

**Public Notice**  
**Town of Hickory Creek**  
**Town Council Special Session**  
**1075 Ronald Reagan Avenue**  
**May 29, 2018; 6:30 P.M.**

Notice is hereby given as required by Title 5; Chapter 551.041 of the Government Code that the Town Council of the Town of Hickory Creek will hold a Special Session on May 29, 2018; at 6:30 P.M., in the Council Chambers of the Town Hall Building located at 1075 Ronald Reagan Avenue. "NOTE: If, during the course of the meeting, any discussion of any item on the agenda should be held in a closed meeting, the Council will conduct a closed meeting in accordance with the TEXAS OPEN MEETING ACT, TEX. GOVT. CODE, Chapter 551, Sub-Chapters (d) and (e)". The agenda follows:

**Special Session:**

**A. Call to Order**

**Roll Call**

**Pledge of Allegiance to the U.S. and Texas Flags**

**Invocation**

**Items of Community Interest:** Pursuant to Texas Government Code Section 551.0415 the town council may report on the following: expressions of thanks, congratulations, or condolence; an honorary or salutary recognition of an individual; a reminder about an upcoming event organized or sponsored by the governing body; and announcements involving an imminent threat to the public health and safety of people in the municipality or county that has arisen after the posting of the agenda.

**Public Comment:** This item allows the public an opportunity to address the council. To comply with the provisions of the Open Meetings Act, the town council cannot discuss or take action on items brought before them not posted on the agenda. Please complete a request if you wish to address the town council. Comments will be limited to three minutes.

**Business:**

**B. Public Hearing:**

No Public Hearing

**C. Consent Agenda Items:**

1. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and P3Works, LLC for Hickory Creek Public Improvement District No. 1.
2. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and P3Works, LLC for Hickory Creek Public Improvement District No. 2.

3. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and Halff Associates.

**D. Regular Agenda Items:**

1. Interviews for various boards and commissions.
2. Consider and act on appointments to the Board of Adjustments.
3. Consider and act on appointments to the Parks and Recreation Board.
4. Consider and act on appointments to the Planning and Zoning Commission.
5. Consider act on a preliminary plat for Whaley Estates, being 21.765 acres out of the McCarroll Survey, Abstract A0958a in the Town of Hickory Creek, Denton County, Texas.
6. Consider and act on a resolution of the Town Council of the Town of Hickory Creek, Texas, approving a first amended and restated performance agreement by and between the Hickory Creek Economic Development Corporation and Hard Sun V, Inc., a Texas Corporation for economic development purposes.
7. Consider and act on a resolution of the Town Council of the Town of Hickory Creek, Texas, authorizing the president of the Hickory Creek Economic Development Corporation to execute a deed of trust to facilitate a loan by Point Bank to Hard Sun V, Inc., a Texas Corporation consistent with the performance agreement with Hard Sun V, Inc., approved on or about September 20, 2017 and the first amended and restated performance agreement with Hard Sun V, Inc.
8. Consider and act on a site and landscape plan for Elm Fork Restaurant, legally described as TLC Subdivision Lot 1, Block A, 0.910 acres in the J.W. Simmons Survey, Abstract No. 1163, Town of Hickory Creek, Denton County, Texas.
9. Consider and act on a replat of Hickory Creek Market Place Addition, Lot 1R, Block 1, 1.562 acres situated in the John W. Simmons Survey, Abstract No. 1336, Town of Hickory Creek, Denton County, Texas.
10. Consider and act on a site and landscape plan submitted by JMSR Enterprises LLC, legally described as Ventana Addition, Block 1, Lot 2(pt), Town of Hickory Creek, Denton County, Texas.
11. Consider and act on a replat of Lot 1X-R, 2X, 3X and Lots 2 through 24, Block A, Steeplechase South Addition (33.83 acre tract) of all of Lot 1X, Block A of Steeplechase South Addition, situated in the M.E.P. & P.R.R. Company Survey, Abstract No. 915, Town of Hickory Creek, Denton County, Texas.
12. Presentation regarding Waste Management from TJ Gilmore, Public Sector Solutions Representative.
13. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and Waste Management of Texas, Inc.
14. Consider and act on a resolution finding assessments on land located Hickory Creek Public Improvement District No. 2 to be stale and therefore invalid.
15. Consider and act on a resolution approving the form and authorizing the distribution of a preliminary limited offering memorandum for "Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2)"

16. Consider and act on resolution of the Town of Hickory Creek, Texas determining the costs of certain improvements to be financed by the Hickory Creek Public Improvement District No. 2; approving a revised service plan and assessment plan, including proposed assessment rolls; calling and noticing a public hearing for June 19, 2018 to consider an ordinance levying assessments on property located within Improvement Area #2 of the Hickory Creek Public Improvement District No. 2; directing the filing of the proposed assessment rolls with the Town Secretary to make available for public inspection; directing town staff to publish and mail notice of said public hearing; and resolving other matters incident and related thereto.
17. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute a development agreement by and between the Town of Hickory Creek Texas and Centurion Acquisitions, LLC.
18. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute a professional services agreement by and between the Town of Hickory Creek, Texas and Centurion Acquisitions LLC.
19. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and P3Works, LLC for Hickory Creek Public Improvement District No. 3.
20. Consider and act on an Interlocal Agreement by, between, and among Town of Hickory Creek, LCUMA and Harbor Grove Water Supply Corporation for fire protection service.
21. Consider and act on an ordinance of the Town Council of Hickory Creek, Texas, amending the Town's Code of Ordinances, Chapter 12: Traffic and Vehicles; Article 12.02 Speed, by adding a new section 12.02.008; Designating a School Zone and providing for speed limits during school hours in the 1000 block of Ronald Reagan Avenue and the 800 block of Point Vista.
22. Consider and act on a request from the City of Lake Dallas to increase Hickory Creek's contribution for the Lake Cities 4th of July Celebration.
23. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and Lexipol.
24. Consider and act on the Town of Hickory Creek council chambers rental policy.
25. Discussion regarding a bass fishing tournament for veterans
26. Discussion regarding a program for academy sponsorship for police recruits.
27. Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an amendment to the Cornelius Center Investors, LP development and assesment agreements by and between the Town of Hickory Creek, Texas and Cornelius Center Investors, LP.
28. Consider and act on appointment of Mayor Pro Tem.
29. Appointments of council liaisons for the various boards.
30. Consider and act on an appointments to the Code of Ethics Board.
31. Discussion regarding current road and sidewalk projects.

**E. Executive Session:** The Town Council will convene into executive session pursuant to Texas Government Code Section 551.071, Consultation with Attorney on matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, or on matters pertaining to pending or contemplated litigation; Section 551.072 to deliberate the purchase, exchange, lease or value of real property and Section 551.074 Personnel Matters, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee and Section 551.087, Deliberation regarding Economic Development Negotiations, to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the government body seeks to have locate, stay or expand in or near the territory of the government body and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect.

1. Municipal Court Employee
2. Discussion regarding potential economic development agreement related to property located at 1851 Turbeville Road.
3. Discussion regarding the purchase of approximately 7.41 acre tract or tracts of land.

**F. Reconvene into Open Session:**

1. Discussion and possible action regarding matters discussed in executive session.

**G. Adjournment:**





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. A.1

Call to Order



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. A.2

Roll Call



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. A.3

Pledge of Allegiance to the U.S. and Texas Flags



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. A.4

Invocation



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. A.5

Items of Community Interest: Pursuant to Texas Government Code Section 551.0415 the town council may report on the following: expressions of thanks, congratulations, or condolence; an honorary or salutary recognition of an individual; a reminder about an upcoming event organized or sponsored by the governing body; and announcements involving an imminent threat to the public health and safety of people in the municipality or county that has arisen after the posting of the agenda.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. A.6

Public Comment: This item allows the public an opportunity to address the council. To comply with the provisions of the Open Meetings Act, the town council cannot discuss or take action on items brought before them not posted on the agenda. Please complete a request if you wish to address the town council. Comments will be limited to three minutes.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. B.1

No Public Hearing



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. C.1

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and P3Works, LLC for Hickory Creek Public Improvement District No. 1.



**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-1**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND P3WORKS, LLC FOR HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 1, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town Council has been presented with a proposed Agreement related to Hickory Creek Public Improvement District No. 1 provided by P3Works, LLC, hereinafter the “Agreement”; and

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29<sup>th</sup> day of May, 2018.

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Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

**AGREEMENT FOR PUBLIC IMPROVEMENT DISTRICT  
ADMINISTRATION SERVICES**

This Agreement for Public Improvement District Administration Services ("Agreement") is entered into this 29th day of May, 2018, by and between P3Works, LLC ("P3Works"), and the Town of Hickory Creek, Texas ("Town").

**RECITALS**

WHEREAS, the Hickory Creek Town Council passed Resolution No. 2012-0327-1 on March 31, 2012, approving and authorizing the creation of Hickory Creek Public Improvement District No. 1 ("PID No. 1" or "District") to finance the costs of certain public improvements for the benefit of property within the District; and

WHEREAS, the Town approved Ordinance No. 2012-04-682 on April 24, 2012, approving the District service and assessment plan (the "Service and Assessment Plan"); and

WHEREAS, the Town and CTMGT Turbeville, LLC entered into a reimbursement agreement (the "Reimbursement Agreement") on April 24, 2012, which allows for the reimbursement of eligible costs to CTMGT Turbeville, LLC or its assigns; and

WHEREAS, the Town issued those certain Town of Hickory Creek, Texas Special Assessment Revenue Bonds, Series 2017 (Hickory Creek Public Improvement District No. 1) (the "Bonds") secured by the annual District assessments; and

WHEREAS, the Town requires specialized services related to the administration of the District, as more fully set forth in this Agreement; and

WHEREAS, P3Works has the expertise to properly establish and administer the District and in the event Bonds are issued, will ensure compliance with the PID Financing Agreement, the Bond Indenture, and other documents and agreements relating to the Bonds; and will ensure compliance with Texas Local Government Code Chapter 372; and

WHEREAS, the Town desires to retain P3Works to provide District administration services;

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for good and valuable consideration, P3Works and the Town agree as follows:

**ARTICLE I**

**TERM OF AGREEMENT**

1.0 The Agreement shall be effective as of its approval by all parties, and shall be for a period of three (3) years and shall automatically continue on a year to year basis until terminated pursuant to Article V of this Agreement.

**ARTICLE II**  
**SERVICES TO BE PROVIDED BY P3WORKS**

2.0 The scope and timing of services to be performed by P3Works are set forth in Exhibit A, which is attached hereto and incorporated into this Agreement by this reference.

2.1 The Services to be provided by P3Works under the terms of this Agreement relate only to the Town of Hickory Creek Public Improvement District No. 1.

2.2 P3Works agrees that its services pursuant to this Agreement shall at all times be subject to the control and supervision of the Town and that nothing in this Agreement shall constitute an assignment of any right or obligation of the Town under any applicable contract, agreement, or law. P3Works shall not represent to any property owner or any other person that it or any of its employees are acting as the Town or employees of the Town.

2.3 No substantial changes in the scope of services shall be made without the prior written approval of P3Works and the Town.

2.4 P3Works shall supply all tools and means necessary to perform the services and production of the work product described in Exhibit A.

**ARTICLE III**  
**PAYMENT TERMS AND CONDITIONS**

3.0 In consideration for the services to be performed by P3Works, the Town agrees to pay P3Works the fees for all services and related costs and expenses set forth in Exhibit A, beginning the first day of the month following the execution of this Agreement. Beginning on February 1, 2019, and each February 1 thereafter, the fees shall increase by 2%.

3.1 Monthly invoices shall be submitted to the Town for work completed. Town agrees to pay the amount due to P3Works upon receipt of each invoice.

3.2 Copies of all invoices to P3Works for expenses, materials, or services provided to P3Works will accompany the invoice to the Town. P3Works will pass any third party cost thru to the Town without markup, and will not incur any expense in excess of \$200 without written consent of the Town.

**ARTICLE IV**  
**TERMINATION OF THIS AGREEMENT**

4.0 Notwithstanding any other provisions of this Agreement, either party may terminate this Agreement at any time by giving sixty (60) days written notice to the other party without penalty and without limitation of its right to seek damages. Town shall pay P3Works, within 30 days of such termination, all of P3Works' fees and expenses actually accrued or incurred to and including the date of termination, including any amount incurred or accrued in connection with work in progress.

## **ARTICLE V**

### **GENERAL PROVISIONS**

5.0 This Agreement supersedes any and all agreements, including the Original PID Administration Agreement, either oral or written, between the parties hereto with respect to rendering of services by P3Works for the Town and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party of this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

5.1 This Agreement shall be administered and interpreted under the laws of the State of Texas. This Agreement shall not be construed for or against any party by reason of who drafted the provisions set forth herein. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall remain in full force and effect.

5.2 Neither this Agreement or any duties or obligations under this Agreement may be assigned by P3Works without the prior written consent of the Town.

5.3 The waiver by either party of a breach or violation of any provision of this Agreement will not operate as or be construed to be a waiver of any subsequent breach thereof.

5.4 All records, reports, and other documents prepared by P3Works for the purposes of providing the services described in this Agreement shall be property of the Town. All such documents shall be made available to the Town during the course of performance of this Agreement. Any reports, studies, photographs, negatives, or other documents or drawings prepared by P3Works in the performance of its obligations under this Agreement shall be the exclusive property of the Town and all such materials shall be remitted to the Town by P3Works upon completion, termination, or cancellation of this Agreement.

5.5 The Town acknowledges P3Works' ownership of its software, programs, inventions, know-how, trade secrets, confidential knowledge, source code, or other proprietary information relating to products, processes, services, software, formulas, developmental or experimental work, business plans, financial information, or other subject matter ("Confidential Information") pertaining to the business of P3Works. This Agreement shall not in any way give rise to any requirement or obligation for P3Works to disclose or release any Confidential Information.

5.6 The headings and article titles of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

5.7 Should either party commence any legal action or proceeding against the other based upon this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs.

5.8 All notices, requests, demands, and other communications which are required to be given under this agreement shall be in writing and shall be deemed to have been duly given upon the delivery by registered or certified mail, return receipt requested, postage prepaid thereon, as follows:

To P3Works:

Mary V. Petty  
Managing Partner  
P3Works, LLC  
350 Rufe Snow Drive  
Suite 200  
Keller, Texas 76248

To Town:

John Smith  
Town Administrator  
Town of Hickory Creek  
1075 Ronald Regan Avenue  
Hickory Creek, TX 75065

5.9 The parties hereby warrant that the persons executing this Agreement are authorized to execute this Agreement and are authorized to obligate the respective parties to perform this Agreement. A facsimile signature on this Agreement shall be treated for all purposes as an original signature.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2018:

P3Works, LLC

BY: \_\_\_\_\_  
Mary V. Petty  
Managing Partner

Town of Hickory Creek

BY: \_\_\_\_\_  
Lynn C. Clark, Mayor

**EXHIBIT A**  
**SERVICES TO BE PROVIDED**

**BASIC DISTRICT ADMINISTRATION SERVICES**

*Monthly Fee = \$500*

Prepare Annual Service and Assessment Plan Update

1. If possible, obtain updated construction cost estimates (or actual costs for completed facilities) for District improvements, and update service and assessment plan text and tables.
2. Update service and assessment plan text and tables as necessary to account for any changes in development plan or land uses.
3. Update annual District assessment roll.
4. Identify parcel subdivisions, conveyance to owner's associations, changes in land use, and any other information relevant to the levy of special assessments.
5. Review maps of tax parcels to compile/audit list of parcels that are within the District for the upcoming bond year. Classify each parcel pursuant to the approved service and assessment plan.
6. Identify and parcels dedicated to any property types classified as exempt by the service and assessment plan.
7. Update District database with newly subdivided parcels and property type classifications.
8. Calculate annual special assessment for each parcel. Verify the sum of annual installments for all parcels in the District is sufficient to meet the annual debt service requirement, administration expenses,
9. Present preliminary annual assessment roll to Town. Upon approval by Town, submit final annual assessment roll to County Tax Collector.

Provide Public Information Request Support

1. If requested, P3Works will respond to any calls and or emails relating to the District. P3Works will only provide technical answers relating to the annual assessments or the District generally. P3Works will not provide any commentary on Town policy relating to PIDs.
2. If the Town receives a notice from a property owner alleging an error in the calculation of any matters related to the annual assessment roll for the District, P3Works will review and provide a written response to the Town. If a calculation error occurred, P3Works will take corrective action as required to correct the error.

Delinquency Management

1. After the end of the annual assessment installment collection period, P3Works will prepare a delinquent special assessment report, which details which parcels are delinquent and the amount of delinquency.
2. P3Works will advise the Town what action must be taken relating to delinquent parcels, if any, to remain in compliance with the District Reimbursement Agreement.

## ADDITIONAL DISTRICT ADMINISTRATION SERVICES

*Billed at P3Works' prevailing hourly rates, which are currently as follows:*

<i>Title</i>	<i>Hourly Rate</i>
<i>Managing Partner</i>	<i>\$250</i>
<i>Vice President</i>	<i>\$185</i>
<i>Senior Associate</i>	<i>\$160</i>
<i>Associate</i>	<i>\$135</i>
<i>Administrative</i>	<i>\$75</i>

*\*P3Works' hourly rates may be adjusted from time to time to reflect increased costs of labor and/or adding/reclassifying titles. Travel will be billed at the hourly rates.*

### Continuing Disclosure Services

1. P3Works will prepare the form of the annual report as required by the continuing disclosure agreements.
2. Upon notification by any responsible party or if P3Works independently becomes aware of such knowledge, P3Works will prepare notices of material events covering the events enumerated in the disclosure agreements.
3. P3Works will coordinate with the Trustee to disseminate the annual reports, and notice of significant events to the Municipal Securities Rulemaking Board (MSRB) and any other parties required in the continuing disclosure agreement.





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. C.2

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and P3Works, LLC for Hickory Creek Public Improvement District No. 2.

**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-2**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND P3WORKS, LLC FOR HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town Council has been presented with a proposed Agreement related to Hickory Creek Public Improvement District No. 2, provided by P3Works, LLC, hereinafter the “Agreement”; and

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29th day of May, 2018.

\_\_\_\_\_  
Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

**AGREEMENT FOR PUBLIC IMPROVEMENT DISTRICT  
ADMINISTRATION SERVICES**

This Agreement for Public Improvement District Administration Services ("Agreement") is entered into this 29th day of May, 2018, by and between P3Works, LLC ("P3Works"), and the Town of Hickory Creek, Texas ("Town").

**RECITALS**

WHEREAS, the Town Council passed Resolution No. 2012-0918-1 on September 18, 2012, approving and authorizing the creation of the Hickory Creek Public Improvement District No. 2 ("PID No. 2" or "District") to finance the costs of certain public improvements for the benefit of property within the District; and

WHEREAS, the Town may consider issuing bonds to fund certain improvements in the PID as authorized by the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended; and

WHEREAS, the Town requires specialized services related to the revision and updating of the Service and Assessment Plan ("Service and Assessment Plan"), bond issuance, and the administration of the District, as more fully set forth in this Agreement; and

WHEREAS, P3Works has the expertise to properly establish and administer the District and ensure compliance with Texas Local Government Code Chapter 372; and

WHEREAS, the Town desires to retain P3Works to provide District administration services;

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for good and valuable consideration, P3Works and the Town agree as follows:

**ARTICLE I**

**TERM OF AGREEMENT**

1.0 The Agreement shall be effective as of its approval by all parties, and shall be for a period of three (3) years and shall automatically continue on a year to year basis until terminated pursuant to Article V of this Agreement.

**ARTICLE II**

**SERVICES TO BE PROVIDED BY P3WORKS**

2.0 The scope and timing of services to be performed by P3Works are set forth in Exhibit A, which is attached hereto and incorporated into this Agreement by this reference.

2.1 P3Works agrees that its services pursuant to this Agreement shall at all times be subject to the control and supervision of the Town and that nothing in this Agreement shall constitute an assignment of any right or obligation of the Town under any applicable contract, agreement, or law. P3Works shall not represent to any property owner or any other person that it or any of its employees are acting as the Town or employees of the Town.

2.2 No substantial changes in the scope of services shall be made without the prior written approval of P3Works and the Town.

2.3 P3Works shall supply all tools and means necessary to perform the services and production of the work product described in Exhibit A.

### **ARTICLE III**

#### **PAYMENT TERMS AND CONDITIONS**

3.0 In consideration for the services to be performed by P3Works, the Town agrees to pay P3Works the fees for all services and related costs and expenses set forth in Exhibit A, beginning the first day of the month following the execution of this Agreement. Beginning on February 1, 2019, and each February 1 thereafter, the fees shall increase by 2%.

3.1 Monthly invoices shall be submitted to the Town for work completed. Town agrees to pay the amount due to P3Works upon receipt of each invoice.

3.2 Copies of all invoices to P3Works for expenses, materials, or services provided to P3Works will accompany the invoice to the Town. P3Works will pass any third-party cost through to the Town without markup and will not incur any expense in excess of \$200 without written consent of the Town.

3.3 The only source of payment for P3Works' fees and services shall be the District or funds advanced by the developer. The Town general fund shall never be used to pay for any expenses relating to P3Works' administration of the District. In the event there is insufficient District funds in a given year to pay P3Works' fees and expenses, P3Works agrees to defer the fees and expenses until such time as there are sufficient District funds or funds advanced by the developer.

### **ARTICLE IV**

#### **TERMINATION OF THIS AGREEMENT**

4.0 Notwithstanding any other provisions of this Agreement, either party may terminate this Agreement at any time by giving sixty (60) days written notice to the other party without penalty and without limitation of its right to seek damages. Town shall pay P3Works, within 30 days of such termination, all of P3Works' fees and expenses actually accrued or incurred to and including the date of termination, including any amount incurred or accrued in connection with work in progress.

## ARTICLE V

### GENERAL PROVISIONS

5.0 This Agreement supersedes any and all agreements, including the Original PID Administration Agreement, either oral or written, between the parties hereto with respect to rendering of services by P3Works for the Town and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party of this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

5.1 This Agreement shall be administered and interpreted under the laws of the State of Texas. This Agreement shall not be construed for or against any party by reason of who drafted the provisions set forth herein. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall remain in full force and effect.

5.2 Neither this Agreement or any duties or obligations under this Agreement may be assigned by P3Works without the prior written consent of the Town.

5.3 The waiver by either party of a breach or violation of any provision of this Agreement will not operate as or be construed to be a waiver of any subsequent breach thereof.

5.4 All records, reports, and other documents prepared by P3Works for the purposes of providing the services described in this Agreement shall be property of the Town. All such documents shall be made available to the Town during the course of performance of this Agreement. Any reports, studies, photographs, negatives, or other documents or drawings prepared by P3Works in the performance of its obligations under this Agreement shall be the exclusive property of the Town and all such materials shall be remitted to the Town by P3Works upon completion, termination, or cancellation of this Agreement.

5.5 The Town acknowledges P3Works' ownership of its software, programs, inventions, know-how, trade secrets, confidential knowledge, source code, or other proprietary information relating to products, processes, services, software, formulas, developmental or experimental work, business plans, financial information, or other subject matter ("Confidential Information") pertaining to the business of P3Works. This Agreement shall not in any way give rise to any requirement or obligation for P3Works to disclose or release any Confidential Information.

5.6 The headings and article titles of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

5.7 Should either party commence any legal action or proceeding against the other based upon this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs.

5.8 All notices, requests, demands, and other communications which are required to be given under this agreement shall be in writing and shall be deemed to have been duly given upon the delivery by registered or certified mail, return receipt requested, postage prepaid thereon, as follows:

To P3Works:

Mary V. Petty  
Managing Partner  
P3Works, LLC  
350 Rufe Snow Drive  
Suite 200  
Keller, Texas 76248

To Town:

John Smith  
Town Administrator  
Town of Hickory Creek  
1075 Ronald Regan Avenue  
Hickory Creek, TX 75065

5.9 The parties hereby warrant that the persons executing this Agreement are authorized to execute this Agreement and are authorized to obligate the respective parties to perform this Agreement. A facsimile signature on this Agreement shall be treated for all purposes as an original signature.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2018:

P3Works, LLC

BY: \_\_\_\_\_  
Mary V. Petty  
Managing Partner

Town of Hickory Creek

BY: \_\_\_\_\_  
Lynn C. Clark, Mayor

**EXHIBIT A**  
**SERVICES TO BE PROVIDED**

**SERVICE AND ASSESSMENT PLAN UPDATE PREPARATION AND BOND ISSUANCE SUPPORT SERVICES**

*Billed at P3Works' prevailing hourly rates, which are currently as follows:*

<i><b>Title</b></i>	<i><b>Hourly Rate</b></i>
<i>Managing Partner</i>	<i>\$250</i>
<i>Vice President</i>	<i>\$185</i>
<i>Senior Associate</i>	<i>\$160</i>
<i>Associate</i>	<i>\$135</i>
<i>Administrative</i>	<i>\$75</i>

*\*P3Works' hourly rates may be adjusted from time to time to reflect increased costs of labor and/or adding/reclassifying titles. Travel will be billed at the hourly rates.*

**District Due Diligence and Preparation of PID Plan of Finance**

1. P3Works will review project information and prepare a plan of finance for the proposed transaction, including
2. Assessed value schedules, value to lien analysis, and overall structuring to achieve Town goals and objectives
3. Identify areas of risk and solutions to mitigate the risks,
4. Bond sizing and bond phasing by improvement area,
5. Sources and uses of funds by improvement area,
6. Debt service schedules, and;
7. Assessment allocation and associated estimated annual installment by lot type for each improvement area.

**Preparation of Service and Assessment Plan**

1. P3Works will prepare a complete and final Service and Assessment Plan to be adopted by Town Council and included in the Official Statement for the Bonds based on the Plan of Finance.
2. P3Works will present the Service and Assessment Plan to Town Council and request approval of Assessment Roll.

**Bond Issuance Support**

1. P3Works will ensure bond documents, including the PID financing agreement, bond indenture, and official statement are all consistent with the Service and Assessment Plan.
2. P3Works will provide ad-hoc analysis as requested by the underwriter in preparation of the preliminary official statement.

**Participation in Presentations to Town Council or other Public Forums**

1. P3Works will prepare and present information as requested to the Town Council or any other public forum.



## **BASIC DISTRICT ADMINISTRATION SERVICES**

*If no bonds are sold:*

*Monthly Fee = \$700 beginning the first of the month following execution of this Agreement.  
(Proration will occur for any partial month if not begun on the 1<sup>st</sup> day of the month.)*

*If bonds are sold:*

*Monthly Fee = \$1,500 beginning the first of the month following the closing of the Bonds. (Proration will occur for any partial month if not begun on the 1<sup>st</sup> day of the month.).*

### Prepare Annual Service and Assessment Plan Update

1. If possible, obtain updated construction cost estimates (or actual costs for completed facilities) for District improvements, and update service and assessment plan text and tables.
2. Update service and assessment plan text and tables as necessary to account for any changes in development plan or land uses.
3. Update annual District assessment roll.
4. Identify parcel subdivisions, conveyance to owner's associations, changes in land use, and any other information relevant to the levy of special assessments.
5. Review maps of tax parcels to compile/audit list of parcels that are within the District for the upcoming bond year. Classify each parcel pursuant to the approved service and assessment plan.
6. Identify and parcels dedicated to any property types classified as exempt by the service and assessment plan.
7. Update District database with newly subdivided parcels and property type classifications.
8. Calculate annual special assessment for each parcel. Verify the sum of annual installments for all parcels in the District is sufficient to meet the annual debt service requirement, administration expenses, and any provisions for delinquency or prepayment reserves.
9. Calculate other funds available, such as reserve fund income, capitalized interest, and interest income. Reduce annual assessment based on findings according to approved service and assessment plan.
10. Present preliminary annual assessment roll to Town. Upon approval by Town, submit final annual assessment roll to County Tax Collector.

### Administration of Bond Funds (if bonds are sold)

1. Review and reconcile the account statements for the funds maintained by the trustee. Ensure annual special assessment calculation is compliant with Indenture as it relates to each fund.
2. Provide annual summary of all District accounts maintained by Trustee at the time the annual service and assessment plan update is performed.

### Provide Public Information Request Support

1. If requested, P3Works will respond to any calls and or emails relating to the District. P3Works will only provide technical answers relating to the annual assessments or the District generally. P3Works will not provide any commentary on Town policy relating to PIDs.
2. If the Town receives a notice from a property owner alleging an error in the calculation of any matters related to the annual assessment roll for the District, P3Works will review and provide a written response to the Town. If a calculation error occurred, P3Works will take corrective action as required to correct the error.

### Delinquency Management

1. After the end of the annual assessment installment collection period, P3Works will prepare a delinquent special assessment report, which details which parcels are delinquent and the amount of delinquency.
2. P3Works will advise the Town what action must be taken relating to delinquent parcels, if any, to remain in compliance with the District bond documents.

### **ADDITIONAL DISTRICT ADMINISTRATION SERVICES**

*Billed at P3Works' prevailing hourly rates, which are currently as follows:*

<i>Title</i>	<i>Hourly Rate</i>
<i>Managing Partner</i>	<i>\$250</i>
<i>Vice President</i>	<i>\$185</i>
<i>Senior Associate</i>	<i>\$160</i>
<i>Associate</i>	<i>\$135</i>
<i>Administrative</i>	<i>\$75</i>

*\*P3Works' hourly rates may be adjusted from time to time to reflect increased costs of labor and/or adding/reclassifying titles. Travel will be billed at the hourly rates.*

### Continuing Disclosure Services

1. P3Works will prepare the form of the annual report as required by the continuing disclosure agreements and work with the Town and the Developer to complete.
2. P3Works will request from developer the reports due pursuant to the developer disclosure agreement and disseminate these reports pursuant to the disclosure agreement.
3. Upon notification by any responsible party or if P3Works independently becomes aware of such knowledge, P3Works will prepare notices of material events covering the events enumerated in the disclosure agreements.
4. P3Works will coordinate with the Trustee to disseminate the annual reports, quarterly reports from the developer, and notice of significant events to the Municipal Securities Rulemaking Board (MSRB) and any other parties required in the continuing disclosure agreement.

### Developer Payment Request Administration

1. P3Works will review all developer payment requests to ensure the request complies with the PID Financing Agreement, the District service and assessment plan, and any other relevant provisions contained in the District documents.
2. P3Works will audit the developer payment request to ensure there is proper backup documentation and that the accounting is accurate.
3. P3Works will coordinate with the Town's designated representative to ensure the improvements were built to the standards of the accepting governing body.
4. P3Works will ensure improvements to be dedicated are free and clear of all liens and encumbrances.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. C.3

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and Half Associates.

