additional Assessments will be billed on or about October 1, 2019 and will be delinquent if not paid prior to February 1, 2020.

As authorized by Section 372.018(b) of the PID Act, the City will calculate and collect each year while the Bonds are Outstanding and unpaid, commencing October 1, 2018, an Assessment to pay the annual costs incurred by the City in the administration and operation of the District. The portion of each Annual Installment of an Assessment used to pay such annual costs shall remain in effect from year to year until all Bonds are finally paid or until the City adjusts the amount of the levy after an annual review in any year pursuant to Section 372.013 of the PID Act. The Assessments to pay annual expenses shall be due in the manner set forth in the Assessment Ordinance when billed each year and shall be delinquent if not paid by February 1 of the following year. Such Assessments to pay such expenses do not secure repayment of the Bonds.

There will be no discount for the early payment of Assessments.

Assessments, together with interest, penalties, and expense of collection and reasonable attorneys' fees, as permitted by the Texas Tax Code, shall be a first and prior lien against the property assessed, superior to all other liens and claims, except liens or claims for State, county, school district or municipality ad valorem taxes and shall be a personal liability of and charge against the owner of the property regardless of whether the owners are named. The lien for Assessments and penalties and interest begins on the effective date of the Assessment Ordinance and continues until the Assessments are paid or until all Bonds are finally paid.

Based on existing home sale contracts, the Developer expects that, as of December 12, 2018, there will be 19 individual homeowners within the District, whose properties are estimated to collectively represent approximately \$93,085\* of Additional Assessments levied within the District. These homeowners may have the ability to claim homestead rights under State law, which, if claimed, prohibits these properties from being foreclosed for purposes of collecting their Additional Assessments. The Initial Assessments were in place prior to any individual homeowners having the ability to claim homestead rights upon their properties, and, therefore, foreclosure remains available for collecting the Initial Assessments on these properties. See "BONDHOLDERS' RISKS — Assessment Limitations" and "— Existing Homestead Rights."

Failure to pay an Annual Installment when due shall not accelerate the payment of the remaining Annual Installments of the Assessments and such remaining Annual Installments (including interest) shall continue to be due and payable at the same time and in the same amount and manner as if such default had not occurred.

### **Perfectured Security Interest**

The lien on and pledge of the Pledged Revenues shall be valid and binding and fully perfected from and after the Closing Date, which is the date of the delivery of the Indenture, without physical delivery or transfer of control of the Pledged Revenues, the filing of the Indenture or any other act; all as provided in Chapter 1208 of the Texas Government Code, as amended, which applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the City under the Indenture, and such pledge is therefore valid, effective and perfected. If State law is amended at any time while the Bonds are Outstanding such that the pledge of the Pledged Revenues granted by the City under the Indenture is to be subject to the filing requirements of Chapter 9, Business and Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business and Commerce Code and enable a filing to perfect the security interest in said pledge to occur. See "APPENDIX B — Form of Indenture."

### **Pledged Revenue Fund**

The City will create under the Indenture a Pledged Revenue Fund to be held by the Trustee. Immediately upon receipt thereof, the City shall transfer to the Trustee for deposit to the Pledged Revenue Fund the Pledged Revenues, as set forth in the Service and Assessment Plan. Specifically, the City shall deposit or cause to be deposited Pledged Revenues (i) *first*, to the Bond Pledged Revenue Account of the Pledged Revenue Fund in an amount sufficient to pay debt service on the Bonds next coming due, (ii) *second*, to the Reserve Account of the Reserve Fund in an amount to cause the amount in the Reserve Account to equal the Reserve Account Requirement, (iii) *third*, to

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\* Preliminary; subject to change.



the Developer Reimbursement Pledged Revenue Account of the Pledged Revenue Fund to pay and reimburse the Developer for costs of Public Improvements (pursuant to the terms of the Reimbursement Agreement), (iv) *fourth*, to pay other costs of the Public Improvements, and (v) *fifth*, to pay other costs permitted by the PID Act. Notwithstanding the foregoing, the Additional Interest shall only be utilized for the purposes set forth in the Indenture and, immediately following the initial deposit to the Pledged Revenue Fund, the Additional Interest will be deposited into the Delinquency and Prepayment Reserve Account and/or the Redemption Fund, as applicable. Moneys transferred to the Developer Reimbursement Pledged Revenue Account shall not be a part of the Trust Estate and are not security for the Bonds.

From time to time as needed to pay the obligations relating to the Bonds, but no later than five (5) Business Days before each Interest Payment Date, the Trustee shall withdraw from the Pledged Revenue Fund and transfer to the Principal and Interest Account of the Bond Fund, an amount, taking into account any amounts then on deposit in such Principal and Interest Account, and any expected transfers from the Capitalized Improvement Account to the Principal and Interest Account, such that the amount on deposit in the Principal and Interest Account equals the principal (including any Sinking Fund Installments) and interest due on the Bonds on the next Interest Payment Date.

Subject to the provisions of the Reimbursement Agreement, from time to time as needed to pay the obligations relating to costs of Public Improvements, the Trustee shall withdraw from the Developer Reimbursement Pledged Revenue Account and transfer to the Reimbursement Fund such amount needed to reimburse the Developer for funds used to fund costs of Public Improvements.

If, after the foregoing transfers and any transfer from the Reserve Fund (as described under the subcaption “Reserve Fund” below), there are insufficient funds to make the payments provided in the preceding paragraph, the Trustee shall apply the available funds in the Principal and Interest Account first to the payment of interest, then to the payment of principal (including any Sinking Fund Installments) on the Bonds.

The Trustee shall transfer Prepayments to the Redemption Fund promptly after deposit of such amounts into the Pledged Revenue Fund.

Upon receipt, the Trustee shall deposit Foreclosure Proceeds to the Pledged Revenue Fund and promptly after such deposit shall transfer Foreclosure Proceeds, *first*, to the Reserve Fund to restore any transfers from the Reserve Fund to which the Foreclosure Proceeds relate, and *second*, to the Redemption Fund.

After satisfaction of the requirement to provide for the final payment of the principal and interest on the Bonds and to fund any deficiency that may exist in the accounts within the Reserve Fund and to fund any obligations due to the Developer with funds deposited to the Reimbursement Fund, the Trustee shall transfer any Pledged Revenues remaining in the Pledged Revenue Fund to the City, which moneys may be used for any lawful purpose for which assessments may be used under the PID Act.

## **Bond Fund**

On each Interest Payment Date, the Trustee shall withdraw from the Principal and Interest Account and transfer to the Paying Agent/Registrar the principal (including any Sinking Fund Installments) and interest then due and payable on the Bond, less any amount to be used to pay interest on the Bonds on such Interest Payment Date from the Capitalized Interest Account as provided below.

Moneys in the Capitalized Interest Account shall be used for the payment of all interest due on the Bonds on March 1, 2019\* and September 1, 2019\*. Any amounts on deposit in the Capitalized Interest Account after the payment of interest on the dates and in the amounts listed above shall be transferred to the Project Fund, or if the Project Fund has been closed as provided in the Indenture, such amounts shall be transferred to the Redemption Fund to be used to redeem Bonds and the Capitalized Interest Account shall be closed.

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\* Preliminary; subject to change.

## **Project Fund**

Pursuant to the Indenture, a Project Fund will be created to be used for the purposes described in “PLAN OF FINANCE – The Bonds.”

Disbursements from the Costs of Issuance Account of the Project Fund shall be made by the Trustee to pay costs of issuance of the Bonds pursuant to one or more City Certificates. Disbursements from all other Accounts of the Project Fund to pay Actual Costs shall be made by the Trustee upon receipt by the Trustee of a properly executed and completed Certification for Payment. The disbursement of funds from the Project Fund pursuant to a Certification for Payment shall be pursuant to and accordance with the disbursement procedures described in the Reimbursement Agreement.

If the City Representative determines in his or her sole discretion that amounts then on deposit in the Improvement Account of the Project Fund are not expected to be expended for purposes of the Improvement Account of the Project Fund due to the abandonment, or constructive abandonment, of the Public Improvements such that, in the reasonable opinion of the City Representative, it is unlikely that the amounts in Improvement Account of the Project Fund will ever be expended for the purposes of the Improvement Account of the Project Fund, the City Representative shall file a City Certificate with the Trustee which identifies the amounts then on deposit in the Improvement Account of the Project Fund that are not expected to be used for purposes of the Improvement Account of the Project Fund. If such City Certificate is so filed, the amounts on deposit in Improvement Account of the Project Fund shall be transferred to the Redemption Fund to redeem Bonds on the earliest practicable date after notice of redemption has been provided in accordance with the Indenture. Upon such transfers, the Improvement Account of the Project Fund shall be closed.

Upon the filing of a City Certificate stating that all Public Improvements have been completed and that all Actual Costs have been paid, or that any Actual Costs are not required to be paid from the Improvement Account of the Project Fund pursuant to a Certification for Payment, the Trustee shall transfer the amount, if any, remaining within the Improvement Account of the Project Fund to the Bond Fund or to the Redemption Fund as directed by the City Representative in a City Certificate filed with the Trustee. Upon such transfers, the Improvement Account of the Project Fund shall be closed.

Upon a determination by the City Representative that all costs of issuance of the Bonds have been paid and the appropriate portion of the costs incidental to the organization of the District have been paid, any amounts remaining in the Costs of Issuance Account shall be transferred to another Account of the Project Fund and used to pay Actual Costs or to the Principal and Interest Account and used to pay interest on the Bonds, as directed in a City Certificate filed with the Trustee, and the Costs of Issuance Account shall be closed.

## **Reserve Account of the Reserve Fund**

Pursuant to the Indenture, a Reserve Account will be created within the Reserve Fund for the benefit of the Bonds and held by the Trustee and will be funded with proceeds of the Bonds in the amount of the Reserve Account Requirement. Pursuant to the Indenture, the “Reserve Account Requirement” for the Bonds shall be an amount equal to the least of (i) Maximum Annual Debt Service on the Bonds Similarly Secured as of their date of issuance, (ii) 125% of average Annual Debt Service on the Bonds Similarly Secured as of their date of issuance, and (iii) 10% of the proceeds of the Bonds Similarly Secured; provided, however, that such amount shall be reduced by the amount of any transfers made to the Redemption Fund as a result of Prepayments; and provided further that as a result of a mandatory sinking fund redemption, an optional redemption, or an extraordinary optional redemption, the Reserve Account Requirement shall be reduced by a percentage equal to the pro rata principal of Bonds Similarly Secured redeemed by such redemption divided by the total principal amount of the Outstanding Bonds Similarly Secured prior to such redemption. As of the date of delivery of the Bonds, the Reserve Account Requirement is \$\_\_\_\_\_ which is an amount equal to [Maximum Annual Debt Service] on the Bonds Similarly Secured as of the date of issuance. “Annual Debt Service” means for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, (excluding interest paid from funds on deposit in the Capitalized Interest Account of the Bond Fund), assuming that the Outstanding Bonds are retired as scheduled (including by reason of Sinking Fund Installments), and (ii) the principal amount of the Outstanding Bonds due in such Bond Year (including any Sinking Fund Installments due in

such Bond Year). “Bond Year” means the one-year period beginning on October 1 in each year and ending on September 30 in the following year.

Whenever, on any Interest Payment Date, the amount on deposit in the Bond Fund is insufficient to pay the debt service on the Bonds Similarly Secured due on such date, the Trustee shall transfer *first* from the Delinquency and Prepayment Reserve Account of the Reserve Fund (described below), and *second* from the Reserve Account of the Reserve Fund to the Bond Fund in the amount necessary to cure such deficiency.

In the event of an extraordinary optional redemption of Bonds pursuant to the Indenture, the Trustee, pursuant to written directions from the City, shall transfer from the Reserve Account of the Reserve Fund to the Redemption Fund the amount specified in such directions, which shall be an amount equal to the principal amount of Bonds to be redeemed multiplied by the lesser of: (i) the amount required to be in the Reserve Account of the Reserve Fund divided by the principal amount of Outstanding Bonds prior to the redemption, and (ii) the amount actually in the Reserve Account of the Reserve Fund divided by the principal amount of Outstanding Bonds prior to the redemption. If after such transfer, and after applying investment earnings on the Prepayment toward payment of accrued interest, there are insufficient funds to pay the principal amount plus accrued and unpaid interest on such Bonds to the date fixed for redemption of the Bonds to be redeemed as a result of such Prepayment, the Trustee shall transfer an amount equal to the shortfall from the Delinquency and Prepayment Reserve Account to the Redemption Fund to be applied to the redemption of the Bonds.

### **Delinquency and Prepayment Reserve Account of the Reserve Fund**

Pursuant to the Indenture, a Delinquency and Prepayment Reserve Account will be created within the Reserve Fund and held by the Trustee for the benefit of the Bonds. The Trustee will transfer from the Pledged Revenue Fund into the Delinquency and Prepayment Reserve Account on March 1 of each year, commencing March 1, 2019, an amount equal to the Additional Interest until the Delinquency and Prepayment Reserve Requirement has accumulated in the Delinquency and Prepayment Reserve Account. If at any time the amount on deposit in the Delinquency and Prepayment Reserve Account is less than Delinquency and Prepayment Reserve Requirement, the Trustee shall resume depositing such Additional Interest into the Delinquency and Prepayment Reserve Account until the Delinquency and Prepayment Reserve Requirement has accumulated in the Delinquency and Prepayment Reserve Account. The Delinquency and Prepayment Reserve Requirement is 5.5% of the principal amount of the Outstanding Bonds Similarly Secured. The City has allocated the Additional Interest, authorized by Section 372.018(a) of the PID Act, to the Delinquency and Prepayment Reserve Account for such purpose or to the Redemption Fund as described below. Once the Delinquency and Prepayment Reserve Requirement has accumulated in the Delinquency and Prepayment Reserve Account, any amounts in excess of the Delinquency and Prepayment Reserve Requirement shall be transferred by the Trustee to the Redemption Fund to redeem Bonds as provided in the Indenture provided, however, that at any time the amount on deposit in the Delinquency and Prepayment Reserve Account is less than Delinquency and Prepayment Reserve Requirement, the Trustee shall resume depositing such Additional Interest into the Delinquency and Prepayment Reserve Account until the Delinquency and Prepayment Reserve Requirement has accumulated in the Delinquency and Prepayment Reserve Account. In calculating the amounts to be transferred pursuant to the Indenture, the Trustee may conclusively rely on the Annual Installments as shown on the Assessment Roll in the Service and Assessment Plan unless it receives a City Certificate specifying that a different amount be used. See “APPENDIX B — Form of Indenture” and “APPENDIX C — Form of Service and Assessment Plan.”

### **Administrative Fund**

The City has created under the Indenture an Administrative Fund to be held by the Trustee. Immediately upon receipt thereof, the City shall deposit or cause to be deposited to the Administrative Fund the portion of the Assessments and Annual Installments allocated to the payment of Annual Collection Costs and Delinquent Collection Costs, as set forth in the Service and Assessment Plan.

Moneys in the Administrative Fund shall be held by the Trustee separate and apart from the other Funds created and administered hereunder and used as directed by a City Certificate solely for the purposes set forth in the Service and Assessment Plan, including payment of Annual Collection Costs and Delinquent Collection Costs.

THE ADMINISTRATIVE FUND SHALL NOT BE PART OF THE TRUST ESTATE AND SHALL NOT BE SECURITY FOR THE BONDS.

### **Developer Property Tax Reserve Fund**

The City has created under the Indenture a Developer Property Tax Reserve Fund to be held by the Trustee. The Developer shall deposit or cause to be deposited the Initial Deposit into the Developer Property Tax Reserve Fund on or prior to the issuance of the Bonds. Prior to the Developer Property Tax Reserve Fund Release Date (as defined below), and upon receipt by the Trustee of a City Certificate specifying (1) the amount to be transferred and that such amount is equal to all outstanding Developer Property Tax Delinquency Amounts and (2) the dates on which such transfer shall be made, funds deposited in the Developer Property Tax Reserve Fund shall be transferred by the Trustee in an aggregate amount equal to all outstanding Developer Property Tax Delinquency Amounts to the City for payment of the related unpaid delinquent ad valorem taxes levied by any taxing entity on any property located in the District and any penalties, costs and interest related thereto. The City shall use amounts received by the Trustee from the Developer Property Tax Reserve Fund solely for payment of outstanding Developer Property Tax Delinquency Amounts and any penalties, costs and interest related thereto, all in accordance with the Redemption/Waiver Agreement. Prior to the Developer Property Tax Reserve Fund Release Date, upon any transfer of funds deposited in the Developer Property Tax Reserve Fund to the City in accordance with the Indenture, the Developer shall deposit or cause to be deposited an equivalent amount of funds into the Developer Property Tax Reserve Fund to replenish such Fund, all in accordance with the Redemption/Waiver Agreement.

Any amounts deposited in the Developer Property Tax Reserve Fund shall be released to the Developer, except during the occurrence of an ongoing current Event of Default, on or after \_\_\_\_\_ of the first year after the tax year in which no property located in the District is subject to an agriculture valuation for purposes of ad valorem taxes levied by any taxing entity (the "Developer Property Tax Reserve Fund Release Date"). Such amounts shall be released only upon the filing of evidence satisfactory to the City of payment of all ad valorem taxes due and owing with respect to property located in the District subject to an agriculture valuation. The City shall provide the Trustee with a City Certificate to this effect, upon which the Trustee may conclusively rely.

At such time as the condition for release is met, any amounts deposited in the Developer Property Tax Reserve Fund shall be irrevocably and unconditionally released to the Developer, or to the Developer's successors and assigns or designees as identified in a written notice from the Developer to the Trustee and the City. The City and the Trustee shall solely and conclusively rely as to payment of amounts released from the Developer Property Tax Reserve Fund on any such written notice from the Developer as to their successors and assigns or designees. The City shall provide written notice of the release to the Trustee and Developer, or to the Developer's successors and assigns.

THE DEVELOPER PROPERTY TAX RESERVE FUND SHALL NOT BE PART OF THE TRUST ESTATE AND SHALL NOT BE SECURITY FOR THE BONDS.

### **Reimbursement Fund**

Money on deposit in the Reimbursement Fund shall be used to pay costs as provided in the Reimbursement Agreement. When all amounts due to the Developer to reimburse it for the funds withdrawn from the Project Fund have been paid to the Developer, whether through Assessments received and applied in accordance with the Service and Assessment Plan or an Annual Service Plan Update or through the proceeds of Additional Bonds, no further deposits shall be made to the Reimbursement Fund and the Reimbursement Fund shall be closed.

### **Defeasance**

Any Outstanding Bonds shall, prior to the Stated Maturity or redemption date thereof, be deemed to have been paid and no longer Outstanding within the meaning of the Indenture (a "Defeased Debt") when payment of the principal of, premium, if any, on such Defeased Debt, plus interest thereon to the due date thereof (whether such due date be by reason of maturity, redemption, or otherwise), either (1) shall have been made in accordance with the terms thereof, or (2) shall have been provided by irrevocably depositing with the Trustee, in trust, and irrevocably set aside exclusively for such payment, (A) money sufficient to make such payment or (B) Defeasance Securities, certified by

an independent public accounting firm of national reputation to mature as to principal and interest in such amount and at such times as will insure the availability, without reinvestment, of sufficient money to make such payment, and all necessary and proper fees, compensation, and expenses of the Trustee pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee. Neither Defeasance Securities nor moneys deposited with the Trustee pursuant to the Indenture nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on the Bonds. Any cash received from such principal of and interest on such Defeasance Securities deposited with the Trustee, if not then needed for such purpose, shall, be reinvested in Defeasance Securities as directed by the City maturing at times and in amounts sufficient to pay when due the principal of and interest on the Bonds on and prior to such redemption date or maturity date thereof, as the case may be. Any payment for Defeasance Securities purchased for the purpose of reinvesting cash as aforesaid shall be made only against delivery of such Defeasance Securities.

“Defeasance Securities” means Investment Securities then authorized by applicable law for the investment of funds to defease public securities. “Investment Securities” means those authorized investments described in the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended (“PFIA”); and provided further investments and are, at the time made, included in and authorized by the City’s official investment policy as approved by the City Council from time to time. Under current State law, which is subject to change, Investment Securities that are authorized for the investment of funds to defease public securities are (a) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America; (b) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality, and that, on the date the governing body of the City adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent; and (c) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the City adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent.

There is no assurance that the current law will not be changed in a manner which would permit investments other than those described above to be made with amounts deposited to defease the Bonds. Because the Indenture does not contractually limit such investments, Owners may be deemed to have consented to defeasance with such other investments, notwithstanding the fact that such investments may not be of the same investment quality as those currently permitted under State law. There is no assurance that the ratings for U.S. Treasury securities used as Defeasance Securities or that for any other Defeasance Security will be maintained at any particular rating category.

## **Events of Default**

Each of the following occurrences or events constitutes an “Event of Default” under the Indenture:

- (i) the failure of the City to deposit the Pledged Revenues to the Pledged Revenue Fund;
- (ii) the failure of the City to enforce the collection of the Assessments including the prosecution of foreclosure proceedings;
- (iii) default in the performance or observance of any covenant, agreement or obligation of the City under this Indenture other than a default under (iv) below, and the continuation thereof for a period of ninety (90) days after written notice specifying such default and requiring same to be remedied shall have been given to the City by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Owners of not less than fifty-one percent (51%) in principal amount of the Bonds Similarly Secured then Outstanding; provided, however, if the default stated in the notice is capable of cure but cannot reasonably be cured within the applicable period, the City shall be entitled to a further extension of time reasonably necessary to remedy such default so long as corrective action is instituted by the City within the applicable period and is diligently pursued until such failure is corrected, but in no event for a period of time of more than one hundred eighty (180) days after such notice; and



(iv) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable and such failure is not remedied within thirty (30) days thereafter.

### **Remedies in Event of Default**

Upon the happening and continuance of any of the Events of Default, then and in every such case the Trustee may proceed, and upon the written request of the Owners of not less than fifty-one percent (51%) in principal amount of the Bonds Similarly Secured then Outstanding hereunder shall proceed, to protect and enforce the rights of the Owners under the Indenture, by action seeking mandamus or by other suit, action, or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief to the extent permitted by Applicable Laws, including, but not limited to, the specific performance of any covenant or agreement contained in the Indenture, or injunction; provided, however, that no action for money damages against the City may be sought or shall be permitted.

**THE PRINCIPAL OF THE BONDS SHALL NOT BE SUBJECT TO ACCELERATION UNDER ANY CIRCUMSTANCES.**

If the assets of the Trust Estate are sufficient to pay all amounts due with respect to all Outstanding Bonds Similarly Secured, in the selection of Trust Estate assets to be used in the payment of Bonds Similarly Secured due in an Event of Default, the City shall determine, in its absolute discretion, and shall instruct the Trustee by City Certificate, which Trust Estate assets shall be applied to such payment and shall not be liable to any Owner or other Person by reason of such selection and application. In the event that the City shall fail to deliver to the Trustee such City Certificate, the Trustee shall select and liquidate or sell Trust Estate assets as provided in the following paragraph, and shall not be liable to any Owner, or other Person, or the City by reason of such selection, liquidation or sale.

