

AGREEMENT FOR THE PROVISION OF SERVICES

(Pursuant to Tex. Local Gov't Code §43.0672)

Date: April 28, 2020

Owner: OUTLET WEST INVESTORS LTD., 1300 Post Oak Blvd, Suite 1650, Houston, Texas 77056

City: City of San Marcos, Texas, a home rule municipal corporation, 630, East Hopkins Street, San Marcos, Texas 78666

Property: As described in Exhibit A.

1. The Owner has petitioned the City and the City has elected to annex the Property into the corporate limits of the City. Pursuant to Tex. Local Gov't Code §43.0672, the Owner and the City enter this agreement (the "Agreement") for the provision of services to the Property when annexed.

2. By this Agreement, the Owner affirms effective as of the Effective Date (as defined below), its consent to such annexation of the Property by the City and that Owner does not wish to enter into and has declined the offer from the City of a development agreement under Sections 43.016 and 212.172 of the Texas Local Government Code

3. In consideration of the mutual benefits to the Owner and the City arising from the annexation of the Property, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner and the City enter into this Agreement and agree that services to the Property will be provided as described in Exhibit B.

4. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in state courts located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

5. If any word, phrase, clause, sentence, or paragraph of this Agreement is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this Agreement will continue in force if they can be given effect without the invalid portion.

6. Effective as of the Effective Date (as defined herein), this Agreement shall be binding upon Owner, and Owner's heirs, successors and assigns, and all future owners of all or any portion of the Property.

7. This Agreement will become effective only from and after the date (the "Effective Date") that all of the following conditions (the "Conditions") have been satisfied: (i) an ordinance annexing the Property is finally passed, approved and adopted by the City's city council, and (ii) Owner has conveyed fee title to the Property to CBTX Capital, LLC, or its permitted assigns, pursuant to that certain Commercial Contract – Unimproved Property between Owner and CBTX

Capital, LLC, with an effective date of November 22, 2019, as such contract may be amended. In the event that all the Conditions have not been fully satisfied by April 2, 2021, then this instrument shall be null and void and of no further force or effect.

[SIGNATURES ON NEXT PAGE]

CITY:

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS §

 §

COUNTY OF HAYS §

 This instrument was acknowledged before me on _____, 20____, by
_____, _____ of the City of San Marcos, in such capacity, on
behalf of said municipality.

Notary Public, State of Texas

OWNER:

OUTLET WEST INVESTORS, LTD.

By: JOQ GP, LLC, its general partner

By:

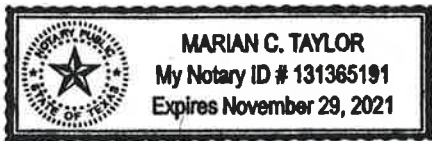
Robert C. Wilson, III
Name: Robert C Wilson, III
Title: President



ACKNOWLEDGMENT

STATE OF Texas §
COUNTY OF Harris §

This instrument was acknowledged before me on May 7th, 2020 by Robert C. Wilson, III, President of JOQ GP, LLC, the general partner of Outlet West Investors, Ltd., in such capacity on behalf of said entities.



Marian Taylor
Notary Public, State of Texas

EXHIBIT B

When the Property is annexed, services will be provided to the Property as follows:

1. Police Protection

Police services, including patrolling, response to calls and other routine services, will begin on the Effective Date of the annexation using existing personnel and equipment.

2. Fire Protection

Fire protection services, including emergency response calls, will begin on the Effective Date of the annexation using existing personnel and equipment and within the limitations of the available water supply.

3. Emergency Medical Services

Emergency medical services, including emergency response calls, will continue at the same level of service after the annexation. The City of San Marcos contracts for emergency medical services through the San Marcos – Hays County EMS, which already provides service to the area being annexed.

4. Solid Waste Collection

Solid waste collection services, provided under contract with a private company, will be made available to all properties on the Effective Date of the annexation. Residents of the Property may elect to continue using the services of a private solid waste hauler for a period of two years after the Effective Date of the annexation. Businesses and institutions must make arrangements with private solid waste haulers.