**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-3**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND HALFF ASSOCIATES, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town Council has been presented with a proposed Agreement from Halff Associates related to engineering services for Point Vista Road Project, hereinafter the “Agreement”; and

**“WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29th day of May, 2018.

---

Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

---

Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

---

Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

## AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ON A DEFINED SCOPE OF SERVICES BASIS

This Agreement for Professional Engineering Services, hereinafter called "Agreement," is entered into by the Town of Hickory Creek, Texas, a Municipality, duly authorized to act by the Town Council of said Client, hereinafter called "Client," and **Halff Associates, Inc.**, a Texas corporation, acting through a duly authorized officer, herein called "Engineer," relative to Engineer providing professional engineering services to the Client. Client and Engineer when mentioned collectively shall be referred to as the "Parties".

### WITNESSETH:

For the mutual promises and benefits herein described, the Client and Engineer agree as follows:

**I. Term of Agreement.** This Agreement shall become effective on the date of its execution by both Parties, and shall continue in effect thereafter until terminated as provided herein.

**II. Services to be Performed by Engineer.** Engineer shall provide to the Client basic engineering services as described in the scope of services attachment and fully incorporated herein as "**Exhibit A**" for the **Point Vista Road (Turbeville Rd to Stamford Dr) Project** which services may include, but will not be limited to, those services normally rendered by an engineer to a Municipality. Engineer shall perform its obligations under this agreement as an independent contractor and not as an agent or fiduciary of any other party.

**III. Compensation** - Client agrees to pay monthly invoices or their undisputed portions within 30 days of receipt. Payment later than 30 days shall include interest at 1 percent (1%) per month or lesser maximum enforceable interest rate, from the date the Client received the invoice until the date Engineer receives payment. Such interest is due and payable when the overdue payment is made.

It is understood and agreed by the Parties that Engineer's receipt of payment(s) from Client is not contingent upon Client's receipt of payment, funding, reimbursement or any other remuneration from others.

Time-related charges will be billed as specified in this Agreement. Unless stated otherwise in this Agreement, direct expenses, subcontracted services and direct costs will be billed at actual cost plus a service charge of 10 percent. Mileage will be billed at current IRS rates.

**IV. Client's Obligations.** The Client agrees that it will (i) designate a specific person to act as the Client's representative, (ii) provide Engineer with any previous studies, reports, data, budget constraints, special Client requirements, or other pertinent information known to the Client, when necessitated by a project, (iii) Client agrees to provide site access, and to provide those services described in the attached Scope of Services assist Engineer in obtaining access to property necessary for performance of Engineer's work for the Client, (iv) make prompt payments in response to Engineer's statements and (v) respond in a timely fashion to requests from Engineer. Engineer is entitled to rely upon and use, without independent verification and without liability, all information and services provided by the Client or the Client's representatives.

**V. Termination of Work** - Either the Client or the Engineer may terminate this Agreement at any time with or without cause upon giving the other Party ten (10) calendar days' prior written notice. Client agrees that termination of Engineer for Client's convenience shall only be utilized in good faith, and shall not be utilized if either the purpose or the result of such termination is the performance of all or part of Engineer's services under this Agreement by Client or by another service provider. Following Engineer's receipt of such termination notice the Client shall, within ten (10) calendar days of Client's receipt of Engineer's final invoice, pay the Engineer for all services rendered and all costs incurred up to the date of Engineer's receipt of such notice of termination.

**VI. Ownership of Documents** - Upon Engineer's completion of services and receipt of payment in full, Engineer shall grant to Client a non-exclusive license to possess the final drawings and instruments produced in connection with Engineer's performance of the work under this Agreement, if any. Said drawings and instruments may be copied, duplicated, reproduced and used by Client for the purpose of constructing, operating and maintaining the improvements. Client agrees that such documents are not intended or represented to be suitable for reuse by Client or others for purposes outside the Scope of Services of this Agreement. Notwithstanding the foregoing, Client understands and agrees that any and all computer programs, GIS applications, proprietary data or processes, and certain other items related to the services performable under this Agreement are and shall remain the sole and exclusive property of Engineer and may not be used or reused, in any form, by Client without the express written authorization of Engineer. Client agrees that any reuse by Client, or by those who obtain said information from or through Client, without written verification or adaptation by Engineer, will be at Client's sole risk and without liability or legal exposure to Engineer or to Engineer's employees, agents, representatives, officers, directors, affiliates, shareholders, owners, members, managers, attorneys, subsidiary entities, advisors, subconsultants or independent contractors or associates. Engineer may reuse all drawings, reports, data and other information developed in performing the services described by this Agreement in Engineer's other activities.

**VII. Notices.** Any notices to be given hereunder by either party to the other may be affected either by personal delivery, in writing, or by registered or certified mail.

**VII. Sole Parties and Entire Agreement.** This Agreement shall not create any rights or benefits to anyone except the Client and Engineer, and contains the entire agreement between the parties. Oral modifications to this Agreement shall have no force or effect.

**IX. Insurance.** Engineer shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement and for a period of three years thereafter, professional liability insurance. The limits of liability shall be \$1,000,000 per claim and in the aggregate. For coverage provided on a claims-made basis, Engineer agrees to use its best efforts to maintain this policy for a period of four (4) years after the cessation of any work for the Client or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time. Engineer shall submit to the Client a certificate of insurance prior to commencing any work for the Client.

**X. Prompt Performance by Engineer.** All services provided by Engineer hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of the engineering profession in the State of Texas applicable to such engineering services contemplated by this Agreement.

**XI. Client Objection to Personnel.** If at any time after entering into this Agreement, the Client has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom the Client has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

**XII. Assignment and Delegation.** Neither the Client nor Engineer may assign their rights or delegate their duties without the written consent of the other party. This Agreement is binding on the Client and Engineer to the fullest extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Client officer, employee or agent.

**XIII. Jurisdiction and Venue** - This Agreement shall be administered under the substantive laws of the State Texas (and not its conflicts of law principles) which shall be used to govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation, its validity, interpretation, construction, performance and enforcement. Exclusive venue shall lie in Denton County, Texas.

**XIV. Integration, Merger and Severability** – This Agreement and the Scope of Services, including fee and schedule are fully incorporated herein and represent the entire understanding of Client and Engineer. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both Parties. This Agreement constitutes, represents and is intended by the Parties to be the complete and final statement and expression of all of the terms and arrangements between the Parties to this Agreement with respect to the matters provided for in this Agreement. This Agreement supersedes any and all prior or contemporaneous agreements, understandings, negotiations, and discussions between the Parties and all such matters are merged into this Agreement. Should any one or more of the provisions contained in this Agreement be determined by a court of competent jurisdiction or by legislative pronouncement to be void, invalid, illegal, or unenforceable in any respect, such voiding, invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as if the entirety of such void, invalid, illegal, or unenforceable provision had never been contained in this Agreement.

**XV. Exclusivity of Remedies** – The Parties acknowledge and agree that the remedies set forth in this Agreement, including those set forth in Article XIX. Agreed Remedies are and shall remain the Parties' sole and exclusive remedy with respect to any claim arising from, or out of, or related to, the subject matter of this Agreement. The Parties agree that Engineer is to have no liability or responsibility whatsoever to Client for any claim(s) or loss(es) of any nature, except as set forth in this Agreement. No Party shall be able to avoid the limitations expressly set forth in this Agreement by electing to pursue some other remedy.

**XVI. Timeliness of Performance** - Engineer shall perform its professional services with due and reasonable diligence consistent with sound professional practices.

**XVII. Dispute Resolution.** In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to schedule a series of no less than two meetings of senior personnel of Client and Engineer in which the disagreement or conflict will be discussed. The first of such meetings will be scheduled as soon as possible following identification of such disagreement or conflict and the second meeting must occur within thirty (30) days following the initial meeting. Subsequent meetings, if any may be scheduled upon mutual agreement of the parties. The parties agree that these two meetings are conditions precedent to the institution of legal proceedings unless such meetings will adversely affect the rights of one or more of the parties as such rights relate to statutes of limitation or repose.

**XVIII. Signatories.** The Client and Engineer mutually warrant and represent that the representation of each who is executing this Agreement on behalf of the Client or Engineer, respectively, has full authority to execute this Agreement and bind the entity so represented.

**XIX. AGREED REMEDIES**

**A. IT IS THE INTENT OF THE PARTIES TO THIS AGREEMENT THAT ENGINEER'S SERVICES UNDER THIS AGREEMENT SHALL NOT SUBJECT ENGINEER'S INDIVIDUAL EMPLOYEES, OFFICERS OR DIRECTORS TO ANY PERSONAL LEGAL EXPOSURE FOR CLAIMS AND RISKS ASSOCIATED WITH THE SERVICES PERFORMED OR PERFORMABLE UNDER THIS AGREEMENT.**

**B. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND THE ENGINEER, AND ACKNOWLEDGING THAT THE ALLOCATION OF RISKS AND LIMITATIONS OF REMEDIES ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND THESE RISKS AND REMEDIES SHALL APPLY TO ALL POSSIBLE LEGAL THEORIES OF RECOVERY. CLIENT FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR ANY REFERENCE TO INSURANCE OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO THE CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THE SERVICES UNDER**



THIS AGREEMENT FROM ANY CAUSE OR CAUSES OF THE ENGINEER OR THE ENGINEER'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED THE ENGINEER'S FEE FOR THE SERVICES PERFORMED UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. INCREASED LIMITS MAY BE NEGOTIATED FOR ADDITIONAL FEE.

C. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, ENGINEER SHALL HAVE NO LIABILITY TO THE CLIENT FOR CONTINGENT, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT; OPERATING COSTS AND FACILITY DOWNTIME; OR OTHER SIMILAR BUSINESS INTERRUPTION LOSSES, HOWEVER, THE SAME MAY BE CAUSED.

D. CLIENT MAY NOT ASSERT ANY CLAIM AGAINST ENGINEER AFTER THE SHORTER OF (1) 3 YEARS FROM SUBSTANTIAL COMPLETION OF SERVICES GIVING RISE TO THE CLAIM, OR (2) THE STATUTE OF LIMITATION PROVIDED BY LAW.

XX. **WAIVER** - Any failure by Engineer to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and Engineer may subsequently require strict compliance at any time, notwithstanding any prior failure to do so.

IN WITNESS WHEREOF, the parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

HALFF ASSOCIATES, INC.

CLIENT: TOWN OF HICKORY CREEK, TEXAS



By: \_\_\_\_\_  
Signature

Brian Haynes  
Printed Name

Vice President  
Title

May 15, 2018  
Date

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



## EXHIBIT A

May 15, 2018  
AVO 33885.001

Mr. John Smith  
Town Administrator  
Town of Hickory Creek  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

**RE: Professional Services Proposal  
Point Vista Road – Turbeville Road to Stamford Drive**

Dear Mr. John Smith,

The Town of Hickory Creek has requested Halff Associates, Inc. (Halff) to provide professional design services for the Point Vista Construction Project. This proposal (Exhibit A) includes the Project Description, Scope of Work, Deliverables, Project Schedule, and Fees. The following exhibits are attached to the Proposal:

Exhibit B	Exclusions
Exhibit C	Project Fee Schedule
Exhibit D	Preliminary Engineer's Probable Cost Estimate

### **PROJECT DESCRIPTION**

The Point Vista Road project limits are from a point approximately 500' south of Turbeville Road to Stamford Drive for a length of 1,700 feet. A preliminary construction cost estimate (Exhibit 'D') dated May 15, 2018 was prepared for the Point Vista Road Construction Project. Halff will provide Professional Services for Surveying, Design, Coordination, Bidding, and Construction Administration as detailed in this proposal. The following assumptions were made when preparing this proposal:

1. The Point Vista Road Construction Project will be in a single construction contract and will not be phased.
2. The town will directly contract with a geotechnical firm for the geotechnical investigation and report.
3. The town will directly contract with a geotechnical firm for the geotechnical material testing.
4. Right-of-way exhibits are not included in the scope of work.

## **SCOPE OF WORK**

The project will be designed in accordance with the following standards and specifications (where applicable): Town of Hickory Creek, North Central Texas Council of Governments (NCTCOG).

### **A. Surveying**

1. Right of Entry – Right of Entry letters will be prepared and submitted to property owners that we require access from.
2. Survey Control – Establish project horizontal and vertical survey control based on project specific coordinates and benchmarks. The project survey control will be checked against existing survey control that is adjacent to the project area where available.
3. Topographic Survey for Design – A field survey of the existing ground, property corners, utilities (surface), trees, pavement, and other improvements will be performed within the project area.
4. Topographic Map – A Digital Terrain Model (DTM) will be generated using the field survey information. A topographic map will be generated using the DTM. The map will contain 1-ft contour intervals.

### **B. Design Phase**

Final Plans of Point Vista Road will be prepared and submitted to the Town for review. The final plans will be 100% complete. Upon completing final revisions Final Plans will be issued for bidding. The final design phase will include the following tasks:

1. Final Storm Drain Design
2. Final Sequence of Construction and Traffic Control Plan
3. Final Demolition Plan
4. Final Signage and Pavement Marking Plans
5. Final Erosion Control Plan
6. Final Construction Details
7. Final Quantities
8. Construction Cost Estimate based on Final Design
9. Contract Documents and Specifications
  - a. Contract Documents
  - b. Specifications
  - c. Forms
  - d. Other information (i.e. – permits, reports, etc.)
10. Final Site Visits to collect information for the project. Two (2) site visits were assumed.
11. Prints of Preliminary Plan
  - Three (3) sets of 11"x17" final plans will be provided for review.

Final Construction Plans will generally include the following plan sheets:

- 1) Cover Sheet, Index of Sheets, and General Notes
- 2) Project Layout (Scale: 1"=100')

- 3) Typical Sections (Scale: H: 1"=5', V: 1"=2')
- 4) Demolition (Scale: 1"=20')
- 5) Sequence of Construction and Traffic Control (Scale: 1"=50')
- 6) Paving Plan and Profile (Scale: H: 1"=20', V: 1"=4')
- 7) Cross Sections (Scale: H: 1"=20', V: 1"=4')
- 8) Signage and Pavement Markings (Scale: 1"=20')
- 9) Drainage Area Map (Scale: 1"=100' To 1"=200')
- 10) Drainage Calculations
- 11) Storm Drain Plan and Profile (Scale: H: 1"=20', V: 1"=4')
- 12) Construction Details

### **C. Coordination**

Halff Associates will coordinate with franchise utilities and other agencies as necessary to obtain the necessary permits and permissions to construct Point Vista Road. Halff Associates anticipates coordination will be required with the following:

1. Agency Coordination (including, but not limited to):
  - a. Town of Hickory Creek
  - b. Denton County
  - c. Lake Cities Municipal Water Authority
2. Franchise Utilities Coordination (will provide franchise utilities plan, but this is undeveloped land):
  - a. Oncor Electric
  - b. CoServe Electric
  - c. Verizon
  - d. Atmos Energy

### **D. Bidding Phase**

1. Print Final Plans – Five (5) sets of 11"x17" Final Plans will be provided for bidding purposes.
2. Print Contract Documents and Specifications – Five (5) sets of final Contract Documents and Specifications 8.5"x11" will be provided for bidding purposes.
3. Issue Addenda
4. Attend pre-bid meeting/bid tabs and Notice of Recommendation

### **E. Construction Phase**

Halff Associates is assuming the construction phase for this project will be four (4) months. The construction phase scope and fee represent the effort for four (4) months only.

1. Construction Administration
  - a. Pre-Construction Meeting

- b. Review construction (shop drawing) submittals
- c. Answer Contractor Requests for Information (RFI's)
- d. Process Monthly Pay Applications
- e. Record Drawings based on contractor's site "markups". Includes one (1) set of 11"x17" paper record drawings and one (1) CD with PDF of record drawings.
2. Construction Meetings
  - a. Meet with Contractor and Town once a month to discuss the progress of the construction and other issues with construction.
  - b. Assume project will take 3 months to construct. Therefore, 4 Monthly Construction Meetings are assumed in this task.

## **DELIVERABLES**

The following deliverables will be provided to the Town:

1. Five (5) sets of 11"x17" Final Plans for bidding purposes
2. Five (5) sets of final Contract Documents and Specifications 8.5"x11" for bidding purposes
3. One (1) set of record drawings and CD upon completion of project
4. Cost Estimates at Preliminary and Final Phases

## **PROJECT SCHEDULE**

Halff will begin work immediately after receipt of written notice to proceed. The tasks will be completed in accordance with the following project milestones in Calendar days upon written notice. A summary of the project schedule by tasks is below.

Surveying	20 Days
Design	40 Days
Bid Phase	30 Days
Construction Phase	4 Months

The calendar days listed above are not consecutive. The schedule does not include review time and delays by others. The schedule is subject to change based on direction for the Town of Hickory Creek or Denton County.



## FEES

This is lump sum maximum fee (unless noted otherwise) contract and will be billed monthly based hours of work that has been completed. Hourly tasks will be billed at 2.3 times salary cost. Hourly rates can be provided upon request.

The basic services fee includes the following: schematic design phase, preliminary design phase, final design phase, coordination, bidding phase, and construction administration. A summary of the basic and additional service fees is listed in the following table.

PROFESSIONAL SERVICES FEE SUMMARY	
PROJECT TASKS	FEE
A. SURVEYING	\$13,520.00
B. DESIGN PHASE	\$30,185.00
C. COORDINATION	\$13,380.00
D. BIDDING PHASE	\$10,435.00
E. CONSTRUCTION ADMINISTRATION	\$10,510.00
	<b>\$78,030.00</b>

Direct Costs for expenses such as mileage, copies, scans, sub-consultants, etc. are included in the lump sum fees.

We appreciate the opportunity to be of service to the Town of Hickory Creek. If you have any questions please do not hesitate to call me at 972-956-0801.

Sincerely,

**HALFF ASSOCIATES, INC.**

A handwritten signature in blue ink, appearing to read "Brian Haynes", is written over a light blue grid background.

Brian Haynes, PE, CFM  
Vice President

C:

## **EXHIBIT B**

### **Point Vista Road Construction Project Exclusions from the Proposed Scope of Services**

The following services are not included in the scope of work of this proposal. Halff Associates can provide estimated fees for these services, if needed.

1. Geotechnical Investigation and Report
2. Construction Material Testing
3. Construction Inspection
4. Construction survey staking. The Contractor will be responsible for construction survey staking.
5. Flood-plain studies other than what is necessary to size proposed structures.
6. Environmental permitting
7. Permit fees
8. Texas Department of Licensing and Regulation (TDLR) Filing or Inspection Fees.
9. Project Storm Water Pollution Prevention Plan (SWPPP). The Contractor will be responsible for the preparation, implementing, and maintaining the SWPPP.
10. Submit Notice of Intent (NOI) and Notice of Termination (NOT) to the Texas Commission on Environmental Quality (TCEQ) for the Texas Pollutant Discharge Elimination System (TPDES) requirement. The Contractor will be required to prepare and submit the NOI and NOT and pay the \$100.00 NOI fee.
11. Traffic engineering studies or reports.
12. Tree survey
13. Revisions and the associated change orders due to Owner requested changes once construction is under way.
14. Special investigations involving detailed consideration of operations, maintenance, and overhead expenses; preparation of rate schedule, earning, and expense statements; special feasibility studies; appraisals, valuations; and material audits or inventories required for certification of force account construction performed by the Owner.
15. Design of franchise utility relocations.
16. Property appraisals, negotiations and closing cost.
17. Right-of-Way Acquisition Services
18. Easement legal description and exhibits (field sketches)

PROJECT TASK	CIVIL-GENERAL ENGINEER GRAD ENG	CIVIL-GENERAL ENGINEER PROJ ENG	CIVIL-GENERAL ENGINEER PROJ MANAGER	DRAFTSMAN CIVIL CADD DRAFTER	SURVEY SIT	SURVEY RPLS	SURVEY 2-MAN CREW	ADMIN SECRETARY	DIRECT COSTS		TOTAL
									EXPENSES	SUB-CONSULT	
<b>A. SURVEYING</b>											
1 Right-of-Entry	0.50							0.50			\$660.00
2 Survey Control	0.50			0.50		0.50	1.00		\$200.00		\$2,680.00
3 Topographic Survey for Design	1.00					1.00	4.00		\$400.00		\$7,120.00
4 Topographic Map	0.50			1.00	2.00	0.50			\$100.00		\$3,060.00
<b>SUBTOTAL: SURVEYING</b>	<b>2.50</b>			<b>1.50</b>	<b>2.00</b>	<b>2.00</b>	<b>5.00</b>	<b>0.50</b>	<b>\$700.00</b>		<b>\$13,520.00</b>
<b>B. DESIGN PHASE</b>											
1 Final Grading	3.00	1.00	0.25								\$3,850.00
2 Final Storm Drain Design	3.00	1.00	0.25						\$45.00		\$3,895.00
3 Final Sequence of Construction and Traffic Control Plan	2.00	1.00	0.25						\$25.00		\$3,075.00
4 Final Demolition Plan	1.00	0.75	0.25						\$25.00		\$1,995.00
5 Final Signage and Pavement Marking Plan	1.00	0.75	0.25						\$25.00		\$1,995.00
6 Final Erosion Control Plan	1.00	0.75	0.25						\$25.00		\$1,995.00
7 Final Construction Details	2.00	1.50	0.25						\$25.00		\$3,635.00
8 Final Quantities	1.50	1.00	0.25						\$25.00		\$2,675.00
9 Construction cost estimate based on Final Design	0.50	0.25	0.25						\$50.00		\$1,060.00
10 Contract Documents and Specifications	2.00	1.00	0.50					1.00	\$100.00		\$4,000.00
11 Site Visits (2)	1.00	0.50							\$100.00		\$1,460.00
12 Prints of Final Plans for Review	0.50								\$150.00		\$550.00
<b>SUBTOTAL: DESIGN PHASE</b>	<b>18.50</b>	<b>9.50</b>	<b>2.75</b>					<b>1.00</b>	<b>\$595.00</b>		<b>\$30,185.00</b>
<b>C. COORDINATION</b>											
1 Agency Coordination	1.00	2.00	5.00					2.00	\$250.00		\$10,930.00
2 Franchise Utility Coordination	1.00	0.50	0.25					0.50	\$500.00		\$2,450.00
<b>SUBTOTAL: COORDINATION</b>	<b>2.00</b>	<b>2.50</b>	<b>5.25</b>					<b>2.50</b>	<b>\$750.00</b>		<b>\$13,380.00</b>
<b>D. BIDDING PHASE</b>											
1 Print Final Plans	0.50	0.25						0.75	\$600.00		\$1,670.00
2 Print Final Contract Documents and Specifications	1.00	0.25	0.25					0.50	\$600.00		\$2,270.00
3 Issue Addenda	2.50	1.50	0.50					0.50	\$50.00		\$4,650.00
4 Pre-Bid Meeting	1.00	0.50	0.25					0.25	\$25.00		\$1,845.00
<b>SUBTOTAL: BIDDING PHASE</b>	<b>5.00</b>	<b>2.50</b>	<b>1.00</b>					<b>2.00</b>	<b>\$1,275.00</b>		<b>\$10,435.00</b>
<b>E. CONSTRUCTION ADMINISTRATION</b>											
1 Construction Administration (3 Months)	4.00	3.00	2.00	1.00				1.00	\$150.00		\$10,510.00
<b>SUBTOTAL: CONSTRUCTION PHASE</b>	<b>4.00</b>	<b>3.00</b>	<b>2.00</b>	<b>1.00</b>				<b>1.00</b>	<b>\$150.00</b>		<b>\$10,510.00</b>
<b>TOTAL</b>	<b>32.00</b>	<b>17.50</b>	<b>11.00</b>	<b>2.50</b>	<b>2.00</b>	<b>2.00</b>	<b>5.00</b>	<b>7.00</b>	<b>\$3,470.00</b>		<b>\$78,030.00</b>
<b>DAILY RATES</b>	<b>\$800</b>	<b>\$1,120</b>	<b>\$1,320</b>	<b>\$640</b>	<b>\$680</b>	<b>\$1,120</b>	<b>\$1,200</b>	<b>\$520</b>			
<b>HOURLY RATES</b>	<b>\$100</b>	<b>\$140</b>	<b>\$165</b>	<b>\$80</b>	<b>\$85</b>	<b>\$140</b>	<b>\$150</b>	<b>\$65</b>			



## ENGINEER'S STATEMENT OF PROBABLE COST

EXHIBIT D

## POINT VISTA ROAD

FROM 500 LF SOUTH OF TURBEVILLE RD TO STAMFORD DR (1,700 LF)  
MAJOR COLLECTOR - WIDE 2-LANE UNDIVIDED ROADWAY (31' Total Width)

Project: Point Vista Road  
Client: Town of Hickory Creek

Prepared by: Brian C. Haynes, P.E.  
Date: May 14, 2018

Pavement Material:	Concrete Pavement
Pavement Width:	31 feet
Pavement Thickness:	8 in
Right-of-Way Width:	60 feet
Roadway Length:	1700 feet
Current Year	2018 year
Estimated Construction Date:	2018 year

ITEM NO.	DESCRIPTION	UNIT	QTY	Engineer's Estimate	
				UNIT PRICE	EXTENDED PRICE
Paving and Drainage Improvements					
1	Mobilization (5% Max)	LS	1.0	\$37,000.00	\$37,000.00
2	Project Signs	EA	2.0	\$500.00	\$1,000.00
3	Roadway Preparation (Clearing & Grubbing)	STA	17.0	\$2,500.00	\$42,500.00
4	Earthwork (Excavation)(Assuming 1-ft depth)	CY	4,000	\$12.00	\$48,000.00
5	Lime or Cement Treated Subgrade (8")	SY	7,130.0	\$3.00	\$21,390.00
6	Lime or Cement Slurry (6%) (35 lbs./SY)	TON	120.0	\$150.00	\$18,000.00
7	Concrete Pavement (Reinforced)(8")(CL P1)	SY	6,000.0	\$60.00	\$360,000.00
8	Sidewalks (5' Wide)	SY	1,890.0	\$50.00	\$94,500.00
9	Drainage - Recessed Curb Inlets	EA	8.0	\$3,000.00	\$24,000.00
10	Drainage - Storm Sewer Laterals	LF	300.0	\$150.00	\$45,000.00
12	Fencing (5 strand barb wire)	LF	600.0	\$7.50	\$4,500.00
13	Barricades, Signs and Traffic Control	LS	1.0	\$15,000.00	\$15,000.00
14	Signage and Pavement Markings	LS	1.0	\$25,000.00	\$25,000.00
15	Grass Sodding	SY	6,000.0	\$5.00	\$30,000.00
16	Erosion Control	LS	1.0	\$10,000.00	\$10,000.00
Subtotal Paving and Drainage Improvements					\$775,890.00
SUBTOTAL IMPROVEMENTS					\$775,900.00
CONTINGENCY (15%)					\$116,385.00
CONSTRUCTION TOTAL					\$892,285.00
BASIC ENGINEERING SERVICES					\$78,030.00
GEOTECHNICAL STUDY					\$5,000.00
RIGHT-OF-WAY EXHBITS					\$0.00
CONSTRUCTION MATERIAL TESTING (2.5%)					\$20,000.00
TOTAL PROJECT					\$995,300.00
INFLATION ADJUSTMENT (2.5% PER YEAR)					\$0.00
TOTAL BUDGET FOR PROJECT					\$1,000,000.00
COST PER LINEAR FOOT					\$588.24
Notes:					
1. Following assumptions were made: Sodding area is equal to area of ROW minus area of pavement, minor right-of-way preparation is required, no major stuctures are required (i.e. bridge, channels, etc.).					
2. Water lines, sanitary sewer lines, landscaping and street lighting were <u>excluded</u> from estimate.					
3. Assume Lake Cities Municipal Utility Authority (LCMUA) will install water and wastewater lines, as required, in the future.					
4. Special Design Services Surveying, Geotechnical Engineering, Construction Admin, and Right-of-Way/Easement Documents.					
5. Right-of-Way Negotiation will be performed by the Town of Hickory Creek. Halff's services do not include Right-of-Way Negotiation.					
6. Estimated Construction Material Testing budget is based on 2.5% of the total construction cost.					
7. The cost estimate assumes the roadway will be constructed in 2018 (within 12 months of this estimate).					
NOTE: This statement was prepared utilizing standard cost and/or estimating practices. It is understood and agreed that this is a statement of probable construction cost only, and the Engineer shall not be liable to the Owner or any Third Party for any errors or omisions.					

HALFF ASSOCIATES, INC.  
1001 Cross Timbers Rd., Ste. 2020  
Flower Mound, Texas 75028  
(972) 956-0801

5/15/2018



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.1

Interviews for various boards and commissions.

Shawn Andrews submitted an application for consideration.

Chance Allison currently serves in Position 2 on Board of Adjustments.

Rodney Barton currently serves in Place 2 on the Planning and Zoning Commission.

William Crawford currently serves as Alternate 2 on Board of Adjustments.

David Gilmore submitted an application for consideration

John Grosskopf submitted an application for consideration.

Bryant Hawkes currently serves in Place 4 on the Planning and Zoning Commission.

Smita Pascual currently serves in Place 2 on the Parks and Recreation Board.

Kerby Pierre currently serves in Place 4 on the Parks and Recreation Board.

Jan Stefaniak currently serves in Place 6 on the Planning and Zoning Commission.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.2

Consider and act on appointments to the Board of Adjustments.

Positions 2, 4, and Alternate 2 will be appointed for a two-year term expiring in April 2020.

Position 1 will be appointed for a one-year term expiring in April 2019 due to the resignation of Blake Abbe.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.3

Consider and act on appointments to the Parks and Recreation Board.

Places 2, 4 and 6 will be appointed for a two-year term expiring in June 2020.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.4

Consider and act on appointments to the Planning and Zoning Commission.

Places 2, 4, and 6 will be appointed for a two-year term expiring in June 2020.

Place 7 will be appointed for a one-year term expiring in June 2019 due to the resignation of Glenn Williams.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.5

Consider act on a preliminary plat for Whaley Estates, being 21.765 acres out of the McCarroll Survey, Abstract A0958a in the Town of Hickory Creek, Denton County, Texas.



May 18, 2018  
AVO 33540.006

Ms. Chris Chaudoir  
Town of Hickory Creek  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

**RE: Preliminary Plat for Whaley Estates  
3<sup>rd</sup> Review**

Dear Ms. Chaudoir:

The Town of Hickory Creek received the zoning change application for the Whaley Estates on May 16, 2018. The civil engineer is Kimley-Horn. There are comments shown in attached redlines of the plans and in the letter below.

**Halff recommends approval of the Preliminary Plat. A separate letter was prepared for the drainage review. The applicant is also working on a Traffic Impact Study for Road Proportionality fee. The drainage review comments and Road Proportionality Fee need to be addressed prior to the Final Plat approval.**

Sincerely,

**HALFF ASSOCIATES, INC.**

A handwritten signature in blue ink, appearing to read "Brian C. Haynes", is written over a faint, larger version of the same signature.