Whenever moneys are to be applied pursuant to an Event of Default, irrespective of and whether other remedies authorized under the Indenture shall have been pursued in whole or in part, the Trustee may cause any or all of the assets of the Trust Estate, including Investment Securities, to be sold. The Trustee may so sell the assets of the Trust Estate and all right, title, interest, claim and demand thereto and the right of redemption thereof, in one or more parts, at any such place or places, and at such time or times and upon such notice and terms as the Trustee may deem appropriate and as may be required by law and apply the proceeds thereof in accordance with the provisions of the Indenture. Upon such sale, the Trustee may make and deliver to the purchaser or purchasers a good and sufficient assignment or conveyance for the same, which sale shall be a perpetual bar both at law and in equity against the City and all other Persons claiming such properties. No purchaser at any sale shall be bound to see to the application of the purchase money proceeds thereof or to inquire as to the authorization, necessity, expediency, or regularity of any such sale. Nevertheless, if so requested by the Trustee, the City shall ratify and confirm any sale or sales by executing and delivering to the Trustee or to such purchaser or purchasers all such instruments as may be necessary or, in the judgment of the Trustee, proper for the purpose which may be designated in such request.

### **Restriction on Owner's Actions**

No Owner shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of the Indenture or for the execution of any trust thereof or any other remedy thereunder, unless (i) a default has occurred and is continuing of which the Trustee has been notified in writing or of which it is deemed to have notice, (ii) such default has become an Event of Default and the Owners of not less than fifty-one percent (51%) of the aggregate principal amount of the Bonds Similarly Secured then Outstanding have made written request to the Trustee and offered it reasonable opportunity either to proceed to exercise the powers granted or to institute such action, suit or proceeding in its own name, (iii) the Owners have furnished to the Trustee indemnity as provided in the Indenture, (iv) the Trustee has for sixty (60) days after such notice failed or refused to exercise the powers granted, or to institute such action, suit, or proceeding in its own name, (v) no direction inconsistent with such written request has been given to the Trustee during such 60-day period by the Owners of not less than fifty-one percent (51%) of the aggregate principal amount of the Bonds Similarly Secured then Outstanding, and (vi) notice of such action, suit, or proceeding is given to the Trustee; however, no one or more Owners of the Bonds Similarly Secured shall have any right in any manner whatsoever to affect, disturb, or prejudice the Indenture by its, his or their action or to enforce any right thereunder except in the manner provided in the Indenture, and that all proceedings at law or in equity shall be instituted and maintained in the manner provided in the Indenture and for the equal benefit of the Owners of all Bonds Similarly Secured then Outstanding. The notification, request and furnishing of indemnity shall, at the option of the

Trustee, be conditions precedent to the execution of the powers and trusts of the Indenture and to any action or cause of action for the enforcement of the Indenture or for any other remedy thereunder.

Subject to provisions of the Indenture with respect to certain liabilities of the City, nothing in the Indenture shall affect or impair the right of any Owner to enforce, by action at law, payment of any Bond at and after the maturity thereof, or on the date fixed for redemption or the obligation of the City to pay each Bond issued thereunder to the respective Owners thereof at the time and place, from the source and in the manner expressed therein and in the Bonds.

In case the Trustee or any Owners of Bonds Similarly Secured shall have proceeded to enforce any right under the Indenture and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or any Owners of Bonds Similarly Secured, then and in every such case the City, the Trustee and the Owners of Bonds Similarly Secured shall be restored to their former positions and rights thereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

### **Application of Revenues and Other Moneys After Event of Default**

All moneys, securities, funds and Pledged Revenues and the income therefrom received by the Trustee pursuant to any right given or action taken under the provisions of the Indenture with respect to Events of Default shall, after payment of the cost and expenses of the proceedings resulting in the collection of such amounts, the expenses (including Trustee's counsel), liabilities, and advances incurred or made by the Trustee and the fees of the Trustee in carrying out the Indenture, be applied by the Trustee, on behalf of the City, to the payment of interest and principal or redemption price then due on Bonds Similarly Secured, as follows:

(i) FIRST: To the payment to the Owners entitled thereto all installments of interest then due in the direct order of maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment, then to the payment thereof ratably, according to the amounts due on such installment, to the registered owners entitled thereto, without any discrimination or preference; and

(ii) SECOND: To the payment to the Owners entitled thereto of the unpaid principal of Outstanding Bonds Similarly Secured, or redemption price of any Bonds Similarly Secured which shall have become due, whether at maturity or by call for redemption, in the direct order of their due dates and, if the amounts available shall not be sufficient to pay in full all the Bonds Similarly Secured due on any date, then to the payment thereof ratably, according to the amounts of principal due and to the Owners entitled thereto, without any discrimination or preference.

In the event funds are not adequate to cure an Event of Default, the available funds will be allocated to the Bonds Similarly Secured that are Outstanding in proportion to the quantity of Bonds Similarly Secured that are currently due and in default under the terms of the Indenture.

Within thirty (30) days of receipt of such good and available funds, the Trustee may fix a record and payment date for any payment to be made to Owners of Bonds Similarly Secured.

The restoration of the City to its prior position after any and all defaults have been cured, as provided above, shall not extend to or affect any subsequent default under the Indenture or impair any right consequent thereon.

### **Investment or Deposit of Funds**

Money in any Fund or Account established pursuant to the Indenture, other than the Reserve Account, shall be invested by the Trustee as directed by the City pursuant to a City Certificate filed with the Trustee in Investment Securities; provided that all such deposits and investments shall be made in such manner that the money required to be expended from any Fund or Account will be available at the proper time or times. Money in the Reserve Account shall be invested in such Investment Securities as directed by the City pursuant to a City Certificate filed with the Trustee, provided that the final maturity of any individual Investment Security shall not exceed two hundred seventy (270) days and the average weighted maturity of any investment pool or no-load money market mutual fund shall not exceed ninety (90) days.

Obligations purchased as an investment of moneys in any Fund or Account established pursuant to the Indenture shall be deemed to be part of such Fund or Account, subject, however, to the requirements of the Indenture for transfer of interest earnings and profits resulting from investment of amounts in Funds and Accounts. Whenever in the Indenture any moneys are required to be transferred by the City to the Trustee, such transfer may be accomplished by transferring a like amount of permitted investments.

### **Against Encumbrances**

The City will covenant in the Indenture not to create and, to the extent Pledged Revenues are received, not suffer to remain, any lien, encumbrance or charge upon the Pledged Revenues, or upon any other property pledged under the Indenture, except the pledge created for the security of the Bonds Similarly Secured or any Refunding Bonds, and other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds Similarly Secured. "Refunding Bonds" means bonds issued to refund all or any portion of the Outstanding Bonds and secured by a parity lien with the Outstanding Bonds on the Trust Estate.

So long as Bonds Similarly Secured are Outstanding under the Indenture or under any indenture relating to any Additional Bonds, the City will not issue any bonds, notes or other evidences of indebtedness other than the Bonds, Refunding Bonds and Additional Bonds, secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under the Indenture or under any indenture relating to any Additional Bonds, other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds Similarly Secured.

### **Other Obligations or Other Liens; Refunding Bonds; Additional Bonds**

The City reserves the right to issue obligations under other indentures, assessment ordinances, or similar agreements or other obligations (which obligations may be secured by future assessments levied in accordance with the PID Act) which do not constitute or create a lien on the Trust Estate and are not payable from the Pledged Revenues.

Other than Refunding Bonds and Additional Bonds, the City will not create or voluntarily permit to be created any debt, lien or charge on the Trust Estate, and will not do or omit to do or suffer to be done or omit to be done any matter or things whatsoever whereby the lien of the Indenture or the priority hereof might or could be lost or impaired; and further covenants that it will pay or cause to be paid or will make adequate provisions for the satisfaction and discharge of all lawful claims and demands which if unpaid might by law be given precedence over or any equality with the Indenture as a lien or charge upon the Pledged Revenues, Pledged Funds or the Trust Estate; provided, however, that nothing in the Indenture shall require the City to apply, discharge, or make provision for any such lien, charge, claim, or demand so long as the validity thereof shall be contested by it in good faith, unless thereby, in the opinion of counsel to the Trustee, the same would endanger the security for the Bonds.

Notwithstanding any contrary provision of the Indenture, the City shall not issue additional bonds, notes or other obligations under the Indenture, secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under the Indenture, other than Additional Bonds and Refunding Bonds. The City reserves the right to issue Refunding Bonds, the proceeds of which would be utilized to refund all or any portion of the Outstanding Bonds or Outstanding Refunding Bonds and to pay all costs incident to the Refunding Bonds, as authorized by the laws of the State.

The City reserves the right to issue Additional Bonds for any purpose permitted by the PID Act and in accordance with the conditions set forth below:

- (i) A City Representative shall certify that the City is not in default in the performance and observance of any of the terms, provisions and conditions applicable to it contained in the Indenture.
- (ii) The Trustee shall receive a certificate from the Administrator certifying that the Developer is not delinquent on any Assessments, other than any Assessments being contested in good faith.
- (iii) The Trustee shall receive a certificate from the City Representative certifying that (1) the Developer is not delinquent on any ad valorem taxes, fees or any other funds or commitments to the City, (2) the City

is not in default in the performance and observance of any of the terms, provisions and conditions applicable to the City contained in the Indenture, (3) the City is in material compliance with its continuing disclosure agreements entered into in connection with all Outstanding Bonds, Additional Bonds and any other applicable City obligations, pursuant to Rule 15c2-12 of the Securities Exchange Commission.

- (iv) The Trustee shall receive a certificate from the Developer, through an authorized representative, certifying that (1) the Developer is not in default in the performance and observance of any of the terms, provisions and conditions applicable to it contained in the Financing Agreement and the Reimbursement Agreement, (2) the Developer is in material compliance with its continuing disclosure agreements entered into in connection with all Outstanding Bonds, Additional Bonds and any other applicable City obligations, pursuant to Rule 15c2-12 of the Securities Exchange Commission, and (3) one hundred percent (100%) of the residential lots within Phase C are under contract with or have been sold to merchant homebuilders unaffiliated with the Developer, and (4) [the Multi-family A tract or site will be under contract for sale with a developer.]
- (v) The Developer shall provide the City with a certificate or report from either the Hays Central Appraisal District, an independent certified appraiser, appraisal firm or financial consultant, selected by the City in consultation with the Developer, assuming completion of the improvements financed with the proceeds of the Additional Bonds, demonstrating that (1) the ratio of the aggregate appraised value of all assessed Parcels within the District to the portion of the aggregate principal amount of the Outstanding Bonds and the Additional Bonds to be issued (the "Aggregate Value to Lien Ratio") is at least 3:1 and (2) the ratio of the appraised value of each type of Assessed Parcel within the District to the portion of the allocable principal amount of the Outstanding Bonds and the Additional Bonds to be issued for each type of Assessed Parcel (each an "Individual Value to Lien Ratio") is at least 2:1. In calculating the Aggregate Value to Lien Ratio and the Individual Value to Lien Ratio, the Hays Central Appraisal District, the independent certified appraiser, appraisal firm or financial consultant may rely on a certificate from the Administrator that home construction has commenced and the County appraiser's assessed valuation for completed homes and a certification of value for lots on which homes are under construction.
- (vi) Additional Bonds may only be issued for the purposes of financing the costs of the Public Improvements as described in the Service and Assessment Plan, including related soft costs and financing costs.
- (vii) The principal of and interest on any Additional Bonds must be scheduled to be paid or mature on March 1 or September 1, or both, of the years in which principal or interest is scheduled to be paid or mature.
- (viii) The maximum aggregate principal amount of all Additional Bonds that may be issued is [\$\_\_\_\_,\_\_\_\_,000].

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## SOURCES AND USES OF FUNDS

The table that follows summarizes the expected sources and uses of proceeds of the Bonds and additional funds received from the Developer:

### Sources of Funds:

Principal Amount	\$
Developer "Initial Deposit" to Developer Property Tax Reserve Fund	
TOTAL SOURCES	\$

### Use of Funds:

Deposit to Improvement Account of the Project Fund	\$
Deposit to Capitalized Interest Account of the Bond Fund	]
Deposit to Reserve Account of the Reserve Fund	
Deposit to the Administrative Fund	
Deposit to Developer Property Tax Reserve Fund	
Deposit to Costs of Issuance Account of Project Fund	
Underwriter's Discount <sup>(1)</sup>	
TOTAL USES	\$

<sup>(1)</sup>Includes Underwriter's Counsel's fee of \$\_\_\_\_\_.

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## DEBT SERVICE REQUIREMENTS\*

The following table sets forth the anticipated debt service requirements for the Bonds:<sup>(1)</sup>

<b><u>Year Ending (September 30)</u></b>	<b><u>Principal</u></b>	<b><u>Interest</u></b>	<b><u>Total</u></b>
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
2039			
2040			
2041			
2042			
2043			
2044			
2045			
2046			
2047			
2048			
<b>Total</b>			

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<sup>(1)</sup> To be updated upon pricing.

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\* Preliminary, subject to change.

## OVERLAPPING TAXES AND DEBT

The land within the District has been, and is expected to continue to be, subject to taxes and assessments imposed by taxing entities other than the City. Such taxes are payable in addition to the Assessments.

In addition to the Assessments described above, the Developer anticipates that each property owner in the District will pay an annual maintenance and operation fee and/or a property owners' association fee (the "General Owners' Association Fee") to Trace Master Community Inc., (the "Owners' Association"), an owners' association formed by the Developer. Each property owner in the District may also be required to pay to the Owners' Association one or more additional annual maintenance and operation fee (the "Additional Owners' Association Fee" and together with the General Owners' Association Fee, the "Owners' Association Fees") for the operation and maintenance of any improvements or amenities specific to the property owner's lot. All Owners' Association Fees will be calculated annually based on the estimated expenses to be incurred by the Owners' Association in performing its functions to, among other things, maintain, repair and manage the improvements or amenities covered by the respective Owners' Association Fee. All Owners' Association Fees are \$48 per month for 2018. In addition to the City, Hays County, the San Marcos Consolidated Independent School District ("San Marcos CISD") and the York Creek Improvement District may each levy ad valorem taxes upon land in the District for payment of debt incurred by such governmental entities and/or for payment of maintenance and operations expenses. The City has no control over the level of ad valorem taxes or special assessments levied by such other taxing authorities. The following table reflects the overlapping ad valorem taxes currently levied on property located in the District. The District is entirely within the boundaries of the City, Hays County and San Marcos CISD.

### Overlapping Taxes

Taxing Entity	Single-family and Multi-family Tax Year 2018 Ad Valorem Tax Rate <sup>(1)</sup>	Commercial and Retail Tax Year 2018 Ad Valorem Tax Rate <sup>(1)</sup>
The City	\$0.6139	\$0.6139
Hays County	0.3899	0.3899
Hays County (Road & Bridge Tax)	0.0438	0.0438
San Marcos CISD	1.4141	1.4141
York Creek Improvement District	0.0048	0.0048
Total Current Tax Rate		
Estimated Average Annual Installment of parcels in the District as a tax rate equivalent <sup>(2)</sup>	<u>0.3482</u>	<u>0.3482</u> <sup>(3)</sup>
<b>Estimated Total Tax Rate and Average Annual Installment of parcels in the District as a tax rate equivalent</b>	<b><u>\$2.8147</u></b>	<b><u>\$2.8147</u></b>

<sup>(1)</sup> As reported by the taxing entities. Per \$100 in value.

<sup>(2)</sup> Derived from information in the Service and Assessment Plan, and from lot counts and values provided by the Developer. Approximately 44.7% of each Annual Installment is attributable to the Additional Assessment. The Developer expects that, as of December 12, 2018, 19 individual homeowners may have the ability to claim homestead rights. See "ASSESSMENT PROCEDURES – Priority of Lien" and "BONDHOLDERS RISKS – Existing Homestead Rights." Preliminary; subject to change.

<sup>(3)</sup> The estimated average Annual Installment as tax rate equivalent allocable to the commercial and retail sites does take into consideration the Commercial Assessment Prepayment. The estimated average Annual Installment as tax rate equivalent allocable to the commercial and retail sites not taking into consideration the Commercial Assessment Prepayment is estimated to be \_\_\_\_\_. See "PLAN OF FINANCE — Development Plan" and "ASSESSMENT METHODOLOGY — Prepayment of Assessments – Commercial Assessment Prepayment" and "— Reduction of Assessments."

Source: Hays Central Appraisal District and the Service and Assessment Plan.

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As noted above, the District includes territory located in other governmental entities that may issue or incur debt secured by the levy and collection of ad valorem taxes or assessments. Set forth below is an overlapping debt table showing the outstanding indebtedness payable from ad valorem taxes with respect to property within the District, as of \_\_\_\_\_, 2018, and City debt to be secured by the Assessments:

### Overlapping Debt

Taxing or Assessing Entity	Gross Outstanding Debt as of _____/2018	Estimated Percentage Applicable <sup>(1)</sup>	Estimated Overlapping Debt <sup>(1)</sup>
The City (Assessments - The Bonds)	\$11,075,000 <sup>(2)</sup>	100.00%	\$11,075,000
The City (Ad Valorem Taxes)			
Hays County			
Hays County (Road & Bridge Tax)	-	-	-
San Marcos CISD			
York Creek Improvement District	-	-	-
Total			

<sup>(1)</sup> Based on the Appraisal for the District and on certified valuations for the Tax Year 2018 for the taxing entities.

<sup>(2)</sup> Preliminary; subject to change.

Sources: Hays Central Appraisal District and Municipal Advisory Council of Texas.

If land is devoted principally to open-space agricultural use, the landowner can apply for an open-space agricultural valuation on the property and pay ad valorem taxes based on the land's productive capacity. Qualified open-space land includes land devoted to agricultural use, the production of timber or forest, or wildlife management. A portion of the property in the District is currently being utilized for wildlife management purposes only, pursuant to a wildlife management plan. The aforesaid wildlife management plan is expected to be updated annually, which update will remove the open-space agricultural valuation on a portion of the property within the District at or prior to commencement of development of such portion of the District. See "BONDHOLDERS' RISKS – Agricultural Use Valuation and Redemption Rights."

If land qualified for an open-space agricultural valuation but the land use changes to a non-open-space agricultural use, "rollback taxes" are assessed for each of the previous five years in which the land received the lower open-space agricultural valuation. The rollback tax is the difference between taxes paid on land's open-space agricultural value and the taxes that the land owner would have paid if the land had been taxed on a higher market value plus interest charged for each year from the date on which taxes would have been due.

If the land use changes to a non-open-space agricultural use on only a portion of a larger tract, the land owner can fence off the remaining land and maintain the open-space agricultural valuation on the remaining land. In this scenario, the land owner would only be responsible for rollback taxes on that portion of the land where use changed and not the entire tract. It is expected that rollback taxes will be paid by the Developer or purchasers from the Developer during development of the District and prior to the purchase of parcels of lots by homeowners.

## ASSESSMENT PROCEDURES

### General

Capitalized terms used under this caption and not otherwise defined in this Limited Offering Memorandum shall have the meaning given to such terms in the Service and Assessment Plan. As required by the PID Act, when the City determines to defray a portion of the costs of the Public Improvements through Assessments, it must adopt a resolution generally describing the Public Improvements and the land within the District to be subject to Assessments to pay the costs therefor. The City has caused an assessment roll to be prepared (the "Assessment Roll"), which Assessment Roll shows the Assessed Parcels within the District, the amount of the benefit to and the Assessment against each lot or parcel of land and the number of Annual Installments in which the Assessment is divided. The Assessment Roll was filed with the City Clerk and made available for public inspection. Statutory notice was given

to the owners of the property to be assessed and a public hearing was conducted to hear testimony from affected property owners as to the propriety and advisability of undertaking the Public Improvements and funding the same with Assessments. The City levied the Initial Assessments and the Additional Assessments pursuant to the adoption of the Initial Assessment Ordinance and the Additional Assessment Ordinance, respectively. Upon such adoption, the Assessments became legal, valid and binding liens upon the property against which the Assessments are made.

Under the PID Act, the costs of Public Improvements to be defrayed through Assessments may be assessed by the City against the assessable property in the District so long as the special benefit conferred upon the Assessed Parcels by the Public Improvements equals or exceeds the Assessments. The costs of the Public Improvements may be assessed using any methodology that results in the imposition of equal shares of cost on Assessed Parcels similarly benefited. The allocation of benefits and assessments to the benefitted land within the District is presented in the Service and Assessment Plan, which should be read in its entirety. See “APPENDIX C — Form of Service and Assessment Plan.”

### **Assessment Methodology**

The Service and Assessment Plan describes the special benefit to be received by each parcel of assessable property as a result of the Public Improvements, provides the basis and justification for the determination that such special benefit exceeds the Assessments being levied, and establishes the methodology by which the City allocates the special benefit of the Public Improvements to parcels in a manner that results in equal shares of costs being apportioned to parcels similarly benefited. As described in the Service and Assessment Plan, a portion of the costs of the Public Improvements are being funded with proceeds of the Bonds, which are payable from and secured by Pledged Revenues, including the Assessments.

*Public Improvements (Benefitting Assessed Parcels other than Elementary School Site and Amenity Center Site).* As set forth in the Service and Assessment Plan, the benefits received by the Public Improvements will be spread among the Assessed Property, other than the Elementary School Site (which is not included as Assessed Property), as discussed below, and the Amenity Center Site, as discussed below, based on the ratio of the estimated build out value of each Lot to the total estimated build out value for all Parcels within the District. As Parcels are subsequently divided, the Assessments will be further apportioned based on the ratio of the estimated build out values of the newly created Parcels.

*Public Improvements (Benefitting the Elementary School Site).* The site on which the Elementary School will be constructed (the “Elementary School Site”) is allocated 1% of the costs of the Public Improvements (\$223,864). The City and the Developer have agreed that no Assessment will be levied on the Elementary School Site. Instead the Developer has agreed to pay the costs of the Public Improvements allocated to the Elementary School Site without reimbursement by the City. See “THE DEVELOPMENT — Education.”

*Public Improvements (Benefitting the Amenity Center Site).* The site on which the Amenity Center will be constructed (the “Amenity Center Site”) is allocated 1% of the total Assessments (\$220,000). An Assessment equal to such amount is expected to be allocated to the Amenity Center Site at the time of platting. The City has determined that allocating the Assessments to the Assessed Property, other than the Elementary School Site and the Amenity Center Site, based on the relative estimated build out value of each Lot will result in the imposition of equal shares of the Assessments on Lots similarly situated. The Assessments and the interest thereon are expected to be paid in Annual Installments as described in the Service and Assessment Plan. The determination by the City of the assessment methodology set forth in the Service and Assessment Plan is the result of the discretionary exercise by the City Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners within the District. See “APPENDIX C — Form of Service and Assessment Plan.”

### **Collection and Enforcement of Assessment Amounts**

Under the PID Act, the Annual Installments may be collected in the same manner and at the same time as regular ad valorem taxes of the City. The Assessments may be enforced by the City in the same manner that an ad valorem tax lien against real property is enforced. Delinquent installments of the Assessments incur interest, penalties and attorney’s fees in the same manner as delinquent ad valorem taxes. Under the PID Act, the Assessment Lien is a first and prior lien against the property assessed, superior to all other liens and claims except liens or claims for State,

county, school district or municipality ad valorem taxes. See “BONDHOLDERS’ RISKS — Assessment Limitations” herein.

The City will covenant in the Indenture to collect, or cause to be collected, Assessments as provided in the Assessment Ordinance. No less frequently than annually, City staff or a designee of the City shall prepare, and the City Council shall approve, an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and a calculation of the Annual Installment for each Parcel. Annual Collection Costs shall be allocated among all Parcels in proportion to the amount of the Annual Installments for the Parcels.

The City will covenant, agree and warrant in the Indenture that, for so long as any Bonds are Outstanding and amounts are due to the Developer under the Reimbursement Agreement to reimburse it for its funds it has contributed to pay costs of the Public Improvements, that it will take and pursue all actions permissible under Applicable Laws to cause the Assessments to be collected and the liens thereof enforced continuously, in the manner and to the maximum extent permitted by Applicable Laws, and, to the extent permitted by Applicable Laws, to cause no reduction, abatement or exemption in the Assessments.