5. Operation and Maintenance of Water and Wastewater Facilities

a. Water. The Property is located within an area over which the City of San Marcos holds a Certificate of Convenience and Necessity (CCN) for water service. The City will make water service available to the Property on the Effective Date of the annexation on the same basis as available to other owners of property in the City, i.e., the Owner is responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property.

b. Wastewater. The Property is not covered by a CCN for wastewater service, however, the City of San Marcos has wastewater lines adjacent to the Property and agrees to make wastewater service available to the Property on the Effective Date of the annexation on the same basis as available to other owners of property in the City, i.e., the Owner is responsible for the cost to construct and extend all infrastructure, facilities, and lines necessary to serve the Property. In addition, the City is in the process of adding the Property as an area covered by the City's CCN for wastewater service.

6. Construction, Operation and Maintenance of Roads and Streets

As new development occurs within the Property, the Owner(s) of Property will be required to construct streets at the Owner's sole expense in accordance with applicable ordinances of the City.

7. Electric Service

The Property is located in the Pedernales Electric service area. Thus, the City will not provide electric service to the Property.

8. Operation and Maintenance of Parks, Playgrounds, and/or Swimming Pools

No parks, playgrounds, and/or swimming pools currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding recreational facilities to serve the Property. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal parks and recreational facilities, subject to the same restrictions, fees, and availability that pertains to the use of those facilities by other citizens of the city.

9. Operation and Maintenance of Other Public Facilities, Buildings, and Services

No other public facilities, buildings, or services currently exist within the Property. The same standards and policies now established and in force within the city limits will be followed in maintaining and expanding other public facilities, building, and services. Upon annexation, the owners and residents of property located within the Property shall be entitled to the use of all municipal facilities, buildings, and services, subject to the same restrictions, fees, and availability that pertains to the use of those facilities and services by other citizens of the city.



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**STATE OF TEXAS
COUNTY OF HAYS**

**9.610 ACRES
EDWARD BURLESON SURVEY
NO. 18 - ABSTRACT # 63**

BEING 9.610 ACRES OF LAND SITUATED IN THE EDWARD BURLESON SURVEY NO. 18, ABSTRACT NO. 63, HAYS COUNTY, TEXAS, SAME BEING A 7.959 ACRE PORTION OF THAT CALLED 109.22 ACRE TRACT OF LAND CONVEYED TO OUTLET WEST INVESTORS, LTD., A TEXAS LIMITED PARTNERSHIP, BY DEED DATED DECEMBER 21, 1998 AND RECORDED IN VOLUME 1486, PAGE 887, OFFICIAL PUBLIC RECORDS, HAYS COUNTY, TEXAS, AND BEING A 1.153 ACRE PORTION OF CENTERPOINT ROAD, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY, AND ALSO BEING ALL THAT 0.498 ACRE PORTION OF TRANSPORTATION WAY, A DEDICATED 76 FOOT PUBLIC RIGHT-OF-WAY AS SHOWN BY PLAT OF LOT 2, LOWMAN RANCH SUBDIVISION, SECTION TWO, AN ADDITION TO HAYS COUNTY, TEXAS ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 18, PAGE 17, HAYS COUNTY PLAT RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" iron rod found with cap marked "BYRN" at the intersection of the southwest line of Centerpoint Road, a variable width public right-of-way, as widened and described in Exhibit 'A' in Lis Pendens Notice recorded in Volume 2571, Page 69, Official Public Records, Hays County, Texas, with the southeast line of said Transportation Way, for the east corner of the 9.611 acre herein described tract of land;

THENCE South 43°34'30" West (S 45°34'23" W Record), at a distance of 10.30 feet passing the north corner of said Lot 2, Lowman Ranch Section Two, and a common corner of the right-of-way of said Centerpoint Road, and continuing on for a total distance of 285.43 feet (285.35' Record) to a 1/2" iron rod found with cap marked "BYRN" at the west corner of said Lot 2 and a common south corner of said Transportation Way, for a south corner of the herein described tract of land;

THENCE North 46°26'02" West (N 46°25'37" W Record), a distance of 75.99 feet (76.00' Record) to a 1/2" iron rod found with cap marked "BYRN" at the west corner of said Transportation Way, for an interior corner of the herein described tract of land;