Brian C. Haynes, PE, CFM  
Vice President

C: Kristi Rogers – Town Secretary  
John Smith – Town Administrator

Attachments:







## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.6

Consider and act on a resolution of the Town Council of the Town of Hickory Creek, Texas, approving a first amended and restated performance agreement by and between the Hickory Creek Economic Development Corporation and Hard Sun V, Inc., a Texas Corporation for economic development purposes.

**TOWN OF HICKORY CREEK  
RESOLUTION NO. 2018-0529-4**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, APPROVING A FIRST AMENDED AND RESTATED PERFORMANCE AGREEMENT BY AND BETWEEN THE HICKORY CREEK ECONOMIC DEVELOPMENT CORPORATION AND HARD SUN V, INC., A TEXAS CORPORATION, FOR ECONOMIC DEVELOPMENT PURPOSES; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, the Hickory Creek Economic Development Corporation (hereinafter referred to as the “EDC”) is a Type B economic development corporation, created pursuant to Chapter 505 of the Texas Local Government Code, as amended; and

**WHEREAS**, on or about September 19, 2017, the Town Council approved the original Performance Agreement by and between the EDC and Hard Sun V, Inc., a Texas corporation; and

**WHEREAS**, the parties desire to amend the original Performance Agreement to better address the mutual obligations of the parties.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, AS FOLLOWS:**

**Section 1.** That the foregoing recitals are hereby found to be true and correct findings of the Town Council of the Town of Hickory Creek, Texas, and are fully incorporated into the body of this Resolution.

**Section 2.** That the Town Council of the Town of Hickory Creek, Texas, finds and determines that the First Amended and Restated Performance Agreement with Hard Sun V, Inc., a copy of which is attached hereto as ***Exhibit A***, and is incorporated herein for all purposes, will promote new and expanded business development, and is otherwise consistent with Sections 501.103, 505.152, and 505.158 of the Texas Local Government Code.

**Section 3.** That the Town Council of the Town of Hickory Creek, Texas, hereby approves the First Amended and Restated Performance Agreement with Hard Sun V, Inc., a copy of which is attached hereto as ***Exhibit A***, and is incorporated herein for all purposes

**Section 4.** That this Resolution shall become effective from and after its passage.

**DULY RESOLVED** by the Town Council of the Town of Hickory Creek, Texas, on this the 29<sup>th</sup> day of May, 2018.

---

Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

**ATTEST:**

---

Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

**APPROVED AS TO FORM:**

---

Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

***Exhibit A***

First Amended and Restated Performance Agreement

## **FIRST AMENDED AND RESTATED PERFORMANCE AGREEMENT**

This **FIRST AMENDED AND RESTATED PERFORMANCE AGREEMENT** (hereinafter referred to as the “Agreement”) by and between **HARD SUN V, INC.**, a Texas corporation (hereinafter referred to as “Developer”), and the **HICKORY CREEK ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation (hereinafter referred to as the “EDC”), is made and executed on the following recitals, terms and conditions.

**WHEREAS**, on or about September 20, 2017, the EDC and Developer executed an Original Performance Agreement (hereinafter referred to as the “Original Agreement”) concerning the construction of a restaurant on an approximately 0.91 acre tract of land; and

**WHEREAS**, the Developer and EDC now desire to amend and restate the mutual obligations of the parties with this First Amended and Restated Performance Agreement.

**NOW, THEREFORE**, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the EDC and Developer agree as follows:

### **SECTION 1. FINDINGS INCORPORATED.**

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

### **SECTION 2. TERM.**

This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter until **April 30, 2029**, unless terminated sooner under the provisions hereof.

### **SECTION 3. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **Developer.** The word “Developer” means Hard Sun V, Inc., a Texas corporation, its successors and assigns, whose address for the purposes of this Agreement is 10001 Hwy. 380, Cross Roads, Texas 76227.
- (d) **EDC.** The term “EDC” means the Hickory Creek Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the

purposes of this Agreement is 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065.

- (e) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this Agreement by and between the Developer and EDC.
- (f) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (g) **Full-Time Equivalent Employment Positions.** The words “Full-Time Equivalent Employment Position” or “Full-Time Equivalent Employment Positions” mean and include a job requiring a minimum of One Thousand Nine Hundred Twenty (1,920) hours of work averaged over a twelve (12) month period, earning a minimum of \$10.00 per hour.
- (h) **Property.** The word “Property” means the approximately 0.91 acre tract or tracts of land consisting of Block A, Lot 1 of the TLC Subdivision, an addition to the Town of Hickory Creek, Denton County, Texas, [CAD # 726980], and as generally described and/or depicted in *Exhibit A* of this Agreement, which is attached hereto and incorporated herein for all purposes.
- (i) **Qualified Expenditures.** The words “Qualified Expenditures” mean those expenditures consisting of the construction of a minimum 4,500 square foot Prairie House-styled sit down restaurant with a bar featuring craft beers located on the Property, as depicted in *Exhibit B* of this Agreement, which is attached hereto and incorporated herein for all purposes, and those expenses which otherwise meet the definition of “project” as that term is defined by Sections 501.105, 505.152, and 505.158 of the Act, and the definition of “cost” as that term is defined by Section 501.152 of the Act.
- (j) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.
- (k) **Town.** The word “Town” means the Town of Hickory Creek, Texas, a Texas general-law municipality. For the purposes of this Agreement, Town’s address is 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065.

#### **SECTION 4. AFFIRMATIVE COVENANTS OF THE DEVELOPER.**

Developer covenants and agrees with EDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Qualified Expenditures.** Developer covenants and agrees to submit to the EDC invoices, receipts, or other documentation in a form acceptable to the EDC for the Qualified Expenditures made to the Property in a minimum amount of **One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00)** by **May 31, 2019**.

- (b) **Certificate of Occupancy.** Developer covenants and agrees to obtain or cause to be obtained by **May 1, 2019**, a Certificate of Occupancy from the Town for a minimum of 4,500 square feet of restaurant space located on the Property.
- (c) **Operate Restaurant.** Developer covenants and agrees by **May 1, 2019**, and during the Term of this Agreement to keep open to the general public the restaurant located on the Property.
- (d) **Job Creation and Retention.** Developer covenants and agrees by **May 1, 2019**, and during the Term of this Agreement to employ and maintain a minimum of twenty (20) Full-Time Equivalent Employment Positions and thirty (30) part-time employment positions working at the Property. Developer covenants and agrees beginning on **May 1, 2019**, and during the Term of this Agreement, Developer shall make available to EDC a quarterly compliance verification signed by a duly authorized representative of Developer that shall certify the number of Full-Time Equivalent Employment Positions and part-time employment positions, and shall disclose and certify the average wage for all Full-Time Equivalent Employment Positions and part-time employment positions (the “Quarterly Compliance Verification”). All Quarterly Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports.
- (e) **Lease of the Property.** Developer, as tenant, covenants and agrees by **May 1, 2019**, to enter into a lease of the Property, and lease the Property from the EDC. Developer covenants and agrees that the Developer, as tenant of the Property, shall be responsible and shall pay any ad valorem taxes levied on the Property during the Term of this Agreement. The terms of said lease shall be substantially similar to the lease attached hereto as ***Exhibit C*** of this Agreement, which is attached hereto and incorporated herein for all purposes.
- (f) **Performance Conditions.** Developer agrees to make, execute and deliver to EDC such other instruments, documents and other agreements as EDC or its attorneys may reasonably request to evidence this Agreement.
- (g) **Performance.** Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between Developer and EDC.

## SECTION 5. AFFIRMATIVE COVENANTS OF EDC.

EDC covenants and agrees with Developer that, while this Agreement is in effect, the EDC shall comply with the following terms and conditions:

- (a) **Lease Property to Developer.** EDC, as landlord, covenants and agrees by **January 1, 2019**, to lease the Property to Developer, as tenant, for the Term of this Agreement. The terms of said lease shall be substantially similar to the lease attached hereto as ***Exhibit C*** of this Agreement, which is attached hereto and incorporated herein for all purposes.
- (b) **Conveyance of the Property to Developer.** Provided Developer is not in default of this Agreement during the Term of this Agreement, EDC covenants and agrees to convey to Developer good and indefeasible fee simple title to the Property, free and clear of any liens or other encumbrances, by special warranty deed in form substantially similar to the form attached hereto as ***Exhibit D*** of this Agreement, which is attached hereto and incorporated herein for all purposes.
- (c) **Performance.** EDC covenants and agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between the EDC and Developer.

## SECTION 6. CESSATION OF ECONOMIC DEVELOPMENT INCENTIVE.

EDC shall have no obligation to convey the Property to Developer if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs.

## SECTION 7. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Developer or EDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or EDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Developer and EDC is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to the EDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor



workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer is an Event of Default.

- (d) **Ad Valorem Taxes.** Developer allows its ad valorem taxes on the Property to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from EDC and/or Denton County Central Appraisal District is an Event of Default.

## **SECTION 8. EFFECT OF AN EVENT OF DEFAULT.**

In the event of default under Section 7 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default.

In the event the Developer defaults and is unable to cure said default, the Developer shall immediately repay to the EDC the following amounts and the Agreement shall terminate:

- (1) Default between September 20, 2017 and May 31, 2019 - \$500,000.00;
- (2) Default between June 1, 2019 and May 31, 2020 - \$450,000.00;
- (3) Default between June 1, 2020 and May 31, 2021 - \$400,000.00;
- (4) Default between June 1, 2021 and May 31, 2022 - \$350,000.00;
- (5) Default between June 1, 2022 and May 31, 2023 - \$300,000.00;
- (6) Default between June 1, 2023 and May 31, 2024 - \$250,000.00;
- (7) Default between June 1, 2024 and May 31, 2025 - \$200,000.00;
- (8) Default between June 1, 2025 and May 31, 2026 - \$150,000.00;
- (9) Default between June 1, 2026 and May 31, 2027 - \$100,000.00; and
- (10) Default between June 1, 2027 and end of the Term - \$50,000.00.

## **SECTION 9. INDEMNITY.**

**TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.**

## SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Denton County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. EDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested. The parties agree to keep the other party or parties informed of their address at all times during the Term of this Agreement. The Notices shall be addressed as follows:

if to Developer:	Hard Sun V, Inc.
	Mr. Jim Murray, President
	10001 Hwy. 380
	Cross Roads, Texas 76227

Attn: \_\_\_\_\_  
Telephone: \_\_\_\_\_

With a copy to: Gregory J. Sawko, Attorney  
1172 Bent Oaks Drive  
Denton, Texas 76210  
Telephone: (940) 382-4357  
E-mail: [gsawko@dentonlawyer.com](mailto:gsawko@dentonlawyer.com)

if to EDC: Hickory Creek Economic Development  
Corporation  
1075 Ronald Reagan Avenue  
Hickory Creek, Texas 75065

Attn: John Smith, Town Administrator  
Telephone: (940) 497-2528

- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (i) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (j) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of six percent (6%), not later than the 120<sup>th</sup> day after the date the EDC notifies Developer of the violation.
- (l) The signature of James M. Murray in his individual capacity, affixed to this Agreement and First Amendment is for the express purpose of unconditionally, absolutely, and irrevocably guaranteeing to EDC the prompt payment and performance of all of the obligations of this Agreement and First Amendment. EDC is unwilling to execute a deed of trust or other security agreement for the Property owned by the EDC unless it receives a guaranty of the undersigned covering the Agreement and First Amendment. The EDC may seek recourse against the individual, James M. Murray, in the event the Developer is unable to satisfy its obligations under this Agreement or First Amendment

**[The Remainder of this Page Intentionally Left Blank]**

**THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS PERFORMANCE AGREEMENT, AND THE PARTIES AGREE TO ITS TERMS. THIS PERFORMANCE AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.**

**EDC:**

***HICKORY CREEK ECONOMIC DEVELOPMENT CORPORATION,***

a Texas non-profit corporation

By: \_\_\_\_\_

Lynn Clark, President

Date Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Nancy Koket, Secretary

**DEVELOPER:**

***HARD SUN V, INC.,***

a Texas corporation,

By: \_\_\_\_\_

James M. Murray, Owner

Date Signed: \_\_\_\_\_

***Exhibit A***

[Legal Description and/or Depiction of Property]



***Exhibit B***

[Qualified Expenditures]







<b>WILLIAM PECK &amp; ASSOCIATES INC. ARCHITECTS</b> Lewisville, Tx (972) 221-1424	<b>ELMFORK</b> DATE: 2018-01-13 HICKORY CREEK, TX	<small>           These plans are intended to provide the basic construction information necessary to substantially complete the structure. These construction documents shall be verified and checked by the builder or person in authority of this project. Any discrepancies, errors and/or omissions, if any, are to be brought to the attention of the Designer prior to any construction or purchases being made. It is recommended that the owner or builder obtain complete engineering services for foundation, HVAC, and structure prior to construction of any work. NOTE: All Federal, state, and local codes, ordinances, and resolutions take precedence over any part of these construction documents which may conflict with same, and must be strictly adhered to and followed before and during construction.            THESE CONSTRUCTION DOCUMENTS AND THEIR USE ARE THE PROPERTY OF WILLIAM PECK &amp; ASSOCIATES, INC. AND ARE NOT TO BE TRACED, REUSED OR REPRODUCED IN ANY WAY, BY ANY MEANS, WITHOUT THE EXPRESSED WRITTEN PERMISSION OF WILLIAM PECK &amp; ASSOCIATES, INC. ALL RIGHTS RESERVED.         </small>
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**WILLIAM PECK &  
ASSOCIATES INC.**  
ARCHITECTS  
Lewisville, Tx (972) 221-1424

**ELM FORK**  
DATE: 2018-01-13  
HICKORY CREEK, TX

These plans are intended to provide the basic construction information necessary to substantially complete the structure. These construction documents must be verified and checked by the builder or person in authority of this project. Any discrepancy, error, and/or omission, if any, are to be brought to the attention of the Designer prior to any construction or purchase being made. It is recommended that the owner or builder obtain complete engineering services for foundation, HVAC, and structural prior to construction of any kind. NOTE: All Federal, state, and Local codes, ordinances, and restrictions take precedence over any part of these construction documents which may conflict with same, and must be strictly obeyed and followed before and during construction. THESE CONSTRUCTION DOCUMENTS AND THEIR USE ARE THE PROPERTY OF WILLIAM PECK & ASSOCIATES, INC. AND ARE NOT TO BE TRACED, REPRODUCED OR REPRODUCED IN ANY MANNER BY ANY MEANS, WITHOUT THE EXPRESSED WRITTEN PERMISSION OF WILLIAM PECK & ASSOCIATES, INC. ALL RIGHTS RESERVED.

***Exhibit C***

[Lease of the Property]

## Ground Lease Purchase Agreement

This Ground Lease Purchase Agreement (hereinafter referred to as the “Lease”) is made and effective \_\_\_\_\_, 2018, by and between the **HICKORY CREEK ECONOMIC DEVELOPMENT CORPORATION**, (hereinafter referred to as the “Landlord”), a Texas non-profit corporation, whose address for the purposes of this Lease is 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065, and **HARD SUN V, INC.**, (hereinafter referred to as “Tenant”), a Texas corporation, whose address for the purposes of this Lease is 10001 Hwy. 380, Cross Roads, Texas 76227. Landlord has agreed to and hereby leases, demises and lets to Tenant, and Tenant has agreed to and hereby leases and takes from Landlord and the Leased Premises for the term hereinafter stated and subject to all of the provisions, covenants and conditions of this Lease.

### Section 1. Leased Premises.

1.1 Landlord is the owner of land and improvements of approximately 0.91 acre tract or tracts of land consisting of Block A, Lot 1 of the TLC Subdivision, an addition to the Town of Hickory Creek, Denton County, Texas, [CAD # 726980], and as generally described and/or depicted in **Exhibit A** of this Lease (hereinafter referred to as “Leased Premises”). Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

### Section 2. Use of Leased Premises.

2.1 The Leased Premises shall be used and occupied for a restaurant and retail uses on the Leased Premises. Tenant agrees not to use or permit the use of the Leased Premises for any purpose which is illegal or which, in Landlord’s opinion, creates a nuisance or which would increase the cost of insurance coverage with respect to the Leased Premises.

2.2 Tenant will maintain the Leased Premises in a clean and healthful condition, and shall comply with all laws, orders, ordinances, rules, and regulations (state, federal, municipal, and other agencies or bodies having any jurisdiction thereof) with reference to use, condition, or occupancy of the Leased Premises.

### Section 3. Term.

3.1 Subject to all of the terms and conditions set forth herein, or in any appendix hereto, the term of this Lease shall be for a period from \_\_\_\_\_, 2018 (the “Commencement Date”), and end at 11:59 p.m. on **April 30, 2029** (the “Termination Date”) or on such earlier date as this Lease may terminate as provided herein.

3.2 Option Payment. On or before the Effective Date, Tenant shall pay to Landlord a non-refundable payment in the sum of One Hundred Dollars (\$100.00) (such payment referred to herein as the “Option Payment”).

3.3 Lease of Land. Landlord, in consideration of the covenants, agreements and undertakings of Tenant as herein set forth, does hereby lease, let and demise unto Tenant, and Tenant does hereby lease from Landlord, the Premises, to have and to hold for the Lease Term, all upon and subject to the terms and conditions set forth in this Lease.

3.4 Opening of Restaurant; Continuous Operations. The restaurant shall be open for business by not later than **May 1, 2019**, unless such opening date is expressly extended in writing by Landlord. Tenant covenants and agrees that, continuously and uninterruptedly from and after its initial opening for business, it will operate and conduct within the Leased Premises the business it is permitted to operate and conduct under the provisions of this Lease, except while the Leased Premises are untenable by reason of fire or other casualty including, but not limited to, windstorms, tornadoes and other destructive weather events. Tenant agrees to conduct its business at all times in a first class manner consistent with reputable business standards and practices, and that it will at all times keep and maintain within and upon the Leased Premises an adequate stock of merchandise and trade fixtures to service and supply the usual and ordinary demands and requirements of its retail customers and that it will keep the Leased Premises in a neat, clean and orderly condition.

3.5 Operating Hours. Tenant agrees to keep open the Leased Premises and to operate the business conducted therein at least six (6) days per week. Tenant reserves the right to close the Leased Premises on Holidays or as weather conditions (i.e., snowstorms, excessive icing, torrential rains, flooding, etc.) may dictate.

3.6 “AS IS” Condition. Tenant accepts the Leased Premises being leased “AS IS” “and “WITH ALL FAULTS,” and Landlord makes no warranty of any kind, express or implied, with respect to the Leased Premises other than that Landlord is the fee simple owner of the Leased Premises. Without limiting the generality of the preceding sentence, it is expressly agreed that Landlord makes no warranty as to the marketability, habitability or fitness for any particular purpose of the Leased Premises except for use as a restaurant.

3.7 Memorandum of Lease. The parties agree to execute, acknowledge and deliver a mutually acceptable form of Memorandum of Lease (which shall, among other things, memorialize the Effective Date), contemporaneously with the execution and delivery of this Lease, and such Memorandum of Lease shall be recorded in the real property records of Denton County, Texas.

#### **Section 4. Rent.**

4.1 Tenant agrees to submit to the Landlord invoices, receipts, or other documentation in a form acceptable to the Landlord for the construction of a minimum 4,500 square foot restaurant located on the Leased Premises in a minimum amount of **One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00)** by **May 31, 2019**. Such expenditures and said construction shall constitute prepaid rent during the Term of this Lease.

#### **Section 5. Possession of Leased Premises; Option to Purchase.**

5.1 Tenant acknowledges that Tenant has inspected the Leased Premises, and on the basis of such inspection Tenant accepts the Leased Premises, and any buildings or improvements situated thereon, as suitable for the purposes for which the same are leased, in their present condition.

5.2 Tenant's Option to Purchase. On or after **December 31, 2028**, an provided Tenant is not otherwise in default of that Performance Agreement executed by and between the Landlord and Tenant concerning the Leased Premises, Tenant shall have the sole option to purchase the Leased Premises from Landlord for the price of **One and No/100 Dollars (\$1.00)** by submitting a real estate sale contract(s) to Landlord containing the usual provisions set forth in the standard State Bar of Texas Real Estate Sale Contract form, including the obligation of Landlord to furnish an Owner's Title Policy at Closing at Landlord's expense but expressly excluding any warranty or representation regarding the Leased Premises except the warranty of good and marketable title, free and clear of any lien, mortgage or perfected security interest. Tenant shall agree to close such purchase within thirty (30) days of the full execution of said contract or such other date that is mutually agreeable to Landlord and Tenant. Landlord shall have an affirmative duty to execute the State Bar of Texas Real Estate Sales Contract so long as completed in compliance with this section and within thirty (30) days of submittal by Tenant to Landlord. This paragraph shall survive termination or expiration of this Lease.

#### **Section 6. Maintenance of Leased Premises.**

6.1 Tenant's Maintenance of Leased Premises. Tenant shall keep the Leased Premises in good, clean condition and shall at its sole cost and expense, make all needed repairs and replacements. Tenant will maintain the grounds of the Leased Premises including mowing and hedge trimming of the Leased Premises.

6.2 Other.

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#### **Section 7. Utilities.**

7.1 Tenant shall be responsible for and promptly pay all charges incurred for all utility services to the Leased Premises, including, but not limited to, telephone service, sanitary and storm sewer, water, natural gas, light, power, heat, steam, communications services, garbage collection, and electricity arising out of Tenant's use, occupancy, and possession of the Leased Premises during the Term of this Lease. Tenant shall also pay for all maintenance upon such utilities that may be Tenant's obligation. In no event shall Landlord be liable for any interruption or failure of utility service to the Leased Premises, except to the extent caused by Landlord's negligent acts or omissions.

## **Section 8. Signage.**

8.1 Tenant shall have the right to erect signs on any portion of the Leased Premises subject to applicable laws, ordinances, and regulations.

## **Section 9. Construction of Prairie House Styled Restaurant, Mechanic's Liens.**

9.1 Tenant shall be responsible to construct, at Tenant's cost and expense, a restaurant and any required landscaping on the Leased Premises.

9.2 Mechanic's Liens. Tenant will not cause or permit any mechanic's liens or other liens to be filed against the fee of the Leased Premises or against Tenant's leasehold interests (excluding any leasehold mortgage) in the Leased Premises or any building or improvements on the Leased Premises by reason of any work, labor, services, or materials supplied or claimed to have been supplied to Tenant or anyone holding the Leased Premises or any part of them through or under Tenant. If such a mechanic's lien or materialman's lien is recorded against the Leased Premises or any buildings or improvement on them, Tenant must either cause it to be removed or, if Tenant in good faith wishes to contest the lien, Tenant will indemnify Landlord and hold it harmless from all liability for damages occasioned by the lien or the lien contest and will, in the event of a judgment of foreclosure on the lien, cause the lien to be discharged and removed before the judgment is executed.

## **Section 10. Liabilities.**

10.1 Landlord shall not be liable to Tenant or to Tenant's employees, agents, invitees or visitors, or to any other person, for any injury to persons or damage to property on or about the Leased Premises caused by the negligence or misconduct of Tenant, Tenant's employees, subtenants, agents, invitees, licensees or concessionaires or any other person entering the Leased Premises under express or implied invitation of Tenant, or arising out of the use of the Leased Premises by Tenant, and the conduct of Tenant's business, or arising out of any breach or default by Tenant in the performance of Tenant's obligations under this Lease; and Tenant hereby agrees to indemnify and hold Landlord harmless from any loss, expense or claims arising out of such damage or injury. Tenant shall not be liable for any injury or damage caused by the negligence or misconduct of Landlord, or Landlord's employees or agents, and Landlord agrees to indemnify and hold Tenant



harmless from any loss, expense or damage arising out of such damage or injury.

#### **Section 11. Damage to Leased Premises.**

11.1 Any insurance which may be carried by Landlord or Tenant against loss or damage to the Leased Premises shall be for the sole benefit of the party carrying such insurance under its sole control, and it is understood that Landlord shall in no event be obligated to carry insurance of Tenant's contents.

#### **Section 12. INDEMNITY.**

**TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS LEASE, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS LEASE.**

#### **Section 13. Events of Default.**

13.1 The following events shall be deemed to be events of default by Tenant under this Lease:

- (a) The failure of Tenant to substantially comply with or to observe any terms, provisions, or conditions of this Lease performable by and obligatory upon Tenant, excluding the rent and other payment provisions hereof, within thirty (30) days after written notice by Landlord plus such additional time as is needed to cure the same so long as Tenant (or its mortgagee) has commenced such cure within such 30-day period and such cure thereafter is continuously and diligently undertaken by Tenant (or its mortgagee);
- (b) The failure of Tenant to pay when due any monetary charge due from Tenant hereunder, failure to pay any property taxes or other impositions assessed on the Leased Premises or failure to clear and remove any mechanic's lien or other lien filed on the Leased Premises and such failure continues for thirty (30) days after written notice thereof from Landlord; provided, however, Landlord shall not be required to give such 30-day notice, and Tenant shall not be entitled to same, more than two (2) times during any twelve (12) month period, and any subsequent failure of Tenant to pay a monetary charge hereunder during such 12-month period shall be an Event of Default upon the occurrence thereof without any further notice whatsoever to Tenant;
- (c) Tenant shall fail to comply with any Term, provision, or covenant of this Lease other than

as described in subsection (a) above, and shall not cure or make documented reasonable effort to cure in a form acceptable to the Landlord, such failure within thirty (30) days after written notice thereof to Tenant.

- (d) Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or make an assignment for the benefit of creditors.
- (e) A receiver or Trustee shall be appointed for the Leased Premise or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations under this Lease.

13.2 Landlord Remedies. Upon the occurrence of any Events of Default enumerated in Section 13.1 hereof, but subject to the rights of mortgagees and their designees, Landlord shall have the right to pursue and enforce any and all rights and remedies available to Landlord hereunder or at law or equity, including, without limitation, (i) the right to terminate this Lease by written notice to Tenant and the expiration of any applicable cure periods as provided in this Lease, and (ii) the right to terminate Tenant's right of possession of the Lease Premises (without terminating this Lease).

13.3 No Waiver by Landlord. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law or equity, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions, and covenants herein contained. Landlord's acceptance of rent following an Event of Default hereunder shall not be construed as Landlord's waiver of any future Event of Default. No waiver by Landlord of any violation or breach of any of the terms, provisions, and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of such default.

13.4 Attorney's Fees. In any case where Landlord or Tenant employs attorneys to protect or enforce its rights hereunder and prevails, then the non-prevailing party agrees to pay the other party reasonable attorney's fees and costs of suit incurred by the prevailing party.

13.5 Bankruptcy of Tenant. The filing for bankruptcy or insolvency of Tenant (not vacated within sixty (60) days), an assignment by Tenant for the benefit of Tenant's creditors, the appointment of a trustee, liquidator or receiver for Tenant, reorganization by Tenant, an admission by Tenant of its inability to pay its debts as the same become due and/or the inability to pay its debts as the same become due and/or the seeking or granting of any order of relief in any proceeding commenced by or against Tenant under any present or future federal or state bankruptcy, insolvency or creditors' relief statute shall not affect this Lease so long as all covenants of Tenant are continued in performance by Tenant or its successors or legal representatives. Furthermore, with respect to the rights of a mortgagee, all notice of default and the periods for

curing the same shall be extended for such period of time as Tenant and/or its interest under this Lease are involved in any bankruptcy, receivership, custodial or other legal proceeding which prevents such mortgagee from curing any such default and/or obtaining title to the interest of Tenant under this Lease and/or actual possession of the Leased Premises, provided that during such interim period the mortgagee under a mortgage of the leasehold estate, or its designee, shall pay/or cause to be paid all rents, taxes, assessments, and insurance premiums provided for hereunder as and when they become due under the terms of this Lease.

13.6 Bankruptcy of Landlord. Should Landlord declare bankruptcy, Tenant, to the extent permitted by bankruptcy law, shall be permitted to continue its operations and shall have the right to purchase the Leased Premises from Landlord if permitted by the bankruptcy court.

13.7 Default of Landlord. To the extent Landlord has obligations under this Lease, if Landlord defaults in its obligations, Tenant shall provide Landlord with thirty (30) days' notice within which to cure such default. In the event Landlord has not cured such default within the applicable time, then Tenant shall have the right to pursue and enforce any and all rights and remedies available to Tenant hereunder, or at law or equity, including specific performance.

#### **Section 14. Holding Over.**

14.1 Should Tenant or any of its successors in interest hold over the Leased Premises, or any part thereof, after the expiration of this Lease term, unless otherwise agreed in writing, such holding over shall constitute and be construed as a tenancy at will only, at a rental equal to the greater of the fair market value of such rental property or the rental paid for the last month of the Lease term (including any extensions thereto) plus fifty percent (50%) of such amount.

#### **Section 15. Liability and Casualty Insurance.**

15.1 During the Lease Term, Tenant shall maintain a commercial general liability policy of insurance, at Tenant's expense, insuring Landlord against liability arising out of the Tenant's use, occupancy, or maintenance of the Leased Premises. The initial amounts of the insurance must be at least: \$1,000,000 for Each Occurrence and \$1,000,000 Property Damage for the Leased Premises, and shall be subject to periodic increases based upon economic factors as Landlord may determine, in Landlord's discretion, exercised in good faith. However, the amounts of the insurance shall not limit Tenant's liability nor relieve Tenant of any obligation under this Lease. The policies must contain cross liability endorsements, if applicable, and must insure Tenant's performance of the indemnity provisions of this Lease. The policies must contain a provision, which prohibits cancellation or modification of the policy except upon thirty (30) days' prior written notice to Landlord. The Landlord shall be named as additional insured on the commercial general liability policy. If Tenant fails to maintain the policy, Landlord may elect to maintain the insurance at Tenant's expense. Tenant may, at Tenant's expense, maintain other liability insurance as Tenant deems necessary.

## **Section 16. Condemnation.**

16.1 If the whole of the Leased Premises or access thereto should be taken under the power of eminent domain or condemnation, or a sale made under threat thereof, then this Lease shall cease as of the date of the taking without further liability upon either Landlord or Tenant. If only a portion of the Leased Premises or access thereto is taken under the power of eminent domain or condemnation, or sale made under the threat thereof, and the portion remaining will not in the reasonable opinion of the Tenant, be adequate for Tenant's continued use, Tenant shall have the option to terminate this Lease by giving Landlord notice thereof within thirty (30) days after the date of the taking. If this Lease is not so terminated, Landlord shall promptly restore the portion remaining to an integral unit resembling as much as possible the Leased Premises prior to the taking. Any and all proceeds resulting from a taking in whole or part of the Leased Premises under the power of eminent domain or condemnation, or sale under threat thereof, shall be paid directly to Landlord and shall be Landlord's property.

## **Section 17. Taxes, Liens.**

17.1 Tenant shall be liable for all taxes levied or assessed against real property, personal property, furniture or fixtures placed by Tenant in the Leased Premises.

17.2 If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and if Landlord elects to pay the same, or if the assessed value of Landlord's property is increased by inclusion of personal property, furniture or fixtures placed by Tenant in the Leased Premises, Landlord elects to pay the taxes based upon the increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is primarily liable hereunder.