To the extent permitted by law, notice of the Annual Installments will be sent by, or on behalf of the City, to the affected property owners on the same statement or such other mechanism that is used by the City, so that such Annual Installments are collected simultaneously with ad valorem taxes and shall be subject to the same penalties, procedures, and foreclosure sale in case of delinquencies as are provided for ad valorem taxes of the City.

The City will determine or cause to be determined, no later than February 15 of each year, whether or not any Annual Installment is delinquent and, if such delinquencies exist, the City will order and cause to be commenced as soon as practicable any and all appropriate and legally permissible actions to obtain such Annual Installment, and any delinquent charges and interest thereon, including diligently prosecuting an action in district court to foreclose the currently delinquent Annual Installment. Notwithstanding the foregoing, the City shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Assessment or the corresponding property. The initial Annual Installments of Initial Assessments should have been, but were not, billed on October 1, 2017, therefore, those Annual Installments were not considered delinquent. Instead, the initial Annual Installments of Initial Assessments were billed on November 26, 2018 and paid by the respective landowners by December \_\_, 2018.

The City will implement the basic timeline and procedures for Assessment collections and pursuit of delinquencies set forth in Exhibit C of the Continuing Disclosure Agreement of the Issuer set forth in APPENDIX E-1 and to comply therewith to the extent that the City reasonably determines that such compliance is the most appropriate timeline and procedures for enforcing the payment of delinquent Assessments.

The City shall not be required under any circumstances to expend any funds for Delinquent Collection Costs in connection with its covenants and agreements under the Indenture or otherwise other than funds on deposit in the Administrative Fund.

Annual Installments will be paid to the City or its agent. Annual Installments are due when billed on or about October 1 each year, and become delinquent on February 1. In the event Assessments are not timely paid, there are penalties and interest as set forth below:

Date Payment	Cumulative	Cumulative	
<u>Received</u>	<u>Penalty</u>	<u>Interest</u>	<u>Total</u>
February	6%	1%	7%
March	7%	2%	9%
April	8%	3%	11%
May	9%	4%	13%
June	10%	5%	15%
July	12%	6%	18%

After July, the penalty remains at 12%, and interest increases at the rate of 1% each month. In addition, if an account is delinquent in July, a 20% attorney’s collection fee may be added to the total penalty and interest charge.



In general, property subject to lien may be sold, in whole or in parcels, pursuant to court order to collect the amounts due. An automatic stay by creditors or other entities, including governmental units, could prevent governmental units from foreclosing on property and prevents liens for post-petition taxes from attaching to property and obtaining secured creditor status unless, in either case, an order lifting the stay is obtained from the bankruptcy court. In most cases, post-petition Assessments are paid as an administrative expense of the estate in bankruptcy or by order of the bankruptcy court.

### **Assessment Amounts**

*Assessment Amounts.* The amounts of the Assessments have been established by the methodology described in the Service and Assessment Plan. The Assessment Roll sets forth for each year the Annual Installment for each Parcel. The Annual Installments for the District may not exceed the amounts shown on the Assessment Roll. The Assessments will be levied against the parcels comprising the Assessed Property in the District as indicated on the Assessment Roll. See “APPENDIX C — Form of Service and Assessment Plan.”

The Annual Installments shown on the Assessment Roll will be reduced to equal the actual costs of repaying the Bonds, the Additional Interest and actual Annual Collection Costs (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. If the total Annual Installments collected from an Assessed Property within the District in a given year are less than the combined Annual Installments of Initial Assessments and Annual Installments of Additional Assessments due from such Assessed Property for that year, then the Annual Installments collected will be allocated between the Annual Installments of Initial Assessments and the Annual Installments of Additional Assessments proportionally based on the ratio of the total Annual Installments of Initial Assessments and the total Annual Installments of Additional Assessments due from such Assessed Property for that year, unless otherwise directed to a specific Assessment by the Parcel or Lot owner.

*Method of Apportionment of Assessments.* For purposes of the Service and Assessment Plan, the City Council has determined that the Assessments shall be allocated to the Assessed Property according to estimated buildout value per Lot. If an Assessed Property is divided prior to recording of a subdivision plat, the Assessment of such Assessed Property before the division shall be reallocated to the newly divided Assessed Properties by the City staff or by a third party consultant contracted by the City to administer the PID (the “PID Administrator”) (and approved by the City Council in the next Annual Service Plan Update) based on the ratio of estimated build out value of each Assessed Property to estimated build out value of all newly-created Assessed Properties. If the division is by a recorded subdivision plat, the Assessment of such Parcel before the division shall be reallocated to the newly subdivided Lots by City staff or the PID Administrator (and approved by the City Council in the next Annual Service Plan Update) based on the ratio of estimated build out value of each Lot Type of Assessed Parcels to estimated build out value of all newly-created Assessed Parcels. If, as the result of any replat, the sum of the Assessments against the replatted lot(s) exceeds the sum of Assessments before the replating, the person requesting the replat shall prepay the amount of new Assessments that exceeds the prior amount of Assessments. See “APPENDIX C — Form of Service and Assessment Plan.” The following table provides the expected allocation of Assessments based on Lot Type.

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**Expected Assessment Allocation by Lot Type in the District\***

Parcel or Lot Type	Planned Number of Lots/Units /Square Foot <sup>(1)</sup>	Projected Buildout Value per Lot	Assessment per Lot <sup>(2)</sup>	Total Assessments <sup>(2)</sup>	Average Annual Installments per Lot <sup>(2)(3)</sup>	Equivalent Tax Rate per \$100 AV
Single-family						
<i>Lot Type 1</i>	179	\$ 192,131	\$ 8,735	\$ 1,563,565	\$629	.3482
<i>Lot Type 2</i>	149	235,400	10,702	1,594,598	771	.3482
<i>Lot Type 3</i>	679	259,657	11,805	8,015,595	850	.3482
Multi-Family	777	135,000	6,137	4,768,449	—	.3482
Commercial <sup>(4)</sup>						
<i>Retail</i>	233,155	34,973,250	1,589,966	1,589,966	—	.3482
<i>Office/Business     Park</i>	467,181	93,436,200	4,247,829	4,247,829	—	.3482
Amenity Center	—	—	220,000	<u>220,000</u>	—	—
<b>Total</b>	—	—	—	<b>\$22,000,000</b>	—	—

<sup>(1)</sup> Based on the concept plan for the District. Derived from information in the Service and Assessment Plan. Although the actual unit counts and estimated unimproved land value may vary from that shown above, the Assessment allocation for each Lot Type will not change unless modified in an Annual Service Plan Update approved by the City Council, subject to the terms of the Service and Assessment Plan, the PID Act, and other documents associated with the Bonds.

<sup>(2)</sup> Derived from information in the Service and Assessment Plan. Includes both Initial Assessments and Additional Assessments. Approximately 49.4% of each Assessment per Lot, and 44.7% of each Annual Installment is attributable to the Additional Assessment. The Developer expects that, as of December 12, 2018, 19 individual homeowners may have the ability to claim homestead rights. See “ASSESSMENT PROCEDURES – Priority of Lien” and “BONDHOLDERS RISKS – Existing Homestead Rights.”

<sup>(3)</sup> The average annual installments for the single-family lots are based on the average annual installments for the platted single-family parcels in Phase A. The average annual installments for the multi-family, retail and office/business park cannot be determined at this time as they currently consist of one unplatted parcel.

<sup>(4)</sup> The Assessments, average Annual Installments and tax rate equivalents for the office/business park and retail sites does not take into consideration the expected Commercial Assessment Prepayment. See “PLAN OF FINANCE — Development Plan” and “ASSESSMENT METHODOLOGY — Prepayment of Assessments – Commercial Assessment Prepayment” and “— Reduction of Assessments.”

\* Preliminary; subject to change.

The Bonds are secured by a first lien on and pledge of Pledged Revenues, including the Assessments. See “SECURITY FOR THE BONDS” and “APPENDIX C — Form of Service and Assessment Plan.”

### Prepayment of Assessments

***Voluntary Prepayments.*** Pursuant to the PID Act and the Indenture, the owner of any property assessed may voluntarily prepay (a “Prepayment”) all or part of any Assessment levied against any lot or parcel, together with accrued interest to the date of payment, at any time. Upon receipt of such Prepayment, such amounts will be applied towards the redemption or payment of the Bonds. Amounts received at the time of a Prepayment which represent a payment of principal, interest, or penalties on a delinquent installment of an Assessment are not to be considered a Prepayment, but rather are to be treated as payment of regularly scheduled Assessments. Unless otherwise directed to a specific Assessment by the Parcel or Lot owner, any Prepayment or partial Prepayment for an Assessed Property within the District will be allocated between the Initial Assessments and the Additional Assessments proportionally based on the ratio of the outstanding Initial Assessments and Additional Assessments due from such Assessed Property at the time of such Prepayment or partial Prepayment.

***Mandatory Prepayments.*** If (i) Assessed Property is transferred to a party that is exempt from the payment of the Assessment under applicable law, or (ii) an owner of Assessed Property causes the Assessed Property to become Non-Benefited Property, the owner of such Assessed Property shall pay to the City the full amount of the Assessment, plus all Prepayment Costs and Delinquent Collection Costs, prior to any such transfer or act, in accordance with the Service and Assessment Plan.

**Commercial Assessment Prepayment.** In order to reduce the tax rate equivalent on the commercial and retail sites to make the Development more competitive, pursuant to the Financing Agreement, the Developer is required to prepay \$2,600,000 in Assessments levied against the office/business park and retail parcels by the earlier of (i) the issuance of Additional Bonds, if any, and (ii) August 31, 2022. The Commercial Assessment Prepayment will be used to pay the Reimbursement Obligation under the Reimbursement Agreement and is not security for the Bonds.

### **Reduction of Assessments**

**Voluntary Reduction.** If after all Public Improvements to be funded with the Bonds have been completed and the Actual Costs for the Public Improvements are less than the costs used to calculate the Assessments, then the City may reduce the Assessment for each Assessed Property pro rata such that the sum of the resulting reduced Assessments for all Assessed Properties equals the reduced Actual Costs. Additionally, the City may, at its discretion use such excess Bond proceeds to fund additional Public Improvements in the District. Additionally, if the City does not undertake some of the Public Improvements, the City may, at its discretion, reduce the Assessment for each Assessed Property pro rata to reflect only the Actual Costs that were expended. The Assessments shall not, however, be reduced to an amount less than the applicable outstanding Bonds.

**Mandatory Reduction.** If the Developer has not made the Commercial Assessment Prepayment by August 31, 2022, then the Assessments levied against Assessed Property within the District shall be reduced by \$2,600,000, allocating such reduction to each Assessed Parcel pro rata based on the amount of outstanding Assessments levied against all Assessed Parcels.

### **Priority of Lien**

The Assessments or any reassessment, the expense of collection, and reasonable attorney's fees, if incurred, constitute a first and prior lien against the property assessed, superior to all other liens and claims except liens or claims for the State, county, school district or municipality ad valorem taxes, and are a personal liability of and charge against the owners of the property regardless of whether the owners are named. The lien is effective from the date of the Assessment Ordinance until the Assessment is paid, and may be enforced by the City in the same manner as an ad valorem tax levied against real property may be enforced by the City. The owner of any property assessed may pay the entire Assessment levied against any lot or parcel, together with accrued interest to the date of payment, at any time.

Based on existing home sale contracts, the Developer expects that, as of December 12, 2018, there will be 19 individual homeowners within the District, whose properties are estimated collectively represent \$\_\_\_\_\_ of Additional Assessments levied within the District. These homeowners may have the ability to claim homestead rights under State law, which, if claimed, prohibits these properties from being foreclosed for purposes of collecting their Additional Assessments. The Initial Assessments were in place prior to any individual homeowners having the ability to claim homestead rights upon their properties, and, therefore, foreclosure remains available for collecting the Initial Assessments on these properties. See "BONDHOLDERS' RISKS — Assessment Limitations" and "— Existing Homestead Rights."

### **Foreclosure Proceedings**

In the event of delinquency in the payment of any Annual Installment, except for unpaid Assessments on homestead property (unless the lien associated with the assessment attached prior to the date the property became a homestead), the City is empowered to order institution of an action in state district court to foreclose the lien of such delinquent Annual Installment. In such action the real property subject to the delinquent Annual Installments may be sold at judicial foreclosure sale for the amount of such delinquent Annual Installments, plus penalties and interest.

Any sale of property for nonpayment of an installment or installments of an Assessment will be subject to the lien established for remaining unpaid installments of the Assessment against such property and such property may again be sold at a judicial foreclosure sale if the purchaser thereof fails to make timely payment of the non-delinquent

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\* Preliminary; subject to change.

installments of the Assessments against such property as they become due and payable. Judicial foreclosure proceedings are not mandatory. In the event a foreclosure is necessary, there could be a delay in payments to owners of the Bonds pending prosecution of the foreclosure proceedings and receipt by the City of the proceeds of the foreclosure sale. It is possible that no bid would be received at the foreclosure sale, and in such event there could be an additional delay in payment of the principal of and interest on Bonds or such payment may not be made in full. The City is not required under any circumstance to purchase or make payment for the purchase of the delinquent Assessment on the corresponding Assessed Parcel.

The City will covenant in the Indenture to take and pursue all reasonable actions permissible under Applicable Laws to cause the Assessments to be collected and the liens thereof enforced continuously, in the manner and to the maximum extent permitted by Applicable Laws, and to cause no reduction, abatement or exemption in the Assessments, provided that the City is not required to expend any funds for collection and enforcement of Assessments other than funds on deposit in the Administrative Fund. Pursuant to the Indenture, Foreclosure Proceeds (excluding Delinquent Collection Costs) constitute Pledged Revenues to be deposited into the Pledged Revenue Fund upon receipt by the City and distributed in accordance with the Indenture. See “APPENDIX B — Form of Indenture.” See also “APPENDIX E-1 — Form of Disclosure Agreement of the Issuer” for a description of the expected timing of certain events with respect to collection of the delinquent Assessments.

The City will not be obligated to fund foreclosure proceedings out of any funds other than in the Administrative Fund. If Pledged Revenues are insufficient to pay foreclosure costs, the owners of the Bonds may be required to pay amounts necessary to continue foreclosure proceedings. See “APPENDIX B — Form of Indenture” and “APPENDIX C — Form of Service and Assessment Plan.”

## **THE CITY**

### **Background**

The City is the county seat and principal commercial, education and recreational center of Hays County located in the center of the State in the Austin-San Marcos statistical metropolitan area, approximately midway between the metropolitan areas of San Antonio and Austin. The City is located on Interstate Highway 35, U.S. 81, State Highways 80, 142, 21, 123 and Ranch Road 12. The City contains a total land area of approximately 32 square miles. The City’s 2010 census population was 44,994. The City’s current population estimate is [61,980].

### **City Government**

The City is a political subdivision operating as a home-rule city under the laws of the State and a home-rule charter, initially approved by the voters in 1967. The City operates under the City Council/Manager form of government where the Mayor is elected at-large in even numbered years for a two-year term and six Council Members are elected at-large for staggered three year terms. The City Council formulates operating policy for the City while the City Manager is the chief administration officer.

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The current members of the City Council and their respective expiration of terms of office are as follows:

<u>City Council</u>	<u>Length of Service</u>	<u>Term Expires</u>
Jane Hughson <sup>(1)</sup> Mayor	4 Years	November 2020
Lisa Prewitt Councilmember, Place 1	4 Years	November 2019
Saul Gonzales Councilmember, Place 2	4 Years	November 2019
Ed Mihalkanin Councilmember, Place 3	4 Years	November 2020
To be determined <sup>(2)</sup> Councilmember, Place 4	-	November 2020
To be determined <sup>(2)</sup> Councilmember, Place 5	-	November 2021
Melissa Derrick Councilmember, Place 6	4 Years	November 2021

<sup>(1)</sup> Newly elected as Mayor, as of November 6, 2018. She previously served as a City Council member for four years.

<sup>(2)</sup> These City Council seats are subject to runoff elections, which will take place December 11, 2018 and will be canvassed on or about December 19, 2018.

The principal administrators of the City include the following:

<u>Name</u>	<u>Position</u>
Bert Lumbreras	City Manager
Collette Jamison	Assistant City Manager
Steve Parker	Assistant City Manager
Heather Hurlbert	Director of Finance
Jamie Lee Case	City Clerk
Michael Cosentino	City Attorney

General information regarding the City and the surrounding area can be found in “APPENDIX A - General Information Regarding the City and Surrounding Area.”

## **THE DISTRICT**

### **General**

The PID Act authorizes municipalities, such as the City, to create public improvement districts within their boundaries or extraterritorial jurisdiction, and to impose assessments within the public improvement district to pay for certain improvements. The District was created by the City in accordance with the PID Act by a resolution adopted by the City Council on October 20, 2015 in accordance with the PID Act (the “Creation Resolution”), for the purpose of undertaking and financing, in phases, the cost of certain public improvements within the District, including the Public Improvements, authorized by the PID Act and approved by the City Council that confer a special benefit on the portion of the District property being developed in a phase. The District is not a separate political subdivision of the State and is governed by the City Council. Maps of the property within the District are included on page v and vi hereof.

### **Powers and Authority of the City**

Pursuant to the PID Act, the City may establish and create the District and undertake, or reimburse a property owner for the costs of, improvement projects that confer a special benefit on property located within the District, whether located within the City limits or the City’s extraterritorial jurisdiction. The PID Act provides that the City

may levy and collect special assessments on property in the District, or portions thereof, payable in periodic installments based on the benefit conferred by an improvement project to pay all or part of its cost.

Pursuant to the PID Act and the Creation Resolution, the City has the power to undertake, or reimburse a property owner for the costs of, the financing, acquisition, construction or improvement of the Public Improvements. See “THE PUBLIC IMPROVEMENTS.” Pursuant to the authority granted by the PID Act and the Creation Resolution, the City has determined to undertake the construction, acquisition or purchase of certain water, wastewater, drainage, roadway, hardscape, landscape and public safety improvements comprising the Public Improvements and to finance a portion of the costs thereof through the issuance of the Bonds. The City has further determined to provide for the payment of debt service on the Bonds through Pledged Revenues. See “ASSESSMENT PROCEDURES” herein and “APPENDIX C — Form of Service and Assessment Plan.”

### **Collection History of the Initial Assessments**

On October 18, 2016, the City levied the Initial Assessments in the District through the City Council’s adoption of the Initial Assessment Ordinance and approval of the Initial Service and Assessment Plan. Upon such adoption, the Initial Assessments became legal, valid and binding liens upon the property against which the Initial Assessments are made. Pursuant to the Initial Service and Assessment Plan, the initial Annual Installment of Initial Assessments, in the total amount of \$830,500, were due and payable on or before January 31, 2018. Due to an administrative oversight, such Annual Installments were not included on the Developer’s tax bill on October 1, 2017 and, therefore, were not paid on or before January 31, 2018. The Annual Installments were billed on November 26, 2018 and were paid by December \_\_, 2018.

## **THE PUBLIC IMPROVEMENTS**

### **General**

A portion of the cost of the Public Improvements will be funded with the proceeds of the Bonds. The balance of the costs of the Public Improvements will be financed by the Developer, a portion of which may be reimbursed to the Developer pursuant to the Reimbursement Agreement. The Public Improvements will be dedicated to the City. The Developer expects to construct the Public Improvements, and the Development Manager (as defined herein) will act as construction manager. From the proceeds of the Bonds, the City will either pay directly or will reimburse the Developer for a portion of the project costs actually incurred in developing and constructing the Public Improvements within or serving the District.

### **Development Plan**

The current development plan for the District consists of the construction of the Public Improvements and the Amenity Center in two construction stages, which began with the construction of the Initial Public Improvements and the Amenity Center and will follow with the construction of the Additional Public Improvements. See “THE DEVELOPMENT — Construction Plan and Status of Construction” and “APPENDIX C — Form of Service and Assessment Plan.” The Developer has completed construction of all the Initial Public Improvements. The Developer is currently designing and pursuing governmental approvals in preparation for the construction of the Additional Public Improvements. The Developer anticipates that all Public Improvements will be complete by December of 2021. The Public Improvements and the Amenity Center will be designed and constructed in accordance with City standards. See “APPENDIX C — Form of Service and Assessment Plan.”

### **Public Improvements**

*Street Improvements.* The street improvement portion of the Public Improvements consists of the construction of perimeter road and thoroughfare improvements, including related paving, sidewalks, retaining walls, signage, and traffic control devices, and the acquisition of related rights-of-way which benefit the Assessed Property. The City has determined that the acquisition of rights-of-way related to road improvements meets the requirements of its current policy on the financing of roadway rights-of-way through public improvement district assessments. The road improvements will be constructed according to City standards.

*Drainage Improvements.* The storm drainage improvement portion of the Public Improvements consists of the construction of one detention pond, storm drain pipes, culverts, catch basins and appurtenances thereto to appropriately control and convey storm water. The storm drainage improvements will be constructed according to City standards.

*Erosion and Sedimentation Control/Mobilization and General Conditions.* The Erosion and Sedimentation Control Measures (temporary BMPs) of the Public Improvements will include stabilized construction entrances, silt fence located downstream of all disturbed area, rock berms, inlet protection, and protection of mature trees and vegetation.

*Water Line Distribution.* The water improvement portion of the Public Improvements consists of construction and installation of waterlines, mains, pipes, valves and appurtenances, necessary for the water distribution system that will service the Assessed Property. The water improvements will be constructed according to City standards.

*Wastewater Improvements.* The wastewater improvement portion of the Public Improvements consists of construction and installation of pipes, service lines, manholes, encasements and appurtenances necessary to provide sanitary sewer service to the Assessed Property. The wastewater improvements will be constructed according to City standards.

*Sewer Lift Stations.* The sewer Lift Station portion of the Public Improvements consists of construction and installation for Lift Station A of manholes, wet wells, piping, pumps, electrical control equipment and appurtenances necessary to collect wastewater on one side of a geographical highpoint and transporting it across that highpoint to Lift Station B, construction and installation for Lift Station B of manholes, wet wells, piping, pumps, electrical control equipment and appurtenances necessary to collect wastewater on one side of a geographical highpoint and transporting it across that highpoint to a City designated discharge point. All sewer Lift Station improvements will be constructed according to City standards.

*Landscaping – Arterial Roads, Open Space and Trails.* The landscape portion of the Public Improvements consists of the installation of various landscape improvements along arterial roads. The improvements include: street tree plantings, enhanced landscaping on perimeters and medians, bio-swales in medians (where functionally possible), associated irrigation, street lighting, and hardscape improvements at key locations for wayfinding. The open space and trails system consist of selective clearing and removal of trees or other select (invasive) vegetative cover to enhance the quality and function of the natural drainage areas and open spaces. Other improvements shall include a variety of trails with either; concrete, decomposed granite or natural earth surfacing, throughout the open spaces to provide access to the natural features of the site. Landscaping will include native grasses, wildflowers, trees and shrubs, associated irrigation as required, lighting, fencing or walls if necessary and hardscape improvements.

*Public Safety Facilities.* The Public Improvements include an amount of \$500,000, which the Developer will pay to the City at the closing of the Bonds, pursuant to the Fire Station Agreement, entered into by the City and the Developer on November 2, 2015. The \$500,000 will go towards the City's construction of a new fire station (the "Fire Station").