THENCE South 43°34'33" West (S 43°34'23" W Record), with the projection of the northwest line of said proposed Transportation Way, at a distance of 250.54 feet passing a 1/2" iron rod set with cap marked "RPLS 5687" set at the intersection of said proposed Transportation Way with the northeast line of a drainage easement described in Exhibit 'A' of the Instrument recorded in Volume 4389, Page 592 of the Hays County Real Property Records, and continuing on in all a total distance of 330.51 feet to the approximate centerline of said drainage easement, for the south corner of the herein described tract of land;

THENCE North 46°29'00" West (N 45°58'03" W Record), with the approximate centerline of said drainage easement, a distance of 577.62 feet to the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract and the common southeast line of the MK&T Railroad, for the west corner of the herein described tract of land, and from which a 1/2" iron rod found with cap marked "BYRN" at a west corner of said drainage easement bears South 46°38'05" West (S 47°09'14" W Record), a distance of 80.09 feet (80.12' Record);

THENCE with the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract and the common southeast line of the MK&T Railroad, the following courses and distances numbered (1) and (2):

1) North 46°38'05" East (N 47°09'14" E Record), a distance of 80.09 feet (80.12' Record) to a 1/2" iron rod found with cap marked "BYRN" at a north corner of said drainage easement;

2) North 46°39'10" East (N 47°08'53" E Record), a distance of 540.99 feet to a 1/2" iron rod set with cap marked "RPLS 5687" set at the intersection of the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract with the southwest line of aforesaid Centerpoint Road, as widened, and from which the north corner of said Outlet West Investors, Ltd. called 109.22 acre tract bears North 46°39'10" East (N 47°08'53" E Record), a distance of 27.30 feet;

THENCE North 46°39'10" East (N 47°08'53" E Record), with the projection of the northwest line of said Outlet West Investors, Ltd. called 109.22 acre tract and the common southeast line of the MK&T Railroad, at a distance of 27.30 feet passing the record north corner of said Outlet West Investors, Ltd. called 109.22 acre tract, crossing said Centerpoint Road, and continuing on for a total distance of 82.22 feet to a wire fence in the northeast line of said roadway, for the north corner of the herein described tract of land, same being in the southwest line of that certain called 63.133 acre tract of land conveyed as "Tract 1" in a deed to San Marcos Land Associates recorded in Volume 1060, Page 848 of the Deed Records of Hays County, Texas, and from which a steel corner fence post at the west corner of said San Marcos Land Associates called 63.133 acre tract bears, North 45°52'41" West, a distance of 0.43 feet;

THENCE South 45°52'41" East (S 44°21'26" E Record), with the northeast line of said Centerpoint Road and the common southwest line of said San Marcos Land Associates called 63.133 acre tract, along the meanders of a wire fence, a distance of 615.92 feet to the intersection of said common line with the projection of the southeast line of the aforementioned Transportation Way, dedicated 76 foot public right-of-way, for the east corner of the herein described tract of land;

THENCE South 43°34'33" West, along the projection of the of the northwest line of said Transportation Way, crossing said Centerpoint Road, at a distance of 53.16 feet passing the record northeast line of aforesaid Outlet West Investors, Ltd. called 109.22 acre tract, and continuing on for a total distance of 79.86 feet to the POINT OF BEGINNING and CONTAINING 9.610 ACRES OF LAND.

BEARING BASIS HEREIN DERIVED BY GPS MEASUREMENTS ADJUSTED BY HARN (HIGH ACCURACY REFERENCE NETWORK) & PROJECTED TO TEXAS STATE PLANE COORDINATES (TEXAS SOUTH CENTRAL ZONE) & NAD83.

I, Richard H. Taylor, do certify that this description and associated exhibit were prepared this date from a boundary survey performed under my direction during December 2019, and is true and correct to the best of my knowledge and belief.



Richard H. Taylor
Registered Professional Land Surveyor
No. 3986 State of Texas
Attachment: Drawing of 9.610 Acre Annexation Tract
Job: 19-7284

04/02/2020

Date