## **Section 18. Special Provisions.**

- (1) The Lease shall be subject to approval of the Town Council of the Town of Hickory Creek, Texas.
- (2) The lease obligations called for herein shall terminate at lease termination date. However, the option to purchase shall survive termination of the lease consistent with the Performance Agreement, as amended, entered into by the Landlord and Tenant.

## **Section 19. Miscellaneous Provisions.**

19.1 **Amendments.** This Lease constitutes the entire understanding and agreement of the parties as to the matters set forth in this Lease. No alteration of or amendment to this Lease shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

19.2 **Applicable Law and Venue.** This Lease shall be governed by and construed in accordance

with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Denton County, Texas. Venue for any action arising under this Lease shall lie in the state district and county courts of Denton County, Texas.

**19.3 Assignment.** Tenant shall not assign this Lease or sublet the Leased Premises, or any part thereof without the consent of the Landlord in writing.

**19.4 Attorney's Fees.** In the event either party defaults in the performance of any of the terms of this Lease the other party agrees to pay the prevailing party's reasonable attorneys' fees.

**19.5 Caption Headings.** Caption headings in this Lease are for convenience purposes only and are not to be used to interpret or define the provisions of the Lease.

**19.6 Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same document.

**19.7 Force Majeure.** Landlord shall not be liable to Tenant for any loss or damage to any property or person occasioned by theft, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, or order of governmental body or authority or by any other cause beyond the reasonable control of Landlord. Nor shall Landlord be liable for any damage or inconvenience which may arise through repair or alteration of any part of the Leased Premises which is not attributable to Landlord's negligence.

**19.8 Language.** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

**19.9 Liability.** The liability of Landlord to Tenant for any default by Landlord under the terms of this Lease shall be limited to the proceeds of sale on execution of the interest of Landlord in the Leased Premises, and Landlord shall not be personally liable for any deficiency.

**19.10 Notices.** All notices required to be given under this Lease shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown in this Lease. Any party may change its address for notices under this Lease by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address.

**19.11 Right of Entry and Inspection.** Tenant agrees to permit Landlord or its agents or representatives to enter into and upon any part of the Leased Premises at all reasonable hours (and in emergencies at all times) to inspect the same, or clean, or make repairs or alterations or additions, or to show the Leased Premises to prospective purchasers, mortgage lenders, tenants or insurers, and Tenant shall not be entitled to any abatement or reduction of rent by reason thereof.

19.12 **Severability.** If a court of competent jurisdiction finds any provision of this Lease to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Lease in all other respects shall remain valid and enforceable.

19.13 **Successors.** The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective successors in interest and legal representative except as otherwise herein expressly provided. All rights, powers, privileges, immunities, and duties of Landlord under this Lease, including but not limited to any notices required to be delivered by Landlord to Tenant hereunder may at Landlord's option be exercised or performed by Landlord's agent or attorney.

19.14 **Time is of the Essence.** Time is of the essence in the performance of this Lease.

19.15 **Waiver.** No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

**[The Remainder of this Page Intentionally Left Blank]**

EXECUTED ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

**LANDLORD:**

***HICKORY CREEK ECONOMIC  
DEVELOPMENT CORPORATION,***  
A Texas non-profit corporation

\_\_\_\_\_  
Lynn Clark, President  
Date: \_\_\_\_\_

**TENANT:**

***HARD SUN V, INC.,***  
A Texas corporation

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

***Exhibit A***

**Leased Premises Property Description**





***Exhibit D***

[Special Warranty Deed of the Property]

**AFTER RECORDING, RETURN TO:**

President  
Hickory Creek Economic Development Corporation  
1075 Ronald Reagan Avenue  
Hickory Creek, Texas 75065

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**SPECIAL WARRANTY DEED**

THE STATE OF TEXAS     §  
  §                                   **KNOW ALL MEN BY THESE PRESENTS:**  
COUNTY OF DENTON     §

The **HICKORY CREEK ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation ("**Grantor**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash, and other good and valuable consideration paid to Grantor by **HARD SUN V, INC.**, a Texas corporation ("**Grantee**"), the receipt and sufficiency of which are hereby fully acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and by these presents does hereby GRANT, SELL and CONVEY, unto Grantee, certain real property in Denton County, Texas, being more particularly described in **Exhibit A** attached hereto and made a part hereof for all purposes, (the "**Land**"), TOGETHER WITH, all and singular, the rights, benefits, privileges, easements, hereditaments, appurtenances, buildings, other improvements and interests located thereon or in anywise appertaining thereto (said Land and all rights, benefits, privileges, easements, hereditaments, appurtenances, buildings, other improvements and interests being hereinafter referred to as the ("**Property**").

For the same consideration recited above, Grantor hereby BARGAINS, SELLS AND TRANSFERS, without warranty, express or implied, all interest, if any, of Grantor in (i) strips or gores, if any, between the Land and abutting or immediately adjacent properties, and (ii) any land lying in or under the bed of any street, alley, road or right-of-way, opened or proposed, abutting or immediately adjacent to the Land, but not including any right or interest in or to any contiguous or abutting lands owned by Grantor or its assigns.

This conveyance is made and accepted subject to the matters of record as of the date hereof. Grantor conveys the Property "As Is" without further representation.



**GRANTEE:**

***Accepted:***

***HARD SUN V, INC.,***  
a Texas corporation,

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

***Exhibit A***

Legal Description and/or Depiction of the Property





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.7

Consider and act on a resolution of the Town Council of the Town of Hickory Creek, Texas, authorizing the president of the Hickory Creek Economic Development Corporation to execute a deed of trust to facilitate a loan by Point Bank to Hard Sun V, Inc., a Texas Corporation consistent with the performance agreement with Hard Sun V, Inc., approved on or about September 20, 2017 and the first amended and restated performance agreement with Hard Sun V, Inc.



**TOWN OF HICKORY CREEK  
RESOLUTION NO. 2018-0529-5**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, AUTHORIZING THE PRESIDENT OF THE HICKORY CREEK ECONOMIC DEVELOPMENT CORPORATION TO EXECUTE A DEED OF TRUST TO FACILITATE A LOAN BY POINTBANK TO HARD SUN V, INC, A TEXAS CORPORATION, CONSISTENT WITH THE PERFORMANCE AGREEMENT WITH HARD SUN V, INC., APPROVED ON OR ABOUT SEPTEMBER 20, 2017, AND THE FIRST AMENDED AND RESTATED PERFORMANCE AGREEMENT WITH HARD SUN V, INC.; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, the Hickory Creek Economic Development Corporation (hereinafter referred to as the “EDC”) is a Type B economic development corporation, created pursuant to Chapter 505 of the Texas Local Government Code, as amended; and

**WHEREAS**, on or about September 19, 2017, the Town Council approved a Performance Agreement and related documents with Hard Sun V, Inc., a Texas corporation, concerning the development of a restaurant on an approximately 1.01-acre tract of land owned by the EDC and leased to Hard Sun V, Inc., and generally located at 8398 S. Stemmons Freeway, Hickory Creek, Texas 75065; and

**WHEREAS**, on or about May 29, 2018, the Town Council approved a First Amended and Restated Performance Agreement with Hard Sun V, Inc., a Texas corporation, concerning the development of said restaurant; and

**WHEREAS**, it is necessary for the EDC to pledge the property identified above as collateral in order for Hard Sun V, Inc., to acquire the funding to complete the contemplated improvements.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, AS FOLLOWS:**

**Section 1.** That the foregoing recitals are hereby found to be true and correct findings of the Town Council of the Town of Hickory Creek, Texas, and are fully incorporated into the body of this Resolution.

**Section 2.** That the Town Council of the Town of Hickory Creek, Texas, hereby authorizes the President of the EDC to execute a deed of trust, attached as *Exhibit A*, to facilitate a loan to be made by PointBank to Hard Sun V, Inc, a Texas for-profit corporation, for the construction of improvements on the land generally located at 8398 S. Stemmons Freeway, Hickory Creek, Texas 75065, and consistent with the terms of the First Amended and Restated Performance Agreement reference above.

**Section 3.** That this Resolution shall become effective from and after its passage.

**DULY RESOLVED** by the Town Council of the Town of Hickory Creek, Texas, on this the 29<sup>th</sup> day of May, 2018.

**ATTEST:**

---

Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

---

Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

**APPROVED AS TO FORM:**

---

Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

***Exhibit A***

[Deed of Trust]

## DEED OF TRUST

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

Date: March 5, 2018

Grantor: Hickory Creek Economic Development Corporation,  
a Texas nonprofit corporation

Grantor's Mailing Address: 1075 Ronald Reagan Avenue, Hickory Creek,  
(including County) Denton County, Texas 75065

Trustee: J. Raymond David, Sr.

Trustee's Mailing Address: P.O. Box 278, Pilot Point,  
Denton County, Texas 76258

Beneficiary: PointBank

Beneficiary's Mailing Address: P.O. Box 278, Pilot Point,  
(including County) Denton County, Texas 76258

Note(s):

Date: March 5, 2018

Amount: \$1,600,000.00

Maker: Hard Sun V, Inc., a Texas corporation

Payee: PointBank

Final Maturity Date: March 1, 2029

Terms of Payment: As set out in Note

For value received and to secure payment of the Note, Grantor grants, conveys, and assigns the property to Trustee in trust. Grantor warrants and agrees to defend the title to the property. If Maker performs all the covenants and pays the Note according to its terms, this Deed of Trust shall have no further effect, and Beneficiary shall release it at Grantor's expense.

Property (including any improvements together with all and singular the rights and appurtenances related thereto):

LOT 1-A, BLOCK A, OF TLC SUBDIVISION, AMENDING THE REMNANT OF LOT 1, BLOCK A OF TLC SUBDIVISION, AN ADDITION TO THE TOWN OF HICKORY CREEK, DENTON COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN DOCUMENT NUMBER 2018-67, PLAT RECORDS OF DENTON COUNTY, TEXAS.

TOGETHER with all buildings, improvements, and tenements now or hereafter erected on said real property, and all heretofore or hereafter vacated alleys and streets and strips and gores abutting said property, and all easements, rights, appurtenances, rents (subject however to the assignment of rents to Beneficiary herein), royalties, mineral, oil and gas rights and profits, water, water rights, and stock appurtenant to said property, and the following types or items of property: (1) To the extent owned by Maker, Maker's successors and assigns, and acquired with the proceeds of the loan secured by this Deed of Trust, all fixtures, goods, furnishings, equipment, building material, machinery, and personal property now or hereafter located in, on or used or intended to be used in connection with said property, including without limitation: doors; partitions; window and floor coverings; apparatus, material, or equipment for supplying, holding, or distributing heating, cooling, electricity, gas, water, air and lighting; security, access control, and fire prevention and extinguishing apparatus, material, or equipment, household appliances; bathroom and kitchen fixtures; cabinetry; and landscaping; (2) All proceeds on sums payable in lieu of or as compensation for the loss of or damage to the Property (hereinafter defined) and all rights in and to all present and future fire and hazard insurance policies; (3) All proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking, in whole or in part, of the Property, or for conveyance in lieu thereof; (4) All of Maker's interest and rights, as lessor, in and to all leases now or hereafter affecting the Property, and all rental income payable thereunder or otherwise; (5) All bonds, deposits letters or credit, and any other sums at any time credited by or due from Beneficiary to Maker or any guarantor, co-worker, or surety of Maker, and held by Beneficiary; and (6) Any replacements, additions, or betterments to, of proceeds of, the collateral described herein above, the sale or distribution of which is not authorized hereby; and all of the foregoing, together with said property (or the leasehold estate in the event this Instrument is on a leasehold) are herein referred to as the "Property."

TO SECURE TO BENEFICIARY: (a) the repayment of the indebtedness evidenced by Maker's Note of even date herewith (the "Note") and all renewals, extensions, and modifications thereof; (b) the performance of the covenants and agreements of Maker contained in the Note, this Deed of Trust, any loan agreement and all other documents between Beneficiary and Maker related to the Note and/or the Property (herein "Loan Documents"); (c) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect to protect the security of this Deed of Trust; and (d) the performance of the covenants and agreements of Maker herein contained. All indebtedness and sums owing to Beneficiary as described herein above is sometimes referred to as the "Indebtedness" in this Deed of Trust.

Grantor covenants that Grantor is lawfully seized of the estate hereby conveyed and has the right to grant, convey, and assign the Property (and, if this Instrument is on a leasehold, that the ground lease is full force and effect without modification except as noted herein and without default on the part of either lessor or lessee thereunder), that the Property is unencumbered, and that Grantor will warrant and defend generally the title to the Property against all claims and demands, subject to any easements, restrictions and encumbrances noted herein.

Prior lien(s) (including recording information):

This conveyance, however, is made subject to the following matters, if applicable:

1. Restrictive covenants recorded in Volume 5252, Page 2367, Real Property Records, Collin County, Texas.
2. The following easement(s) and/or building setback line(s) as set out on plat recorded under Clerk's File No. 2018-67, a re-plat of Volume W Page 776, Plat Records, Denton County, Texas:
  - a. 20 foot building line;
  - b. 10 foot sanitary sewer easement;
  - c. 15 foot sanitary sewer easement; and
  - d. 15 foot utility easement.

Shown on survey dated February 26, 2018, by Landmark Surveyors, LLC., prepared by Jerald Yensan, Registered Professional Land Surveyor Number 4561, Job Number 174136

3. Easement(s) and rights incidental thereto, as granted in a document:

Granted to:	Rave Reviews Hickory Creek I, L.P., a Delaware limited partnership
Purpose:	As provided in said document
Recording Date:	December 20, 2000
Recording No:	in Volume 4739, Page 476, Real Property Records, Denton County, Texas. Affected by Amendment recorded in Volume 4889, Page 192, Real Property Records, Denton County, Texas

Noted on survey dated February 26, 2018, by Landmark Surveyors, LLC., prepared by Jerald Yensan, Registered Professional Land Surveyor Number 4561, Job Number 174136.

4. Matters contained in that certain document

Entitled:	Mutual Access Easement Agreement
Dated:	January 9, 2003
Executed by:	Lyons American Securities, Inc., Trustee
Recording Date:	January 9, 2003
Recording No:	in Volume 5248, Page 3475, Real Property Records, Denton County, Texas

Reference is hereby made to said document for full particulars.

Noted on survey dated February 26, 2018, by Landmark Surveyors, LLC., prepared by Jerald Yensan, Registered Professional Land Surveyor Number 4561, Job Number 174136.

5. 24' Firelane and Access Easement created in that certain document

Entitled: Temporary Access Easement Agreement  
Dated: January 8, 2003  
Executed by: Lyons American Securities, Inc., Trustee  
Recording Date: January 15, 2003  
Recording No: in Volume 5252, Page 2374, Real Property Records, Denton County, Texas, and shown on Plat under Clerk's File No. 2018-67, Real Property Records, Denton County, Texas

Reference is hereby made to said document for full particulars.

Shown on survey dated February 26, 2018, by Landmark Surveyors, LLC., prepared by Jerald Yensan, Registered Professional Land Surveyor Number 4561, Job Number 174136.

6. The exercise of power by competent governmental authority to limit, control or deny access, ingress or egress to the herein described property from I-35E or the service road which subject property abuts. Said matters described in Deed recorded in Volume 400, Page 389, Real Property Records, Denton County, Texas.
7. Any rights, interests, or claims which may exist or arise by reason of the following matters disclosed by survey,

Job No.: 174136  
Dated: February 26, 2018  
Prepared by: Jerald Yensan, Registered Professional Land Surveyor Number 4561

Matters shown: Rights of third parties in and to storm sewer manhole

**Grantor's Obligations**

Grantor agrees to:

1. preserve the lien's priority as it is established in this deed of trust;
2. if this is not a first lien, pay all prior lien notes that Grantor is personally liable to pay and abide by all prior lien instruments; and

**Maker's Obligations**

Maker agrees to:

1. promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Deed of Trust at the offices of Beneficiary.
2. keep the property in good repair and condition, consistent with the terms of the lease agreement by and between Maker and Grantor;
3. pay all taxes and assessments on the property when due, consistent with the terms of the lease agreement by and between Maker and Grantor;
4. maintain, in a form acceptable to Beneficiary, an insurance policy that:

- a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
  - b. contains an 80% coinsurance clause;
  - c. provides fire and extended coverage, including windstorm coverage;
  - d. protects Beneficiary with a standard mortgage clause;
  - e. provides flood insurance at any time the property is in a flood hazard area; and
5. comply at all times with the requirements of the 80% coinsurance clause;
6. deliver the insurance policy to Beneficiary and deliver renewals to Beneficiary at least ten days before expiration;
7. keep any buildings occupied as required by the insurance policy;
8. provide Beneficiary with proof of payment and pay at least ten (10) days before delinquent all taxes, maintenance charges, assessments, water rates, and all governmental or municipal charges, fines, or impositions, and in default thereof, the Beneficiary may pay the same and such sum paid shall become a part of the debt secured hereby, or the Beneficiary may declare the whole of the debt secured hereby due and payable and foreclose the lien created herein in the manner provided herein.

### **Beneficiary's Rights**

1. Beneficiary may appoint in writing a substitute or successor trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds of the Note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all of the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the Note or to repair or replace damaged or destroyed improvements covered by the policy.
4. If Grantor or Maker fails to perform any of Grantor's or Maker's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor or Maker on demand at the place where the Note is payable for any sums so paid, including attorney's fees, plus interest on those sums from the dates of payment at the rate stated in the note for matured, unpaid amounts. The sum to be reimbursed shall be secured by this Deed of Trust.
5. If Maker defaults on the Note or fails to perform any of Maker's obligations or if Beneficiary discovers that any warranty, covenant, or representation made to Beneficiary by or on behalf of Maker, or any Guarantor is false, misleading, erroneous, or breached in any material respect or if default occurs on a prior lien note or other instrument, and the default continues after Beneficiary gives Maker notice of the default and the time within which it must be cured, as may be required by law or by written agreement, then Beneficiary may:
  - a. declare the unpaid principal balance and earned interest on the note immediately due;
  - b. request Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended;
  - c. purchase the property at any foreclosure sale by offering the highest bid and then have the bid credited on the note; and
  - d. default in the timely payment of any installment of principal and interest or in the performance of any covenant or provision in any Loan Document.

### **Trustee's Duties**

If requested by Beneficiary to foreclose this lien, Trustee shall:



1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then amended;
2. sell and convey all or part of the property to the highest bidder for cash with a general warranty binding Grantor, subject to prior liens and to other exceptions to conveyance and warranty; and
3. from the proceeds of the sale, pay, in this order:
  - a. expenses of foreclosure, including a commission to Trustee of 5% of the bid;
  - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
  - c. any amounts required by law to be paid before payment to Grantor; and
  - d. to Grantor, any balance.

### **Security Agreement**

Without limiting any of the provisions of this Deed of Trust, the Maker, as Debtor (and being referred to in this paragraph as 'Debtor,' whether one or more), expressly GRANTS unto the holder of the indebtedness described herein, as Secured Party (and being referred to in this paragraph as "Secured Party," whether one or more), a security interest in all the properties hereinabove described (including both those now and those hereafter existing) to the full extent that such properties may be subject to the Uniform Commercial Code Secured Transactions (Chapter 9 Business & Commerce Code of Texas; as amended) (hereinafter called "Uniform Commercial Code"), and covenants and agrees with the Secured Party that:

1. In addition to any other remedies granted in this Deed of Trust to the Secured Party or Trustee, the Secured Party may in event of default, proceed under the Uniform Commercial Code as to all or any part of the Property comprising personal property (tangible or intangible) or fixtures (such portions of the Property being referred to herein as the "Collateral"), and shall have and may exercise with respect to the Collateral all the rights, remedies, and powers of a secured party under the Uniform Commercial Code, including without limitation the right and power to sell, at public or private sale or sales, or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner authorized or permitted under the Uniform Commercial Code after default by a debtor and to apply the proceeds thereof toward payment of any costs and expenses and reasonable attorney's fees and legal expenses thereby incurred by Secured Party, and toward payment of the Indebtedness in such order or manner as Secured Party may elect.

2. Among the rights of Secured Party in the event of default, and without limitation, Secured Party shall have the right to take possession of the Collateral and to enter upon the Property for such purpose without being deemed guilty of trespass and without liability for damages thereby occasioned and to take any action deemed necessary or appropriate or desirable by Secured Party, at its option and in its discretion, to repair, refurbish, or otherwise prepare the Collateral for sale, lease, or other use or disposition as herein authorized.

3. To the extent permitted by law, Debtor expressly waives any notice of sale or other disposition of the Collateral and any other rights or remedies of a debtor or formalities prescribed by law relative to sale or disposition of the Collateral or exercise of any other right or remedy of Secured Party existing after default hereunder; and to the extent any such notice is required and cannot be waived, Debtor agrees that if such is mailed, postage prepaid, to the Debtor at the address shown herein at least ten (10) days before the time of the sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving of such notice.

4. After default, the Secured Party is expressly granted the right, at its option to transfer at any time to itself or to its nominee the Collateral, or any part thereof, and to receive the monies, income, proceeds, or benefits attributable or accruing thereto and to hold the same as security for amounts owing on any of the Indebtedness or to apply it to the principal and interest or other

amounts owing on any of the Indebtedness, whether or not then due, in such manner as Secured Party may elect. All rights to marshalling of assets of Debtor, including any such right with respect to the Collateral, are hereby waived.

5. All recitals in any instrument of assignment or any other instrument executed by Secured Party or by the Trustee incident to sale, transfer, assignment, lease, or other disposition or utilization of the Collateral or any part thereof hereunder shall be requisite to establish full legal propriety of the sale or other action of any fact, condition, or thing incident thereto, and all prerequisites of such sale or other action and of any fact, condition, or thing incident there to shall be presumed conclusively to have been performed or to have occurred.

6. Secured Party may require Debtor to assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party that is reasonably convenient to both parties. All expenses of retaking, holding, preparing for sale, lease, or other use or disposition, selling, leasing, or otherwise using or disposing of the Collateral and the hereunder, including also all reasonable attorneys' fees, legal expenses and costs, shall be added to the indebtedness and the Debtor shall be liable therefor.

7. Certain of the Collateral is or will become "fixtures" (as that the term is defined in the Uniform Commercial Code) on the real estate hereinabove described and this Deed of Trust upon being filed for record in the real estate records shall operate also as a financing statement upon such of the Collateral which is or may become fixtures.

8. A copy of this Instrument which is signed by Debtor may also serve as a financing statement under the Uniform Commercial Code between the Debtor and Secured Party, whose addresses are set forth herein.

9. So long as any amount remains unpaid on the Indebtedness, Debtor will not execute and there will not be filed in any public office any financing statement or statements affecting the Collateral other than financing statements in favor of Secured Party hereunder, unless the prior written specific consent and approval of Secured Party shall have first been obtained.

10. Secured Party is authorized to file, in jurisdictions where this authorization will be given effect, a financing statement signed only by Secured Party covering the Collateral, and that at the request of Secured Party, Debtor will join Secured Party in executing one or more financing statements, pursuant to the Uniform Commercial Code in form satisfactory to Secured Party, and will pay the cost of filing the same or filing or recording this Instrument, as a financing statement, in all public offices at any time and from time to time whenever filing or recording of any financing statement or of this Deed of Trust is deemed by Secured Party to be necessary or desirable. Any carbon, photographs, or other reproductions of this document may be filed by Secured Party and shall be sufficient as a financing statement.

11. Debtor further warrants and represents to the Secured Party that, except for the security interest granted hereby in the Collateral, the Debtor is the owner and holder of the Collateral, free of any adverse claim, security interest or encumbrance, and Debtor agrees to defend the Collateral against all claims and demands of any person at any time claiming the same or any interest therein, except rights of tenants to use thereof and subject to the other matters set forth herein. Debtor further warrants and represents that it has not heretofore signed any financing statements in connection with the Collateral, and that no financing statements signed by Debtor are now on file in any public office except those statements true and correct copies of which have been delivered to Secured Party.

## **General Provisions**

1. If any of the property is sold under this Deed of Trust, Grantor shall immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor shall become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

2. Recitals in any Trustee's deed conveying the property will be presumed to be true.
3. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. This lien shall remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the property is released.
5. If any portion of the Note cannot be lawfully secured by this Deed of Trust, payments shall be applied first to discharge that portion.
6. Grantor assigns to Beneficiary all sums payable to or received by Grantor from condemnation of all or part of the property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the property. After deducting any expenses incurred, including attorney's fees, Beneficiary may release any remaining sums to Grantor or apply such sums to reduce the Note. Beneficiary shall not be liable for failure to collect or to exercise diligence in collecting any such sums. Such payment will not relieve the Maker from making regular monthly payments in accordance with the Note commencing the first month following the date of receipt of the award. The Beneficiary is hereby authorized in the name of the Maker to execute and deliver valid acquittances for such awards and to appeal from such awards but shall not be liable or responsible for failure to exercise diligence in collection or to collect same.
7. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the property. Leases are not assigned. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Maker is not in default under the Note or this Deed of Trust. If Maker defaults in payment of the Note or performance of this Deed of Trust, Beneficiary may terminate Grantor's license to collect and then as Grantor's agent may rent the Property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Maker's obligations under the Note and Grantor's obligations under this Deed of Trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law. Grantor or Maker hereby assign to the Beneficiary and all rents and leases on the Property, and authorize the Beneficiary to take possession of the Property at any time there is any default on the part of Maker in the performance of any obligation herein imposed and the rent the same for the account of Maker and to deduct from such rents all costs of collection and administering and to apply the remainder of such rents on the debt hereby secured.
8. Interest on the debt secured by this Deed of Trust shall not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under the law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt.
9. When the context requires, singular nouns and pronouns include the plural.
10. The term Note includes all sums secured by this Deed of Trust.

11. This Deed of Trust shall bind, inure to the benefit of, and be exercised by successors in interest of all parties.
12. If Grantor and Maker is not the same person, the term Grantor shall include Maker.
13. Grantor represents that this Deed of Trust and the Note are given for the following purpose: (1) To the extent of \$1,600,000.00, Grantor represents that this Deed of Trust and Note are given to secure a construction advance Note that will be disbursed in a series of construction draws or advances from time to time. The construction draws or advances shall be applied by Beneficiary to the payment of interest, fees, expenses and labor and material costs incurred in the construction of the improvements, and/or remodeling and repairs of the existing improvements, located on the Property; (2) The lien of this Deed of Trust secures an obligation incurred for the construction of an improvement on the land, including the cost of the land. This Deed of Trust is a "construction mortgage" within the meaning of Texas Business and Commerce Code Section 9.334.
14. Grantor herein covenants and agrees that it will not convey the above described Property subject to or in assumption of the indebtedness evidenced by the above mentioned Note without first obtaining the written consent of the payee or other holder of said Note, and further acknowledges that the payee or other holder of said Note shall have the right to mature the entire balance owing on the above described Note in the event Grantor conveys the above described Property without first obtaining such written consent for a third party to take such Property subject to or in assumption of the indebtedness evidenced by the above mentioned Note.
15. In the event that an independent test appraisal is required by Beneficiary, Maker will pay the cost of such appraisal and will pay such sums and perform acts as may be required by any governmental authority to make the loan evidenced by the note a conforming loan under existing governmental regulations governing Beneficiary. In the event Maker does not pay said cost, Beneficiary may pay said cost, which shall be secured by this Deed of Trust.
16. On default in the payment of this Note or in the performance of any obligation in any instrument securing or collateral to it, this Note and all obligations in all instruments securing or collateral to it shall become immediately due at the election of the Payee. Maker and each surety, endorser, and guarantor waive all demands for payment, presentations for payment, notices of intention to accelerate maturity, protests and notices of protest.
17. To the maximum extent permitted by applicable law, the Grantor hereby waives all rights, remedies, claims and defenses based upon or related to Sections 51.003, 51.004 and 51.005 of the Texas Property Code, to the extent the same pertain or may pertain to any enforcement of this Deed of Trust. Grantor or Maker does hereby expressly waive and renounce the benefit of all law now existing or that may hereafter be enacted providing for any appraisalment before sale of any of the Property, or credit for appraisal value of the property, commonly known as Appraisalment laws, and also the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the Indebtedness or creating or extending a period of redemption from any sale made in collecting the Indebtedness, commonly known as Stay laws and Redemption laws.
18. In the event that the ownership of the Property or any part thereof becomes vested in a person other than the Grantor, the Beneficiary may, without notice to the Grantor, deal with such successor or successors in interest with reference to this Deed of Trust and to the debt, hereby secured in the same manner as with the Grantor, without in any way vitiating or discharging Grantor's or Maker's liability hereunder or under the Note.
19. For the purpose of securing the payment of the Note, principal, interest, and attorney's fees, Maker does further covenant with the Beneficiary and its assigns to pay the sums named in the Note, with interest thereon, as therein provided; to permit no waste, to keep all improvements

in good repair, and to do and permit to be done, through any act or omission, nothing that may in any way endanger, impair or weaken the security under this Deed of Trust.

20. Grantor covenants that it has good and indefeasible title in fee simple (or such other estate, if any, as is stated herein) to the Property, free and clear from all encumbrances except as herein otherwise recited, with full right and authority to convey the same and will warrant and defend the title against the claims of all persons whomsoever. Maker understands that the lien created herein is a first and prior lien and agrees not to place any type of inferior lien on the Property without first obtaining express written approval from the Beneficiary.

21. Maker shall pay and discharge any and all prior indebtedness that may be owing against the Property. If Maker shall fail to pay and discharge any such prior indebtedness, then the Beneficiary, at its option may pay and discharge the same without waiver of any of its rights hereunder, and the sums expended for such purposes shall become a part of the debt secured hereby, shall become immediately due and payable and shall draw interest from date so expended until paid at the highest non-usurious legal rate.

22. Maker hereby acknowledges that any prior existing liens against the Property which have been previously disclosed to the Beneficiary are valid and subsisting liens against the Property and that the payment for the debt secured thereby is expressly requested by Maker to be made by the Beneficiary which is hereby expressly subrogated to all rights, powers, liens, equities, superior title, and benefits owned and enjoyed by the owner of any debt or portion thereof hereby refinanced, renewed, or extended to secure payment of the Beneficiary of the Note, regardless of whether said lien or debts are acquired by Beneficiary by assignment or are released by the holder thereof upon payment and provided further that as to any of the funds advanced by the Beneficiary used to remove liens, encumbrances, or claims to pay same, whether expressly herein set forth or not, the Beneficiary is hereby expressly subrogated to all the rights, powers, liens, equities, superior title, and benefits held, owned, and enjoyed by the holder of any debt for which the funds advanced to Maker by the Beneficiary shall be used to pay and shall extend to and secure the payment of the Beneficiary of the Note. It is expressly agreed that any power of sale heretofore existing, securing any part of the debt hereby refunded or extended by the term hereof, whether expressly set forth or not, shall be kept alive and in force in this and in any future deed of trust hereafter executed securing any portion of the Indebtedness, which power of sale shall remain in all things superior to the rights of any purchaser or lien holder and this provision shall be a covenant running with the title to said land, and shall be cumulative to this Deed of Trust so that a foreclosure hereunder shall operate as a foreclosure under any power of sale heretofore existing, and it is hereby expressly mutually agreed and understood that the amount of such indebtedness, if any, refunded and extended is the correct and lawful amount of the balance due, owing and unpaid on said indebtedness, and that all offsets, credits, charges, and claims of every character, except as set forth in this Deed of Trust and/or the Note, have been compromised, liquidated, and allowed.