### **Costs of Public Improvements**

The City will pay projects costs for a Public Improvement (or completed segment or phase) from proceeds of the Bonds upon approval of a Certification of Payment pursuant to the Reimbursement Agreement. The Developer will be paid for costs actually incurred in developing and constructing the Public Improvements within the District upon completion of such projects and dedication to, and acceptance by the City. See "SECURITY FOR THE BONDS — Project Fund."

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The following table reflects the expected costs of the Public Improvements and the costs the Developer has incurred as of November 30, 2018:

**Public Improvement Costs<sup>(1)</sup>**

<u>Type of Improvement</u>	<u>Total Cost</u>	<u>Approximate Amount Spent as of November 30, 2018</u>
Street Improvements	\$5,788,090	\$1,865,885
Drainage Costs	1,272,692	568,711
Erosion Control/Mobilization & General Conditions	563,672	-
Water Line Distribution	728,070	680,395
Wastewater <sup>(2)</sup>	1,026,228	944,146
Sewer Lift Station	3,967,557	1,689,708
Landscaping – Arterial Roads, Open Space, and Trails	2,989,342	897,158
Public Safety Facilities	500,000	500,000 <sup>(3)</sup>
Construction Management Fee	711,072	285,840
Contingency	1,327,000	-
Soft Costs	<u>3,512,697</u>	<u>1,903,497</u>
<b>Total</b>	<b>\$22,386,420</b>	<b>\$9,335,341</b>

<sup>(1)</sup> Does not include approximately \$2,431,596 in costs related to the issuance of the Bonds. Preliminary; subject to change.

<sup>(2)</sup> Represents the costs of the wastewater improvements allocable to the District. Any costs relating to upsizing the wastewater system will be paid by the Developer and reimbursed by the City, pursuant to the Developer Participation Agreement [Trace Sewer Improvements], entered into by the City and the Developer on May 15, 2018.

<sup>(3)</sup> Concurrent with the closing of the Bonds, the Developer will pay the City \$500,000 towards the construction of the Fire Station.

The expected costs of the Public Improvements are based on information provided by the Developer and its engineer and reviewed by the City staff and by third-party consultants retained by the City, and were approved by the City Council. See “APPENDIX C — Form of Service and Assessment Plan.”

The cost of all of the Public Improvements (excluding costs of issuance of the Bonds) is expected to be approximately \$22,386,420\*. Only a portion of the costs of the Public Improvements, in the approximate amount of \$[9,335,341]\*, is expected to be paid with proceeds of the Bonds. The balance of the costs of the Public Improvements, in the total approximate amount of \$[13,051,079]\*, is being financed by the Developer as construction of the Public Improvements progresses. A portion of such costs in the total approximate amount of \$8,764,659\* (which includes reimbursement for the Commercial Assessment Prepayment, if made) will be reimbursed over time to the Developer pursuant to the Reimbursement Agreement.

As of November 30, 2018, the Developer has spent approximately \$[8,835,341] (which excludes the \$500,000 payment to be made to the City concurrent with the closing of the Bonds, pursuant to the Fire Station Agreement) on the construction of the Public Improvements. The Developer is currently in the process of submitting such costs to the City. Subject to the City’s review of eligible costs, the Developer expects that approximately \$[8,835,341]\* will be reimbursed at closing with proceeds of the Bonds.

The Appraisal (as defined below) estimates that the value of the property within the District under certain conditions, including the construction of the Initial Public Improvements is \$41,500,000. See “APPRAISAL OF PROPERTY WITHIN THE DISTRICT.” Based on value of the property provided in the Appraisal and the principal amount of the Bonds, the ratio of the value to lien across the District is approximately 3.75:1\*. The Appraisal is attached hereto as APPENDIX F and should be read in its entirety in order to understand the meaning and basis of the information set forth therein. The Appraisal is addressed to the City and the Underwriter. The estimates of value presented in the Appraisal are no indication of the appraised property’s actual market value. Investors should not assume that the disposition of the lots in the District in the event of default would provide sufficient funds to pay the principal of Bonds outstanding at that time. The conclusions reached in the Appraisal are subject to certain

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\* Preliminary; subject to change.

assumptions, hypothetical conditions and qualifications, which are set forth in the Appraisal. See “APPRAISAL OF PROPERTY WITHIN THE DISTRICT” for further information regarding the Appraisal, including with respect to such assumptions, hypothetical conditions and qualifications.

## Ownership and Maintenance of Public Improvements

The Public Improvements will be dedicated to and accepted by the City and will constitute a portion of the City’s infrastructure improvements. The City will provide for the ongoing maintenance and repair of the Public Improvements constructed and conveyed, as outlined in the Service and Assessment Plan.

## THE DEVELOPMENT

*The following information has been provided by the Developer. Certain of the following information is beyond the direct knowledge of the City and the Underwriter, and neither the City nor the Underwriter have any way of guaranteeing the accuracy of such information.*

### Overview

The Development is an approximately 417.63-acre master-planned mixed-use community with single-family residential, multi-family, retail and office/business park/commercial components as further described below. The Development is located within the City’s corporate limits, in southeast Hays County, approximately half way between Austin and San Antonio. Access to the Development is provided by Interstate 35 and Posey Road.

### Development Plan

The Development. In April of 2016, the Developer acquired the property comprising the District for a long-term development project. Currently, the majority of the Development (with the exception of land already sold to the Homebuilders or residents) is still owned by the Developer and being developed by the Development Manager. The Development is planned to consist of approximately 1,007 single-family residential units, 777 units of multi-family housing, 233,155 square feet of retail space and 467,181 square feet of commercial space. The Development is also planned to include the Fire Station, Elementary School and the Amenity Center.

The Developer expects to complete the Development in approximately two construction stages, as outlined below, with an expected completion date of December 2021. See “MAP SHOWING INITIAL AND ADDITIONAL PUBLIC IMPROVEMENTS WITHIN THE DISTRICT” on page vii. Pursuant to the Developer’s current concept plan, the Development is divided into five separate Phases, Phases A-E/F, as discussed below, and as shown on “MAP SHOWING CONCEPT PLAN OF THE DISTRICT” and “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” on pages v and vi.

Single-family Units. Of the 1,007 single-family residential units, the Developer expects to include 3 different product types: 32’- 34’ Lots (“Lot Type 1”), 41’ Lots (“Lot Type 2”) and 50’ Lots (“Lot Type 3”). The following table shows the number and type of lots within each Phase.

<u>Lot Type</u>	<u>Phase A</u>	<u>Phase B</u>	<u>Phase C<sup>(2)</sup></u>	<u>Phase D<sup>(2)</sup></u>	<u>Phase E/F<sup>(2)</sup></u>	<u>Total number of Lots</u>
1	57 <sup>(1)</sup>	54	68	-	-	179
2	26 <sup>(1)</sup>	33	14	48	28	149
3	65 <sup>(1)</sup>	143 <sup>(1)</sup>	128	160	183	679
<u>Total</u>	<u>148</u>	<u>230</u>	<u>211</u>	<u>208</u>	<u>211</u>	<u>1,007</u>

<sup>(1)</sup> Numbers include one model home.

<sup>(2)</sup> The division of lots within Phases C, D, E and F included in the Appraisal are based on appraisal pods, while the lot counts used herein are based on development phases.

Multi-family Units. The Developer anticipates that the Development will include two sites for multi-family units. Of the two sites, the Developer expects that one will include approximately 402 units within 18 buildings (“Multi-

family A”) and the other will include approximately 375 units within 17 buildings (“Multi-family B”). All buildings are expected to be three story walk ups.

Office/Business Park Space. The Developer anticipates that the Development will include one office/business park site of approximately 467,181 square feet on approximately 42.9 acres. The Developer anticipates that the office/business park will include office, retail, restaurants and hotels. The Developer has not contracted with any party to construct the office/business park site.

Retail Space. The Developer anticipates that the Development will include three retail sites, totaling approximately 233,155 square feet on approximately 21.4 acres. The Developer anticipates that the retail space will include a neighborhood and regional shopping center. The Developer has not contracted with any party to construct the retail sites.

### **Construction Plan and Status of Construction**

The Developer expects to complete the Public Improvements in two stages, which began with the construction of the Initial Public Improvements and will be followed by the construction of the Additional Public Improvements. The Development is divided into five separate lot development Phases, which will be developed in conjunction with the Public Improvements, as outlined below.

Initial Public Improvements. The Developer commenced construction of the Initial Public Improvements in May of 2017, which improvements include certain road, water, sewer, drainage, erosion control, open space and landscape improvements benefitting the entire District. The Developer completed construction of the Initial Public Improvements in November of 2018. In conjunction with the construction of the Initial Public Improvements, the Developer has commenced lot development of Phases A and B of the Development. See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT,” “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” and “MAP SHOWING INITIAL AND ADDITIONAL PUBLIC IMPROVEMENTS WITHIN THE DISTRICT” on pages v, vi and vii.

The Developer commenced lot development within Phase A in May of 2017 and completed such development in November of 2018. Phase A is planned to consist of (i) 148 single-family lots, (ii) three separate retail sites of approximately 95,876 square feet, 65,371 square feet and 71,908 square feet, (iii) an office/business park/corporate headquarters site of approximately 467,181 square feet, (iv) 402 multi-family units, (v) two pocket parks and miscellaneous open space, and (vi) the Amenity Center Site. See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT” and “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” on pages v and vi.

The Developer commenced lot development within Phase B in October of 2018. Phase B is planned to consist of (i) 230 single-family lots, (ii) miscellaneous open space, and (iii) the Elementary School Site. San Marcos CISD is responsible for the development of the Elementary School Site. The Developer anticipates that lot development within Phase B will be complete in May of 2019. See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT” and “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” on pages v and vi.

Additional Public Improvements. The Developer expects to begin construction of the Additional Public Improvements in December of 2019, which improvements include the remaining road, water, sewer, drainage, erosion control, open space and landscape improvements benefitting the entire District. In conjunction with the construction of the Additional Public Improvements, the Developer expects to develop lots within Phases C, D, E and F of the Development, beginning in April of 2019. See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT,” “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” and “MAP SHOWING INITIAL AND ADDITIONAL PUBLIC IMPROVEMENTS WITHIN THE DISTRICT” on pages v, vi and vii.

The Developer anticipates that Phase C will consist of (i) 210 single-family lots and (ii) one pocket park and miscellaneous open space. The Developer anticipates that lot development within Phase C will begin in April of 2019 and will be complete in January of 2020. See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT” and “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” on pages v and vi.

The Developer anticipates that Phase D will consist of (i) 208 single-family lots and (ii) two pocket parks and miscellaneous open space. The Developer anticipates that lot development within Phase D will begin in March of 2020 and will be complete in December of 2020. See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT” and “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” on pages v and vi.

The Developer anticipates that Phases E and F will be development simultaneously and will consist of (i) 211 single-family lots, (ii) 375 multi-family units, and (iii) Trace City Park and miscellaneous open space. The Developer anticipates lot development within Phases E and F will begin in December of 2020 and will be complete in December of 2021. See “MAP SHOWING CONCEPT PLAN OF THE DISTRICT” and “MAP SHOWING LOT DEVELOPMENT PLAN WITHIN THE DISTRICT” on pages v and vi.

The foregoing information has been provided by the Developer consistent with its current concept plan, but will ultimately depend on the market conditions at the time of development. There can be no guarantee that the phased development will occur as contemplated.

### **Build-Out and Sale Schedule of Lots**

Single-Family. The previously completed build-out of the single-family lots within the District and the Developer’s current expectations regarding the build-out of the remaining single-family lots within the District and sale of single-family lots to homebuilders therein are shown in the following table.

#### **Actual and Expected Build-Out Schedule of Single-Family Lots within the Development**

<u>Phase</u>	<u>Single-Family Units<sup>(1)</sup></u>	<u>Expected In Tract Completion Date</u>	<u>Actual In Tract Completion Date</u>	<u>Expected Final Sale Date of Single-Family Lots to Homebuilders<sup>(2)</sup></u>
A	148	November of 2018	November of 2018	March 2019
B	230	July of 2019	-	March 2020
C <sup>(3)</sup>	210	June of 2020	-	December 2020
D <sup>(3)</sup>	208	December of 2020	-	July 2021
E/F <sup>(3)</sup>	<u>211</u>	December of 2021	-	December 2021
<b>Total</b>	<b>1,007</b>			

<sup>(1)</sup> Numbers include model homes.

<sup>(2)</sup> Expected Final Sale Date provided by the Developer.

<sup>(3)</sup> The division of lots within Phases C, D, E and F included in the Appraisal are based on appraisal pods, while the lot counts used herein are based on development phases.

The actual and anticipated schedule for sale of single-family homes to residents within the entire District by lot type is shown in the following table.

#### **Actual and Expected Sale of Single-Family Homes to Residents by Lot Type**

<u>Expected Final Sale Date</u>	<u>Lot Type 1</u>	<u>Lot Type 2</u>	<u>Lot Type 3</u>	<u>Total Units</u>
2018	3	4	4	11
2019	96	60	120	276
2020	79	60	180	319
2021	-	26	200	226
2022	<u>-</u>	<u>-</u>	<u>175</u>	<u>175</u>
<b>Total</b>	<b>178</b>	<b>150</b>	<b>679</b>	<b>1,007</b>

Multi-Family. The Developer has completed the infrastructure necessary to serve the Multi-family A site and anticipates that the infrastructure necessary to serve the Multi-family B site will be complete by November of 2020. The Developer has not contracted with any party to construct the multi-family sites. The Developer anticipates that Multi-family A will be built and leased from December 2019 through December 2020 and that Multi-family B will be built and leased from January 2021 through January 2022.

Commercial. The Developer has completed the infrastructure necessary to serve the parcels designated as office/business park space and retail space. The Developer has not contracted with any party to construct the office/business park or retail spaces.

The foregoing information has been provided by the Developer consistent with its current concept plan, but will ultimately depend on the market conditions at the time of development. There can be no guarantee that the build-out and sale of lots will occur as contemplated.

### Homebuilder Lot Purchase and Sale Agreements

The Developer has executed lot purchase and sale agreements for 378 lots within Phases A and B of the District with merchant homebuilders, including Pacesetter, Buffington and M/I Homes. Pursuant to the lot purchase and sale agreements Pacesetter has agreed to purchase 170 lots, including 83 lots within Phase A and 87 lots within Phase B. The 83 lots within Phase A are planned to consist of 56 Lot Type 1 (which includes 1 model home) and 27 Lot Type 2 (which includes 1 model home). The 87 lots within Phase B are planned to consist of 54 Lot Type 1 and 33 Lot Type 2. Buffington has agreed to purchase 126 lots, including 65 lots within Phase A and 61 lots within Phase B. All 126 lots within Phases A and B are planned for Lot Type 3 (which includes 1 model home in each Phase). M/I Homes has agreed to purchase 82 lots within Phase B, all of which are planned for Lot Type 3.

The following table provides the number of lots by Phase on which the Homebuilders plan to construct homes:

<b><u>Homebuilders and Lot Purchase and Sale Agreements</u></b>				
<u>Homebuilder</u>	<u>Total Lots<sup>(1)</sup></u>	<u>Lot Type</u>	<u>Phase A</u>	<u>Phase B</u>
Pacesetter	110	Lot Type 1	56	54
	60	Lot Type 2	27	33
Buffington	126	Lot Type 3	65	61
M/I Homes	82	Lot Type 3	-	82
<b>Total</b>	<b>378</b>		<b>148</b>	<b>230</b>

<sup>(1)</sup> Lot totals include model homes.

Pacesetter has purchased all 83 lots under contract within Phase A, of which 25 homes are under construction, 13 homes are completed and 14 homes are either under contract with or have been closed on by residents. Buffington has purchased 28 of the 65 lots under contract within Phase A, of which 23 homes are under construction, 13 homes are completed and 12 homes are either under contract with or have been closed on by residents. The remaining 36 lots will be purchased in two takedowns, with the final takedown expected to occur on or before March of 2019. The following table shows the status of lot and home construction within Phase A of the District, as of November 1, 2018.

### **Status of Single-Family Lot and Home Construction in Phase A**

<u>Lot Type</u>	<u>Total No of Lots</u>	<u>Completed Lots</u>	<u>Total Builder Contracted Lots<sup>(1)</sup></u>	<u>Builder Contracted Lots Taken-down<sup>(1)</sup></u>	<u>Homes Under Construction</u>	<u>Completed Homes Not Sold to Residents</u>	<u>Homes Under Contract with Residents</u>	<u>Homes Closed on by Residents</u>	<u>Expected final Sale Date to Residents</u>
34'	57	57	57	57	22	13	7	3	August 2019
41'	26	26	26	26	3	1	0	4	May 2019
50'	65	65	65	28	23	13	8	4	August 2019
<b>Total</b>	<b>148</b>	<b>148</b>	<b>148</b>	<b>112</b>	<b>48</b>	<b>27</b>	<b>15</b>	<b>11</b>	

<sup>(1)</sup> Lot totals include model homes.

Pursuant to the lot purchase and sale agreements for the lots within Phase B (the "Phase B Lot Agreements"), Pacesetter has agreed to take down between 15-20 Lot Type 1 per quarter beginning in February of 2019 and between 14-19 Lot Type 2 per quarter beginning in January of 2019; Buffington has agreed to take down between 15-16 Lot Type 3 per quarter beginning in September of 2019; and M/I Homes has agreed to take down between 11-15 Lot Type 3 per quarter beginning in January of 2019. Under the Phase B Lot Agreements, the Homebuilders collectively have \$1,100,775 in earnest money, of which \$360,525 was provided by Pacesetter, \$320,250 was provided by Buffington and \$420,000 was provided by M/I Homes. The earnest money will be credited back to the respective Homebuilder as lots are purchased by each respective Homebuilder.

There are circumstances described in the Phase B Lot Agreements the existence of which may result in the termination of the agreements. Pursuant to Buffington's agreement, if the Developer has not commenced construction of the infrastructure necessary to serve the lots in the initial takedown by April 30, 2019, or if no lots have been completed by June 30, 2019, Buffington may terminate the agreement, and any earnest money shall be returned to Buffington. Pursuant to Pacesetter's and M/I Homes' agreements, if no lots have been taken down by March 31, 2019, Pacesetter or M/I Homes, as applicable, may terminate each agreement, and any remaining earnest money shall be returned to the applicable Homebuilder.

The current home prices in Phase A and the Developer's current expectations regarding estimated home prices in Phase B and Phases C-E/F of the District are as follows:

**Single-Family Lot and Home Prices in Phase A**

<u>Lot Type</u>	<u>Quantity</u>	<u>Base Lot Price<sup>(1)</sup></u>	<u>Average Base Home Price</u>	<u>Estimated Absorption Period (Months)</u>
1	57	\$29,850	\$192,000	10 Months
2	26	37,850	219,000	6 Months
3	65	48,400	248,000	10 Months
Total	148			

<sup>(1)</sup> Base lot prices include an amenity center fee (\$1,000 per Lot Type 1, \$1,250 per Lot Type 2 and \$1,500 per Lot Type 3) and a marketing fee (\$600 per Lot Type 1, \$750 per Lot Type 2 and \$1,000 per Lot Type 3).

**Estimated Single-Family Lot and Home Prices in Phase B**

<u>Lot Type</u>	<u>Quantity</u>	<u>Base Lot Price<sup>(1)</sup></u>	<u>Average Base Home Price</u>	<u>Estimated Absorption Period (Months)</u>
1	54	\$39,750	\$202,800	10 Months
2	33	49,350	230,000	6 Months
3	143	55,400	260,000	10 Months
Total	230			

<sup>(1)</sup> Base lot prices include an amenity center fee (\$1,100 per Lot Type 1, \$1,350 per Lot Type 2 and \$1,700 per Lot Type 3) and a marketing fee (\$700 per Lot Type 1, \$850 per Lot Type 2 and \$1,200 per Lot Type 3).

**Estimated Single-Family Lot and Home Prices in Phase C-E/F**

<u>Lot Type</u>	<u>Quantity<sup>(1)</sup></u>	<u>Estimated Base Lot Price<sup>(2)</sup></u>	<u>Estimated Average Base Home Price</u>	<u>Estimated Absorption Period (Months)</u>
1	68	\$42,500	\$212,000	10 Months
2	90	51,250	242,000	6 Months
3	471	57,500	273,000	10 Months
Total	629			

<sup>(1)</sup> The division of lots within Phases C, D, E and F included in the Appraisal are based on appraisal pods, while the lot counts used herein are based on development phases.

<sup>(2)</sup> Estimated base lot prices include an amenity center fee and a marketing fee.

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## Photographs of the Development

The photograph below depicts the entry way and monument at Posey Road and Esplanade Parkway.



The photograph below depicts three different home designs for the 32' – 34' lots offered by Pacesetter.





The photograph below depicts four different home designs for the 50' lots that are offered by Buffington.



The photograph below depicts an aerial view of a portion of the Phase A lots. Esplanade Parkway runs horizontally through the center of the photograph with the Pacesetter homes in the foreground and the Buffington homes above Esplanade Parkway.



## **Financing Agreement**

Pursuant to the Financing Agreement, the Developer has the right to construct public improvements for the District, including the Public Improvements, according to certain rules and regulations of the City, and to be reimbursed for a portion of the costs of such construction through the proceeds of assessments and/or bonds. The Financing Agreement provides certain requirements to be met for the issuance of the Bonds and any Additional Bonds (collectively, “PID Bonds”), including (i) the total amount of PID Bonds may not exceed \$19,500,000; (ii) the total reimbursement amount may not exceed \$15,500,000, plus the Commercial Assessment Prepayment of \$2,600,000; (iii) the final maturity of each series of PID Bonds may not occur later than thirty years from the date of the levy of the Additional Assessments; (iv) the maximum annual installment tax rate equivalent, calculated as of the date of the pricing of the PID Bonds, will not exceed \$.50; (v) the minimum appraised value to lien ratio at the issuance date of each series of PID Bonds is 3:1; and (vi) the maximum annual permitted increase in annual installments is 2%. The City and the Developer may amend the Financing Agreement at any point without approval of the Owners of the Bonds. See “APPENDIX G — Form of Financing Agreement.”

## **Reimbursement Agreement**

The cost of all of the Public Improvements (excluding costs of issuance of the Bonds) is expected to be approximately \$22,386,420\*. Only a portion of the costs of the Public Improvements, in the approximate amount of \$[9,335,341]\* is expected to be paid with proceeds of the Bonds. The balance of the costs of the Public Improvements, in the total approximate amount of \$[13,051,079]\*, is being financed by the Developer as construction of the Public Improvements progresses. Pursuant to the Reimbursement Agreement, the City has agreed to reimburse the Developer for a portion of the costs of the Public Improvements, not paid with proceeds of the Bonds, over time from proceeds of the Assessments or Additional Bonds, if issued, including the Mandatory Prepayment Amount. However, the total maximum amount that the Developer may receive either from proceeds of the Bonds or pursuant to the Reimbursement Agreement is equal to \$15,500,000, plus an amount equal to the Commercial Assessment Prepayment. The City expects that it will, but is under no obligation to, issue Additional Bonds to finance the Reimbursement Obligation under the Reimbursement Agreement. The Bonds, any Additional Bonds and the Reimbursement Obligation will be secured by the Pledged Revenues, including the Assessments; however, the payment of debt service on the Bonds from the Assessments is superior in right to the Reimbursement Obligation under the Reimbursement Agreement.

## **Fire Station Agreement**

The City and the Developer entered into the Agreement Regarding Fire Station (the “Fire Station Agreement”), effective as of November 2, 2015, whereby the Developer agreed to contribute approximately \$2,500,000, as described below, to pay the costs of constructing the Fire Station. Pursuant to the Fire Station Agreement, the Developer agreed to (i) dedicate between 3 and 3.3 acres of land within the District, which land is valued at \$500,000 (the “Land Contribution”), on which the Fire Station will be constructed (the “Fire Station Site”), (ii) make a cash contribution of \$500,000 concurrent with the issuance of the Bonds (the “Closing Contribution”) for the design and construction of the Fire Station, and (iii) make an additional cash contribution of \$1,500,000 (the “Cash Contribution” and together with the Land Contribution and the Closing Contribution, the “Fire Station Contribution”) to the City for the design and construction of the Fire Station to be paid in the following manner: (a) \$750,000 within two years after the first certificate of occupancy has been issued for a single-family residence in the District; and (b) \$750,000 within four years after the first certificate of occupancy has been issued for a single-family residence in the District. The first certificate of occupancy for a single-family residence was issued in June of 2018. In consideration for the Fire Station Contribution, the City agreed that any funds or land provided by the Developer will be used only for the Fire Station and that the City will complete construction of the Fire Station within 18 months after the City’s receipt of the total Cash Contribution.

## **Zoning/Permitting**

The development of the property within the District will be governed by the concept plan for the District, the Financing Agreement, and the Master Plan and Planned Development District standards (the “Trace PDD”), pursuant

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\* Preliminary; subject to change.

to Ordinance No. 2015-42, adopted by the City Council (collectively, the “Applicable Regulations”). The concept plan of the District is shown on page v.

## **Education**

The District is located within San Marcos Consolidated Independent School District (“San Marcos CISD”). San Marcos CISD operates 6 elementary schools, 2 middle schools and 1 high schools. Rodriguez Elementary School, which is expected to be constructed within the District and commence instruction in the 2019 Fall semester, Miller Middle School, which is approximately 3 miles from the District and San Marcos High School, which is approximately 3 miles from the District, are expected to serve the District. Both Miller Middle School and San Marcos High School are rated “below average” by GreatSchools.org. Hernandez Elementary School, the elementary school expected to serve the District if the Rodriguez Elementary School is not constructed, is rated “average” by GreatSchools.org. According to the Texas Education Agency annual school report cards, San Marcos CISD, Hernandez Elementary School, Miller Middle School and San Marcos High School were all rated as “Met Standard” (The categories for public school districts and public schools are Met Standard, Improvement Required or Not Rated).

The land plan for the Development includes the Elementary School, which will be named Rodriguez Elementary School and is expected to consist of an approximately 93,735 square feet, two-story school with capacity for approximately 660 students. Pursuant to the Land Contribution Agreement (the “Elementary School Agreement”), effective April 17, 2018, entered into by the Developer and San Marcos CISD, the Developer agreed to dedicate the Elementary School Site to San Marcos CISD and San Marcos CISD agreed to design and construct the Elementary School and provide for the ongoing operation and maintenance of the Elementary School and Elementary School Site, as described below. In the Elementary School Agreement, the Developer agreed to (i) commence construction of certain segments of William Moon Way and Snowbell Street, including various utilities to be constructed therein (the “William and Snowball Improvements”), on or before August 31, 2018 and to complete such construction by January 31, 2019; and (ii) commence construction of certain segments of Esplanade Parkway, including various utilities to be constructed therein (the “Esplanade Improvements” and together with the William and Snowball Improvements, the “Elementary School Improvements”), on or before November 30, 2018 and to complete such construction by June 30, 2019. In consideration for the dedication of the Elementary School Site and the construction of the Elementary School Improvements, the City agreed to construct and complete the Elementary School for use by public school students in the Fall of 2019.

The Developer dedicated the Elementary School Site to San Marcos CISD in May of 2018, commenced construction of the Elementary School Improvements by the dates required under the Elementary School Agreement and anticipates that all of the Elementary School Improvements will be complete by the dates outlined above. San Marcos CISD began construction of the Elementary School Site in June of 2018 and anticipates that it will be open for students in the Fall of 2019. Upon opening, it is expected that the Elementary School will serve residents within the District.

The Elementary School Site is allocated 1% of the costs of the Public Improvements (\$223,864). The City and the Developer have agreed that no Assessment will be levied on the Elementary School. Instead the Developer has agreed to pay the costs allocated to the Elementary School without reimbursement by the City.

## **Amenities**

*Amenity Center.* Pursuant to the Trace PDD, the Developer has agreed to construct an amenity center available only to the single-family residential units, which will include an approximately 3,500 square foot pavilion with outdoor grills, restrooms, resort style swimming pool, splash toys, water harvesting cistern, outdoor children’s playscape, and a volleyball and sports court (collectively, the “Amenity Center”). The Developer commenced construction of the Amenity Center in October of 2018 and expects to complete the Amenity Center in Spring of 2019. The Amenity Center will be dedicated to and accepted by the Owners’ Association. The Owners’ Association will provide for the ongoing operation, maintenance and repair of the Amenity Center through an Additional Owners’ Association Fee to be paid by each owner of a single-family residential unit.

The Amenity Center Site is allocated 1% of the total Assessments (\$220,000). An Assessment equal to such amount is expected to be allocated to the Amenity Center Site at the time of platting.

*Parks and Trails.* As part of the Public Improvements, the Developer will construct a city park (the “Trace City Park”), 5 pocket parks and 3 miles of trails throughout the District (collectively, the “Parks and Trails”). The Parks and Trails will be dedicated to the City and the City will provide for the ongoing operation, maintenance and repair of the Parks and Trails. The Parks and Trails will be open to the public. The Developer expects that all of the Parks and Trails will be complete by December of 2021.

## **Environmental**

*Site Evaluation.* A Phase One Environmental Site Assessment (the “Phase One ESA”) of the property within the District was completed in February of 2016. Based on the information presented in the Phase One ESA, there was no evidence that the Development was under environmental regulatory review or enforcement action. The site reconnaissance, regulatory database review and historical source review revealed no evidence of recognized environmental conditions involving the site.

*Endangered Species.* According to the website for the United States Fish and Wildlife Service, the following endangered species are known or believed to occur in Hays County: Whooping Crane, Golden-cheeked warbler, Barton Springs salamander, Texas blind Salamander, Fountain Darter, San Marcos Gambusia, Comal Springs riffle beetle and Comal Springs dryopid beetle. According to the website for the United States Fish and Wildlife Service, the following threatened species are known or believed to occur in Hays County: San Marcos Salamander and Red Knot. The Developer is not aware of any endangered or threatened species located on District property.

## **Mineral Rights and Easement Rights**

There are certain mineral rights reservations of prior owners of real property within the District (the “Mineral Owners”) pursuant to one or more deeds in the chain of title for the property in the District.

While there is currently no drilling or exploration of minerals, the Developer cannot predict whether the Mineral Owners will take new action in the future to explore or develop the above-described mineral rights. The Developer is not aware of any real property (including mineral rights) owned by the Mineral Owners adjacent to the District. Certain rules and regulations of the Texas Railroad Commission may restrict the ability of the Mineral Owners to explore or develop the property due to well density, acreage, or location issues.

Although the Developer does not expect the exercise of such rights or any other mineral rights or related real property rights in or around the District to have a material adverse effect on the Development, the property within the District, or the ability of landowners within the District to pay Assessments, the Developer makes no guarantee as to such expectation. See “BONDHOLDERS’ RISKS — Exercise of Mineral Rights.”

## **Geotechnical Exploration**

A Geotechnical Engineering Study (the “Geotech Study”) was prepared for the property within the District by MLA Geotechnical, dated August 24, 2016. The Geotech Study made recommendations for subgrade and foundation soil preparation and pavement thickness. The Developer followed all such recommendations.

## **Utilities**

*Water and Wastewater.* The City will provide both water and wastewater service to the Development. The City currently has sufficient capacity to provide water and wastewater service to the Development. See “THE PUBLIC IMPROVEMENTS — Public Improvements.”

*Other Utilities.* The Developer anticipates additional utilities to be provided by the following entities:

Gas	CenterPoint Energy
Phone/Data	Century Link
Electric	Pedernales Electric Cooperative
Cable	Grande Communications

## THE DEVELOPER

*The following information has been provided by the Developer. Certain of the following information is beyond the direct knowledge of the City and the Underwriter, and neither the City nor the Underwriter have any way of guaranteeing the accuracy of such information.*

### General

In general, the activities of a developer in a development such as the District include purchasing the land, designing the subdivision, including the utilities and streets to be installed and any community facilities to be built, defining a marketing program and building schedule, securing necessary governmental approvals and permits for development, arranging for the construction of roads and the installation of utilities (including, in some cases, water, sewer, and drainage facilities, as well as telephone and electric service) and selling improved lots and commercial reserves to builders, developers, or other third parties. The relative success or failure of a developer to perform such activities within a development may have a material effect on the security of the revenue bonds, such as the Bonds, issued by a public improvement district. A developer is generally under no obligation to a public improvement district, such as the District, to develop the property which it owns in a development. Furthermore, there is no restriction on the developer's right to sell any or all of the land which the developer owns within a development. In addition, a developer is ordinarily the major tax and assessment payer within a district during its development.

### Description of Developer

The Developer is an affiliate of Highpoint Investments, Inc. ("Highpoint Investments") and was created by Highpoint Investments for the purpose of managing and ultimately conveying property in the District to third parties, as described under the caption "THE DEVELOPMENT." The Developer is a nominally capitalized limited liability company, the primary asset of which is unsold property within the District. The Developer will have no source of funds with which to pay Assessments or taxes levied by the City or any other taxing entity other than funds resulting from the sale of property within the District or funds advanced to the Developer by an affiliated party.

### Description of Development Manager

Highpoint Communities, Inc. (the "Development Manager"), an affiliate of the Developer and Highpoint Investments is a real estate development firm specializing in the creation of a diverse range of real estate investment and development opportunities. The Development Manager possesses the experience, expertise, commitment and discipline that will ensure successful end-to-end transactions and project management strategies to the following areas of the real estate industry: (i) land entitlement process; (ii) land development and infrastructure; (iii) federal and state regulatory permitting; and (iv) land sale (undeveloped to fully-graded, ready-to-build lots).

Since its founding in 1997, the Development Manager has acquired, planned and/or developed 38 communities consisting of nearly 11,000 single family home sites, over 1,500 multi-family units and nearly 80 acres of commercial retail, and office sites. The Development Manager's team of industry professionals can process and manage any real estate development project from start to finish throughout all aspects of a project. From initial entitlements to plan processing, plan amendments, zoning, tract mapping, infrastructure improvement plans, infrastructure development and permitting and clearances, its knowledge and experience allows it to navigate through the often complicated processes to obtain a successful project completion.

A snapshot of some of the communities the Developer/Development Manager has developed or is currently developing is presented below.

<u>Project</u>	<u>Project Type</u>	<u>Number of Units/Acres</u>	<u>Location</u>	<u>Status</u>
Beaumont Village	Single-Family	47	Beaumont, CA	Completed
Northfork at Eastvale	Single-Family	593	Chino, CA	Completed
Driftwood Estates	Single-Family	13	Laguna Beach, CA	Completed
Moreno Valley Associates - Golf Course	Single-Family	1,078	Morena Valley, CA	Completed

The Greens – Fairfield	Multi-Family	260	Murrieta, CA	Completed
Rancho Del Oro II – Village Seven	Multi-Family	280	Oceanside, CA	Completed
Rancho Del Oro – Retail	Retail	10 Acres	Oceanside, CA	Completed
Spanish Walk	Single-Family	212	Palm Desert, CA	Completed
San Marcos Heights	Single-Family	38	San Marcos, CA	Completed
Morgan Hill	Single-Family	1,126	Temecula, CA	Completed
Country Creek	Single-Family	199	Victorville, CA	Completed
Acton Estates	Single-Family	71	Acton, CA	Under Construction
Citrus Trails	Single-Family	224 SF	Loma Linda, CA	Under Construction
	Multi-Family	213 MF		
	Retail	4 Acres		
Washington Street	Single-Family	69	Murrieta, CA	Under Construction
Anaverde	Single-Family	207	Palmdale, CA	Under Construction

## Executive Biography of Principals of the Development Manager

Steve Vliss. Steve Vliss is the President, Chief Executive Officer and co-founder of the Development Manager. By leading the company through various transitions during ever changing economic climates, Mr. Vliss leads the company with through strong leadership, knowledge and wisdom that is the culmination of more than thirty years of experience in the real estate development industry. His vision for the company embraces the concept of community building throughout the supply chain to include sensitivity and consideration of the needs and desires of landowners, neighboring communities, local government, permitting agencies, builders and ultimately homeowners to ensure the successful completion of each project.

A Southern California native, Mr. Vliss began his career in real estate development after attending the University of California, Irvine. Shortly after, Mr. Vliss joined Inco Homes, a publicly-traded California homebuilder where he quickly advanced to the level of Senior Vice President and soon thereafter, Chief Operating Officer. Following his tenure at Inco, Mr. Vliss joined Kaufman & Broad in 1995 as president of its Homebuilding and Development Division for Orange County and the Inland Empire Region of Southern California. Mr. Vliss has also served as a member of the Board of Directors of the Building Industry Association and is also a member of the Urban Land Institute.

Steve Ludwig. Steve Ludwig is Executive Vice President and co-founder of the Development Manager. Mr. Ludwig oversees all phases of entitlement processing and engineering operations as well as construction management for all site improvements.

Mr. Ludwig received a B.S. in Business Administration from Iowa State University with a major in Business Management, a minor Economics, and a second minor in Construction Engineering. Mr. Ludwig began his career in land development in 1978 when he joined Inco Homes, serving first as Vice President of Land Development followed by his tenure as President of the company's High Desert Division in Southern California. Prior to joining Inco Homes, he established his expertise as an engineer and director of planning at Ludwig Engineering. In 1995, Mr. Ludwig founded LDS Consulting where he provided land acquisition and due diligence consulting services to homebuilders and developers. Mr. Ludwig earned his licensure as a Registered Civil Engineer in 1986 and served the local Building Industry Association as Vice President of Government Affairs from 1994-1998 in addition to serving on the board of directors for ten years.

Timothy England. Timothy D. England is the Senior Vice President and Chief Financial Officer of the Development Manager has over 20 years' experience in real estate development, finance and account. Mr. England began his career in finance with Kenneth Leventhal & Company, a real estate industry specialist, and became a Certified Public Accountant in 1989. For the next ten years, Mr. England served in various positions with Brookfield Development Corporation, including Vice President and Chief Financial Officer of the U.S. Western Region. For four years prior to joining the Development Manager, Mr. England served as Senior Vice President and Chief Financial Officer for the Polygon Group of Companies. There he was responsible for the company's financing and investor relations activities as well as overseeing several operating entities and joint venture investments. Mr. England has worked on over one billion dollars in financing transactions including corporate lines of credit, acquisition, development, and construction loans for commercial and residential projects, community facility and other assessment

districts and bonding lines. Mr. England received his B.S. degree in Business Administration from California State University, Fullerton in 1984.

### **History and Financing of the District**

The Developer purchased the property in April of 2016 from JOQ-San Marcos Ventures, L.P. for a purchase price of \$8,100,000. The Developer financed its acquisition of the District and is financing its development activities within the District through a loan agreement (the “Loan”) with Trez Capital Funding II. LLC and Trez Capital (2015) Corporation (“Trez”) for \$23,950,678. The Loan, which is dated April 5, 2016, as amended, is a revolving line of credit secured by a first lien deed of trust against the property owned by the Developer in the District and an assignment of any land sale contract receivables relating to the District. The Loan matures on September 20, 2020. As of September 30, 2018, there is an outstanding balance of approximately \$17,400,000. The Loan is the only funding source available to finance the costs of the Public Improvements as currently contemplated by the Developer.

The PID Act provides that the Assessment Lien is a first and prior lien against the assessed property within the District and is superior to all other liens and claims except liens or claims for State, county, school district, or municipality ad valorem taxes. Additionally, at or prior to delivery of the Bonds, Trez shall consent to and acknowledge the creation of the District, the levy of the Assessments and the subordination of the lien securing the Loan to the assessment liens on property within the District securing payment of the Assessments. As a result, the lien on the property within the District securing the Assessments will have priority over any liens on the property within the District securing the Loan.

### **THE SPECIAL ASSESSMENT CONSULTANT**

*The following information has been provided by the DPFG, as the Special Assessment Consultant. Certain of the following information is beyond the direct knowledge of the City and the Underwriter, and neither the City nor the Underwriter have any way of guaranteeing the accuracy of such information.*

In its role as Special Assessment Consultant to the Developer, Development Planning & Financing Group, Inc. (“DPFG”) ([www.dpfg.com](http://www.dpfg.com)) is primarily responsible for the preparation of the Service and Assessment Plan. DPFG is a national real estate consulting firm with 9 offices in six states (California, Colorado, Nevada, Texas, Florida and North Carolina). Since its inception in 1991, it has focused on providing real estate and financial consulting services principally to residential and commercial real estate developers as well as lenders, public agencies and other institutional investors. A key emphasis is identifying the lowest cost and the lowest risk manner of financing and funding public improvements and infrastructure such as roadways, utilities, etc., as well as the vertical improvements of a project.

To accomplish this, DPFG typically provides, among others, the following services:

- Preparation of financial analyses and projections;
- Preparation of financial feasibility studies, including compliance analyses with debt covenants;
- Identification of available and applicable public/private financing alternatives;
- Preparation of fiscal and economic impact studies;
- Negotiation of development agreements;
- Evaluation of development impact fee arrangements;
- Tracking of reimbursable development costs; and
- Structuring of reimbursement agreements.

The financing programs that are involved usually include some type of public financing and/or public/private partnerships. These have included land secured financings such as public improvement districts (PIDs), municipal utility districts (MUDs), tax increment reinvestment zones (TIRZs), community facility districts (CFDs), as well as general obligation, revenue and assessment bonds. The firm has been involved in the formation, structuring, feasibility analysis and issuance of more than \$16.0 billion of bonds for more than 2,500 special taxing districts (or their equivalents) since 1991.



## THE PID ADMINISTRATOR

*The following information has been provided by P3Works, LLC, as the PID Administrator. Certain of the following information is beyond the direct knowledge of the City and the Underwriter, and neither the City nor the Underwriter have any way of guaranteeing the accuracy of such information.*

The City has selected P3Works, LLC as the initial PID Administrator. The City has entered into an agreement with the PID Administrator to provide specialized services related to the administration of the District needed to support the issuance of the Bonds. The PID Administrator will primarily be responsible for preparing the annual update to the Service and Assessment Plan. The PID Administrator is a consulting firm focused on providing district services relating to the formation and administration of public improvement districts, and has offices in Austin and Keller, Texas.

The PID Administrator's duties will include:

- Preparation of the annual update to the Service and Assessment Plan
- Preparation of assessment rolls for county billing and collection
- Establishing and maintaining a database of all County Parcel IDs within the District
- Trust account analysis and reconciliation
- Property owner inquiries
- Determination of prepayment amounts
- Preparation and review of disclosure notices with Dissemination Agent
- Review of developer draw requests for reimbursement of Public Improvement costs.

## APPRAISAL OF PROPERTY WITHIN THE DISTRICT

### The Appraisal

General. Integra Realty Resources - DFW (the "Appraiser") prepared an appraisal report for the City dated November 21, 2018, based upon a physical inspection of the District conducted on October 20, 2018 (the "Appraisal"). The Appraisal was prepared at the request of the City. The description herein of the Appraisal is intended to be a brief summary only of the Appraisal as it relates to the District. The Appraisal is attached hereto as APPENDIX F and should be read in its entirety. The conclusions reached in the Appraisal are subject to certain assumptions, hypothetical conditions and qualifications, which are set forth therein. See "APPENDIX F — Appraisal Report of the District."

Value Estimates. The Appraiser estimated the prospective market value at completion of the Initial Public Improvements, including 378 single-family lots in Phases A and B, of the fee simple interest in the property located in the District as of April 1, 2019.

The Appraiser estimated the prospective market value at completion of the fee simple interest in the tracts of land comprising the District under certain hypothetical conditions. The Appraisal Report does not reflect the value of the District as if sold to a single purchaser in a single transaction. The hypothetical conditions include the assumptions that the Initial Public Improvements, including 378 single-family lots in Phases A and B have been completed as proposed. See "THE PUBLIC IMPROVEMENTS" and "THE DEVELOPMENT —Development Plan." The Appraisal Report does not reflect the as-is condition of the District. See "APPENDIX F — Appraisal Report of the District."

The value estimate for the assessable property within the District using the methodologies described in the Appraisal and subject to the limiting conditions and assumptions set forth in the Appraisal as of April 1, 2019, is \$41,500,000. None of the City, the Developer nor the Underwriter makes any representation as to the accuracy, completeness, assumptions or information contained in the Appraisal. The assumptions or qualifications with respect



to the Appraisal are contained therein. There can be no assurance that any such assumptions will be realized, and the City, the Developers and the Underwriter make no representation as to the reasonableness of such assumptions.

### **BONDHOLDERS' RISKS**

*Before purchasing any of the Bonds, prospective investors and their professional advisors should carefully consider all of the risk factors described below which may create possibilities wherein interest may not be paid when due or that the Bonds may not be paid at maturity or otherwise as scheduled, or, if paid, without premium, if applicable. The following risk factors (which are not intended to be an exhaustive listing of all possible risks associated with an investment in the Bonds) should be carefully considered prior to purchasing any of the Bonds. Moreover, the order of presentation of the risks summarized below does not necessarily reflect the significance of such investment risks.*

**THE BONDS ARE SPECIAL OBLIGATIONS OF THE CITY PAYABLE SOLELY FROM THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. THE BONDS DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE CITY AND ARE PAYABLE SOLELY FROM THE SOURCES IDENTIFIED IN THE INDENTURE. THE OWNERS OF THE BONDS SHALL NEVER HAVE THE RIGHT TO DEMAND PAYMENT THEREOF OUT OF MONEY RAISED OR TO BE RAISED BY TAXATION, OR OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE, AS AND TO THE EXTENT PROVIDED IN THE INDENTURE. NO OWNER OF THE BONDS SHALL HAVE THE RIGHT TO DEMAND ANY EXERCISE OF THE CITY'S TAXING POWER TO PAY THE PRINCIPAL OF THE BONDS OR THE INTEREST OR REDEMPTION PREMIUM, IF ANY, THEREON. THE CITY SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO PAY THE BONDS OUT OF ANY FUNDS OF THE CITY OTHER THAN THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE.**

The ability of the City to pay debt service on the Bonds as due is subject to various factors that are beyond the City's control. These factors include, among others, (a) the ability or willingness of property owners within the District to pay Assessments levied by the City, (b) cash flow delays associated with the institution of foreclosure and enforcement proceedings against property within the District, (c) general and local economic conditions which may impact real property values, the ability to liquidate real property holdings and the overall value of real property development projects, and (d) general economic conditions which may impact the general ability to market and sell the property within the District, it being understood that poor economic conditions within the City, State and region may slow the assumed pace of sales of such property.

The rate of development of the property in the District is directly related to the vitality of the residential housing industry. In the event that the sale of the lands within the District should proceed more slowly than expected and the Developer is unable to pay the Assessments, only the value of the lands, with improvements, will be available for payment of the debt service on the Bonds, and such value can only be realized through the foreclosure or expeditious liquidation of the lands within the District. There is no assurance that the value of such lands will be sufficient for that purpose and the expeditious liquidation of real property through foreclosure or similar means is generally considered to yield sales proceeds in a lesser sum than might otherwise be received through the orderly marketing of such real property.

The Underwriter is not obligated to make a market in or repurchase any of the Bonds, and no representation is made by the Underwriter, the City or the City's Financial Advisor that a market for the Bonds will develop and be maintained in the future. If a market does develop, no assurance can be given regarding future price maintenance of the Bonds.