23. No partial release of the Property, no modification of the Note including an increase in the interest rate, no forbearance or other act or omission on the part of the Beneficiary and no extension of the time for the payment of the Indebtedness given by the Beneficiary, its successors or assigns, shall operate to release, discharge, modify, change, or affect the liability or obligation of either the Maker, Grantor, or any subsequent owner of the Property who assumes the Indebtedness nor will such acts create any waiver of or estoppel to enforce any of the rights of the Beneficiary hereunder. Maker and any and all such guarantors and subsequent owners shall be bound by any and all modifications of the Note, including increases in the applicable interest rate.

24. It is expressly provided that this Deed of Trust shall secure, in addition to the above described Note, all other indebtedness owing or to become owing to PointBank by Maker.

25. At Payee's Option: Maker agrees to make an initial deposit in a reasonable amount to be determined by Payee and then make monthly payments to a fund for taxes and insurance



premiums on the Property. Monthly payments will be made on the payment dates specified in the Note, and each payment will be one-twelfth of the amount that Payee estimates will be required annually for payment of taxes and insurance premiums, in addition, Maker shall pay one-twelfth of said escrow payment to Payee as an escrow cushion. The fund will accrue no interest, and Payee will hold it without bond in escrow and use it to pay the taxes and insurance premiums. If Maker has complied with the requirements of this paragraph, Payee must pay taxes before delinquency. Maker agrees to make additional deposits on demand if the fund is ever insufficient for its purpose. If an excess accumulates in the fund, Payee may either credit it to future monthly deposits until the excess is exhausted or refund it to Maker. Payee shall within thirty (30) days from the date of the escrow account analysis refund any surplus to Maker, if the surplus is greater than or equal to fifty (\$50) dollars. When Maker makes the final payment on the Note, Payee will credit to that payment the whole amount then in the fund or, at Payee's option, refund it after the Note is paid. Any balance in the fund over that needed to pay taxes, including taxes accruing but not yet payable, and to pay insurance premiums will be paid. If the Property is transferred, any balance then in the fund will still be subject to the provisions of this paragraph and will inure to the benefit of the transferee. Deposits to the fund described in this paragraph are in addition to the monthly payments provided for in the Note.

26. No part of the Property is Grantor's homestead of any type or character and this Deed of Trust is and shall continue to be a valid and enforceable lien and security interest against the Property until the obligation is fully discharged.

27. The loan evidenced by the Note is solely for the purpose of carrying on or acquitting a business of Grantor, and is not for personal, family, household or agricultural purposes.

28. Maker will pay a late charge fee of 5.00% of the overdue payment of principal and interest with a minimum of \$7.50 if more than 10 days late.

**GRANTOR**

Hickory Creek Economic Development  
Corporation,  
a Texas nonprofit corporation

---

**MAKER**

Hard Sun V, Inc.,  
a Texas corporation

---

James M. Murray, Director/President

STATE OF TEXAS           §

COUNTY OF DENTON       §

Before me, the undersigned notary, on this day personally appeared Hickory Creek Economic Development Corporation, a Texas nonprofit corporation known to me (or proved to me on the oath of \_\_\_\_\_ or through driver's license) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of March, 2018.

\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS           §

COUNTY OF DENTON       §

Before me, the undersigned notary, on this day personally appeared James M. Murray, Director/President Hard Sun V, Inc., a Texas corporation known to me (or proved to me on the oath of \_\_\_\_\_ or through driver's license) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of March, 2018.

\_\_\_\_\_  
Notary Public, State of Texas

After recording return to:  
PointBank  
P.O. Box 278  
Pilot Point, Texas 76258

Prepared in the Office of:  
Minor & Jester, PC  
P.O. Box 280  
Denton, Texas 76202



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.8

Consider and act on a site and landscape plan for Elm Fork Restaurant, legally described as TLC Subdivision Lot 1, Block A, 0.910 acres in the J.W. Simmons Survey, Abstract No. 1163, Town of Hickory Creek, Denton County, Texas.





May 18, 2018  
AVO 33540.007

Ms. Chris Chaudoir  
Town of Hickory Creek  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

**RE: Site Plan for Elm Fork Restaurant  
3<sup>rd</sup> Review**

Dear Ms. Chaudoir:

The Town of Hickory Creek received the construction plans for the Elm Form Restaurant on May 7, 2018. The civil engineer was G&A Consultants. There are comments shown in attached redlines of the plans and in the letter below.

**Comments were addressed for the Site plan and we recommend approval. Upon council approval, construction plans will be reviewed.**

Sincerely,

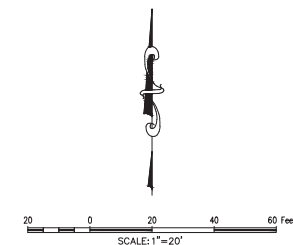
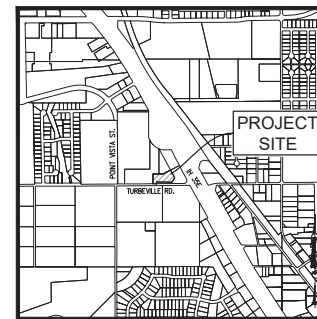
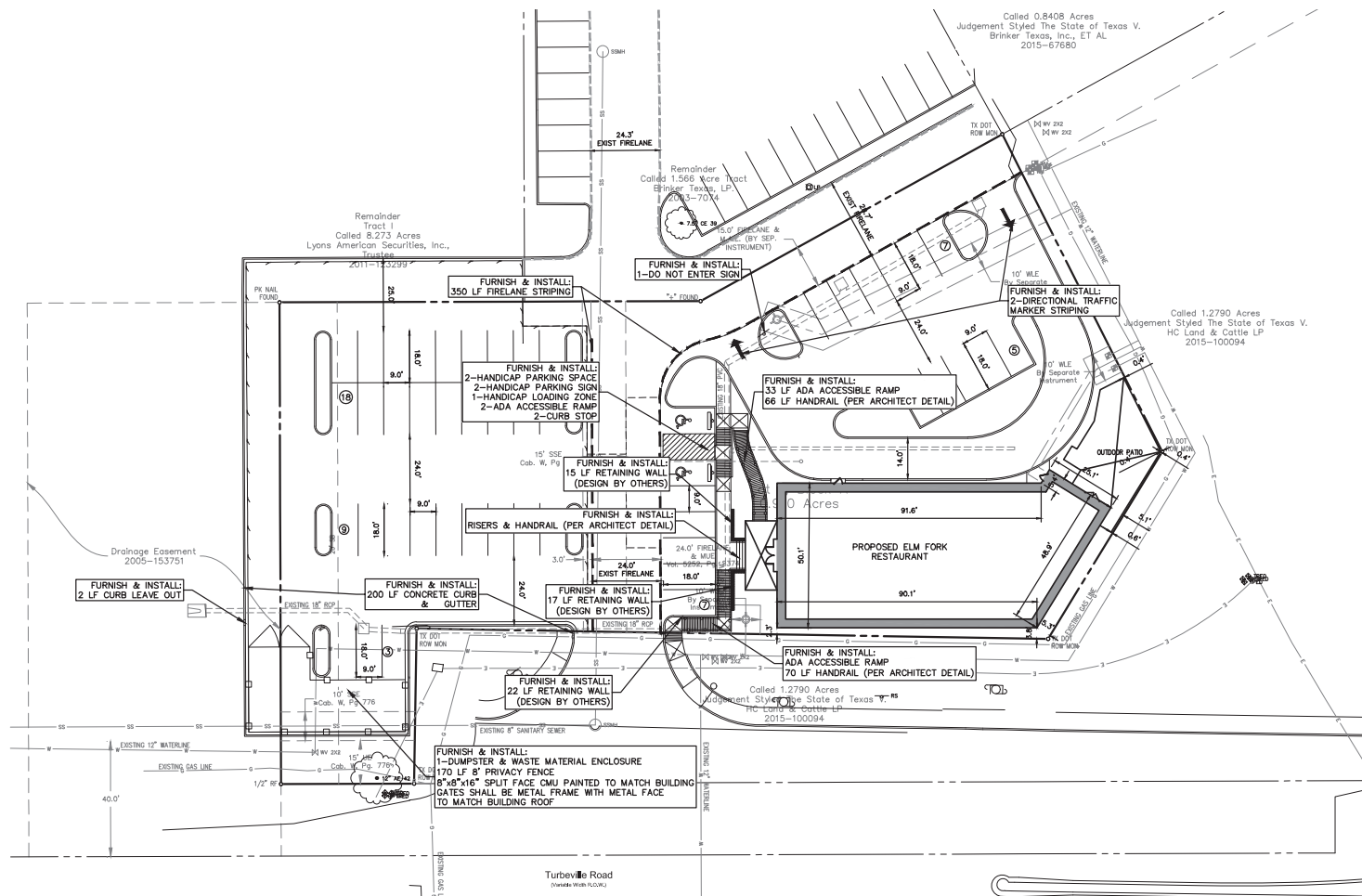
**HALFF ASSOCIATES, INC.**

A handwritten signature in blue ink, appearing to read "B. Haynes", is written over a faint, circular official stamp.

Brian C. Haynes, PE, CFM  
Vice President

C: Kristi Rogers – Town Secretary  
John Smith – Town Administrator

Attach: Plan Comments and Site Plan Check List



- TBM #1 - TIDOT ROW MONUMENT LOCATED AT NORTH EAST CORNER OF PROPERTY  
 ELEV. = 603.42  
 TBM #2 - TIDOT ROW MONUMENT LOCATED AT SOUTH EAST CORNER OF PROPERTY  
 ELEV. = 603.39  
**GENERAL NOTES**  
 1. REFER TO M.E.P. PLANS FOR LIGHT POLE LOCATIONS

LEGEND			
ABBREVIATIONS:			
CRF	Capped Rebar Found	FG	Finished Grade
CRS	Capped Rebar Set	FF	Finished Floor
CP	Control Point	FP	Finished Pad
Mon.	Monument	FL	Flowline
BM	Benchmark	UE	Utility Easement
Ex TC	Existing Top of Curb	DE	Drainage Easement
Ex TP	Existing Top of Pavement	BL	Building Line
TC	Top of Curb	R.O.W.	Right-of-Way
C	Curb	DR	Deed Records
PG	Proposed Grade	PR	Plot Records
TP	Grade at Top of Pavement	PAE	Pedestrian Access Easement
TA	Grade at Top of Asphalt	SG	Setback Line
TW	Grade at Top of Wall	WLE	Waterline Easement
BW	Grade at Bottom of Wall	MAE	Mutual Access Easement
RW	Grade at Retaining Wall		
TG	Grade at Top of Gate		

LEGEND	
SYMBOLS:	
Existing	Proposed
---500---500---	---500---500---
Contours	Contours
Asphalt Pavement	Asphalt Pavement
Wood Fence	Wood Fence
Chain Link Fence	Chain Link Fence
Wire Fence	Wire Fence
Masonry Wall	Masonry Wall
Centerline of Creek, Swale, or Waterway	Centerline of Creek, Swale, or Waterway
Waterline	Waterline
Sanitary Sewer	Sanitary Sewer
Storm Sewer	Storm Sewer
Overhead Power	Overhead Power
Buried Power	Buried Power
Gas Line	Gas Line

LEGEND	
SYMBOLS:	
Existing	Proposed
Fire Hydrant	Fire Hydrant
Water Valve	Water Valve
Water Meter	Water Meter
Sanitary Sewer Manhole	Sanitary Sewer Manhole
Guy Wire	Guy Wire
Light Pole	Light Pole
Power Pole	Power Pole
Tree	Tree
Benchmark	Benchmark

**ELM FORK RESTAURANT**  
 CONSULTANTS, LLC  
 LAND SURVEYORS  
 111 Hillside Drive • Lewisville, TX 76067  
 P: 972.268.9712 • F: 972.268.9715  
 P: 972.268.9712 • F: 972.268.9715  
 TBSLS Firm No. 1798 TBSLS Firm No. 1047700

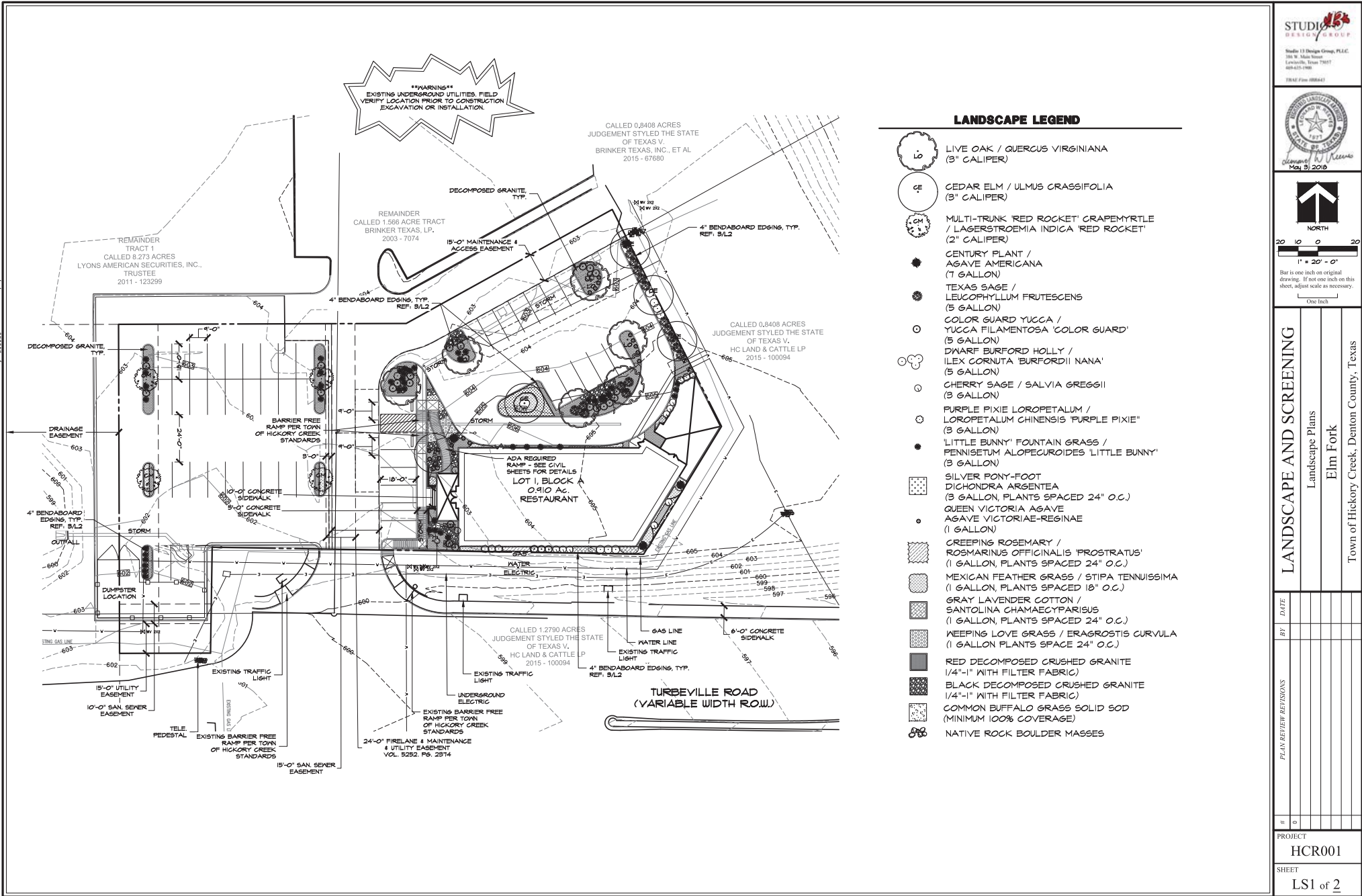
**ELM FORK RESTAURANT**  
 TLC SUBDIVISION  
 Lot 1, Block A  
 0.670 Acres  
 JUNK SIMMONS SURVEY BUREAU, ABSTRACT NO. 188  
 TOWN OF HICKORY CREEK  
 DENTON COUNTY, TEXAS

**SITE PLAN**  
 17413

**PRELIMINARY PLANS**  
 THIS DOCUMENT IS FOR INTERIM REVIEW AND IS NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.  
 GAA CONSULTANTS, F-1798  
 JUSTIN L. LANDSADNE, P.E. #121890  
 DATE: 5/3/2018

Drawn By: JLM  
 Date: 04/11/2018  
 Scale: 1"=20'  
 Revisions:  
 05/03/2018

**OWNER/DEVELOPER**  
 HAWK SUN 101, LLC  
 1301 HICKORY CREEK ROAD  
 HICKORY CREEK, TEXAS 76066  
 P.O. Box  
 Contact: JAMES MURRAY



# LANDSCAPE LEGEND

- LO LIVE OAK / QUERCUS VIRGINIANA (3" CALIPER)
- CE CEDAR ELM / ULMUS CRASSIFOLIA (3" CALIPER)
- CH MULTI-TRUNK 'RED ROCKET' Crape Myrtle / LAGERSTROEMIA INDICA 'RED ROCKET' (2" CALIPER)
- 1 CENTURY PLANT / AGAVE AMERICANA (7 GALLON)
- 2 TEXAS SAGE / LEUCOPHYLLUM FRUTESCENS (5 GALLON)
- 3 COLOR GUARD YUCCA / YUCCA FILAMENTOSA 'COLOR GUARD' (5 GALLON)
- 4 DWARF BURFORD HOLLY / ILEX CORNUTA 'BURFORDII NANA' (5 GALLON)
- 5 CHERRY SAGE / SALVIA GREGGII (3 GALLON)
- 6 PURPLE PIXIE LOROPETALUM / LOROPETALUM CHINENSIS 'PURPLE PIXIE' (3 GALLON)
- 7 'LITTLE BUNNY' FOUNTAIN GRASS / PENNisetum ALOPECUROIDES 'LITTLE BUNNY' (3 GALLON)
- 8 SILVER PONY-FOOT DICHONDRA ARGENTEA (3 GALLON, PLANTS SPACED 24" O.C.)
- 9 QUEEN VICTORIA AGAVE AGAVE VICTORIAE-REGINAE (1 GALLON)
- 10 CREEPING ROSEMARY / ROSMARINUS OFFICINALIS 'PROSTRATUS' (1 GALLON, PLANTS SPACED 24" O.C.)
- 11 MEXICAN FEATHER GRASS / STIPA TENNUSSIMA (1 GALLON, PLANTS SPACED 18" O.C.)
- 12 GRAY LAVENDER COTTON / SANTOLINA CHAMAECYPARISUS (1 GALLON, PLANTS SPACED 24" O.C.)
- 13 KEEPING LOVE GRASS / ERAGROSTIS CURVULA (1 GALLON PLANTS SPACE 24" O.C.)
- 14 RED DECOMPOSED CRUSHED GRANITE 1/4"-1" WITH FILTER FABRIC
- 15 BLACK DECOMPOSED CRUSHED GRANITE 1/4"-1" WITH FILTER FABRIC
- 16 COMMON BUFFALO GRASS SOLID SOD (MINIMUM 100% COVERAGE)
- 17 NATIVE ROCK BOULDER MASSES



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.9

Consider and act on a replat of Hickory Creek Market Place Addition, Lot 1R, Block 1, 1.562 acres situated in the John W. Simmons Survey, Abstract No. 1336, Town of Hickory Creek, Denton County, Texas.



May 14, 2018  
AVO 33540.008

Ms. Chris Chaudoir  
Town of Hickory Creek  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

**RE: Construction Plan for RaceTrac  
1<sup>st</sup> Review**

Dear Ms. Chaudoir:

The Town of Hickory Creek received the construction plans for the RaceTrac on March 16, 2018 and additional information on May 2, 2018. The landscape architect is AWR Designs, LLC, Engineer is The Bousquet Group, Inc., Surveyor is O'Neal Surveying Co., and Owner/Developer is RaceTrac Petroleum, Inc. There are comments shown in attached redlines of the plans and in the letter below.

**Halff recommends approval of the referenced Re-Plat, Construction Plans, and Early/Demo Application. Applicant to do the following PRIOR to construction:**

- Submit Re-Plat to Town for approval at P&Z and Council Meetings
- Pay into the Town's Tree Fund (per note on the Landscape Plan)
- Pre-Construction Meeting with Town
- Submit approved Texas Accessibility Standards (TAS) review of site
- SWPPP Notebook to be provided to Public Works Director
- Notice of Intent (NOI) to TCEQ

Sincerely,

**HALFF ASSOCIATES, INC.**

A handwritten signature in blue ink, appearing to read "Brian C. Haynes", is written over a faint, larger signature.

Brian C. Haynes, PE, CFM  
Vice President

C: Kristi Rogers – Town Secretary  
John Smith – Town Administrator





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.10

Consider and act on a site and landscape plan submitted by JMSR Enterprises LLC, legally described as Ventana Addition, Block 1, Lot 2(pt), Town of Hickory Creek, Denton County, Texas.



May 16, 2018  
AVO 32010

Mr. John Smith  
Town of Hickory Creek  
1075 Ronald Reagan Ave  
Hickory Creek, Texas 75065

**RE: Stemmons Office – Preliminary Site Plan 3rd Review**

Dear Mr. Smith:

Halff received the revised Preliminary Site Plan for the Stemmons Office project, dated May 16, 2018 from Kirkman Engineering on May 16, 2018. The applicant is developing the property for office use and is owned by SMSR Enterprises LLC.

**Halff Associates, Inc. has no additional comments at this time for the above referenced project.**

Feel free to contact me with any questions or comments at (214) 937-3936.

Sincerely,

**HALFF ASSOCIATES, INC.**  
TBPE Firm No. F-312

A handwritten signature in blue ink, appearing to read "Jay Reissig", is written over a faint, light blue circular stamp.

Jay Reissig, PE

C: Town of Hickory Creek  
Halff File



A1163A J.W. SIMMONS, TR 32,  
2.348 ACRES, OLD DCAV TR #5A  
ZONING: C-1

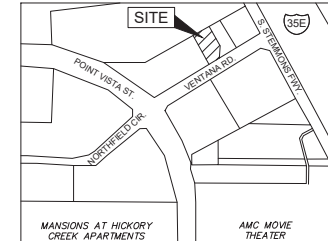
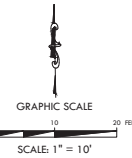
TRASH CANS  
TRASH CANS TO BE SCREENED  
BY 40 L.F. OF 6' WOOD FENCE  
WITH ACCESS GATES  
ELEC. BOX

O.H. POWER DIST. LINE  
TEXAS POWER & LIGHT CO.  
VOL. 398, PAGE 610

LOT 3  
VENTANA ADDITION, PHASE II  
CAB. S, PAGE 269  
P.R.D.C.T.  
ZONING: C-2

REMNANT  
LOT 2, BLOCK 1  
VENTANA ADDITION  
CAB. F, PAGE 139  
P.R.D.C.T.  
ZONING: C-1  
7,492 SF/0.17 ACRES

SANGER BANK TO  
STATE OF TEXAS  
DOC. NO. 2015-37183  
P.R.D.C.T.  
ZONING: C-2



LOCATION MAP

SITE DATA	
Existing Zoning	C-1 Commercial
Proposed Use	Office
Lot Area	0.172 Ac. (7,472 Sq. Ft.)
Proposed Building Floor Area	1,125 Sq. Ft.
Building Height	1 Story
Floor Area Ratio / Lot Coverage	15.1%
Parking Required	No requirement listed in zoning ordinance.
Proposed Parking Provided	7 Spaces
Handicap Parking	1 Space

Note: Handicap parking is provided in accordance with ADA standards.

DIMENSION NOTE

- ALL DIMENSIONS FROM THE FACE OF CURB UNLESS NOTED OTHERWISE.
- ALL CURB RADI SHALL BE 3' AT FACE OF CURB UNLESS OTHERWISE NOTED.

LOCATION  
8350 Stemmons  
Hickory Creek, TX



OWNER/APPLICANT  
SubZero Realty  
205 Swisher Road Ste. 202  
Lake Dallas, TX 75065  
Telephone: (840) 228-1461  
Contact: Jeremy Miles

SURVEYOR  
Landmark Surveyors, LLC  
4238 I-35 NORTH  
Denton, TX 76207  
Telephone: (840) 382-4916  
TX Firm No. 10058600  
Contact: Jerrell D. Venson, R.P.L.S.

ENGINEER  
Kirkman Engineering  
4821 Merlot Ave., Suite 210  
Grapevine, Texas 76051  
Telephone: (817) 488-4960  
TSP No. 15874  
Contact: Shera Kirkman, P.E.



4821 Merlot Avenue, Suite 210  
Grapevine, Texas 76051  
Phone: 817-488-4960

DEVELOPER/OWNER



JOB NUMBER: SZR18001

DESIGNED BY: ALM

DRAWN BY: ALM

CHECKED BY: SOK

ISSUE DATE: 05/16/18

REV:

Kirkman Engineering, LLC  
Texas Firm No. 15874

STEMMONS

HICKORY CREEK,  
TEXAS

SITE  
PLAN

SHEET:  
SP1.0

Copyright 2018, Kirkman Engineering





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.11

Consider and act on a replat of Lot 1X-R, 2X, 3X and Lots 2 through 24, Block A, Steeplechase South Addition (33.83 acre tract) of all of Lot 1X, Block A of Steeplechase South Addition, situated in the M.E.P. & P.R.R. Company Survey, Abstract No. 915, Town of Hickory Creek, Denton County, Texas.



May 18, 2018  
AVO 33540.013

Ms. Chris Chaudoir  
Town of Hickory Creek  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

**RE: Final RePlat for Steeplechase South Addition  
1<sup>st</sup> Review**

Dear Ms. Chaudoir:

The Town of Hickory Creek received the Final Re-Plat for the Steeplechase South Addition. The civil engineer is Halff Associates. There are comments shown in attached redlines of the plans and in the letter below.

**Below is the 1<sup>st</sup> review with emailed response from applicant in red text. Based on the responses in red we recommend approval of the Final Replat. Applicant to provide**

**RePlat**

1. The 100-year flood plain dips into the building line on lot 5 and skims it on 4 & 6. I noticed on lots 21 -23 they seem to have larger rear building lines so the flood plain is not within the building area. **Response to Comment: There will be a new post-construction LOMR filed for the west side when construction is complete showing the floodplain out of this/these lots.**
2. I am concerned about the notation for the abandonment of the 10" Carrizo easement by separate instrument. That easement runs through the building area on lots 8 & 9 and the rear yards of 2 – 7. How are we assured the easement abandonment is actually filed? If it is not the sizes of the houses on 8 & 9 are severely affected and it would be very difficult to add any amenities to the rear yards of 6 & 7. **Rome Barnes recently met with Atlas about the abandonment of the Carrizo Easement. Construction will not start until the gas line is abandoned.**
3. The line and curve tables appear to be incomplete. For instance, what is the exact dimension of lots 3, 7, 9, 10, 16, 23 and 24? Lot 23 only says it is 72.07 at the front of the lot when it needs to be 90' at the building line per the 2011 PD. If you go back to the tables on the 2016 submission they show a C33 with a chord length of 17.96 which makes it the right size. There is no front measurement on lot 24 other than 18.82'. **Plat updated with these revisions.**
4. Does the LCMUA pump station need its own lot? **As far back as the approved preliminary plat, there was not a separate lot for the lift station, just an easement to LCMUA.**
5. Do we need an updated landscape plan? The last one I have is from 2012. **The 2012 landscape plan is being used.**



Ms. Chris Chaudoir  
Town of Hickory Creek  
March 30, 2018  
Page 2

6. Should I be concerned about the radius and ingress / egress for LCFD at the south end of Secretariat Drive? All those measurements are on the 2016 submission but were missing in the May 16<sup>th</sup> submittal. Dimensions added to the plat. Paving plan. 31' minimum radius for this area.

Sincerely,

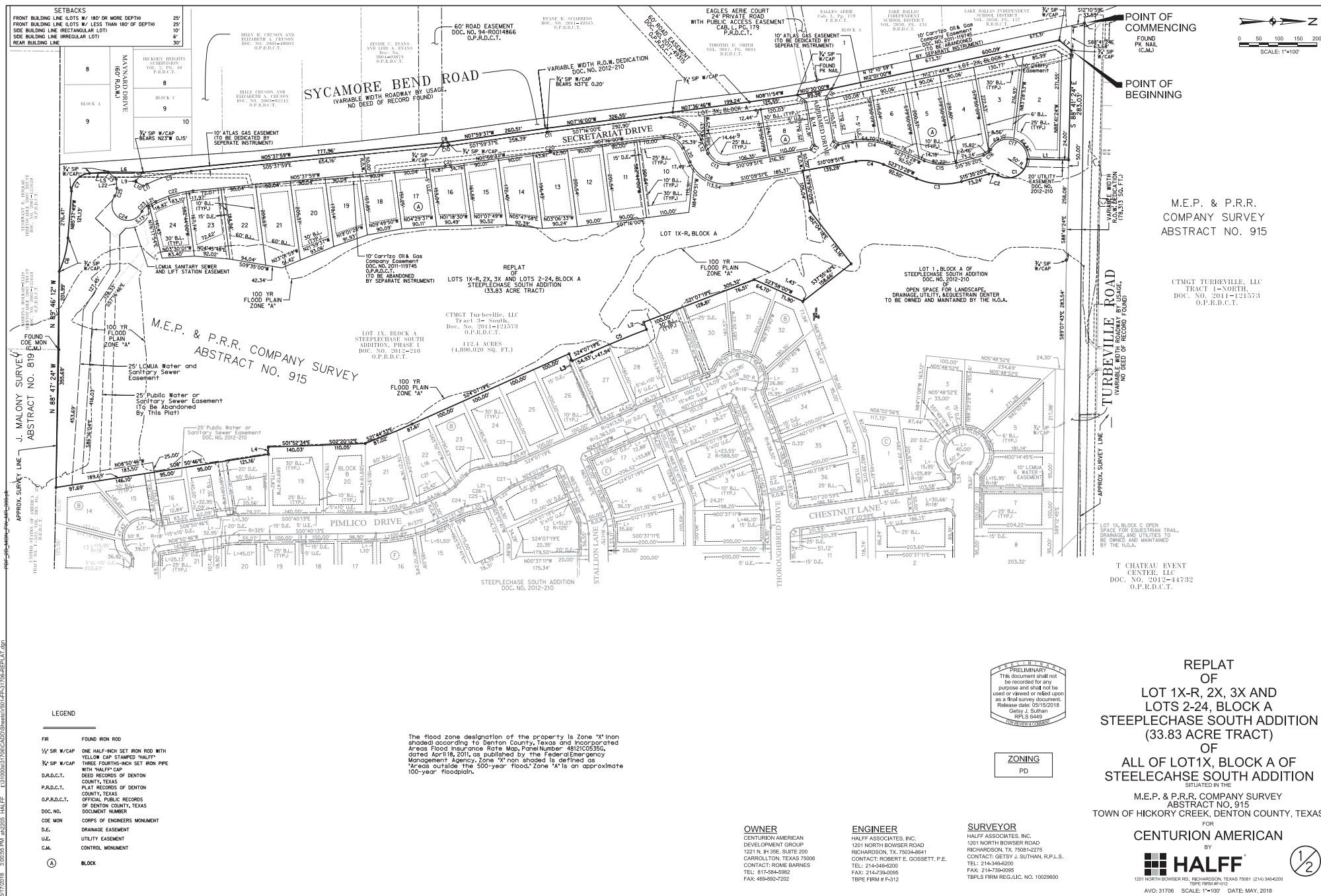
**HALFF ASSOCIATES, INC.**

A handwritten signature in blue ink, appearing to read "Brian C. Haynes", is written over a faint, larger signature.

Brian C. Haynes, PE, CFM  
Vice President

C: Kristi Rogers – Town Secretary  
John Smith – Town Administrator

Attachments: None





5/17/2016 3:51:12 PM J:\102063\171202\Bldg\Main\05145-171202-45P41X.dgn P:\P\_ZD\_ARCH\_FRM\_005.dwt

LEGAL DESCRIPTION  
State of Texas

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton County, Texas, and being all of that tract of land described as Lot 1X, Block A of Steeplechase South Addition, Phase I, as recorded in Document Number 2012251 of the Official Public Records of Denton County, Texas, (O.P.R.D.C.T.), and being part of a tract of land described as "Tract 3 - South" in Special Warranty Deed to CTMGIT TURBEVILLE, LLC, as recorded in Document Number 20121073, (O.P.R.D.C.T.), and being particularly described as follows (The books of bearing in the Texas Coordinate System of 1983, North Central Zone 142323) (Hereinafter referred to as "with cap") for corner: said Special Warranty Deed to CTMGIT TURBEVILLE, LLC;

COMMENCING at a found P.K. nail for the northeast corner of Lot 1X, Block A of said Steeplechase Addition, said corner being at the Intersection of the south right-of-way line of Turbeville Road (a variable width right-of-way, Document Number 20121070, O.P.R.D.C.T.) and the northeast right-of-way line of Sycamore Bend Road (a variable width right-of-way);

THENCE South 12 degrees 10 minutes 59 seconds East, with said south right-of-way line and the north line of said Lot 1X, a distance of 33.53 feet to a point for corner;

THENCE South 88 degrees 41 minutes 24 seconds East, departing said south right-of-way line and the north line of said Lot 1X, a distance of 40.29 feet to the POINT OF BEGINNING, said corner being at the intersection of the south right-of-way line of said Turbeville Road and the northeast right-of-way line of Sycamore Bend Road;

THENCE South 08 degrees 41 minutes 24 seconds East, with said south right-of-way line and the north line of said Lot 1, a distance of 283.03 feet to a 1/2-inch found iron pipe with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner;

THENCE with the south line of said Lot 1X, Block A and the north line of said Lot 1R, the following bearings and distances:

South 01 degrees 18 minutes 36 second West, a distance of 106.76 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of non-tangent circular curve to the right, having radius of 50.00 feet, whose chord bears South 28 degrees 51 minutes 21 seconds East, a distance of 86.46 feet;

Southerly, with said curve, through a central angle of 119 degrees 40 minutes 08 seconds, an arc distance of 104.43 feet to a 1/2-inch set iron rod with cap for corner, said corner being the point of curvature of tangent circular reverse curve to the left, having radius of 30.00 feet, whose chord bears South 07 degrees 41 minutes 42 seconds West, a distance of 23.72 feet;

Southerly, with said curve, through a central angle of 46 degrees 34 minutes 03 seconds, an arc distance of 24.38 feet to a 1/2-inch set iron rod with cap for corner;

South 15 degrees 35 minutes 20 seconds East, a distance of 73.24 feet to a 1/2-inch set iron rod with cap for said corner being the point of curvature of tangent circular curve to the right, having radius of 175.00 feet, whose chord bears South 03 degrees 49 minutes 04 seconds West, a distance of 116.29 feet;

Southerly, with said curve, through a central angle of 38 degrees 48 minutes 47 seconds, an arc distance of 115.55 feet to a 1/2-inch set iron rod with cap for corner;

South 23 degrees 13 minutes 25 seconds West, with the southeast line of said Lot 1X, a distance of 52.50 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of tangent circular curve to the left, having radius of 125.00 feet, whose chord bears South 06 degrees 31 minutes 48 seconds West, a distance of 71.82 feet;

Southerly, with said curve, through a central angle of 33 degrees 23 minutes 19 seconds, an arc distance of 72.84 feet to a 1/2-inch set iron rod with cap for corner;

South 10 degrees 09 minutes 51 seconds East, a distance of 139.28 feet to a 1/2-inch set iron rod with cap for corner;

North 79 degrees 50 minutes 09 seconds East, a distance of 105.04 feet to a 1/2-inch set iron rod with cap for corner;

North 52 degrees 04 minutes 18 seconds East, a distance of 173.16 feet to a 1/2-inch set iron rod with cap for corner;

South 37 degrees 55 minutes 42 seconds East, a distance of 158.66 feet to a 1/2-inch set iron rod with cap for corner;

South 08 degrees 52 minutes 41 seconds West, a distance of 1.43 feet to a 1/2-inch set iron rod with cap for corner;

South 23 degrees 58 minutes 00 seconds West, a distance of 136.61 feet to a 1/2-inch set iron rod with cap for corner;

South 21 degrees 07 minutes 19 seconds East, a distance of 305.32 feet to a 1/2-inch set iron rod with cap for corner;

North 68 degrees 52 minutes 41 seconds East, a distance of 20.06 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of non-tangent circular curve to the left, having radius of 2593.5 feet, whose chord bears South 22 degrees 25 minutes 49 seconds East, a distance of 153.14 feet;

Southerly, with said curve, through a central angle of 03 degrees 23 minutes 01 seconds, an arc distance of 153.16 feet to a 1/2-inch set iron rod with cap for corner;

South 24 degrees 07 minutes 19 seconds East, a distance of 54.93 feet to a 1/2-inch set iron rod with cap for corner;

South 65 degrees 52 minutes 41 seconds West, a distance of 20.00 feet to a 1/2-inch set iron rod with cap for corner;

South 24 degrees 07 minutes 19 seconds East, a distance of 487.61 feet to a 1/2-inch set iron rod with cap for corner;

South 21 degrees 44 minutes 33 seconds East, a distance of 87.02 feet to a 1/2-inch set iron rod with cap for corner;

South 02 degrees 20 minutes 12 seconds East, a distance of 110.05 feet to a 1/2-inch set iron rod with cap for corner;

South 01 degrees 52 minutes 34 seconds East, a distance of 140.03 feet to a 1/2-inch set iron rod with cap for corner;

North 89 degrees 19 minutes 47 seconds East, a distance of 19.15 feet to a 1/2-inch set iron rod with cap for corner;

South 08 degrees 50 minutes 46 seconds East, a distance of 554.95 feet to a 1/2-inch set iron rod with cap for corner;

THENCE with the west line of said Lot 1X, Block A, the following bearings and distances:

North 88 degrees 47 minutes 24 seconds West, a distance of 355.69 feet to a 1/2-inch set iron rod with cap for corner;

North 89 degrees 46 minutes 12 seconds West, a distance of 202.01 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of non-tangent circular curve to the left, having radius of 250.00 feet, whose chord bears North 75 degrees 22 minutes 08 seconds West, a distance of 85.07 feet;

Northerly, with said curve, through a central angle of 20 degrees 31 minutes 25 seconds, an arc distance of 89.55 feet to a 1/2-inch set iron rod with cap for corner;

North 65 degrees 37 minutes 49 seconds West, a distance of 121.13 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of tangent circular curve to the right, having radius of 50.00 feet, whose chord bears North 44 degrees 49 minutes 49 seconds West, a distance of 85.34 feet;

Northerly, with said curve, through a central angle of 81 degrees 36 minutes 00 seconds, an arc distance of 71.21 feet to a 1/2-inch set iron rod with cap for corner;

THENCE with the north line of said Lot 1X, Block A, the following bearings and distances:

North 04 degrees 01 minutes 49 seconds West, a distance of 47.90 feet to a 1/2-inch set iron rod with cap for corner;

North 00 degrees 30 minutes 37 seconds East, a distance of 90.25 feet to a 1/2-inch set iron rod with cap for corner;

North 05 degrees 37 minutes 59 seconds West, a distance of 777.96 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of tangent circular curve to the left, having radius of 260.00 feet, whose chord bears North 06 degrees 43 minutes 48 seconds West, a distance of 10.92 feet;

Northerly, with said curve, through a central angle of 02 degrees 21 minutes 38 seconds, an arc distance of 10.92 feet to a 1/2-inch set iron rod with cap for corner;

North 07 degrees 59 minutes 37 seconds West, a distance of 260.51 feet to a 1/2-inch set iron rod with cap for corner;

North 07 degrees 18 minutes 00 seconds West, a distance of 328.55 feet to a 1/2-inch set iron rod with cap for corner;

North 07 degrees 36 minutes 48 seconds West, a distance of 199.24 feet to a 1/2-inch set iron rod with cap for corner;

North 08 degrees 11 minutes 54 seconds West, a distance of 125.55 feet to a 1/2-inch set iron rod with cap for corner;

North 10 degrees 30 minutes 00 seconds West, a distance of 89.98 feet to a 1/2-inch set iron rod with cap for corner;

North 12 degrees 01 minutes 00 seconds West, a distance of 600.09 feet to a 1/2-inch set iron rod with cap for corner;

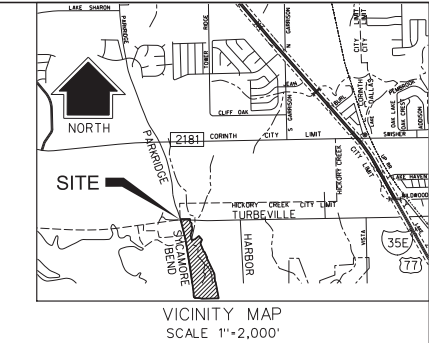
North 40 degrees 08 minutes 57 seconds East, a distance of 40.29 feet to the POINT OF BEGINNING and containing 33.83 acres (1,473,576 square feet) of land, more or less.

BLOCK A

LOT	AREA (SF)
1X-R	883,770
2	29,136
3	20,398
4	20,611
5	19,995
6	15,342
7	14,940
8	14,750
9	19,352
10	24,378
11	18,138
12	18,138
13	17,831
14	16,507
15	15,029
16	14,117
17	13,693
18	13,909
19	15,165
20	17,303
21	19,262
22	17,756
23	15,894
24	14,404
2K	21,144
3X	24,817

CURVE TABLE		CURVE TABLE	
CURVE NO.	DELTA	RADIUS	ARC LENGTH
C1	119°40'08"	58.00	104.43
C2	46°34'03"	30.00	24.38
C3	38°49'07"	175.00	116.29
C4	33°22'19"	125.00	72.84
C5	03°23'01"	2593.50	153.16
C6	20°31'25"	256.00	89.55
C7	81°26'00"	35.00	71.21
C8	02°21'38"	265.00	10.92
C9	21°03'22"	325.50	116.44
C10	02°21'38"	275.00	11.33
C11	08°43'38"	325.50	4.12
C12	72°10'40"	100.00	126.98
C13	75°04'37"	80.00	85.32
C14	33°23'19"	175.00	101.98
C15	38°46'47"	125.00	84.68
C16	46°34'03"	30.00	24.38
C17	159°27'08"	50.00	133.92
C18	75°04'37"	100.00	131.03
C19	72°10'40"	80.00	62.89
C20	08°43'38"	275.00	3.49
C21	02°21'38"	325.50	13.39
C22	21°03'22"	275.50	101.98
C23	38°43'35"	30.00	20.28
C24	118°26'54"	45.50	123.30
C25	38°43'35"	30.00	20.28

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L1	S01°18'36"W	106.76
L2	N68°52'41"E	20.06
L3	S85°52'41"W	20.06
L4	N89°19'47"E	19.15
L5	N04°01'49"W	47.90
L6	N00°30'37"W	90.25
L7	N40°09'05"E	40.29
L8	S49°44'17"E	29.72
L9	N88°09'29"E	2.84
L10	N29°44'02"E	22.12
L11	N26°41'21"W	10.49
L12	N41°54'45"E	39.83
L13	S55°09'51"E	14.14
L14	N79°50'09"E	114.26
L15	N30°49'07"E	28.77
L16	S56°05'36"W	28.74
L17	S79°50'09"W	114.83
L18	S34°50'09"W	14.14
L19	S10°09'51"E	38.31
L20	S64°54'45"W	39.83
L21	S29°41'21"E	23.95
L22	S88°09'29"W	23.74
L23	S41°03'48"W	28.34



RECOMMENDED FOR APPROVAL

Chairman, Planning and Zoning Commission  
Town of Hickory Creek, Texas

APPROVED AND ACCEPTED

Mayor, Town of Hickory Creek, Texas

The undersigned, the Town Secretary of the Town of Hickory Creek, Texas, hereby certifies that the foregoing final plat of the STEEPLCHASE SOUTH ADDITION PHASE 2 to Denton County, Texas, was submitted to the town council on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and the council, by formal action, then and there accepted the dedication of streets, alleys, parks, easements, public places, and water and sewer lines, as shown and set forth in and upon said plat, and said council further authorized the Mayor to note the acceptance thereof by signing His/her name as hereinabove subscribed.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Town Secretary  
Town of Hickory Creek, Texas

SURVEYOR'S CERTIFICATION

I, Getsy J. Suthan, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this plat represents a survey made by me or under my direct supervision and that all monuments shown hereon actually exist, and that their location, size and material are correctly shown.

GETSY J. SUTHAN  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS NO. 6449

LCMUA SIGNATURE BLOCK

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, all permanent Lake Cities Municipal Utility Authority (LCMUA) easements dedicated per this plat were approved and accepted by LCMUA.

Signed:  
Mike Fairfield  
General Manager  
LCMUA

ZONING  
PD

REPLAT  
OF  
LOT 1X-R, 2X, 3X AND  
LOTS 2-24, BLOCK A  
STEEPLECHASE SOUTH ADDITION  
(33.83 ACRE TRACT)  
OF  
ALL OF LOT 1X, BLOCK A OF  
STEEPLECHASE SOUTH ADDITION  
SITUATED IN THE  
M.E.P. & P.R.R. COMPANY SURVEY  
ABSTRACT NO. 915  
TOWN OF HICKORY CREEK, DENTON COUNTY, TEXAS  
FOR  
CENTURION AMERICAN  
BY  
HALFF



SURVEYOR

HALFF ASSOCIATES, INC.  
1201 NORTH BOWSER ROAD  
RICHARDSON, TX 75081-2275  
CONTACT: GETSY J. SUTHAN, R.P.L.S.  
TEL: 214-346-6200  
FAX: 214-739-0095  
TBRLS FIRM REG. NO. 100226600

ENGINEER

HALFF ASSOCIATES, INC.  
1201 NORTH BOWSER ROAD  
RICHARDSON, TX 75081-2275  
CONTACT: ROBERT E. GOSSSETT, P.E.  
TEL: 214-346-6200  
FAX: 214-739-0095  
TBRF FIRM # F-12

OWNER

CENTURION AMERICAN  
DEVELOPMENT GROUP  
1221 N. H. 35E, SUITE 200  
CARROLLTON, TEXAS 75006  
CONTACT: ROME BARNES  
TEL: 817-584-4562  
FAX: 469-862-7022

1201 NORTH BOWSER RD., RICHARDSON, TEXAS 75081 (214) 346-4200

AVO: 31706 SCALE: 1"=100' DATE: MAY, 2018





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.12

Presentation regarding Waste Management from TJ Gilmore, Public Sector Solutions Representative.



# Proposal Overview

A Clean, Safe, & Responsive Approach to Environmental Stewardship



Rick Losa  
Director, Public Sector Solutions

TJ Gilmore  
Public Sector Manager

**THINK GREEN®**

# Waste Management Overview



Largest North American environmental services provider



Financially Stable - Assets over \$21 Billion



Serving North America for 49 years



Largest US residential recycler



Over 440 residential contracts in Texas



Residential service provider to Hickory Creek for 30 years.



THINK GREEN®

# Our Technology

---

## The industry Leader



# Residential Collection Service

## Trash, Recycling, and Bulk/Brush

### Service Provided

- Trash
  - 1x Wk Trash (Automated)
  - New 96-Gal Cart
- Recycle
  - 1x Wk Recycle (Automated )
  - New 96-Gal Cart
- Third Thursday Bulk and Brush
- Landfill Access
- Special Events Collections

# Brush and Bulk

One Cubic Yard = 3' x 3' x 3'

OR



OR



# Additional Premium Services for a More Sustainable Community

## At Your Door Special Collection

Provides residents with a service to remove difficult and hazardous hard-to-recycle material

Special Materials list includes hard-to-recycle items



Household chemicals



Automotive batteries and chemicals



Universal materials



Electronics



THINK GREEN®



# Additional Premium Services for a More Sustainable Community

## Waste Management Solar Powered Compactors

- Uses renewable energy to turn public spaces into clean eco-friendly zones
- Good for the environment and the economy!



# A Good Neighbor

## Providing a Wildlife Habitat

- Long term partnership with Wildlife Habitat Counsel (WHC)
- Waste Management has set aside 25,000 acres of land certified as conservation and wildlife by WHC at 112 of our facilities



**THINK GREEN.®**



# A Good Neighbor

## Turning Landfill Gas into Energy

- Landfills naturally produce methane
- Our LFGTE facilities capture this methane
  - Convert it to electricity to provide power to homes
  - Provide fuel for industrial uses
  - Provide fuel for vehicles



THINK GREEN.®

# Let's C.L.E.A.N. Your Community Together

Helping communities avoid situations that can cause...



Storm Water Runoff  
Issues



Unsightly Litter &  
Odors



Issues for Business &  
Community Appeal



Unbalanced Cost  
Burden across Business  
Community



Lost  
Recycling/Diversion  
Opportunities



Illegal Dumping  
Hotspots



Safety Concerns for  
Employees & Residents



Pests & Other Vectors

# Waste Management Global Markets

## Exports Around the World



# 2016 Recycling Performance

## Why We Recycle



To Save **117.5 Million**  
Mature Trees



To Meet the  
Annual  
Municipal  
Waste Disposal  
Needs of **48.1 Million**  
People



To Avoid **31.4 Million** Metric  
Tons of GHG  
Emissions



Enough Timber  
Resources to  
Produce **1.99 Trillion**  
Sheets of  
Copypaper



To Save **37.5 Million**  
Cubic Yards of  
Landfill  
Airspace



To Fulfill the  
Annual Power  
Needs of **1.88 Million**  
Homes



To Supply  
Enough Fresh  
Water for **27.8 Million**  
People for a  
Month



By Conserving  
**19.6 Billion**  
kWh of  
Electricity



To Save the  
Virgin  
Materials  
needed to  
Replace **10.68 Million**  
Tons of Paper,  
Metal, Plastic,  
and Glass



To Save **62.5 Billion**  
Gallons of  
Water





# A Good Neighbor EDUCATION

## Industry Leading Trash and Recycling Education Recycle Often. Recycle Right<sup>SM</sup>

An innovative, collaborative, social marketing-based education and outreach program designed to change consumer recycling behavior on a sustainable level.

- Tools to Reach the Entire Community
- Signature Community Event Toolkit
- Websites
- Community Group Presentations
- Social Media Plan and City Messaging Tools
- Traditional Education and Outreach
- K-5 Curriculum
- Material Recovery Facility (MRF) Tours



### WHY recycle?



**Plastic bottles**  
can turn into clothing



**Aluminum cans**  
can turn into new ones in 60 days



**Today's news**  
can become a new cereal box

### How to recycle:



Recycle bottles, cans and  
paper products only



Keep items clean and dry



No plastic bags

# Recycling Education Resources



[Myths](#)

[Resources](#)

[Get Started](#)

[Newsroom](#)

[Social](#)



Recycle all my empty bottles, cans, and paper.



Keep foods and liquids out of my recycling.



Keep plastic bags out of my recycling.

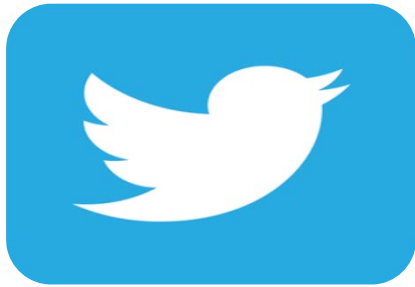


**THINK GREEN.®**



# Social Media

Communicating the way Residents Demand



@WM\_Texoma



[www.rorr.com](http://www.rorr.com)



@WasteManagement



Waste Management



Instagram

Waste Management



THINK GREEN.®





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.13

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and Waste Management of Texas, Inc.

**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-6**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND WASTE MANAGEMENT OF TEXAS, INC., AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, upon full review and consideration of the Amendment to the Waste Management contract, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29<sup>th</sup> day of May, 2018.

---

Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

---

Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

---

Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

**FIRST AMENDMENT TO MUNICIPAL SOLID WASTE  
COLLECTION AND TRANSPORTATION AGREEMENT**

This **“FIRST AMENDMENT TO MUNICIPAL SOLID WASTE COLLECTION AND TRANSPORTATION AGREEMENT** (this “Amendment”) is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Town of Hickory Creek, Texas (“Town”), and Waste Management of Texas, Inc. (“Contractor”), a Texas corporation.

**W I T N E S S E T H:**

**WHEREAS**, the Town and Contractor previously entered into a certain Contract, dated on or about July 25, 2017 (the “Contract”), whereby Contractor was granted the exclusive right to provide residential and commercial waste collection and disposal within the Town, as more particularly set forth in the Contract; and

**WHEREAS**, the Town and Contractor desire to modify the Contract, as more particularly set forth below.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the parties hereto agree as follows:

1. Contractor shall charge a monthly Base Rate of \$1,018.42 for a 10-cubic yard Dumpster that is collected six (6) times per week. This Dumpster size and frequency of collection shall be added to the Base Rates set forth in Schedule “A.”

4. Capital words used in this Amendment shall have the meaning assigned in the Contract or in this Amendment. Nothing contained herein shall be deemed to amend or modify the Contract, except as expressly set forth herein. In the event of a conflict between the terms of the Contract and this Amendment, the terms of this Amendment shall control.

**IN WITNESS WHEREOF**, this Amendment has been executed as of the date first set forth above.

**TOWN**

**CONTRACTOR:**

**Hickory Creek, Texas**

**Waste Management of Texas, Inc.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

<b>ROLL OFF OPEN TOP RATES (Rates Include 10% City Franchise Fee)</b>						
SIZE	PER HAUL	DELIVERY	MONTHLY RENT	DISPOSAL PER TON		
20 Yd Open Top	\$322.89	\$102.52	\$214.79	N/A		
30 Yd Open Top	\$339.47	\$102.52	\$214.79	N/A		
40 Yd Open Top	\$380.85	\$102.52	\$214.79	N/A		
<b>ROLL OFF COMPACTOR RATES (Rates Include 10% City Franchise Fee)</b>						
SIZE	PER HAUL	RENTAL	WASH OUT	DISPOSAL PER TON	INSTALLATION CHARGE	
20 YD Comp	Negotiable	Negotiable	Negotiable	N/A	Negotiable	
30 Yd Comp	\$409.20	Negotiable	Negotiable	N/A	Negotiable	
35 Yd Comp	Negotiable	Negotiable	Negotiable	N/A	Negotiable	
40 Yd Comp	\$474.54	Negotiable	Negotiable	N/A	Negotiable	
42 Yd Comp	Negotiable	Negotiable	Negotiable	N/A	Negotiable	



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.14

Consider and act on a resolution finding assessments on land located Hickory Creek Public Improvement District No. 2 to be stale and therefore invalid.

**TOWN OF HICKORY CREEK  
RESOLUTION NO. 2018-0529-7**

**FINDING ASSESSMENTS ON LAND LOCATED HICKORY CREEK PUBLIC  
IMPROVEMENT DISTRICT NO. 2 TO BE STALE AND THEREFORE INVALID**

**WHEREAS**, on September 18, 2012, after notice and a public hearing in the manner required by law, the Town Council of the Town of Hickory Creek, Texas (the “Town”) approved a resolution creating the Hickory Creek Public Improvement District No. 2 (“Hickory Creek PID #2”).

**WHEREAS**, on October 15, 2012, after notice and a public hearing conducted in the manner required by law, the Town Council adopted a levy and assessment ordinance No. 2012-10-699 (the “Assessment Ordinance”) approving a Service and Assessment Plan and Assessment Roll and the levy of assessments on property within Hickory Creek PID #2;

**WHEREAS**, the assessments levied on the property in Hickory Creek PID #2 called for deferral of collections on the property until the first January 31<sup>st</sup> to occur after a lot’s plat date;

**WHEREAS**, a final plat for the vast majority of the land within Hickory Creek PID #2 was approved by the Hickory Creek Town Council on October 12, 2012; therefore, assessments were due to be collected on the vast majority of the property in Hickory Creek PID #2 on January 31<sup>st</sup>, 2013;

**WHEREAS**, a portion of land in Hickory Creek PID #2 consisting of twenty-three unplatted lots (the “23 Unplatted Lots”) as shown on the attached Exhibit B by depiction and metes and bounds description, was not, and has still not been, finally platted.

**WHEREAS**, on September 19, 2014, the Town Council approved an annual update to the Service and Assessment Plan which changed the methodology of assessment collection deadlines making them to be due upon the earlier of: 1) the date the Town issued a building permit for a structure on a lot, 2) the fourth anniversary of the date of final platting of a lot, and 3) the issuance of bonds. No assessments had been collected at as of September 19, 2014, and no building permits had been issued.

**WHEREAS**, no other intervening act, update, or amendment to the assessment collection methodology occurred that would have caused the assessments to be collected;

**WHEREAS**, the City Council has received written advice from Counsel for the City as attached in Exhibit A, that the assessment on the 23 Unplatted Lots is stale, and now is invalid;

**WHEREAS**, the Town Council now desires to accept the written advice from Counsel for the City, and, with the adoption of this Resolution, shall find the assessments on the property containing the 23 Unplatted Lots to be invalid.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS:**

**I. FINDINGS**

The findings and determinations set forth in the preambles are hereby incorporated by reference for all purposes.

**II. ASSESSMENT ON THE 23 UNPLATTED LOTS IS INVALID**

Based upon the written advice of counsel for the Town (attached as Exhibit A), the Town Council declares the assessments levied on the property of the 23 Unplatted Lots (attached as Exhibit B) to be invalid and no longer in effect and the Town shall reassess the 23 Unplatted Lots at a future date in accordance with Chapter 372, Texas Local Government Code, as amended.

**III. EFFECTIVE DATE**

This Resolution shall take effect upon passage and execution hereof.

**ADOPTED AND APPROVED** on this 29th day of May, 2018 by a vote of the Town Council of the Town of Hickory Creek.

**TOWN OF HICKORY CREEK, TEXAS**

---

Lynn C. Clark, Mayor

**ATTEST:**

---

Kristi K. Rogers, Town Secretary



**Exhibit A**

**Written Letter of Town Counsel**

May 29, 2018

Mayor, Town Council and Town Administration  
Town of Hickory Creek  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

*Re: Invalid Assessments on Town of Hickory Creek Hickory Creek Public  
Improvement District No. 2*

Mayor, Town Council and Town Administration:

On September 18, 2012, after request from the landowner of all property in the District (as defined herein), the Town Council of the Town of Hickory Creek (the “Town”) approved a resolution creating the Hickory Creek Public Improvement District No. 2 (the “District”). At the October 16, 2012 Town Council meeting, the Town Council adopted Ordinance No. 2012-10-699 (the “Assessment Ordinance”) levying special assessments on property within the District and such Assessment Ordinance provided that collection of the special assessments on lots within the District as of the first January 31st to occur after the earlier of (i) the date the Town issues a building permit for the lot, or (ii) the fourth anniversary of the date of recording of the final subdivision plat that includes the lot in the real property records of Denton County. A final plat for what is known as “Improvement Area #1” was approved by the Hickory Creek Town Council on October 12, 2012; therefore, assessments were due to begin collections on property in the District on January 31, 2013. However, these assessments were not collected in 2013 or 2014.

As required by law, the service and assessment plan for the District was updated on September 19, 2014. In this update, the assessment due date was changed from the deadline described above to “the first January 31<sup>st</sup> to occur after the earlier of the date the Town issues a building permit for the Lot, the issuance of PID Bonds or the fourth anniversary of the Lot's Plat Date.” Under this three-prong approach, assessments began to be collected on the District in 2015 when parcels were sold to the end-user homeowner and the Town issued building permits. In 2015, building permits were issued for lots in Improvement Area #1 which consists of a total of 108 lots. Accordingly, the Improvement Area #1 assessments have taken effect and collection of these assessments began in 2015. However, not all parcels in the District have been sold to end-user homeowners so not all assessments which have become due under the original trigger date are being collected; these parcels are referred to as “Improvement Area #2.”

The Town is considering the issuance of bonds, secured by the special assessments, to reimburse the developer of the District for certain public infrastructure. A legal requirement of the bond issuance process is to secure the approving opinion of the Office of the Attorney General of Texas. The Office of the Attorney General has a long-



standing policy that assessments not collected within two years are considered “stale” and may not be collected. In discussions with the Attorney General, they have advised that the Town would be required to re-levy the assessments on the lots in Improvement Area #2 in accordance with the requirements of Sections 372.014-.017, Texas Local Government Code.

Therefore, because the assessments on the lots in Improvement Area #2 (i) have not been collected within the two-year limitation policy of the Texas Attorney General and (ii) because the September 19, 2014 service and assessment plan changed the due date for assessments without complying with the requirements to provide notice of a public hearing and conduct a public hearing, the original assessments on the lots in Improvement Area #2 is invalid. The lots in Improvement Area #2 must be reassessed in accordance with Sections 372.014-.017, Texas Local Government Code.