The City has not applied for or received a rating on the Bonds. The absence of a rating could affect the future marketability of the Bonds. There is no assurance that a secondary market for the Bonds will develop or that holders who desire to sell their Bonds prior to the stated maturity will be able to do so.

## Assessment Limitations

Annual Installments of Assessments are billed to property owners in the District. Annual Installments are due and payable, and bear the same penalties and interest for non-payment, as for ad valorem taxes as set forth under “ASSESSMENT PROCEDURES” herein. Additionally, Annual Installments established by the Service and Assessment Plan correspond in number and proportionate amount to the number of installments and principal amounts of Bonds maturing in each year, and the annual collection costs for such year. See “ASSESSMENT PROCEDURES” herein. The unwillingness or inability of a property owner to pay regular property tax bills as evidenced by property tax delinquencies may also indicate an unwillingness or inability to make regular property tax payments and Annual Installments of Assessment payments in the future.

In order to pay debt service on the Bonds, it is necessary that Annual Installments are paid in a timely manner. Due to the lack of predictability in the collection of Annual Installments in the District, the City has established a Reserve Account in the Reserve Fund, to be funded from the proceeds of the Bonds, to cover delinquencies. The Annual Installments are secured by the Assessment Lien. However, there can be no assurance that foreclosure proceedings will occur in a timely manner so as to avoid depletion of the Reserve Account and delay in payments of debt service on the Bonds. See “BONDHOLDERS’ RISKS — Bondholders’ Remedies and Bankruptcy” herein.

Upon an ad valorem tax lien foreclosure event of a property within the District, any Assessment that is also delinquent will be foreclosed upon in the same manner as the ad valorem tax lien (assuming all necessary conditions and procedures for foreclosure are duly satisfied). To the extent that a foreclosure sale results in insufficient funds to pay in full both the delinquent ad valorem taxes and the delinquent Assessments, the liens securing such delinquent ad valorem taxes and delinquent Assessments would likely be extinguished. Any remaining unpaid balance of the delinquent Assessments would then be an unsecured personal liability of the original property owner.

Based upon the language of Texas Local Government Code, § 372.017(b), case law relating to other types of assessment liens and opinions of the Texas Attorney General, the Assessment Lien as it relates to installment payments that are not yet due should remain in effect following an ad valorem tax lien foreclosure, with future installment payments not being accelerated. Texas Local Government Code § 372.018(d) supports this position, stating that an Assessment Lien runs with the land and the portion of an assessment payment that has not yet come due is not eliminated by foreclosure of an ad valorem tax lien.

The Assessment Lien is superior to any homestead rights of a property owner that were properly claimed after the adoption of the Assessment Ordinance. **However, an Assessment Lien may not be foreclosed upon if any homestead rights of a property owner were properly claimed prior to the adoption of the Assessment Ordinance (“Pre-existing Homestead Rights”) for as long as such rights are maintained on the property.** It is unclear under Texas law whether or not Pre-existing Homestead Rights would prevent the Assessment Lien from attaching to such homestead property or instead cause the Assessment Lien to attach, but remain subject to, the Pre-existing Homestead Rights. See “BONDHOLDERS’ RISKS – Existing Homestead Rights” below.

Failure by owners of the parcels to pay Annual Installments when due, depletion of the Reserve Fund, delay in foreclosure proceedings, or the inability of the City to sell parcels which have been subject to foreclosure proceedings for amounts sufficient to cover the delinquent installments of Assessments levied against such parcels may result in the inability of the City to make full or punctual payments of debt service on the Bonds.

THE ASSESSMENTS CONSTITUTE A FIRST AND PRIOR LIEN AGAINST THE PROPERTY ASSESSED, SUPERIOR TO ALL OTHER LIENS AND CLAIMS EXCEPT LIENS AND CLAIMS FOR STATE, COUNTY, SCHOOL DISTRICT OR MUNICIPALITY AD VALOREM TAXES AND IS A PERSONAL OBLIGATION OF AND CHARGE AGAINST THE OWNERS OF PROPERTY LOCATED WITHIN THE DISTRICT.

## Existing Homestead Rights

Under State law, in order to establish homestead rights, the claimant must show a combination of both overt acts of homestead usage and intention on the part of the owner to claim the land as a homestead. Mere ownership of

the property alone is insufficient and the intent to use the property as a homestead must be a present one, not an intention to make the property a homestead at some indefinite time in the future. Furthermore, the Developer is not eligible to claim homestead rights.

Both the Initial Assessments and Additional Assessments are collectively security for the Bonds. The Bonds are expected to be issued in an amount not exceeding the Initial Assessment. If amounts in excess of the Initial Assessments are required to pay debt service on the Bonds, foreclosure proceedings on any Assessed Properties claiming homestead rights prior to the levy of the Additional Assessment, may affect the City's ability to foreclose on such Assessed Properties to meet debt service requirements on the Bonds. As of the date of adoption of the Initial Assessment Ordinance, no individual homeowners had the ability to claim homestead rights. **Based on existing home sale contracts, the Developer expects that, as of December 12, 2018, there will be 19 individual homeowners within the District, whose properties are estimated to collectively represent approximately \$93,085\* of Additional Assessments levied within the District. These homeowners may have the ability to claim homestead rights under State law. Consequently, if such homestead rights are claimed, there could be Pre-existing Homestead Rights with respect to the Assessment Lien relating to the Additional Assessments, which may not be foreclosed upon by the City.**

### **Effects of Future Legislation**

In October 2017, the Texas House and the Texas Senate issued interim charges to the Committee on Special Purpose Districts and the Intergovernmental Relations Committee (collectively, the "Interim Committees"), respectively, requesting the study of special purpose districts and public improvement districts and potential bond issuance reforms. The charges to the Interim Committees included review, hearings and testimony related to changes to and oversight of bonds secured by special assessments. Prior to the 2019 Texas legislative session, it is expected that the Interim Committees will make recommendations to the Legislature on how to regulate special assessment revenue bonds, and possibly establish parameters on the use of public improvement districts as financing vehicles. As of the date hereof, the Interim Committees have not made any recommendations pursuant to the interim charges.

It is impossible to predict what new proposals the Interim Committees may present to the Legislature regarding the PID Act and the issuance of special assessment revenue bonds, what bills may be introduced during upcoming legislative sessions, whether such new proposals or any previous proposals will be recommended by the Interim Committees or new bills regarding the same will be passed by the Texas Senate and House of Representatives and signed by the Governor, and, if enacted, the form thereof. It is impossible to predict with certainty the impact that any such future legislation will or may have on the security for the Bonds or the ability of the City to issue Additional Bonds.

### **Risks Related to the Current Real Estate Market**

In the past, the real estate market has experienced significant slowing of new home sales and new home closings due in part to the subprime mortgage crisis involving adjustable rate mortgages and other creative mortgage financing tools that allowed persons with higher credit risk to buy homes. The economic crisis that resulted from higher interest rates, at a time when many subprime mortgages were due to reset their interest rates, has served to reduce the availability of mortgages to many potential home buyers, making entry into the real estate market more difficult. Downturns in the real estate market and other factors beyond the control of the Developer, including general economic conditions, may impact the timing of parcel, lot and home sales within the District.

### **Competition**

The housing industry in the San Marcos area is very competitive, and none of the Developer, the City, the City's Financial Advisor or the Underwriter can give any assurance that the building programs which are planned will ever commence or be completed in accordance with the Developer's expectations. The competitive position of the Developer or of any home builder in the sale of developed lots or the construction and sale of single-family residential

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\* Preliminary; subject to change.

units is affected by most of the factors discussed in this section, and such competitive position is directly related to maintenance of market values in the District.

There can be no assurances that other similar projects will not be developed in the future or that existing projects will not be upgraded or otherwise able to compete with the Development. For more information on competitive projects, see “APPENDIX F — Appraisal Report of the District – Property Analysis – Highest and Best Use.”

### **Loss of Tax Exemption**

The Indenture contains covenants by the City intended to preserve the exclusion from gross income of interest on the Bonds for federal income tax purposes. As discussed under the caption “TAX MATTERS” herein, interest on the Bonds could become includable in gross income for purposes of federal income taxation, retroactive to the date the Bonds were issued, as a result of future acts or omissions of the City in violation of its covenants in the Indenture.

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the Federal or state level, may adversely affect the tax-exempt status of interest on the Bonds under Federal or state law and could affect the market price or marketability of the Bonds. Any such proposal could limit the value of certain deductions and exclusions, including the exclusion for tax-exempt interest. The likelihood of any such proposal being enacted cannot be predicted. Prospective purchasers of the Bonds should consult their own tax advisors regarding the foregoing matters.

### **Bankruptcy**

The payment of Assessments and the ability of the City to foreclose on the lien of a delinquent unpaid Assessment may be limited by bankruptcy, insolvency or other laws generally affecting creditors’ rights or by the laws of the State relating to judicial foreclosure. Although bankruptcy proceedings would not cause the Assessments to become extinguished, bankruptcy of a property owner in all likelihood would result in a delay in prosecuting foreclosure proceedings. Such a delay would increase the likelihood of a delay or default in payment of the principal of and interest on the Bonds, and the possibility that delinquent Assessments might not be paid in full.

### **Direct and Overlapping Indebtedness, Assessments and Taxes**

The ability of an owner of property within the District to pay the Assessments could be affected by the existence of other taxes and assessments imposed upon the property. Public entities whose boundaries overlap those of the District currently impose ad valorem taxes on the property within the District and will likely do so in the future. Such entities could also impose assessment liens on the property within the District. The imposition of additional liens, or for private financing, may reduce the ability or willingness of the property owners to pay the Assessments.

### **Depletion of Reserve Account of the Reserve Fund**

Failure of the owners of property within the District to pay the Assessments when due could result in the rapid, total depletion of the Reserve Fund prior to replenishment from the resale of property upon a foreclosure or otherwise or delinquency redemptions after a foreclosure sale, if any. There could be a default in payments of the principal of and interest on the Bonds if sufficient amounts are not available in the Reserve Account of the Reserve Fund. The Indenture provides that if, after a withdrawal from the Reserve Fund, the amount in the Reserve Fund is less than the Reserve Account Requirement, the Trustee shall transfer an amount from the Pledged Revenue Fund to the Reserve Account of the Reserve Fund sufficient to cure such deficiency, as described under “SECURITY FOR THE BONDS — Reserve Account of the Reserve Fund” herein.

### **Hazardous Substance**

While governmental taxes, assessments and charges are a common claim against the value of a parcel, other less common claims may be relevant. One of the most serious in terms of the potential reduction in the value that may be realized to the assessment is a claim with regard to a hazardous substance. In general, the owners and operators of

a parcel may be required by law to remedy conditions relating to releases or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as “CERCLA” or “Superfund Act,” is the most well-known and widely applicable of these laws. It is likely that, should any of the parcels of land located in the District be affected by a hazardous substance, the marketability and value of parcels would be reduced by the costs of remedying the condition, because the purchaser, upon becoming owner, will become obligated to remedy the condition just as is the seller.

The value of the land within the District does not consider the possible liability of the owner (or operator) for the remedy of a hazardous substance condition of the parcel. The City has not independently verified, and is not aware, that the owner (or operator) of any of the parcels within the District has such a current liability with respect to such parcel; however, it is possible that such liabilities do currently exist and that the City is not aware of them.

Further, it is possible that liabilities may arise in the future with respect to any of the land within the District resulting from the existence, currently, of a substance presently classified as hazardous but which has not been released or the release of which is not presently threatened, or may arise in the future resulting from the existence, currently, on the parcel of a substance not presently classified as hazardous but which may in the future be so classified. Further, such liabilities may arise not simply from the existence of a hazardous substance but from the method of handling it. All of these possibilities could significantly affect the value of a parcel that is realizable upon a delinquency.

See “THE DEVELOPMENT — Environmental” for discussion of a Phase One ESA performed on the property within the District.

### **Regulation**

Development within the District may be subject to future federal, state and local regulations. Approval may be required from various agencies from time to time in connection with the layout and design of development in the District, the nature and extent of public improvements, land use, zoning and other matters. Failure to meet any such regulations or obtain any such approvals in a timely manner could delay or adversely affect development in the District and property values.

### **100-Year Flood Plain**

No property within the District is located within an official Federal Emergency Management Agency (“FEMA”) 100 year flood plain, as shown on the current FEMA Flood Insurance Rate Map No. 48209C0486F (the “Flood Plain”).

Additionally, FEMA will from time to time revise its Flood Insurance Rate Maps. None of the City, the Underwriter, or the Developer make any representation as to whether FEMA may revise its Flood Insurance Rate Maps, whether such revisions may result in homes that are currently outside of the 100-year flood plain from being included in the 100-year flood plain in the future, or whether extreme flooding events may exceed the Flood Plain.

### **Risk from Weather Events**

All of Texas, including the City, is subject to extreme weather events that can cause loss of life and damage to property through weather events that include strong winds, flooding and heavy rains. It is impossible to predict such weather events and the impact they may have on land within the District.

### **Exercise of Mineral Rights**

As described herein under “THE DEVELOPMENT— Mineral Rights and Easement Rights,” there are certain mineral rights reservations located within the District and not owned by the Developer. There may also be additional mineral rights and related real property rights reflected in the chain of title for the real property within the District recorded in the real property records of Hays County.

The Developer does not expect the existence or exercise of any mineral rights or related real property rights in or around the District to have a material adverse effect on the Development, the property within the District, or the ability of landowners within the District to pay Assessments. However, none of the City, the Financial Advisor, or the Underwriter provide any assurances as to such Developer expectations.

### **Bondholders' Remedies and Bankruptcy**

In the event of default in the payment of principal of or interest on the Bonds or the occurrence of any other Event of Default under the Indenture, and upon the written request of at least 25% of the owners of the Bonds then Outstanding, the Trustee shall proceed to protect and enforce its rights and the rights of the owners of the Bonds under the Indenture by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, either for mandamus or the specific performance of any covenant or agreement contained therein or in aid or execution of any power granted or for the enforcement of any proper legal or equitable remedy, as the Trustee shall deem most effectual to protect and enforce such rights. The issuance of a writ of mandamus may be sought if there is no other available remedy at law to compel performance of the City's obligations under the Bonds or the Indenture and such obligations are not uncertain or disputed. The remedy of mandamus is controlled by equitable principles, so rests with the discretion of the court, but may not be arbitrarily refused. There is no acceleration of maturity of the Bonds in the event of default and, consequently, the remedy of mandamus may have to be relied upon from year to year. The owners of the Bonds cannot themselves foreclose on property within the District or sell property within the District in order to pay the principal of and interest on the Bonds. The enforceability of the rights and remedies of the owners of the Bonds further may be limited by laws relating to bankruptcy, reorganization or other similar laws of general application affecting the rights of creditors of political subdivisions such as the City. In this regard, should the City file a petition for protection from creditors under federal bankruptcy laws, the remedy of mandamus or the right of the City to seek judicial foreclosure of its Assessment Lien would be automatically stayed and could not be pursued unless authorized by a federal bankruptcy judge. See "BONDHOLDERS' RISKS — Bankruptcy Limitation to Bondholders' Rights" herein.

Any bankruptcy court with jurisdiction over bankruptcy proceedings initiated by or against a property owner within the District pursuant to the Federal Bankruptcy Code could, subject to its discretion, delay or limit any attempt by the City to collect delinquent Assessments, or delinquent ad valorem taxes, against such property owner.

In addition, in 2006, the Texas Supreme Court ruled in *Tooke v. City of Mexia*, 197 S.W.3d 325 (Tex. 2006) ("Tooke") that a waiver of sovereign immunity must be provided for by statute in "clear and unambiguous" language. In so ruling, the Court declared that statutory language such as "sue and be sued", in and of itself, did not constitute a clear and unambiguous waiver of sovereign immunity. In *Tooke*, the Court noted the enactment in 2005 of sections 271.151-.160, Texas Local Government Code (the "Local Government Immunity Waiver Act"), which, according to the Court, waives "immunity from suit for contract claims against most local governmental entities in certain circumstances." The Local Government Immunity Waiver Act covers cities and relates to contracts entered into by cities for providing goods or services to cities.

In *Wasson Interests, Ltd. v. City of Jacksonville*, 489 S.W. 3d 427 (Tex. 2016) ("Wasson"), the Texas Supreme Court (the "Court") addressed whether the distinction between governmental and proprietary acts (as found in tort-based causes of action) applies to breach of contract claims against municipalities. The Court analyzed the rationale behind the Proprietary-Governmental Dichotomy to determine that "a city's proprietary functions are not done pursuant to the 'will of the people'" and protecting such municipalities "via the [S]tate's immunity is not an efficient way to ensure efficient allocation of [S]tate resources". While the Court recognized that the distinction between governmental and proprietary functions is not clear, the Wasson opinion held that the Proprietary-Governmental Dichotomy applies in a contract-claims context. The Court reviewed Wasson again in June 2018 and clarified that to determine whether governmental immunity applies to a breach of contract claim, the proper inquiry is whether the municipality was engaged in a governmental or proprietary function when it entered into the contract, not at the time of the alleged breach. Therefore, in regard to municipal contract cases (as in tort claims), it is incumbent on the courts to determine whether a function was proprietary or governmental based upon the statutory guidance at the time of inception of the contractual relationship. Notwithstanding the foregoing new case law issued by the Court, such sovereign immunity issues have not been adjudicated in relation to bond matters (specifically, in regard to the issuance of municipal debt). Each situation will be prospectively evaluated based on the facts and circumstances

surrounding the contract in question to determine if a suit, and subsequently, a judgement, is justiciable against a municipality.

The City is not aware of any Texas court construing the Local Government Immunity Waiver Act in the context of whether contractual undertakings of local governments that relate to their borrowing powers are contracts covered by such act. Because it is unclear whether the Texas legislature has effectively waived the City's sovereign immunity from a suit for money damages in the absence of City action, the Trustee or the owners of the Bonds may not be able to bring such a suit against the City for breach of the Bonds or the Indenture covenants. As noted above, the Indenture provides that owners of the Bonds may exercise the remedy of mandamus to enforce the obligations of the City under the Indenture. Neither the remedy of mandamus nor any other type of injunctive relief was at issue in Tooke, and it is unclear whether Tooke will be construed to have any effect with respect to the exercise of mandamus, as such remedy has been interpreted by Texas courts. In general, Texas courts have held that a writ of mandamus may be issued to require public officials to perform ministerial acts that clearly pertain to their duties. Texas courts have held that a ministerial act is defined as a legal duty that is prescribed and defined with a precision and certainty that leaves nothing to the exercise of discretion or judgment, though mandamus is not available to enforce purely contractual duties. However, mandamus may be used to require a public officer to perform legally-imposed ministerial duties necessary for the performance of a valid contract to which the State or a political subdivision of the State is a party (including the payment of moneys due under a contract).

### **Judicial Foreclosures**

Judicial foreclosure proceedings are not mandatory; however, the City has covenanted to order and cause such actions to be commenced. In the event a foreclosure is necessary, there could be a delay in payments to owners of the Bonds pending prosecution of the foreclosure proceedings and receipt by the City of the proceeds of the foreclosure sale. It is possible that no bid would be received at the foreclosure sale, and, in such event, there could be an additional delay in payment of the principal of and interest on the Bonds or such payment may not be made in full. Moreover, in filing a suit to foreclose, the City must join other taxing units that have claims for delinquent taxes against all or part of the same property; the proceeds of any sale of property within the District available to pay debt service on the Bonds may be limited by the existence of other tax liens on the property. See "OVERLAPPING TAXES AND DEBT." Collection of delinquent taxes, assessments and Assessments may be adversely affected by the effects of market conditions on the foreclose sale price, and by other factors, including taxpayers' right to redeem property within two years of foreclosure for residential and agricultural use property and six months for other property, and by a time-consuming and expensive collection procedure.

### **No Acceleration**

The Indenture does not contain a provision allowing for the acceleration of the Bonds in the event of a payment default or other default under the terms of the Bonds or the Indenture.

### **Limited Secondary Market for the Bonds**

The Bonds may not constitute a liquid investment, and there is no assurance that a liquid secondary market will exist for the Bonds in the event an Owner thereof determines to solicit purchasers for the Bonds. Even if a liquid secondary market exists, there can be no assurance as to the price for which the Bonds may be sold. Such price may be lower than that paid by the current Owners of the Bonds, depending on the progress of development of the District subject to the Assessments, existing real estate and financial market conditions and other factors.

### **No Credit Rating**

The City has not applied for or received a rating on the Bonds. Even if a credit rating had been sought for the Bonds, it is not anticipated that such a rating would have been investment grade. The absence of a rating could affect the future marketability of the Bonds. There is no assurance that a secondary market for the Bonds will develop or that holders who desire to sell their Bonds prior to the stated maturity will be able to do so. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary market trading in connection with a particular issue is suspended or terminated. Additionally, prices of

issues for which a market is being made will depend upon then generally prevailing circumstances. Such prices could be substantially different from the original purchase price.

### **Bankruptcy Limitation to Bondholders' Rights**

The enforceability of the rights and remedies of the owners of the Bonds may be limited by laws relating to bankruptcy, reorganization or other similar laws of general application affecting the rights of creditors of political subdivisions such as the City. The City is authorized under Texas law to voluntarily proceed under Chapter 9 of the Federal Bankruptcy Code, 11 U.S.C. 901-946. The City may proceed under Chapter 9 if it (1) is generally not paying its debts, or unable to meet its debts, as they become due, (2) desires to effect a plan to adjust such debts, and (3) has either obtained the agreement of or negotiated in good faith with its creditors, is unable to negotiate with its creditors because negotiation is impracticable, or reasonably believes that a creditor may attempt to obtain a preferential transfer.

If the City decides in the future to proceed voluntarily under the Federal Bankruptcy Code, the City would develop and file a plan for the adjustment of its debts, and the Bankruptcy Court would confirm the plan if (1) the plan complies with the applicable provisions of the Federal Bankruptcy Code, (2) all payments to be made in connection with the plan are fully disclosed and reasonable, (3) the City is not prohibited by law from taking any action necessary to carry out the plan, (4) administrative expenses are paid in full, (5) all regulatory or electoral approvals required under Texas law are obtained and (6) the plan is in the best interests of creditors and is feasible. The rights and remedies of the owners of the Bonds would be adjusted in accordance with the confirmed plan of adjustment of the City's debt.

### **Management and Ownership**

The management and ownership of the Developer and related property owners could change in the future. Purchasers of the Bonds should not rely on the management experience of such entities. There are no assurances that such entities will not sell the subject property or that officers will not resign or be replaced. In such circumstances, a new Developer or new officers in management positions may not have comparable experience in projects comparable to the Development.

### **General Risks of Real Estate Investment and Development**

The Developer has the right to modify or change its plan for development of the District, from time to time, including, without limitation, land use changes, changes in the overall land and phasing plans, and changes to the type, mix, size and number of units to be developed. No defined "true-up" agreement has been entered into between the City and Developer, nor is there a requirement that future developers or Developers enter into such an agreement. There can be no assurance, in the event the Developer or a subsequent Developer modifies or changes its plan for development that the necessary revisions to the Service and Assessment Plan will be made, or if made will provide the necessary assessment revenues required to service debt on the Bonds. Nor can there be an assurance that the eventual assessment burden on the property will be marketable.

The ability of builders to sell or lease retail space, commercial space and apartment units to maximum occupancy levels within the District may be affected by unforeseen changes in the general economic conditions, fluctuations in the real estate market and other factors beyond the control of the owner of the retail space, commercial space, or multi-family apartments. In the event that a large number of rental, commercial or multi-family projects are constructed outside of the District, and compete with the Development, the demand for residential housing and commercial properties within the District could be reduced, thereby adversely affecting the continued development of the Development, or its attraction to businesses and residents.