Respectfully,

---

McCall, Parkhurst & Horton L.L.P.  
Bond Counsel

## **Exhibit B**

### **Depiction and metes and bounds description of the 23 Unplatted Lots tract**

#### **LEGAL DESCRIPTION**

**BEING** a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton, Texas, and being all of that tract of land described as Lot 1X, Block A of Steeplechase South Addition, Phase I, as recorded in Document Number 2012-210, of the Official Public Records of Denton County, Texas, (O.P.R.D.C.T.), and being part of a tract of land described as "Tract 3 - South" in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573, (O.P.R.D.C.T.), and more particularly described as follows [The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)]("Record" bearings and distances cited herein are from said Special Warranty Deed to CTMGT Turbeville, LLC):

**COMMENCING** at a found PK nail for the northeast corner of Lot 1X, Block A of said Steeplechase Addition, said corner being at the intersection of the south right-of-way line of Turbeville Road (a variable width right-of-way, Document Number 2012-210, O.P.R.D.C.T.) and the northeast right-of-way line of Sycamore Bend Road (a variable width right-of-way);

**THENCE** South 12 degrees 10 minutes 59 seconds East, with said south right-of-way line and the north line of said Lot 1X, a distance of 33.53 feet to a point for corner;

**THENCE** South 88 degrees 41 minutes 24 seconds East, departing said south right-of-way line and the north line of said Lot 1X, a distance of 63.68 feet to a 3/4-inch found iron pipe for the **POINT OF BEGINNING**, said corner being at the intersection of the south right-of-way line of said Turbeville Road and the northeast right-of-way line of Sycamore Bend Road;

**THENCE** South 88 degrees 41 minutes 24 seconds East, with said south right-of-way line and the north line of said Lot 1, a distance of 283.03 feet to a 1/2-inch found iron pipe with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner;

**THENCE** with the south line of said Lot 1X, Block A and the north line of said Lot 1R, the following bearings and distances:

**South** 01 degrees 18 minutes 36 second West, a distance of 106.76 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of non-tangent circular curve to the right, having radius of 50.00 feet, whose chord bears South 28 degrees 51 minutes 21 seconds East, a distance of 86.46 feet;

**Southerly**, with said curve, through a central angle of 119 degrees 40 minutes 08 seconds, an arc distance of 104.43 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of tangent circular reverse curve to the left, having radius of

**30.00 feet, whose chord bears South 07 degrees 41 minutes 42 seconds West, a distance of 23.72 feet;**

**Southerly, with said curve, through a central angle of 46 degrees 34 minutes 03 seconds, an arc distance of 24.38 feet to a 1/2-inch set iron rod with cap for corner;**

**South 15 degrees 35 minutes 20 seconds East, a distance of 73.24 feet to a 1/2-inch set iron rod with cap for said corner being the point of curvature of tangent circular curve to the right, having radius of 175.00 feet, whose chord bears South 03 degrees 49 minutes 04 seconds West, a distance of 116.29 feet;**

**Southerly, with said curve, through a central angle of 38 degrees 48 minutes 47 seconds, an arc distance of 118.55 feet to a 1/2-inch set iron rod with cap for corner;**

**South 23 degrees 13 minutes 28 seconds West, with the southeast line of said Lot 1X, a distance of 92.50 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of tangent circular curve to the left, having radius of 125.00 feet, whose chord bears South 06 degrees 31 minutes 48 seconds West, a distance of 71.82 feet;**

**Southerly, with said curve, through a central angle of 33 degrees 23 minutes 19 seconds, an arc distance of 72.84 feet to a 1/2-inch set iron rod with cap for corner;**

**South 10 degrees 09 minutes 51 seconds East, a distance of 139.28 feet to a 1/2-inch set iron rod with cap for corner;**

**North 79 degrees 50 minutes 09 seconds East, a distance of 105.04 feet to a 1/2-inch set iron rod with cap for corner;**

**North 52 degrees 04 minutes 18 seconds East, a distance of 173.16 feet to a 1/2-inch set iron rod with cap for corner;**

**South 37 degrees 55 minutes 42 seconds East, a distance of 158.66 feet to a 1/2-inch set iron rod with cap for corner;**

**South 68 degrees 52 minutes 41 seconds West, a distance of 1.43 feet to a 1/2-inch set iron rod with cap for corner;**

**South 23 degrees 58 minutes 00 seconds West, a distance of 136.61 feet to a 1/2-inch set iron rod with cap for corner;**

**South 21 degrees 07 minutes 19 seconds East, a distance of 305.32 feet to a 1/2-inch set iron rod with cap for corner;**

**North 68 degrees 52 minutes 41 seconds East, a distance of 20.06 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of non- tangent circular curve to the left, having radius of 2593.5 feet, whose chord bears South 22 degrees 25 minutes 49 seconds East, a distance of 153.14 feet;**

**Southerly, with said curve, through a central angle of 03 degrees 23 minutes 01 seconds, an arc distance of 153.16 feet to a 1/2-inch set iron rod with cap for corner;**

**South 24 degrees 07 minutes 19 seconds East, a distance of 54.93 feet to a 1/2-inch set iron rod with cap for corner;**

**South 65 degrees 52 minutes 41 seconds West, a distance of 20.00 feet to a 1/2-inch set iron rod with cap for corner;**

**South 24 degrees 07 minutes 19 seconds East, a distance of 487.61 feet to a 1/2-inch set iron rod with cap for corner;**

**South 21 degrees 44 minutes 33 seconds East, a distance of 87.02 feet to a 1/2-inch set iron rod with cap for corner;**

**South 02 degrees 20 minutes 12 seconds East, a distance of 110.05 feet to a 1/2-inch set iron rod with cap for corner;**

**South 01 degrees 52 minutes 34 seconds East, a distance of 140.03 feet to a 1/2-inch set iron rod with cap for corner;**

**North 89 degrees 19 minutes 47 seconds East, a distance of 19.15 feet to a 1/2-inch set iron rod with cap for corner;**

**South 08 degrees 50 minutes 46 seconds East, a distance of 554.95 feet to a 1/2-inch set iron rod with cap for corner;**

**THENCE with the west line of said Lot 1X, Block A, the following bearings and distances:**

**North 88 degrees 47 minutes 24 seconds West, a distance of 355.69 feet to a 1/2-inch set iron rod with cap for corner;**

**North 89 degrees 46 minutes 12 seconds West, a distance of 202.01 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of non- tangent circular curve to the left, having radius of 250.00 feet, whose chord bears North 75 degrees 22 minutes 06 seconds West, a distance of 89.07 feet;**

**Northerly, with said curve, through a central angle of 20 degrees 31 minutes 25 seconds, an arc distance of 89.55 feet to a 1/2-inch set iron rod with cap for corner;**

**North 85 degrees 37 minutes 49 seconds West, a distance of 121.13 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of tangent circular curve to the right, having radius of 50.00 feet, whose chord bears North 44 degrees 49 minutes 49 seconds West, a distance of 65.34 feet;**

**Northerly, with said curve, through a central angle of 81 degrees 36 minutes 00 seconds, an arc distance of 71.21 feet to a 1/2-inch set iron rod with cap for corner;**

**THENCE with the north line of said Lot 1X, Block A, the following bearings and distances:**

**North 04 degrees 01 minutes 49 seconds West, a distance of 47.90 feet to a 112-inch set iron rod with cap for corner;**

**North 00 degrees 30 minutes 37 seconds East, a distance of 90.25 feet to a 112-inch set iron rod with cap for corner;**

**North 05 degrees 37 minutes 59 seconds West, a distance of 777.96 feet to a 1/2-inch set iron rod with cap for corner said corner being the point of curvature of tangent circular curve to the left, having radius of 265.00 feet, whose chord bears North 06 degrees 48 minutes 48 seconds West, a distance of 10.92 feet;**

**Northerly, with said curve, through a central angle of 02 degrees 21 minutes 38 seconds, an arc distance of 10.92 feet to a 1/2-inch set iron rod with cap for corner;**

**North 07 degrees 59 minutes 37 seconds West, a distance of 260.51 feet to a 1/2-inch set iron rod with cap for corner;**

**North 07 degrees 16 minutes 00 seconds West, a distance of 326.55 feet to a 1/2-inch set iron rod with cap for corner;**

**North 07 degrees 36 minutes 46 seconds West, a distance of 199.24 feet to a 1/2-inch set iron rod with cap for corner;**

**North 08 degrees 11 minutes 54 seconds West, a distance of 125.55 feet to a 1/2-inch set iron rod with cap for corner;**

**North 10 degrees 30 minutes 00 seconds West, a distance of 89.98 feet to a 1/2-inch set iron rod with cap for corner;**

**North 12 degrees 01 minutes 00 seconds West, a distance of 600.09 feet to a 1/2-inch set iron rod with cap for corner;**

**North 40 degree 09 minutes 57 seconds East, a distance of 40.29 feet to the POINT OF BEGINNING and containing 33.83 acres (1,473,576 square feet) of land, more or less.**



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.15

Consider and act on a resolution approving the form and authorizing the distribution of a preliminary limited offering memorandum for "Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2)"



## CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS  
COUNTY OF DENTON  
TOWN OF HICKORY CREEK

We, the undersigned officers of the Town of Hickory Creek (the "Town"), hereby certify as follows:

1. The Town Council of said Town convened in regular meeting on May 29, 2018, at the designated meeting place, and the roll was called of the duly constituted officers and members of said Town Council, to-wit:

Lynn Clark	Mayor
Paul Kenney	Place 4, Mayor Pro Tem
Tracee Elrod	Place 1
Richard DuPree	Place 2
Chris Gordon	Place 3
Ian Theodore	Place 5

and all of said persons were present except \_\_\_\_\_, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written resolution entitled

RESOLUTION APPROVING THE FORM AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY LIMITED OFFERING MEMORANDUM FOR "TOWN OF HICKORY CREEK, TEXAS, SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018 (HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)"

was duly introduced for the consideration of said Town Council. It was then duly moved and seconded that said Resolution be adopted and, after due discussion, said motion, carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

AYES: \_\_\_ NOES: \_\_\_ ABSTAIN: \_\_\_

2. That a true, full and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said Town Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said Town Council's minutes of said Meeting pertaining to the adoption of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Town Council as indicated therein; that each of the officers and members of said Town Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

3. That the Mayor of said Town has approved and hereby approves the aforesaid Resolution; that the Mayor and the Town Secretary of said Town have duly signed said Resolution; and that the Mayor and the Town Secretary of said Town hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Resolution for all purposes.

SIGNED AND SEALED ON MAY 29, 2018.

---

Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

---

Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

(TOWN SEAL)

**TOWN OF HICKORY CREEK  
RESOLUTION NO. 2018-0529-8**

**RESOLUTION APPROVING THE FORM AND AUTHORIZING THE  
DISTRIBUTION OF A PRELIMINARY LIMITED OFFERING MEMORANDUM  
FOR "TOWN OF HICKORY CREEK, TEXAS, SPECIAL ASSESSMENT  
REVENUE BONDS, SERIES 2018 (HICKORY CREEK PUBLIC  
IMPROVEMENT DISTRICT NO. 2)"**

WHEREAS, this Town Council (the "Council") created the Hickory Creek Public Improvement District No. 2 (the "District"); and

WHEREAS, this Council intends to issue "Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2)" (the "Bonds"), to reimburse the developer for costs of public improvements constructed within the District; and

WHEREAS, there has been presented to this Council a Preliminary Limited Offering Memorandum relating to the Bonds (the "Offering Document") attached as ***Exhibit A***; and

WHEREAS, this Council finds and determines that it is necessary and in the best interests of the Town of Hickory Creek, Texas (the "Town") to approve the preliminary form and content of the Offering Document and authorize the use of the Offering Document in the offering and sale of the Bonds by the Underwriter of the Bonds, FMSbonds, Inc.;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, THAT:

Section 1. The form and content of the Offering Document substantially in the form attached hereto is hereby deemed final and approved, and the Town Manager of the Town, the Town's bond counsel and the Town's financial advisor are authorized to distribute the same, with such changes, addenda, supplements or amendments as may be approved by the Mayor, the Town Manager, the Town's bond counsel or the Town's financial advisor. The Town hereby authorizes the Offering Document, in the final form approved by the Mayor or Town Manager, to be used by the Underwriter in connection with the marketing and sale of the Bonds.

Section 2. This Resolution shall be effective immediately upon its adoption.

PASSED, APPROVED AND EFFECTIVE this May 29, 2018.

---

Lynn C. Clark, Mayor

ATTEST:

---

Kristi Rogers, Town Secretary

EXHIBIT A  
OFFERING DOCUMENT

*See attached*

**PRELIMINARY LIMITED OFFERING MEMORANDUM DATED JUNE \_\_, 2018**

PROSPECTIVE PURCHASERS ARE ADVISED THAT THE BONDS BEING OFFERED PURSUANT TO THIS LIMITED MEMORANDUM ARE BEING OFFERED TO "QUALIFIED INSTITUTIONAL BUYERS" AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND "ACCREDITED INVESTORS" AS DEFINED IN RULE 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT. SEE "LIMITATIONS APPLICABLE TO INITIAL PURCHASERS" HEREIN. THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 3(A)(2) THEREIN. NO ACTION HAS BEEN TAKEN TO QUALIFY THE BONDS FOR SALE UNDER THE SECURITIES LAWS OF ANY STATE. SEE "LIMITATIONS APPLICABLE TO INITIAL PURCHASERS" HEREIN.

*In the opinion of Bond Counsel, interest on the Bonds will be excludable from gross income for purposes of federal income taxation under existing law, subject to the matters described under "TAX MATTERS" herein. See "TAX MATTERS – Tax Exemption" herein for a discussion of Bond Counsel's opinion.*

**\$4,220,000\*****TOWN OF HICKORY CREEK, TEXAS****(a municipal corporation of the State of Texas located in Denton County)****SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018****(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)****Dated Date: July 1, 2018****Due: September 1, as shown on the inside cover****Interest to Accrue from Date of Delivery**

The Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2 (the "Bonds")), are being issued by the Town of Hickory Creek, Texas (the "Town"). The Bonds will be issued in fully registered form, without coupons, in authorized denominations of \$25,000 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 page hereof, and such interest will be calculated on the basis of a 360-day year of twelve 30-day months, and will be payable on each March 1 and September 1, commencing March 1, 2019, 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 U.S. Bank National Association, as trustee (the "Trustee"), to Cede & Co. as the registered owner thereof. See "BOOK-ENTRY ONLY SYSTEM."

The Bonds are being issued by the Town 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 Town Council of the Town (the "Town Council") on June 19, 2018, and an Indenture of Trust, dated as of July 1, 2018, (the "Indenture"), entered into by and between the Town and the Trustee.

Proceeds of the Bonds will be used to provide funds for (i) paying a portion of the costs of the Authorized Improvements (as defined herein), (ii) funding a reserve fund for payment of principal and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District, and (iv) paying the costs of issuance of the Bonds. See "THE AUTHORIZED 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 Town payable solely from and secured by the Pledged Revenues, consisting primarily of Assessments (as defined herein) levied against assessable properties in the District in accordance with a Service and Assessment Plan, 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 prices more fully described herein under the subcaption "DESCRIPTION OF THE BONDS — Redemption Provisions."

**The Bonds involve a 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 OBLIGATIONS OF THE TOWN 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 TOWN 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 TOWN 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 TOWN'S TAXING POWER TO PAY THE PRINCIPAL OF THE BONDS OR THE INTEREST OR REDEMPTION PREMIUM, IF ANY, THEREON. THE TOWN SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO PAY THE BONDS OUT OF ANY FUNDS OF THE TOWN 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 Town and accepted by FMSbonds, Inc. (the "Underwriter"), 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 Underwriter by its counsel,

This Preliminary Limited Offering Memorandum and the information contained herein are subject to completion and amendment without notice. Under no circumstances shall this Preliminary Limited Offering Memorandum constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any applicable jurisdiction.

Winstead PC, and for the Developer by its counsel Miklos Cinclair, PLLC. It is expected that the Bonds will be delivered in book-entry form through the facilities of DTC on or about \_\_\_\_\_, 2018.

**FMSbonds, Inc.**

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

CUSIP Prefix: \_\_\_\_\_ (a)

\$4,220,000\*  
TOWN OF HICKORY CREEK, TEXAS,  
(a municipal corporation of the State of Texas located in Denton County)  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)

\$ \_\_\_\_\_ % Term Bonds, Due September 1, 20\_\_\*, Priced to Yield \_\_\_\_\_%; CUSIP \_\_\_\_\_ (a) (b) (c)

\$ \_\_\_\_\_ % Term Bonds, Due September 1, 20\_\_\*, Priced to Yield \_\_\_\_\_%; CUSIP \_\_\_\_\_ (a) (b) (c)

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\* Preliminary; subject to change.

- (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 Town, the Town'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 Town, on any date on or after September 1, 20\_\_ at the redemption price of 100% of the principal amount plus accrued interest to the date of redemptions as described 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."

**TOWN OF HICKORY CREEK, TEXAS  
TOWN COUNCIL**

<u>Name</u>	<u>Place</u>	Term Expires <u>(May)</u>
Lynn Clark	Mayor	2020
Paul Kenney	Place 4, Mayor Pro Tem	2020
Tracee Elrod	Place 1	2019
Richard DuPree	Place 2	2020
Chris Gordon	Place 3	2019
Ian Theodore	Place 5	2019

<b>TOWN ADMINISTRATOR</b>	<b>TOWN SECRETARY</b>
John Smith	Kristi Rogers

**PID ADMINISTRATOR**  
P3Works, LLC

**FINANCIAL ADVISOR TO THE TOWN**  
Hilltop Securities Inc.

**BOND COUNSEL**  
McCall, Parkhurst & Horton L.L.P.

**UNDERWRITER'S COUNSEL**  
Winstead PC

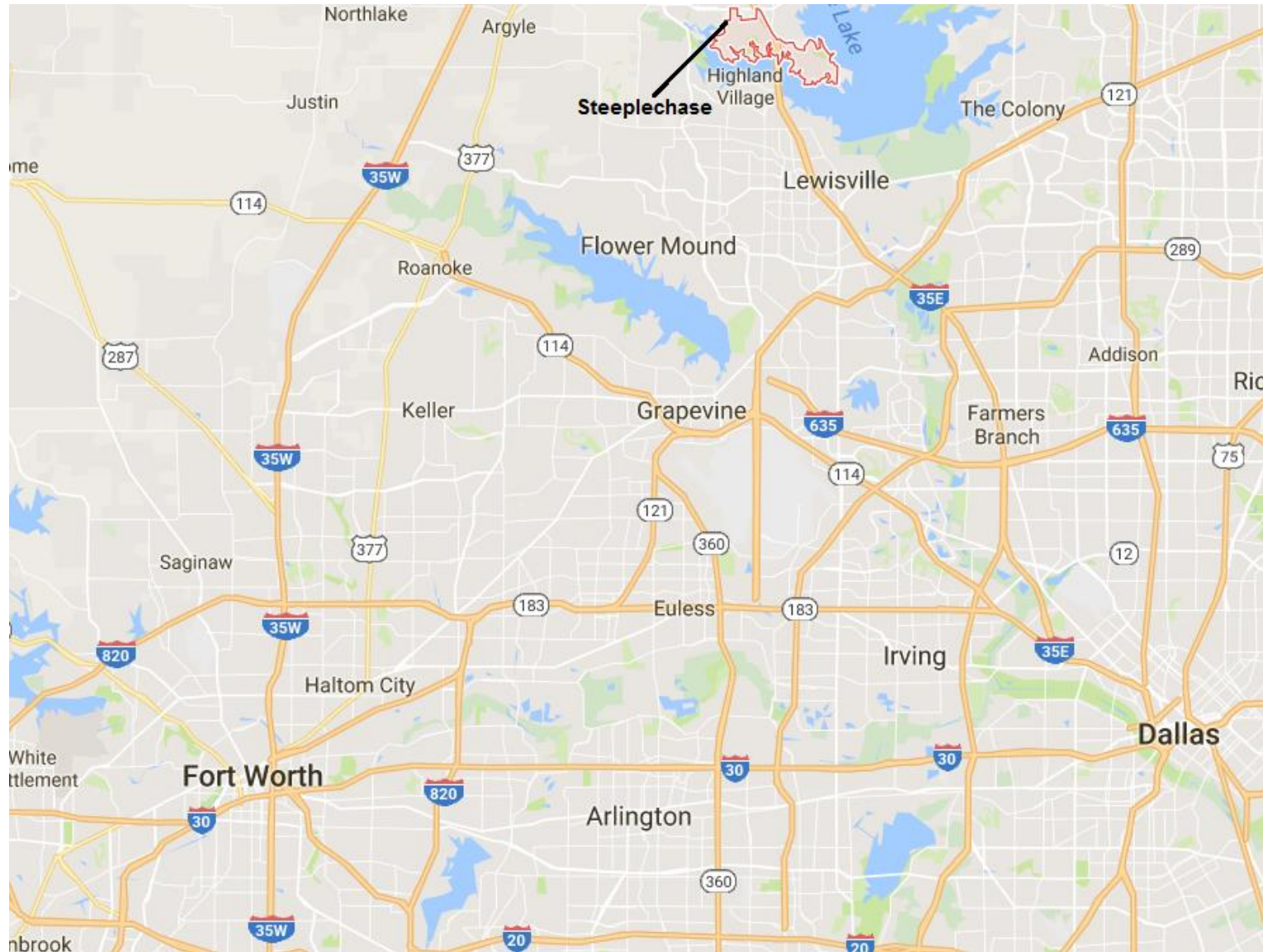
For additional information regarding the Town, please contact:

John Smith  
Town Administrator  
Town of Hickory Creek, Texas  
1075 Ronald Reagan Drive  
Hickory Creek, Texas 75065  
(940) 497-2528  
john.smith@hickorycreek-tx.gov

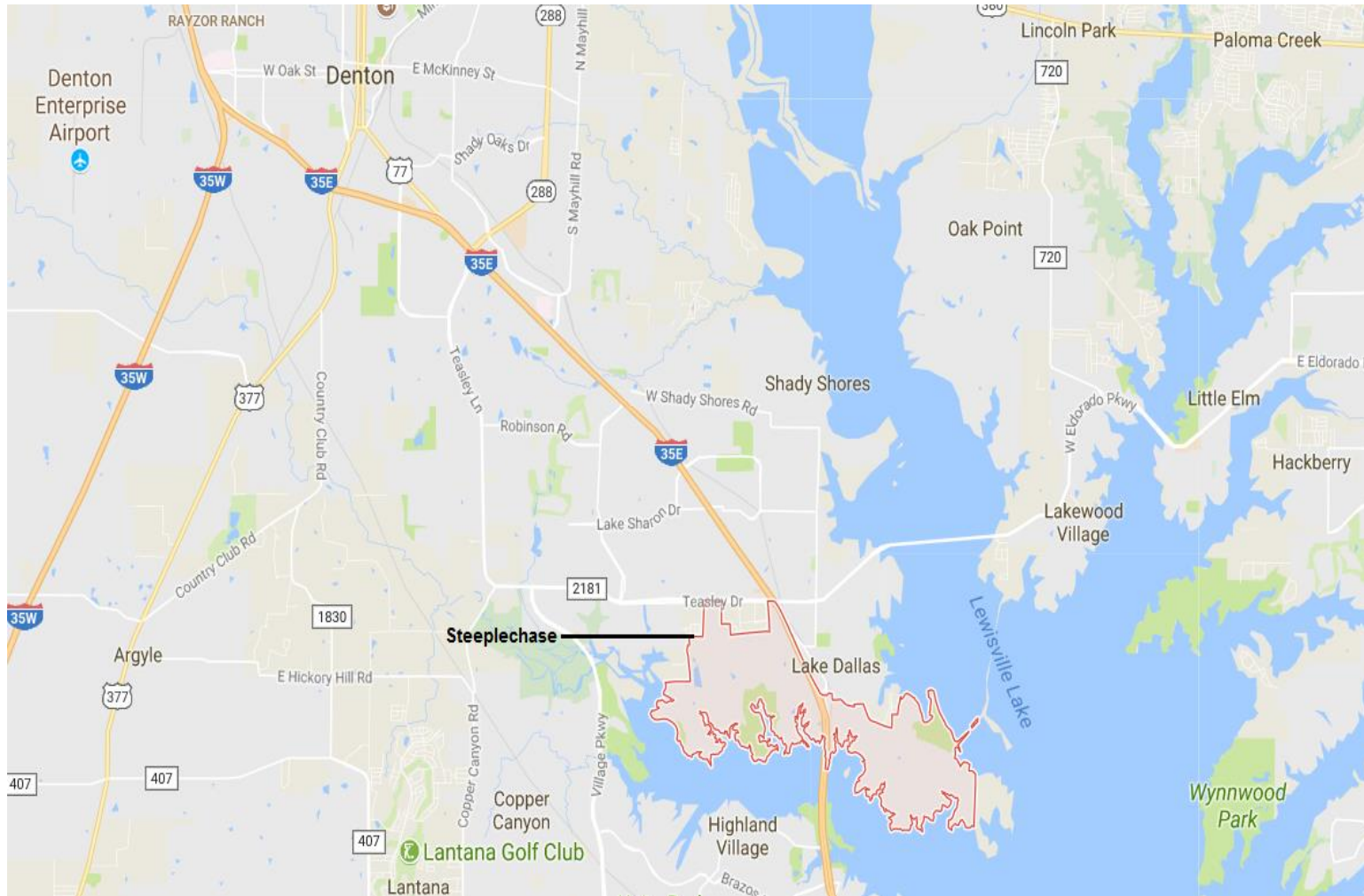
John Martin  
Managing Director  
Hilltop Securities Inc.  
1201 Elm Street, Suite 3500  
Dallas, Texas 75270  
(214) 859-9447  
john.martin@hilltopsecurities.com



## REGIONAL LOCATION MAP OF THE DISTRICT

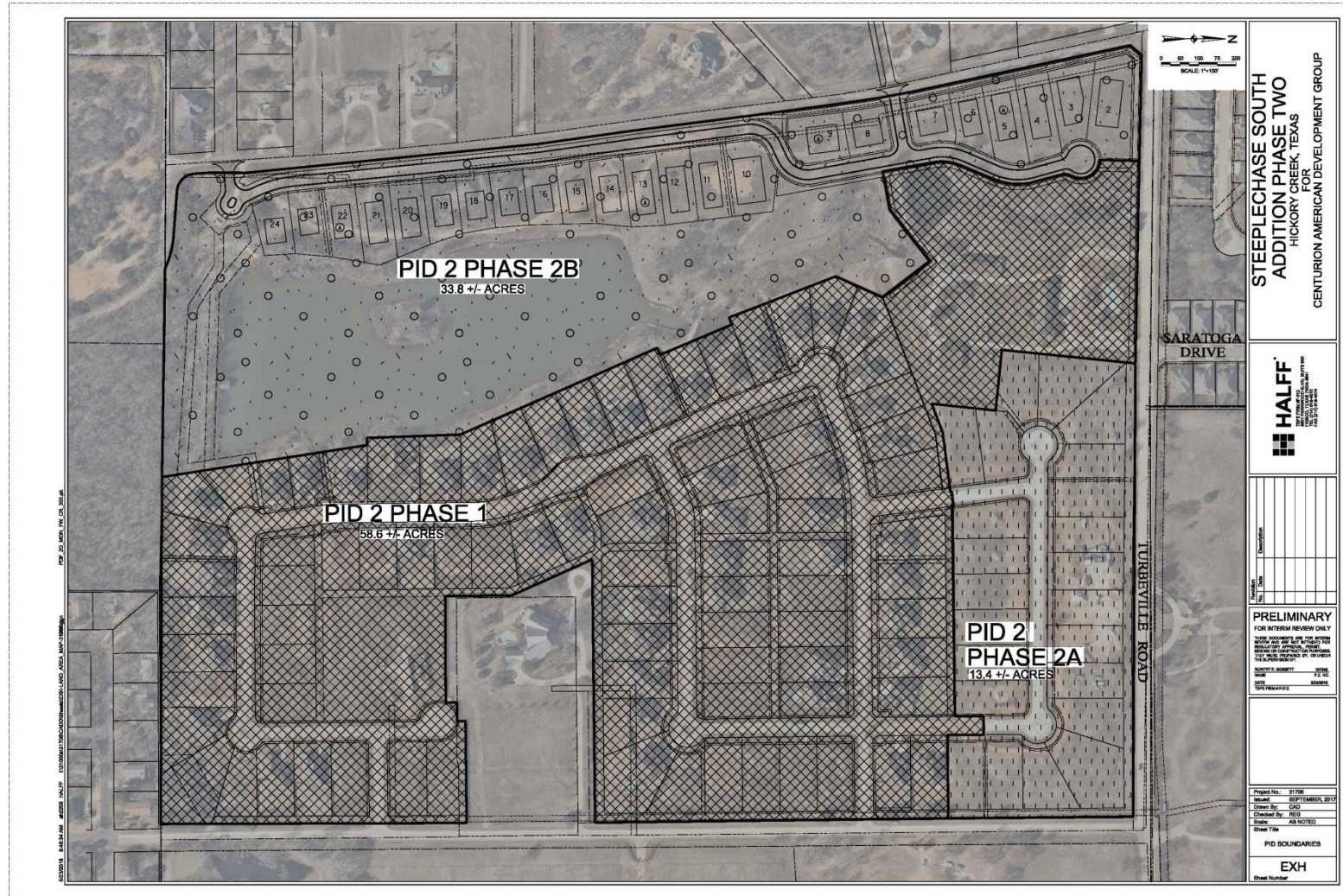


## AREA LOCATION MAP OF THE DISTRICT





# MAP SHOWING BOUNDARIES OF THE DISTRICT



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

THE INITIAL PURCHASERS ARE ADVISED THAT THE BONDS BEING OFFERED PURSUANT TO THE LIMITED OFFERING MEMORANDUM ARE BEING OFFERED AND SOLD ONLY TO "QUALIFIED INSTITUTIONAL BUYERS" AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT OF 1933") AND "ACCREDITED INVESTORS" AS DEFINED IN RULE 501 OF REGULATION D PROMULGATED UNDER THE SECURITIES ACT OF 1933. SEE "LIMITATIONS APPLICABLE TO INITIAL PURCHASERS" HEREIN. EACH PROSPECTIVE 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 "RISK FACTORS" HEREIN. EACH 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."

NO DEALER, BROKER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED BY THE TOWN 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 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 TOWN AND OBTAINED FROM SOURCES, INCLUDING THE DEVELOPER, WHICH ARE BELIEVED BY THE TOWN 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 TOWN OR 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 TOWN OR THE DEVELOPER SINCE THE DATE HEREOF.

NONE OF THE TOWN, THE FINANCIAL ADVISOR OR 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 OF 1933. 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 TOWN 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**

**\$4,220,000\***

**TOWN OF HICKORY CREEK, TEXAS,  
(a municipal corporation of the State of Texas located in Denton County)  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)**

### **INTRODUCTION**

The purpose of this Limited Offering Memorandum, including the cover page, inside cover and appendices hereto, is to provide certain information in connection with the issuance and sale by the Town of Hickory Creek, Texas (the “Town”), of its \$4,220,000\* aggregate principal amount of Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2) (the “Bonds”).