Investments in undeveloped or developing real estate are generally considered to be speculative in nature and to involve a high degree of risk. The Development will be subject to the risks generally incident to real estate investments and development. Many factors that may affect the Development, including the completion of the Public Improvements as planned, as well as the operating revenues of the Developer, including those derived from the Development, are not within the control of the Developer. Such factors include changes in national, regional and local



economic conditions; changes in long and short term interest rates; changes in the climate for real estate purchases; changes in demand for or supply of competing properties; changes in local, regional and national market and economic conditions; unanticipated development costs, market preferences and architectural trends; unforeseen environmental risks and controls; the adverse use of adjacent and neighboring real estate; changes in interest rates and the availability of mortgage funds to buyers of the homes to be built in the Development, which may render the sale of such homes difficult or unattractive; acts of war, terrorism or other political instability; delays or inability to obtain governmental approvals; changes in laws; moratorium; acts of God (which may result in uninsured losses); strikes; labor shortages; energy shortages; material shortages; inflation; adverse weather conditions; contractor or subcontractor defaults; and other unknown contingencies and factors beyond the control of the Developer. Furthermore, the operating revenues of the Developer may be materially adversely affected if specific conditions in the land purchase contracts are not met. Failure to meet the land purchase contract's conditions allows the applicable purchaser to terminate its obligation to purchase land from the Developer and obtain its earnest money deposit back. See "THE DEVELOPMENT — Builder Lot Purchase and Sale Agreements" herein.

The Development cannot be initiated or completed without the Developer obtaining a variety of governmental approvals and permits, some of which have already been obtained. Certain permits are necessary to initiate construction of each phase of the Development and to allow the occupancy of residences and to satisfy conditions included in the approvals and permits. There can be no assurance that all of these permits and approvals can be obtained or that the conditions to the approvals and permits can be fulfilled. The failure to obtain any of the required approvals or fulfill any one of the conditions could cause materially adverse financial results for the Developer.

A slowdown of the development process and the related absorption rate within the Development because of any or all of the foregoing could affect adversely land values. The timely payment of the Bonds depends on the willingness and ability of the Developer and any subsequent owners to pay the Assessments when due. Any or all of the foregoing could reduce the willingness and ability of such owners to pay the Assessments and could greatly reduce the value of the property within the District in the event such property has to be foreclosed. If Annual Installments of Assessments are not timely paid and there are insufficient funds in the accounts of the Reserve Fund, a nonpayment could result in a payment default under the Indenture.

### **Use of Appraisal**

Caution should be exercised in the evaluation and use of appraisal results. An appraisal is an estimate of market value as of a specified date based upon assumptions and limiting conditions and any extraordinary assumptions specific to the relevant valuation. It is not a precise measure of value but is based on a subjective comparison of related activity taking place in the real estate market. The valuation set forth in an appraisal is based on various assumptions of future expectations and while the appraiser's forecasts for properties in the District is considered to be reasonable at the current time, some of the assumptions may not materialize or may differ materially from actual experience in the future. The Bonds will not necessarily trade at values determined solely by reference to the underlying value of the properties in the District.

In performing its analyses, an appraiser makes numerous assumptions with respect to general business, economic and regulatory conditions and other matters, many of which are beyond the appraiser's, underwriter's and City's control, as well as to certain factual matters. Furthermore, the appraiser's analysis, opinions and conclusions are necessarily based upon market, economic, financial and other circumstances and conditions existing prior to the valuation.

### **Availability of Utilities**

The progress of development within the District is also dependent upon the City providing an adequate supply of water and sufficient capacity for the collection and treatment of wastewater. If the City fails to supply water and wastewater services to the property in the District, the Development of the land in the District could be adversely affected. See "THE DEVELOPMENT — Utilities."

## **Dependence Upon Developer and Homebuilders**

The Developer and the Homebuilders, as the owners of most of the Assessed Parcels in the District, currently have the obligation for payment of approximately 99% of the total Assessments. The ability of the Developer to make full and timely payment of the Assessments will directly affect the ability of the City to meet its debt service obligations with respect to the Bonds. The sole assets of the Developer are land within the District, related permits and development rights and minor operating accounts. The Loan is the only source of funding available to finance costs of the Public Improvements as currently contemplated. The source of funding for future land development activities and infrastructure within the District also consists of proceeds from Additional Bonds and proceeds of parcel sales, as well as possible bank financing and equity contributions by the Developer and its partners. There can be no assurances given as to the financial ability of the Developer to advance any funds to the City to supplement revenues from the Assessments if necessary, or as to whether the Developer will advance such funds.

## **Agricultural Use Valuation and Redemption Rights**

Approximately 54% of the total area of the property in the District is currently entitled to valuation for ad valorem tax purposes based upon its open-space agricultural use. The Developer expects that property will be removed from open-space agricultural valuation as development progresses. Under State law, an owner of land that is entitled to an open-space agricultural valuation has the right to redeem such property after a tax sale for a period of two years after the tax sale by paying to the tax sale purchaser a 25% premium, if redeemed during the first year, or a 50% premium, if redeemed during the second year, over the purchase price paid at the tax sale and certain qualifying costs incurred by the purchaser. Although Assessments are not considered a tax under State law, the PID Act provides that the lien for Assessments may be enforced in the same manner as a lien for ad valorem taxes. This shared enforcement mechanism raises a possibility that the right to redeem agricultural valuation property may be available following a foreclosure of a lien for Assessments, though there is no indication in State law that such redemption rights would be available in such a case.

A portion of the property in the District is currently being utilized for wildlife management purposes only, pursuant to a wildlife management plan. The aforesaid wildlife management plan is expected to be updated annually, which update will remove the open-space agricultural valuation on a portion of the property within the District at or prior to commencement of development of such portion of the District.

At closing of the Bonds, the Developer will execute the Agreement Regarding Conveyance of Right of Redemption and Waiver of Agricultural Valuation (a "Redemption Waiver Agreement") with the City covering the portion of the property within the District subject to the open-space agricultural valuation, pursuant to which the Developer will convey to the Trustee for the benefit of the Owners of the Bonds its right to redeem any open-space agricultural valuation property and will require any subsequent purchaser to execute a similar conveyance. In addition, the Developer will deliver, and require any subsequent purchaser to deliver, into escrow with the Trustee a waiver of open-space agricultural valuation, which the Trustee will be authorized to release and file with the Hays County Tax Assessor/Collector in the event that an owner has not paid ad valorem taxes or the Assessments due in respect of open-space agricultural valuation property within sixty (60) days of their due date. The Redemption Waiver Agreement will be enforceable by the Trustee on behalf of the Owners of the Bonds. Although the Redemption Waiver Agreement is intended to protect the City and the bondholders against potential redemption rights of the Developer in the context of a foreclosure proceeding, because there is currently no case law with respect to waiver of redemption rights or an open-space agricultural valuation, it is unclear whether the Redemption Waiver Agreement is enforceable under State law.

Because the enforceability of the Redemption Waiver Agreement is not certain, as additional protection against the occurrence of a tax sale for non-payment of ad valorem taxes and the associated risk of redemption rights arising, prior to delivery of the Bonds, the Developer will pay to the Trustee to be deposited into the Developer Property Tax Reserve Fund relating to the Bonds (the "Developer Property Tax Reserve Fund"), and maintain at all times while there exists property in the District that is entitled to valuation based on its wildlife management use, an amount equal to the estimated ad valorem taxes assessed against open-space agricultural valuation property to become due in the next two years. Such funds will be held by the Trustee and used to pay delinquent ad valorem taxes on open-space agricultural valuation property and thereby potentially avoid the possibility of a sale for non-payment of ad valorem taxes and the associated risk of redemption rights arising. In the event such funds are used to pay delinquent

ad valorem taxes, the Developer will be required to replenish such funds previously held by the Trustee. A proportionate amount of such deposit will be returned to the Developer upon termination of open-space agricultural valuation.

## **TAX MATTERS**

### **Opinion**

On the date of initial delivery of the Bonds, McCall, Parkhurst & Horton L.L.P., Bond Counsel to the City, will render its opinion that, in accordance with statutes, regulations, published rulings and court decisions existing on the date thereof ("Existing Law"), (1) interest on the Bonds for federal income tax purposes will be excludable from the "gross income" of the holders thereof and (2) the Bonds will not be treated as "specified private activity bonds" the interest on which would be included as an alternative minimum tax preference item under section 57(a)(5) of the Internal Revenue Code of 1986 (the "Code"). Except as stated above, Bond Counsel to the City will express no opinion as to any other federal, state or local tax consequences of the purchase, ownership or disposition of the Bonds. See Appendix D -- Form of Opinion of Bond Counsel.

In rendering its opinion, Bond Counsel to the City will rely upon (a) the City's federal tax certificate and (b) covenants of the City with respect to arbitrage, the application of the proceeds to be received from the issuance and sale of the Bonds and certain other matters. Failure of the City to comply with these representations or covenants could cause the interest on the Bonds to become includable in gross income retroactively to the date of issuance of the Bonds.

The Code and the regulations promulgated thereunder contain a number of requirements that must be satisfied subsequent to the issuance of the Bonds in order for interest on the Bonds to be, and to remain, excludable from gross income for federal income tax purposes. Failure to comply with such requirements may cause interest on the Bonds to be included in gross income retroactively to the date of issuance of the Bonds. The opinion of Bond Counsel to the City is conditioned on compliance by the City with the covenants and the requirements described in the preceding paragraph, and Bond Counsel to the City has not been retained to monitor compliance with these requirements subsequent to the issuance of the Bonds.

Bond Counsel's opinion represents its legal judgment based upon its review of Existing Law and the reliance on the aforementioned information, representations and covenants. Bond Counsel's opinion is not a guarantee of a result. The Existing Law is subject to change by the Congress and to subsequent judicial and administrative interpretation by the courts and the Department of the Treasury. There can be no assurance that such Existing Law or the interpretation thereof will not be changed in a manner which would adversely affect the tax treatment of the purchase, ownership or disposition of the Bonds.

A ruling was not sought from the Internal Revenue Service by the City with respect to the Bonds or the facilities financed or refinanced with the proceeds of the Bonds. Bond Counsel's opinion represents its legal judgment based upon its review of Existing Law and the representations of the City that it deems relevant to render such opinion and is not a guarantee of a result. No assurances can be given as to whether the Internal Revenue Service will commence an audit of the Bonds, or as to whether the Internal Revenue Service would agree with the opinion of Bond Counsel. If an audit is commenced, under current procedures the Internal Revenue Service is likely to treat the City as the taxpayer and the Bondholders may have no right to participate in such procedure. No additional interest will be paid upon any determination of taxability.

### **Federal Income Tax Accounting Treatment of Original Issue Discount**

The initial public offering price to be paid for one or more maturities of the Bonds may be less than the principal amount thereof or one or more periods for the payment of interest on the Bonds may not be equal to the accrual period or be in excess of one year (the "Original Issue Discount Bonds"). In such event, the difference between (i) the "stated redemption price at maturity" of each Original Issue Discount Bond, and (ii) the initial offering price to the public of such Original Issue Discount Bond would constitute original issue discount. The "stated redemption price at maturity" means the sum of all payments to be made on the Bonds less the amount of all periodic interest

payments. Periodic interest payments are payments which are made during equal accrual periods (or during any unequal period if it is the initial or final period) and which are made during accrual periods which do not exceed one year.

Under Existing Law, any owner who has purchased such Original Issue Discount Bond in the initial public offering is entitled to exclude from gross income (as defined in section 61 of the Code) an amount of income with respect to such Original Issue Discount Bond equal to that portion of the amount of such original issue discount allocable to the accrual period. For a discussion of certain collateral federal tax consequences, see discussion set forth below.

In the event of the redemption, sale or other taxable disposition of such Original Issue Discount Bond prior to stated maturity, however, the amount realized by such owner in excess of the basis of such Original Issue Discount Bond in the hands of such owner (adjusted upward by the portion of the original issue discount allocable to the period for which such Original Issue Discount Bond was held by such initial owner) is includable in gross income.

Under Existing Law, the original issue discount on each Original Issue Discount Bond is accrued daily to the stated maturity thereof (in amounts calculated as described below for each six-month period ending on the date before the semiannual anniversary dates of the date of the Bonds and ratably within each such six-month period) and the accrued amount is added to an initial owner's basis for such Original Issue Discount Bond for purposes of determining the amount of gain or loss recognized by such owner upon the redemption, sale or other disposition thereof. The amount to be added to basis for each accrual period is equal to (a) the sum of the issue price and the amount of original issue discount accrued in prior periods multiplied by the yield to stated maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period) less (b) the amounts payable as current interest during such accrual period on such Original Issue Discount Bond.

The federal income tax consequences of the purchase, ownership, redemption, sale or other disposition of Original Issue Discount Bonds which are not purchased in the initial offering at the initial offering price may be determined according to rules which differ from those described above. All owners of Original Issue Discount Bonds should consult their own tax advisors with respect to the determination for federal, state and local income tax purposes of the treatment of interest accrued upon redemption, sale or other disposition of such Original Issue Discount Bonds and with respect to the federal, state, local and foreign tax consequences of the purchase, ownership, redemption, sale or other disposition of such Original Issue Discount Bonds.

### **Collateral Federal Income Tax Consequences**

The following discussion is a summary of certain collateral federal income tax consequences resulting from the purchase, ownership or disposition of the Bonds. This discussion is based on Existing Law, which is subject to change or modification, retroactively.

The following discussion is applicable to investors, other than those who are subject to special provisions of the Code, such as financial institutions, property and casualty insurance companies, life insurance companies, individual recipients of Social Security or Railroad Retirement benefits, individuals allowed an earned income credit, certain S corporations with Subchapter C earnings and profits, foreign corporations subject to the branch profits tax, taxpayers qualifying for the health insurance premium assistance credit, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase tax-exempt obligations.

THE DISCUSSION CONTAINED HEREIN MAY NOT BE EXHAUSTIVE. INVESTORS, INCLUDING THOSE WHO ARE SUBJECT TO SPECIAL PROVISIONS OF THE CODE, SHOULD CONSULT THEIR OWN TAX ADVISORS AS TO THE TAX TREATMENT WHICH MAY BE ANTICIPATED TO RESULT FROM RECENTLY ENACTED LEGISLATION OR THE PURCHASE, OWNERSHIP AND DISPOSITION OF TAX-EXEMPT OBLIGATIONS BEFORE DETERMINING WHETHER TO PURCHASE THE BONDS.

Under section 6012 of the Code, holders of tax-exempt obligations, such as the Bonds, may be required to disclose interest received or accrued during each taxable year on their returns of federal income taxation.

Section 1276 of the Code provides for ordinary income tax treatment of gain recognized upon the disposition of a tax-exempt obligation, such as the Bonds, if such obligation was acquired at a “market discount” and if the fixed maturity of such obligation is equal to, or exceeds, one year from the date of issue. Such treatment applies to “market discount Bonds” to the extent such gain does not exceed the accrued market discount of such Bonds; although for this purpose, a de minimis amount of market discount is ignored. A “market discount bond” is one which is acquired by the holder at a purchase price which is less than the stated redemption price at maturity or, in the case of a bond issued at an original issue discount, the “revised issue price” (i.e., the issue price plus accrued original issue discount). The “accrued market discount” is the amount which bears the same ratio to the market discount as the number of days during which the holder holds the obligation bears to the number of days between the acquisition date and the final maturity date.

### **State, Local and Foreign Taxes**

Investors should consult their own tax advisors concerning the tax implications of the purchase, ownership or disposition of the Bonds under applicable state or local laws. Foreign investors should also consult their own tax advisors regarding the tax consequences unique to investors who are not United States persons.

### **Information Reporting and Backup Withholding**

Subject to certain exceptions, information reports describing interest income, including original issue discount, with respect to the Bonds will be sent to each registered holder and to the Internal Revenue Service. Payments of interest and principal may be subject to backup withholding under section 3406 of the Code if a recipient of the payments fails to furnish to the payor such owner's social security number or other taxpayer identification number (“TIN”), furnishes an incorrect TIN, or otherwise fails to establish an exemption from the backup withholding tax. Any amounts so withheld would be allowed as a credit against the recipient’s federal income tax. Special rules apply to partnerships, estates and trusts, and in certain circumstances, and in respect of Non-U.S. Holders, certifications as to foreign status and other matters may be required to be provided by partners and beneficiaries thereof.

### **Future and Proposed Legislation**

Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the Federal or state level, may adversely affect the tax-exempt status of interest on the Bonds under Federal or state law and could affect the market price or marketability of the Bonds. Any such proposal could limit the value of certain deductions and exclusions, including the exclusion for tax-exempt interest. The likelihood of any such proposal being enacted cannot be predicted. Prospective purchasers of the Bonds should consult their own tax advisors regarding the foregoing matters.

## **LEGAL MATTERS**

### **Legal Proceedings**

Delivery of the Bonds will be accompanied by the unqualified approving legal opinion of the Attorney General to the effect that the Bonds are valid and legally binding obligations of the City under the Constitution and laws of the State, payable from the Trust Estate and, based upon their examination of a transcript of certified proceedings relating to the issuance and sale of the Bonds, the legal opinion of Bond Counsel, to a like effect.

McCall, Parkhurst & Horton L.L.P., serves as Bond Counsel to the City. Orrick, Herrington & Sutcliffe LLP serves as Underwriter’s Counsel. The legal fees paid to Bond Counsel and Underwriter’s Counsel are contingent upon the sale and delivery of the Bonds.

### **Legal Opinions**

The City will furnish the Underwriter a transcript of certain certified proceedings incident to the authorization and issuance of the Bonds. Such transcript will include a certified copy of the approving opinion of the Attorney

General of Texas, as recorded in the Bond Register of the Comptroller of Public Accounts of the State, to the effect that the Bonds are valid and binding special obligations of the City. The City will also furnish the legal opinion of Bond Counsel, to the effect that, based upon an examination of such transcript, the Bonds are valid and binding special obligations of the City under the Constitution and laws of the State. The legal opinion of Bond Counsel will further state that the Bonds, including principal of and interest thereon, are payable from and secured by a pledge of and lien on the Trust Estate. Bond Counsel will also provide a legal opinion to the effect that interest on the Bonds will be excludable from gross income for federal income tax purposes under Section 103(a) of the Code, subject to the matters described above under the caption "TAX MATTERS," including the alternative minimum tax consequences for corporations. A copy of the opinion of Bond Counsel is attached hereto as "APPENDIX D — Form of Opinion of Bond Counsel."

Except as noted below, Bond Counsel did not take part in the preparation of the Limited Offering Memorandum, and such firm has not assumed any responsibility with respect thereto or undertaken independently to verify any of the information contained therein, except that, in its capacity as Bond Counsel, such firm has reviewed the information describing the Bonds in the Limited Offering Memorandum under the captions or subcaptions "PLAN OF FINANCE — The Bonds," "DESCRIPTION OF THE BONDS," "SECURITY FOR THE BONDS," "ASSESSMENT PROCEDURES" (except for the subcaptions "Assessment Methodology" and "Assessment Amounts"), "THE DISTRICT" (except for the subcaption "Collection History of the Initial Assessments"), "TAX MATTERS," "LEGAL MATTERS — Legal Proceedings" (except for the final paragraph thereof), "LEGAL MATTERS — Legal Opinions" (except for the final paragraph thereof), "CONTINUING DISCLOSURE — The City," "REGISTRATION AND QUALIFICATION OF BONDS FOR SALE," "LEGAL INVESTMENTS AND ELIGIBILITY TO SECURE PUBLIC FUNDS IN TEXAS," "INVESTMENTS" and APPENDIX B and such firm is of the opinion that the information relating to the Bonds, the Bond Ordinance, the Assessment Ordinance and the Indenture contained therein fairly and accurately describes the laws and legal issues addressed therein and, with respect to the Bonds, such information conforms to the Bond Ordinance, the Assessment Ordinance and the Indenture.

The various legal opinions to be delivered concurrently with the delivery of the Bonds express the professional judgment of the attorneys rendering the opinions as to the legal issues explicitly addressed therein. In rendering a legal opinion, the attorney does not become an insurer or guarantor of that expression of professional judgment, of the transaction opined upon, or of the future performance of the parties to the transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

### **Litigation — The City**

At the time of delivery and payment for the Bonds, the City will certify that, except as disclosed herein, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or, to its knowledge, overtly threatened against the City affecting the existence of the District, or seeking to restrain or to enjoin the sale or delivery of the Bonds, the application of the proceeds thereof, in accordance with the Indenture, or the collection or application of the Assessments securing the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds, the Assessment Ordinance, the Indenture, any action of the City contemplated by any of the said documents, or the collection or application of the Pledged Revenues, or in any way contesting the completeness or accuracy of this Limited Offering Memorandum or any amendment or supplement thereto, or contesting the powers of the City or its authority with respect to the Bonds or any action of the City contemplated by any documents relating to the Bonds.

### **Litigation — The Developer**

At the time of delivery and payment for the Bonds, Developer will certify that, except as disclosed herein, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory body, public board or body pending, or, to the best knowledge of Developer, threatened against or affecting Developer wherein an unfavorable decision, ruling or finding would have a material adverse effect on the financial condition or operations of Developer or its general partner or would adversely affect (1) the transactions contemplated by, or the validity or enforceability of, the Bonds, the Indenture, the Bond Ordinance, the Service and Assessment Plan, the Reimbursement Agreement, the Financing Agreement, the Fire Station Agreement or the Bond Purchase Agreement, or otherwise described in this Limited Offering Memorandum, or (2) the tax-exempt status of interest on the Bonds (individually or in the aggregate, a "Material Adverse Effect").

## **SUITABILITY FOR INVESTMENT**

Investment in the Bonds poses certain economic risks. See “BONDHOLDERS’ RISKS”. The Bonds are not rated by any nationally recognized municipal securities rating service. No dealer, broker, salesman or other person has been authorized by the City or the Underwriter to give any information or make any representations, other than those contained in this Limited Offering Memorandum, and, if given or made, such other information or representations must not be relied upon as having been authorized by either of the foregoing. Additional information will be made available to each prospective investor, including the benefit of a site visit to the City and the opportunity to ask questions of the Developer, as such prospective investor deems necessary in order to make an informed decision with respect to the purchase of the Bonds.

## **ENFORCEABILITY OF REMEDIES**

The remedies available to the owners of the Bonds upon an event of default under the Indenture are in many respects dependent upon judicial actions, which are often subject to discretion and delay. See “BONDHOLDERS’ RISKS — Bondholders’ Remedies and Bankruptcy.” Under existing constitutional and statutory law and judicial decisions, including the federal bankruptcy code, the remedies specified by the Indenture and the Bonds may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified, as to the enforceability of the remedies provided in the various legal instruments, by limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors and enacted before or after such delivery.

## **NO RATING**

No application for a rating on the Bonds has been made to any rating agency, nor is there any reason to believe that the City would have been successful in obtaining an investment grade rating for the Bonds had application been made.

## **CONTINUING DISCLOSURE**

### **The City**

Pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”), the City and UMB Bank, N.A. (in such capacity, the “Dissemination Agent”) will enter into a Continuing Disclosure Agreement (the “Disclosure Agreement of the Issuer”) for the benefit of the Owners of the Bonds (including owners of beneficial interests in the Bonds), to provide, by certain dates prescribed in the Disclosure Agreement of the Issuer, certain financial information and operating data relating to the City (collectively, the “City Reports”). The specific nature of the information to be contained in the City Reports is set forth in “APPENDIX E-1 — Form of Disclosure Agreement of the Issuer.” Under certain circumstances, the failure of the City to comply with its obligations under the Disclosure Agreement of the Issuer constitutes an event of default thereunder. Such a default will not constitute an event of default under the Indenture, but such event of default under the Disclosure Agreement of the Issuer would allow the Owners of the Bonds (including owners of beneficial interests in the Bonds) to bring an action for specific performance.

The City has agreed to update information and to provide notices of certain specified events only as provided in the Disclosure Agreement of the Issuer. The City has not agreed to provide other information that may be relevant or material to a complete presentation of its financial results of operations, condition, or prospects or agreed to update any information that is provided in this Limited Offering Memorandum, except as provided in the Disclosure Agreement of the Issuer. The City makes no representation or warranty concerning such information or concerning its usefulness to a decision to invest in or sell the Bonds at any future date. The City disclaims any contractual or tort liability for damages resulting in whole or in part from any breach of the Disclosure Agreement of the Issuer or from any statement made pursuant to the Disclosure Agreement of the Issuer.

## **The City Compliance with Prior Undertakings**

[Except as hereinafter described,] during the last five years, the City has complied in all material respects with its continuing disclosure agreements made in accordance with the Rule. [On December 15, 2015 the City's Electric Revenue Bonds were upgraded by S&P. The upgrade notices were filed on February 10, 2016. The City provided its Monthly Water Rates and Monthly Waste Water System Rates in its annual filings, however the City's Sewer Surcharge Rate is not included in their financial reports but is publicly available on their website.]

## **The Developer**

The Developer, the PID Administrator and the Dissemination Agent will enter into a Continuing Disclosure Agreement (the "Disclosure Agreement of the Developer") for the benefit of the Owners of the Bonds (including owners of beneficial interests in the Bonds), to provide, by certain dates prescribed in the Disclosure Agreement of the Developer, certain information regarding the Development and the Public Improvements (collectively, the "Developer Reports"). The specific nature of the information to be contained in the Developer Reports is set forth in "APPENDIX E-2 — Form of Disclosure Agreement of the Developer." Under certain circumstances, the failure of the Developer to comply with its obligations under the Disclosure Agreement of the Developer constitutes an event of default thereunder. Such a default will not constitute an event of default under the Indenture, but such event of default under the Disclosure Agreement of the Developer would allow the Owners of the Bonds (including owners of beneficial interests in the Bonds) to bring an action for specific performance.

The Developer has agreed to (i) prepare and provide certain updated information in report form to the Dissemination Agent and (ii) provide notices of certain specified events, only as provided in the Disclosure Agreement of the Developer. The Developer has not agreed to provide other information that may be relevant or material to a complete presentation of its financial results of operations, condition, or prospects or agreed to update any information that is provided in this Limited Offering Memorandum, except as provided in the Disclosure Agreement of the Developer. The Developer makes no representation or warranty concerning such information or concerning its usefulness to a decision to invest in or sell the Bonds at any future date. The Developer disclaims any contractual or tort liability for damages resulting in whole or in part from any breach of the Disclosure Agreement of the Developer or from any statement made pursuant to the Disclosure Agreement of the Developer.

## **The Developer's Compliance With Prior Undertakings**

During the last five years, the Developer has complied in all material respects with its continuing disclosure agreements made in accordance with the Rule.

## **UNDERWRITING**

FMSbonds, Inc. (the "Underwriter") has agreed to purchase the Bonds from the City at a purchase price of \$ \_\_\_\_\_ (the par amount of the Bonds, less an underwriting discount of \$ \_\_\_\_\_, which includes Underwriter's Counsel's fee of \$ \_\_\_\_\_). The Underwriter's obligations are subject to certain conditions precedent and if obligated to purchase any of the Bonds the Underwriter will be obligated to purchase all of the Bonds. The Bonds may be offered and sold by the Underwriter at prices lower than the initial offering prices stated on the inside cover page hereof, and such initial offering prices may be changed from time to time by the Underwriter.

## **REGISTRATION AND QUALIFICATION OF BONDS FOR SALE**

The sale of the Bonds has not been registered under the Federal Securities Act of 1933, as amended, in reliance upon the exemption provided thereunder by Section 3(a)(2); and the Bonds have not been qualified under the Securities Act of Texas in reliance upon various exemptions contained therein; nor have the Bonds been qualified under the securities acts of any other jurisdiction. The City assumes no responsibility for qualification of the Bonds under the securities laws of any jurisdiction in which the Bonds may be sold, assigned, pledged, hypothecated or otherwise transferred. This disclaimer of responsibility for qualification for sale or other disposition of the Bonds shall not be construed as an interpretation of any kind with regard to the availability of any exemption from securities registration provisions.



## **LEGAL INVESTMENT AND ELIGIBILITY TO SECURE PUBLIC FUNDS IN TEXAS**

The PID Act and Section 1201.041 of the Public Security Procedures Act (Chapter 1201, Texas Government Code, as amended) provide that the Bonds are negotiable instruments and investment securities governed by Chapter 8, Texas Business and Commerce Code, as amended, and are legal and authorized investments for insurance companies, fiduciaries, trustees, or for the sinking funds of municipalities or other political subdivisions or public agencies of the State. With respect to investment in the Bonds by municipalities or other political subdivisions or public agencies of the State, the PFIA requires that the Bonds be assigned a rating of at least “A” or its equivalent as to investment quality by a national rating agency. See “NO RATING” above. In addition, the PID Act and various provisions of the Texas Finance Code provide that, subject to a prudent investor standard, the Bonds are legal investments for state banks, savings banks, trust companies with capital of one million dollars or more, and savings and loan associations. The Bonds are eligible to secure deposits of any public funds of the State, its agencies, and its political subdivisions, and are legal security for those deposits to the extent of their market value. No review by the City has been made of the laws in other states to determine whether the Bonds are legal investments for various institutions in those states. No representation is made that the Bonds will be acceptable to public entities to secure their deposits or acceptable to such institutions for investment purposes.

The City made no investigation of other laws, rules, regulations or investment criteria which might apply to such institutions or entities or which might limit the suitability of the Bonds for any of the foregoing purposes or limit the authority of such institutions or entities to purchase or invest in the Bonds for such purposes.

## **INVESTMENTS**

Under State law, the City is authorized to invest in (1) obligations of the United States or its agencies and instrumentalities, including letters of credit; (2) direct obligations of the State or its agencies and instrumentalities; (3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; (4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (“FDIC”) or by the explicit full faith and credit of the United States; (5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; (6) bonds issued, assumed or guaranteed by the State of Israel; (7) interest-bearing banking deposits that are guaranteed or insured by the FDIC or the National Credit Union Share Insurance Fund or their respective successors; (8) certificates of deposit (i) meeting the requirements of the PFIA that are issued by or through an institution that either has its main office or a branch in the State, and are guaranteed or insured by the FDIC or the National Credit Union Share Insurance Fund, or are secured as to principal by obligations described in clauses (1) through (7) or in any other manner and amount provided by law for City deposits or, (ii) where (a) the funds are invested by the City through (I) a broker that has its main office or a branch office in the State and is selected from a list adopted by the City as required by law or (II) a depository institution that has its main office or a branch office in the State that is selected by the City; (b) the broker or the depository institution selected by the City arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the City; (c) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States, and (d) the City appoints the depository institution selected under (ii)(a) above, an entity as described by Section 2257.041(d) of the Texas Government Code, or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the City with respect to the certificates of deposit issued for the account of the City; (9) fully collateralized repurchase agreements that have a defined termination date, are secured by a combination of cash and obligations described in clause (1), require the securities being purchased by the City or cash held by the City to be pledged to the City, held in the City’s name, and deposited at the time the investment is made with the City or with a third party selected and approved by the City, and are placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in the State; (10) certain bankers’ acceptances with the remaining term of 270 days or less, if the short-term obligations of the accepting bank or its parent are rated at least A-1 or P-1 or the equivalent by at least one nationally recognized credit rating agency; (11) commercial paper with a stated maturity of 270 days or less that is rated at least A-1 or P-1 or the equivalent by either (a) two nationally recognized credit rating agencies or (b) one nationally

recognized credit rating agency if the paper is fully secured by an irrevocable letter of credit issued by a U.S. or state bank; (12) no-load money market mutual funds registered with and regulated by the Securities and Exchange Commission that complies with Securities and Exchange Commission Rule 2a-7; (13) no-load mutual funds registered with the Securities and Exchange Commission that have an average weighted maturity of less than two years, and either has a duration of one year or more and is invested exclusively in obligations described in the this paragraph, or has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities; and (14) local government investment pools organized in accordance with the Interlocal Cooperation Act (Chapter 791, Texas Government Code), as amended, whose assets consist exclusively of the obligations that are described above. A public funds investment pool described in (14) above must be continuously ranked no lower than “AAA”, “AAA-m” or at an equivalent rating by at least one nationally recognized rating service. In addition, bond proceeds may be invested in guaranteed investment contracts that have a defined termination date and are secured by obligations, including letters of credit, of the United States or its agencies and instrumentalities in an amount at least equal to the amount of bond proceeds invested under such contract, other than the prohibited obligations described below.

A political subdivision such as the City may enter into securities lending programs if (i) the securities loaned under the program are 100% collateralized, a loan made under the program allows for termination at any time and a loan made under the program is either secured by (a) obligations that are described in clauses (1) through (7) above, (b) irrevocable letters of credit issued by a state or national bank that is continuously rated by a nationally recognized investment rating firm at not less than A or its equivalent or (c) cash invested in obligations described in clauses (1) through (7) above, clauses (11) through (13) above, or an authorized investment pool; (ii) securities held as collateral under a loan are pledged to the City, held in the City’s name and deposited at the time the investment is made with the City or a third party designated by the City; (iii) a loan made under the program is placed through either a primary government securities dealer or a financial institution doing business in the State; and (iv) the agreement to lend securities has a term of one year or less.

The City may invest in such obligations directly or through government investment pools that invest solely in such obligations provided that the pools are rated no lower than AAA or AAAM or an equivalent by at least one nationally recognized rating service. The City may also contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control for a term up to two years, but the City retains ultimate responsibility as fiduciary of its assets. In order to renew or extend such a contract, the City must do so by order, ordinance, or resolution.

The City is specifically prohibited from investing in: (1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal; (2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security and bears no interest; (3) collateralized mortgage obligations that have a stated final maturity of greater than 10 years; and (4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Under State law, the City is required to invest its funds under written investment policies that primarily emphasize safety of principal and liquidity; that address investment diversification, yield, maturity, and the quality and capability of investment management; and that include a list of authorized investments for City funds, the maximum allowable stated maturity of any individual investment and the maximum average dollar-weighted maturity allowed for pooled fund groups, methods to monitor the market price of investments acquired with public funds, a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis, and procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the PFIA. All City funds must be invested consistent with a formally adopted “Investment Strategy Statement” that specifically addresses each fund’s investment. Each Investment Strategy Statement will describe its objectives concerning: (1) suitability of investment type, (2) preservation and safety of principal, (3) liquidity, (4) marketability of each investment, (5) diversification of the portfolio, and (6) yield.

Under State law, the City’s investments must be made “with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person’s own affairs, not for speculation, but for investment considering the probable safety of capital and the probable income

to be derived.” At least quarterly the City’s investment officers must submit an investment report to the City Council detailing: (1) the investment position of the City, (2) that all investment officers jointly prepared and signed the report, (3) the beginning market value, and any additions and changes to market value and the ending value of each pooled fund group, (4) the book value and market value of each separately listed asset at the beginning and end of the reporting period, (5) the maturity date of each separately invested asset, (6) the account or fund or pooled fund group for which each individual investment was acquired, and (7) the compliance of the investment portfolio as it relates to: (a) adopted investment strategies and (b) State law. No person may invest City funds without express written authority from the City Council.

Under State law, the City is additionally required to: (1) annually review its adopted policies and strategies; (2) adopt by written instrument a rule, order, ordinance or resolution stating that it has reviewed its investment policy and investment strategies and records any changes made to either its investment policy or investment strategy in the respective rule, order, ordinance or resolution; (3) require any investment officers with personal business relationships or relatives with firms seeking to sell securities to the City to disclose the relationship and file a statement with the Texas Ethics Commission and the City Council; (4) require the qualified representative of firms offering to engage in an investment transaction with the City to: (a) receive and review the City’s investment policy, (b) acknowledge that reasonable controls and procedures have been implemented to preclude investment transactions conducted between the City and the business organization that are not authorized by the City’s investment policy (except to the extent that this authorization is dependent on an analysis of the makeup of the entity’s entire portfolio, requires an interpretation of subjective investment standards or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority), and (c) deliver a written statement in a form acceptable to the City and the business organization attesting to these requirements; (5) in conjunction with its annual financial audit, perform a compliance audit of the management controls on investments and adherence to the City’s investment policy; (6) provide specific investment training for the Treasurer, chief financial officer and investment officers; (7) restrict reverse repurchase agreements to not more than 90 days and restrict the investment of reverse repurchase agreement funds to no greater than the term of the reverse purchase agreement; (8) restrict the investment in no-load mutual funds in the aggregate to no more than 15% of the City’s monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service; (9) require local government investment pools to conform to the new disclosure, rating, net asset value, yield calculation, and advisory board requirements; and (10) at least annually review, revise and adopt a list of qualified brokers that are authorized to engage in investment transactions with the City.

### **INFORMATION RELATING TO THE TRUSTEE**

The City has appointed UMB Bank, N.A., a national banking association organized under the laws of the United States, to serve as Trustee. The Trustee is to carry out those duties assignable to it under the Indenture. Except for the contents of this section, the Trustee has not reviewed or participated in the preparation of this Limited Offering Memorandum and assumes no responsibility for the contents, accuracy, fairness or completeness of the information set forth in this Limited Offering Memorandum or for the recitals contained in the Indenture or the Bonds, or for the validity, sufficiency, or legal effect of any of such documents.

Furthermore, the Trustee has no oversight responsibility, and is not accountable, for the use or application by the City of any of the Bonds authenticated or delivered pursuant to the Indenture or for the use or application of the proceeds of such Bonds by the City. The Trustee has not evaluated the risks, benefits, or propriety of any investment in the Bonds and makes no representation, and has reached no conclusions, regarding the value or condition of any assets or revenues pledged or assigned as security for the Bonds, the technical or financial feasibility of the project, or the investment quality of the Bonds, about all of which the Trustee expresses no opinion and expressly disclaims the expertise to evaluate.

Additional information about the Trustee may be found at its website at [www.usbank.com](http://www.usbank.com). Neither the information on the Trustee’s website, nor any links from that website, is a part of this Limited Offering Memorandum, nor should any such information be relied upon to make investment decisions regarding the Bonds.

## **SOURCES OF INFORMATION**

### **General**

The information contained in this Limited Offering Memorandum has been obtained primarily from the City's records, the Developer and its representatives and other sources believed to be reliable. In accordance with its responsibilities under the federal securities law, the Underwriter has reviewed the information in this Limited Offering Memorandum in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of the transaction, but the Underwriter does not guarantee the accuracy or completeness of such information. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Limited Offering Memorandum or any sale hereunder will create any implication that there has been no change in the financial condition or operations of the City or the Developer described herein since the date hereof. This Limited Offering Memorandum contains, in part, estimates and matters of opinion that are not intended as statements of fact, and no representation or warranty is made as to the correctness of such estimates and opinions or that they will be realized. The summaries of the statutes, resolutions, ordinances, indentures and engineering and other related reports set forth herein are included subject to all of the provisions of such documents. These summaries do not purport to be complete statements of such provisions and reference is made to such documents for further information.

### **Developer**

The information contained in this Limited Offering Memorandum relating to the description of the Public Improvements generally and, in particular, the information included in the sections captioned "PLAN OF FINANCE — Development Plan," "— Status of Public Improvements and Lot Development," "— Homebuilders and Status of Home Construction" and "— Status of Multi-family Retail and Office/Business Park Sites," "THE PUBLIC IMPROVEMENTS," "THE DEVELOPMENT," and "THE DEVELOPER," and, to the best of its knowledge after due inquiry, under the captions "BONDHOLDERS' RISKS" (only as it pertains to the Developer, the Public Improvements and the Development), "LEGAL MATTERS — Litigation — The Developer," and "CONTINUING DISCLOSURE — The Developer" and "— The Developer's Compliance with Prior Undertakings" has been provided by the Developer, and the Developer warrants and represents that the information contained herein is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made herein, in the light of the circumstances under which they were made, not misleading. At the time of delivery of the Bonds to the Underwriter, the Developer will deliver a certificate to this effect to the City and the Underwriter.

### **Experts**

The information regarding the Service and Assessment Plan in this Limited Offering Memorandum has been provided by P3Works, LLC and has been included in reliance upon the authority of such firm as experts in the field of development planning and finance.

The information regarding the Appraisal in this Limited Offering Memorandum has been provided by Integra Realty Advisors – DFW, and has been included in reliance upon the authority of such firm as experts in the field of the appraisal of real property. Integra Realty Advisors – DFW has consented to the inclusion of the Appraisal herein.

### **Updating of Limited Offering Memorandum**

If, subsequent to the date of the Limited Offering Memorandum, the City learns, through the ordinary course of business and without undertaking any investigation or examination for such purposes, or is notified by the Underwriter, of any adverse event which causes the Limited Offering Memorandum to be materially misleading, and unless the Underwriter elects to terminate its obligation to purchase the Bonds, the City will promptly prepare and supply to the Underwriter an appropriate amendment or supplement to the Limited Offering Memorandum satisfactory to the Underwriter; provided, however, that the obligation of the City to so amend or supplement the Limited Offering Memorandum will terminate when the City delivers the Bonds to the Underwriter, unless the Underwriter notifies the City on or before such date that less than all of the Bonds have been sold to ultimate customers; in which case the

City's obligations hereunder will extend for an additional period of time (but not more than 90 days after the date the City delivers the Bonds) until all of the Bonds have been sold to ultimate customers.

### **FORWARD-LOOKING STATEMENTS**

Certain statements included or incorporated by reference in this Limited Offering Memorandum constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21e of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "project," "anticipate," "budget" or other similar words.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE CITY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ANY OF ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR, OTHER THAN AS DESCRIBED UNDER "CONTINUING DISCLOSURE" HEREIN.

### **AUTHORIZATION AND APPROVAL**

The City Council has approved by ordinance the form and content of this Preliminary Limited Offering Memorandum and has authorized this Preliminary Limited Offering Memorandum to be used by the Underwriter in connection with the marketing and sale of the Bonds.

CITY OF SAN MARCOS, TEXAS

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Mayor

ATTEST:

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City Secretary

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## APPENDIX A

### GENERAL INFORMATION REGARDING THE CITY

The following information has been provided for informational purposes only.

The City is the county seat and principal commercial, education and recreational center of Hays County located in the center of the State in the Austin-San Marcos statistical metropolitan area, approximately midway between the metropolitan areas of San Antonio and Austin. The City is located on Interest Highway 35, U.S. 81, State Highways 80, 142, 21, 123 and Ranch Road 12. The City contains a total land area of approximately 32 square miles. The City's 2010 census population was 44,994. The City's current population estimate is [61,980].

The City is a political subdivision operating as a home-rule city under the laws of the State and a home-rule charter, initially approved by the votes in 1967. The City operates under an the City Council/Manager form of government where the Mayor is elected at-large in even numbered years for a two-year term and six Council Members are elected at-large for staggered three year terms. The City Council formulates operating policy for the City while the City Manager is the chief administration officer.

### THE CITY

#### Historical Employment in the City (Average Annual)

The City of San Marcos

	Average Annual				
	2018 <sup>(2)</sup>	2017	2016	2015	2014
Civilian Labor Force	33,487	32,227	31,238	30,106	29,393
Total Employed	32,486	31,122	30,101	29,053	28,119
Total Unemployed	1,001	1,105	1,137	1,053	1,274
Unemployment Rate	3.0%	3.4%	3.6%	3.5%	4.3%

<sup>(1)</sup> Source: Texas Workforce Commission.

<sup>(2)</sup> Source: Data through October 2018.

#### Ten Largest Employers in the City (2017)

The ten largest employers in the City are set forth in the table below.

<u>Employer</u>	<u>Product or Service</u>	<u>Employees</u>
Texas State University	Education	3,606
Amazon	Distribution Center	3,000
Premium Outlets San Marcos	Mall	1,600
Tanger Factory Outlet Center	Mall	1,540
San Marcos CISD	Education	1,116
HEB Retail Store	Retail	810
Hays County	Government	807
Central Texas Medical Center	Health Care	700
HEB Distribution Center	Distribution Center	680
City of San Marcos	Government	679

Source: Municipal Advisory Council of Texas

## AUSTIN SAN MARCOS - REGIONAL EMPLOYMENT

### Surrounding Economic Activity

The major employers of municipalities surrounding the City are set forth in the table below.

City of Kyle, TX Approximately 5 Miles from San Marcos		City of New Braunfels, TX Approximately 20 Miles from San Marcos		City of Seguin, TX Approximately 25 Miles from San Marcos		City of Dripping Springs, TX Approximately 25 Miles from San Marcos	
Employer	Employees	Employer	Employees	Employer	Employees	Employer	Employees
Hays CISD	2,383	Comal ISD	2,800	Texas Power Systems/CAT	1,800	Dripping Springs ISD	900
Seton Medical Center Hays	610	Schlitterbahn Water Park	1,689	Continental AG (Motorola)	1,600	HEB	230
HEB Plus	208	Wal-Mart Distribution Center	1,269	Seguin ISD	1,130	Patriot Erectors	211
City of Kyle	198	New Braunfels ISD	1,159	CMC Steel	835	Core Health Care	164
Legend Oaks Healthcare	116	Sysco	808	Tyson Foods	745	Home Depot	130
Lowe's	108	Hunter Industries-Colorado Materials	730	Guadalupe Regional Medical Center	700	The Springs YMCA	78
Warm Springs Rehab Hospital	100	IBEX Corporation	659	Guadalupe County	595	Trudy's Four Star	75
Home Depot	100	Comal County	659	City of Seguin	380	Hill Country Care	50
Austin Community College Hays	80	City of New Braunfels	624	HEB	340		
RST, Inc.	58	HD Supply	588	Wal-Mart Supercenter	300		

City of Schertz, TX Approximately 30 Miles from San Marcos	
Employer	Employees
Schertz/Cibola/UC ISD	1,837
Amazon.com	1,256
Sysco Central Texas	815
GE Oil Gas	600
FedEx Ground	475
Brandt Engineering	437
Visionworks	400
Republic Beverage Company	382
HEB Grocery Co.	350
City of Schertz	341

City of Austin, TX Approximately 30 Miles from San Marcos	
Employer	Employees
State Government	38,353
University of Texas at Austin	23,131
City of Austin	13,825
Federal Government	12,700
HEB	12,198
Dell Computer Corporation	12,000
Austin ISD	11,447
Seton Healthcare Network	10,270
St. David's Healthcare	8,598
Samsung Austin Semiconductor	6,074

Source: Municipal Advisory Council of Texas



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APPENDIX B  
FORM OF INDENTURE

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APPENDIX C

FORM OF SERVICE AND ASSESSMENT PLAN

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APPENDIX D  
FORM OF OPINION OF BOND COUNSEL

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APPENDIX E-1

FORM OF DISCLOSURE AGREEMENT OF THE ISSUER



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APPENDIX E-2

FORM OF DISCLOSURE AGREEMENT OF THE DEVELOPER

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APPENDIX F  
APPRAISAL OF THE DISTRICT

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## APPENDIX G

### FORM OF FINANCING AGREEMENT