INITIAL PURCHASERS ARE ADVISED THAT THE BONDS BEING OFFERED PURSUANT TO THIS LIMITED OFFERING MEMORANDUM ARE BEING INITIALLY OFFERED AND SOLD ONLY TO “QUALIFIED INSTITUTIONAL BUYERS” AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT OF 1933”) AND “ACCREDITED INVESTORS” AS DEFINED IN RULE 501 OF REGULATION D 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, REDEMPTION PREMIUM, IF ANY, AND/OR INTEREST ON THE BONDS. THE BONDS ARE NOT A SUITABLE INVESTMENT FOR ALL INVESTORS. SEE “SUITABILITY FOR INVESTMENT” AND “BONDHOLDERS’ RISKS.”

The Bonds are being issued by the Town 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 is expected to be adopted by the Town Council of the Town (the “Town Council”) on June 19, 2018 (the “Bond Ordinance”), and an Indenture of Trust, dated as of July 1, 2018, (the “Indenture”), entered into by and between the Town and U.S. Bank National Association as trustee (the “Trustee”). The Bonds will be secured by certain assessments (“Assessments”) levied against assessable property located within Hickory Creek Public Improvement District No. 2 (the “District”) pursuant to a separate ordinance adopted by the Town Council on October 16, 2012 (relating to the Improvement Area #1 Improvements, as such term is defined herein) and a separate ordinance adopted by the Town Council on June 19, 2018 (relating to the Improvement Area #2 Improvements, as such term is defined herein) (together, the “Assessment Ordinances”).

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 Town, the District, the Developer (as defined herein), the PID Administrator (as defined herein), the Creation Resolution (as defined herein), the Assessment Ordinances, the Bond Ordinance, the Service and Assessment Plan (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 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) 302-2245. The form of the Indenture appears in APPENDIX B and the Form of Service and Assessment Plan appears as APPENDIX C. 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.

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\* Preliminary; subject to change.



## PLAN OF FINANCE

### Development Plan and Status of Development

In connection with the development of real property within the District as a portion of a master-planned residential community commonly known as “Steeplechase” (the “Development”), the Town created (i) Hickory Creek Public Improvement District No. 1 (“PID No. 1,” commonly known as “Steeplechase North”) pursuant to a resolution of the Town adopted on March 31, 2012 to finance certain public improvements benefitting property owners within PID No. 1 and (ii) Hickory Creek Public Improvement District No. 2 (the “District,” commonly known as “Steeplechase South”) on September 18, 2012 pursuant to a resolution of the Town dated September 18, 2012 creating the District to finance the Authorized Improvements (as defined herein).

On October 16, 2012, the Town and CTMGT Turbeville, LLC, a Texas limited liability company (the “Developer”) and an affiliate of Centurion American Custom Homes Inc. d/b/a Centurion American Development Group Inc. (“Centurion”), entered into a reimbursement agreement relating to the District (the “PID Reimbursement Agreement”). The PID Reimbursement Agreement provides, in part, for the proceeds of the Bonds and/or Assessments to be used for the payment of the costs of the Authorized Improvements (including the reimbursement of qualifying costs incurred in constructing the Authorized Improvements) and the costs of issuance of the Bonds.

The Developer commenced construction of the PID No. 1 Improvements benefitting PID No. 1 in 2013 and completed development of PID No. 1 in 2016. All of such improvements have been dedicated to and accepted by the Town and the Lake Cities Municipal Utility Authority (“LCMUA”), as applicable, through the recording of subdivision plats in the real property records of Denton County. Individual homeowners began purchasing the completed homes within PID No. 1 beginning in October 2014.

The District is composed of approximately 111.424 acres which are being developed as the second phase of development within the Development. The Developer’s plans consist of the development of the District in a three phases, designated as Phase 1, Phase 2A and Phase 2B. Improvement Area #1 consists of approximately 77.594 acres located within Phase 1 (which contains 85 lots) and Phase 2A (which contains 23 lots). Improvement Area #2 consists of approximately 33.83 acres located within Phase 2B, which is expected to contain 23 lots. The Developer has constructed improvements consisting of certain street improvements, water system improvements, sanitary sewer improvements and storm drainage improvements that will benefit Improvement Area #1 (the “Improvement Area #1 Improvements”). Construction of the Improvement Area #1 Improvements benefitting Phase 1 began in September 2013 and was completed in November 2014. Construction of the Improvement Area #1 Improvements benefitting Phase 2A began in December 2017 and was completed in May 2018.

The Developer will construct improvements consisting of certain street improvements, water system improvements, sanitary sewer improvements and storm drainage improvements that will benefit Improvement Area #2 (the “Improvement Area #2 Improvements” and together with the Improvement Area #1 Improvements, the “Authorized Improvements”). Construction of the Improvement Area #2 Improvements is expected to begin in October 2018 and be completed by May 2019. Development of the District is expected to be completed by 2Q 2019. See “THE DEVELOPMENT – Development Plan and Status of Development” and “APPENDIX F – Photographs of Development Within the District.”

The Developer executed lot contracts with CalAtlantic, Megatel, AVH DFW, LLC and one private party for all 131 lots in the District. As of May 22, 2018, seventy-nine (79) of the lots in Improvement Area #1 have been delivered to builders and the private party (one lot). The remaining twenty-three (23) lots in Improvement Area #1 and the twenty-three (23) lots in Improvement Area #2 will be taken down in accordance with the terms of the Merchant Builder Lot Purchase and Sale Agreements (as defined herein). As of May 22, 2018, approximately 56 homes have been constructed in the District (including 2 model homes), with 54 of such homes being sold to end users. Home sales in Improvement Area #1 of the District began in 2015. See “THE DEVELOPMENT – Development Plan and Status of Development” and “Merchant Builder Lot Purchase and Sale Agreements,” and “THE DEVELOPER – History and Financing of the District.”

The boundaries of the District are shown in the “MAP SHOWING BOUNDARIES OF THE DISTRICT” on page v hereof. The District is located entirely within the corporate limits of the Town.

## **The Bonds**

Proceeds of the Bonds will be used to provide funds for (i) paying a portion of the Costs of the Authorized Improvements, (ii) funding a reserve fund for payment of principal and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District, and (iv) paying the costs of issuance of the Bonds. To the extent that a portion of the proceeds of the Bonds is allocated for the payment of the costs of issuance of the Bonds and less than all of such amount is used to pay such costs, the excess amount may, at the option of the Town, be transferred to the Improvement Account of the Project Fund (both defined herein) or to the Principal and Interest Account of the Bond Fund to pay interest on the Bonds. See “THE AUTHORIZED IMPROVEMENTS,” “APPENDIX B – Form of Indenture” and “SOURCES AND USES OF FUNDS.”

Payment of the Bonds is secured by a pledge of and a lien upon the pledged revenues (the “Pledged Revenues”), consisting primarily of Assessments to be levied against the assessable parcels or lots within the District, all to the extent and upon the conditions described herein and in the Indenture. See “SECURITY FOR THE BONDS” and “ASSESSMENT PROCEDURES.”

**THE BONDS SHALL NEVER CONSTITUTE AN INDEBTEDNESS OR GENERAL OBLIGATION OF THE TOWN, 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 TOWN PAYABLE SOLELY FROM THE TRUST ESTATE AS PROVIDED IN THE INDENTURE. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE TOWN, THE STATE OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE IS PLEDGED TO THE PAYMENT OF THE BONDS.**

## **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 and will be payable on each March 1 and September 1, commencing March 1, 2019 (each an “Interest Payment Date”), until maturity or prior redemption. U.S. Bank National Association, Dallas, Texas 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 \$25,000 of principal and any integral multiple of \$5,000 in excess thereof (“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 Town reserves the right and option to redeem the Bonds before their scheduled maturity dates, in whole or in part, on any date on or after September 1, 20\_\_, such redemption date or dates to be fixed by the Town, at the redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest to the date fixed for redemption.

*Extraordinary Optional Redemption.* The Town reserves the right and option to redeem Bonds before their respective scheduled maturity dates or optional redemption date specified above, in whole or in part, on the fifteenth day of any month, 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 from the accounts in the Reserve 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 September 1, 20\_\_, and September 1, 20\_\_ (collectively, the “Term Bonds”) are subject to mandatory sinking fund redemption prior to their respective maturities and will be redeemed by the Town in part at the redemption price equal to the principal amount of the Term Bonds called for redemption, plus accrued and unpaid interest to the date fixed for redemption 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:

**\$ Term Bonds Maturing September 1, 20 \***

<b><u>Redemption Date</u></b>	<b><u>Sinking Fund Installment</u></b>
September 1, 2019	
September 1, 2020	
September 1, 2021	
September 1, 2022	
September 1, 2023	
September 1, 2024	
September 1, 2025	
September 1, 2026	
September 1, 2027	
September 1, 2028†	

**\$ Term Bonds Maturing September 1, 20 \***

<b><u>Redemption Date</u></b>	<b><u>Sinking Fund Installment</u></b>
September 1, 2029	
September 1, 2030	
September 1, 2031	
September 1, 2032	
September 1, 2033	
September 1, 2034	
September 1, 2035	
September 1, 2036	
September 1, 2037	
September 1, 2038	
September 1, 2039	
September 1, 2040	
September 1, 2041	
September 1, 2042	
September 1, 2043	
September 1, 2044	
September 1, 2045	
September 1, 2046	
September 1, 2047†	

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\* Preliminary, subject to change.

† Stated maturity.

At thirty (30) days prior to each mandatory sinking fund redemption date, the Trustee will select a principal amount of Term Bonds equal to the Sinking Fund Installment for such date of such maturity of Term Bonds to be redeemed, will call such Term 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 Term Bonds required to be redeemed on any redemption date pursuant to the mandatory sinking fund redemption described above shall be reduced, at the option of the Town, by the principal amount of any Term Bonds of such maturity which, at least thirty (30) days prior to the sinking fund redemption date shall have been acquired by the Town at a price not exceeding the principal amount of such Term Bonds plus accrued unpaid interest to the date of purchase thereof, and delivered to the Trustee for cancellation.

The principal amount of Term Bonds required to be redeemed on any mandatory sinking fund redemption date shall be reduced on a pro rata basis among Sinking Fund Installments by the principal amount of any Term 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 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 Town 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 lot or any other customary method 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. 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 The Depository Trust Company ("DTC"), New York, New York, 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 Town and the Underwriter believe the source of such information to be reliable, but neither the Town nor the Underwriter takes responsibility for the accuracy or completeness thereof.*

*The Town 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 a Standard & Poor's 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 Town 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 Town 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 Town, 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 Town, 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 Town 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 Town 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 Town believes to be reliable, but none of the Town, the Town's Financial Advisor or the Underwriter take any responsibility for the accuracy thereof.

NONE OF THE TOWN, THE TRUSTEE, THE PAYING AGENT, THE TOWN'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 TOWN 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.

#### **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 "qualified institutional buyers" as defined in Rule 501 of

Regulation D promulgated under the Securities Act and “accredited investors” as defined in Rule 144A promulgated under the Securities Act. Each initial purchaser of the Bonds (each, an “Investor”) will be deemed to have acknowledged and represented the Town as follows:

1. The Investor has authority and is duly authorized to purchase the Bonds.
2. The Investor is an “accredited investor” under Rule 501 of Regulation D of the Securities Act or a “qualified institutional buyer” under Rule 144A of the Securities Act, 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 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 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 Town, 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 Town in connection with the Investor’s purchase of the Bonds. The Investor agrees that none of the Town, 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 fraud or willful misconduct, to the extent permitted by law. For the avoidance of doubt, it is acknowledged that underwriter is not deemed an officer or employee of the Town.
6. The Investor acknowledges that the obligations of the Town under the Indenture are special, limited obligations payable solely from amounts paid to the Town pursuant to the terms of the Indenture and the Town shall not be directly or indirectly or contingently or morally obligated to use any other moneys or assets of the Town 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 Town, the District (which has no taxing power), 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 Town, 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 Town 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.

## SECURITY FOR THE BONDS

### General

THE BONDS ARE SPECIAL OBLIGATIONS OF THE TOWN 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 TOWN 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 TOWN 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 TOWN'S TAXING POWER TO PAY THE PRINCIPAL OF THE BONDS OR THE INTEREST OR REDEMPTION PREMIUM, IF ANY, THEREON. THE TOWN SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO PAY THE BONDS OUT OF ANY FUNDS OF THE TOWN OTHER THAN THE PLEDGED REVENUES AND OTHER FUNDS COMPRISING THE TRUST ESTATE.

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 111.424 acres. Other than land that has been dedicated to the Town, the LCMUA or the HOA (as defined herein), all the property within the District has been assessed. In accordance with the PID Act, the Town has caused the preparation of a Service and Assessment Plan which describes the special benefit received by the property within the District, provides the basis and justification for the determination of special benefit on such property, establishes the methodology for the levy of the assessments (including Assessments), and provides 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 Town adopted an initial service and assessment plan for the District on October 16, 2012 (the "Initial Service and Assessment Plan"). Pursuant to such Initial Service and Assessment Plan, the Town levied assessments in the District, the payment of which was to be triggered, on a per lot basis, on the Lot's plat date.

The assessments levied in Improvement Area #1 to fund the Improvement Area #1 Improvements (the "Improvement Area #1 Assessments") pursuant to the Initial Service and Assessment Plan were triggered under the Initial Service and Assessment Plan by the filing of a plat for all lots in Improvement Area #1 on October 12, 2012. However, the Town did not collect such assessments in 2013 or 2014. On September 19, 2014, the Town adopted an annual update to the Initial Service and Assessment Plan which provided that "the assessment for each lot . . . shall be due and payable on the "Trigger Date," being the first January 31st to occur after the earlier of the date the Town issues a building permit for the Lot, the issuance of PID Bonds or the fourth anniversary of the Lot's Plat Date." In 2015, building permits were issued for eleven (11) lots in Improvement Area #1. The fourth anniversary of the filing of the plat for Improvement Area #1 was October 12, 2016. Accordingly, the Improvement Area #1 Assessments have been triggered for all lots in Improvement Area #1. Collection of the Improvement Area #1 Assessments began in 2015.

Upon advice from the Texas Attorney General, based on the time elapsed between the date of the Initial Service and Assessment plan and the issuance of the Bonds, the Town expects to invalidate the assessments remaining on Improvement Area #2 levied pursuant to the Initial Service and Assessment Plan and expects to levy a new, separate assessment in Improvement Area #2. The Town expects to levy assessments in Improvement Area #2 to fund the Improvement Area #2 Improvements (the "Improvement Area #2 Assessments") immediately prior to the approval of the Bond Ordinance. The Assessments securing the Bonds are comprised of the Improvement Area #1 Assessments and the Improvement Area #2 Assessments. The per Lot amounts for the Improvement Area #1 Assessments and the Improvement Area #2 Assessments are in the same amounts and for the same durational terms.

In connection with the levy of the Improvement Area #2 Assessments, the town expects to adopt an Amended and Restated Service and Assessment Plan, which amends and restates the Initial Service and Assessment



Plan and is updated for calendar year 2018 and the levy of the Improvement Area #2 Assessments (and as further updated, amended, supplemented, or restated, the “Service and Assessment Plan”). A form of the Service and Assessment Plan is included in APPENDIX C hereto. The determination by the Town of the Assessment methodology set forth in the Service and Assessment Plan is the result of the discretionary exercise by the Town Council of its legislative authority and governmental powers and is conclusive and binding on all current and future landowners within the District. See “APPENDIX C — Form of Service and Assessment Plan”

### **Pledged Revenues**

The Town is authorized by the PID Act, the Assessment Ordinances and other provisions of law to finance the Authorized 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.”

Under the Indenture, "Pledged Revenues" means, collectively, the (i) Assessment Revenues (excluding the portion of the Annual Installments collected for the payment of Administrative Expenses and Delinquent Collection Costs, as set forth in the Service and Assessment Plan), (ii) the moneys held in any of the Pledged Funds and (iii) any additional revenues that the Town may pledge to the payment of the Bonds. “Assessment Revenues” means the revenues received by the Town from the collection of Assessments, including Prepayments, Annual Installments and Foreclosure Proceeds. "Annual Installment" means the annual installment payments of an Assessment, including (1) principal, (2) interest, (3) Administrative Expenses, and (4) Additional Interest (as defined herein) that funds the Delinquency and Prepayment Reserve Account. “Assessment” means an assessment levied against a Parcel pursuant to the PID Act and “Assessment Revenues” means the revenues received by the Town from the collection of Assessments, including Prepayments, Annual Installments and Foreclosure Proceeds, all as defined in the Indenture.

The Town will covenant in the Indenture that it will take and pursue all reasonable 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 or claims for State of Texas (the “State”), county, school district, or municipality 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 respective Assessment Ordinances until the Assessments are paid (or otherwise discharged), and is enforceable by the Town Council in the same manner that an ad valorem property tax levied against real property may be enforced by the Town Council. See “ASSESSMENT PROCEDURES” herein.

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

The Assessments shown on the Assessment Rolls, together with the interest thereon, shall first be applied to 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, together with interest thereon, are payable in Annual Installments established by the Assessment Ordinances and the Service and Assessment Plan to correspond, as nearly as practicable, to the debt service requirements for the Bonds. An Annual Installment of an Assessment has been made payable in the Assessment Ordinances and the Service and Assessment Plan in each fiscal year of the Town 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 Ordinances.

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 is shown on the Assessment Rolls. Sums received from the collection of the Assessments to pay the debt service requirements (including delinquent installments, Foreclosure Proceeds and penalties) and of the

interest thereon shall be deposited into the Bond Pledged Revenue Account of the Pledged Revenue Fund. Promptly after the deposit of Foreclosure Proceeds into the Pledged Revenue Fund, the Trustee shall transfer such Foreclosure Proceeds first to the Reserve Fund to restore any transfers from the Reserve Fund made with respect to the particular assessed property to which the Foreclosure Proceeds relate, and second, to the Redemption Fund, as follows. After deposit of Foreclosure Proceeds into the Reserve Fund, the Trustee shall deposit such Foreclosure Proceeds first into the Reserve Account if the Reserve Account does not contain the Reserve Account Requirement and if it does contain the Reserve Account Requirement, such Foreclosure Proceeds shall be deposited into the Delinquency and Prepayment Reserve Account. If both the Reserve Account and Delinquency and Prepayment Reserve Account contain their respective amounts required to be on deposit, the Trustee shall transfer such Foreclosure Proceeds to the Redemption Fund. See “SECURITY FOR THE BONDS — Pledged Revenue Fund” and APPENDIX B — Form of Indenture.

The portions of the Annual Installments of Assessments collected to pay Administrative Expenses and Delinquent Collection Costs shall be deposited in the Administrative Fund and shall not constitute Pledged Revenues.

### **Unconditional Levy of Assessments**

The Town imposed Assessments on the property within the District 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 Assessments are effective on the date of, and strictly in accordance with the terms of, the Assessment Ordinances. 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 Ordinances, interest on the Assessments for each lot within the District began to accrue on the date specified in the Service and Assessment Plan and, prior to issuance of the Bonds, is calculated at a rate specified in the Assessment Ordinances. After issuance of the Bonds, interest on the Assessments for each lot within the District will accrue at a rate specified in the Assessment Ordinances, but may not exceed the interest rate on the Bonds plus the 0.50% additional interest charged on Assessments pursuant to Section 372.018 of the Act (“Additional Interest”). Such interest rates 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 annually and shall be due on 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.

As authorized by Section 372.018(b) of the PID Act, the Town has levied, assessed, and will continue to collect, each year while the Bonds are Outstanding and unpaid, a portion of each Annual Installment to pay the annual costs incurred by the Town in the administration and operation of the District. The portion of each Annual Installment used to pay such annual costs shall remain in effect from year to year until all Bonds are finally paid or until the Town 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 Administrative Expenses shall be due in the manner set forth in the Assessment Ordinances on October 1 of each year and shall be delinquent if not paid by February 1 of the following year. Such assessments to pay Administrative Expenses do not secure repayment of the Bonds.

There is 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 Ordinances and continues until the Assessments are paid or until all Bonds are finally paid.

Failure to pay an Annual Installment when due will 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.

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

## **Pledged Revenue Fund**

Immediately upon receipt thereof, the Town shall transfer to the Trustee for deposit to the Pledged Revenue Fund the Annual Installments (other than the portion of the Annual Installments allocated to the payment of Administrative Expenses and Delinquent Collection Costs, which shall be deposited to the Administrative Fund), as set forth in the Service and Assessment Plan. Specifically, the Town shall deposit or cause to be deposited Assessment 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, and (iii) *third*, to pay other costs permitted by the PID Act. Notwithstanding the foregoing, if any funds remain on deposit in the Pledged Revenue Fund after the deposits required by (i) and (ii) above are made, the Town shall have the option, in its sole and absolute discretion, to deposit such excess funds into the Redemption Fund to redeem Bonds as provided in the Indenture. 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.

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, 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.

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 to the Principal and Interest Account of the Bond Fund described above, 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.

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 made with respect to the particular Assessed Property 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 Reserve Fund, the Trustee shall transfer any Pledged Revenues remaining in the Pledged Revenue Fund to the Town, which monies 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/or interest then due and payable on the Bonds. If amounts in the Principal and Interest Account are insufficient to pay the amounts due on the Bonds on an Interest Payment Date, the Trustee shall withdraw from the Reserve Fund amounts to cover the amount of such insufficiency pursuant to the Indenture. Amounts so withdrawn from the Reserve Fund shall be deposited in the Principal and Interest Account and transferred to the Paying Agent/Registrar.

## **Project Fund**

Money on deposit in the Project Fund shall be used for the following purposes as specified in the Indenture: (i) paying or reimbursing all or a portion of the costs of the Authorized Improvements, (ii) funding a reserve fund for payment of principal and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District, and (iv) paying the costs of issuance of 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 Town Certificates. Disbursements from the Improvement Account of the Project Fund to pay Costs shall be made by the Trustee upon receipt by the Trustee of a properly executed and completed Certificate for Payment.

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

Pursuant to the Indenture, a Reserve Account will be created within the Reserve Fund, held by the Trustee for the benefit of the Bonds, and initially 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 \$ \_\_\_\_\_, which is an amount equal to 50% of the Maximum Annual Debt Service on the Bonds as of their date of issuance; 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 (1) a mandatory sinking fund redemption, (2) an optional redemption or (3) an extraordinary optional redemption, the Reserve Account Requirement shall be reduced by a percentage equal to the pro rata principal amount of Bonds redeemed by such redemption divided by the total principal amount of the Outstanding Bonds prior to such redemption.

Whenever, on any Interest Payment Date, the amount on deposit in the Bond Fund is insufficient to pay the debt service on the Bonds 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 the amount necessary to cure such deficiency.

Whenever, on any Interest Payment Date, or on any other date at the request of a Town Representative, the value of cash and Value of Investment Securities on deposit in the Reserve Account exceeds the Reserve Account Requirement, the Trustee shall provide written notice to the Town of the amount of the excess, and the Trustee shall transfer such excess pursuant to the Indenture.

In the event of an extraordinary optional redemption of Bonds from the proceeds of a Prepayment, the Trustee, pursuant to written directions from the Town, 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, held by the Trustee for the benefit of the Bonds, and initially funded with proceeds of the Bonds in the amount of the Delinquency and Prepayment Reserve Requirement. The “Delinquency and Prepayment Reserve Requirement” means an amount equal to 5.5% of the principal amount of the then Outstanding Bonds. The Town has allocated the Additional Interest authorized by the PID Act for this purpose.

The Trustee will transfer from the Bond Pledged Revenue Account of the Pledged Revenue Fund to the Delinquency and Prepayment Reserve Account on March 1 of each year, commencing March 1, 2019, an amount equal to the Additional Interest into the Delinquency and Prepayment Reserve Account until the Delinquency and Prepayment Reserve Requirement has been accumulated in the Delinquency and Prepayment Reserve Account. 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 been met. Furthermore, 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 first to the Redemption Fund to redeem Bonds as provided in Article IV of 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 this Section, 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 Town Order specifying that a different amount be used.

Upon an extraordinary optional redemption of Bonds due to Prepayments, after transferring funds from the Reserve Fund to the Redemption Fund, there are insufficient funds to pay the principal amount plus accrued and unpaid interest on such Bonds to the date fixed for redemption 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.

Whenever, on any Interest Payment Date, or on any other date at the written request of the Town, the amounts on deposit in the Delinquency and Prepayment Reserve Account exceed the Delinquency and Prepayment Reserve Requirement, the Trustee shall provide written notice to the Town of the amount of the excess, and such excess shall be transferred, at the direction of the Town, to the Administrative Fund for the payment of Administrative Expenses or to the Redemption Fund.

Whenever, on any Interest Payment Date, the amount on deposit in the Bond Fund is insufficient to pay the debt service on the Bonds due on such date, the Trustee shall transfer first from the Delinquency and Prepayment Reserve Account of the Reserve Fund and second from the Reserve Account of the Reserve Fund to the Bond Fund the amounts necessary to cure such deficiency. Additional Interest shall be used to replenish first the Reserve Account of the Reserve Fund and second the Delinquency and Prepayment Reserve Account of the Reserve Fund.

### **Administrative Fund**

The Town has created under the Indenture an Administrative Fund held by the Trustee. Immediately upon receipt thereof, the Town shall deposit or cause to be deposited to the Administrative Fund the portion of the Annual Installments allocated to the payment of Administrative Expenses 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 under the Indenture and used as directed by a Town Order solely for the purposes set forth in the Service and Assessment Plan, including payment of Administrative Expenses and Delinquent Collection Costs. See “APPENDIX C — Form of Service and Assessment Plan.”

**THE ADMINISTRATIVE FUND IS NOT PART OF THE TRUST ESTATE AND IS NOT SECURITY FOR THE BONDS.**

## **Defeasance**

All Outstanding Bonds shall, prior to the Stated Maturity or redemption date thereof, be deemed to have been paid and to no longer be deemed 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, upon redemption, or otherwise), either (i) shall have been made in accordance with the terms thereof, or (ii) 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. Neither Defeasance Securities nor moneys deposited with the Trustee 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 Town 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; and are, at the time made, included in and authorized by the Town’s official investment policy as approved by the Town Council from time to time. Under current State law, 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 of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality, and that, on the date the governing body of the Town 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 Town 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 Town to deposit the Pledged Revenues to the Pledged Revenue Fund;
- ii. The failure of the Town 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 Town under the 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 Town 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 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 Town shall be entitled to a further extension of time reasonably necessary to remedy such default so long as corrective action is instituted by the Town 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 Event 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 then Outstanding under the Indenture 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 Town 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, in the selection of Trust Estate assets to be used in the payment of Bonds due in an Event of Default, the Town shall determine, in its absolute discretion, and shall instruct the Trustee by Town Order, 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 Town shall fail to deliver to the Trustee such Town Order, the Trustee shall select and liquidate or sell Trust Estate assets as provided in the following paragraph, and the Trustee shall not be liable to any Owner, or other Person, or the Town by reason of the following selection process, liquidation or sale.

Whenever moneys are to be applied pursuant to the Indenture, 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 shall 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, according to the following method and as may be required by law and apply the proceeds thereof in accordance with the provisions of the Indenture. The Trustee shall sell Trust Estate assets, according to the appraised value thereof, beginning with the asset of the highest value and continuing such sales in the order of next succeeding most valuable asset until satisfaction of debts pertaining to the Outstanding Bonds. 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 Town, 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 Town 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 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 received prior notice in writing, (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 then Outstanding have made written request to the Trustee directing the Trustee to proceed to

exercise the powers granted in the Indenture 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 prior written notice failed or refused to exercise the powers granted in the Indenture, 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 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 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 under the Indenture 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 registered owners of all Bonds then Outstanding. The notification, request and furnishing of indemnity set forth above shall 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 under the Indenture.

Subject to provisions of the Indenture with respect to certain liabilities of the Town, 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 Town 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 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, then and in every such case the Town, the Trustee and the Owners 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 Town, to the payment of interest and principal or Redemption Price then due on Bonds, 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 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, or Redemption Price of any Bonds 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 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.

Within thirty (30) days of receipt of such good and available funds, the Trustee, at the direction of the Town, shall fix a record and payment date for any payment to be made to Owners.

In the event funds are not adequate to cure any of the Events of Default described above, the available funds shall be allocated to the Bonds that are Outstanding in proportion to the quantity of Bonds that are currently due and in default under the terms of the Indenture.

The restoration of the Town 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 Fund, shall be invested by the Trustee as directed by the Town pursuant to a Town Order 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 Fund shall be invested in such Investment Securities as directed by the Town pursuant to a Town Order filed with the Trustee, provided that the final maturity of any individual Investment Security shall not exceed 270 days and the average weighted maturity of any investment pool or no-load money market mutual fund shall not exceed 90 days.

Obligations purchased as an investment of moneys in any Fund or Account 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 Town to the Trustee, such transfer may be accomplished by transferring a like amount of Investment Securities.

### **Against Encumbrances**

Other than Refunding Bonds issued to refund all or a portion of the Bonds, the Town shall not create and, to the extent Pledged Revenues are received, shall 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, and other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds.

So long as Bonds are Outstanding under the Indenture, the Town shall not issue any bonds, notes or other evidences of indebtedness other than the Bonds and Refunding Bonds issued to refund all or a portion of the Bonds, secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under the Indenture, other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds.

### **No Additional Obligations**

The Town reserves the right to issue obligations under other indentures, assessment ordinances, or similar agreements or other obligations which do not constitute or create a lien on the Trust Estate and are not payable from Pledged Revenues.

The Town is not authorized to issue additional bonds secured by the Pledged Revenues on parity with the Bonds other than Refunding Bonds, the proceeds of which would be utilized to refund all or any portion of the Outstanding Bonds and to pay all costs incident to the issuance of such Refunding Bonds.

The Town may issue bonds secured by and payable from Pledged Revenues so long as such pledge is subordinate to the pledge of Pledged Revenues securing payment of the Bonds.

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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 costs of improvements funded or to be funded by the Developer:

Sources of Funds:	
Principal Amount	\$
[Premium/Discount]	
TOTAL SOURCES	\$
Use of Funds:	
Deposit to Improvement Account of Project Fund	\$
Deposit to Reserve Account of the Reserve Fund	
Deposit to the Administrative Fund	
Underwriter's Discount <sup>(1)</sup>	
Deposit to Costs of Issuance Account of the Project Fund	
TOTAL USES	\$

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\* Preliminary; subject to change.

<sup>(1)</sup> Underwriter's discount 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:

<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			
<b>Total</b>			

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\* Preliminary; subject to change.

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## OVERLAPPING TAXES AND DEBT

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

In addition to the Assessments described above, the Developer anticipates that all lot owners in the District will pay a maintenance and operation fee and/or a property owner's association fee to the homeowner's association for the property within the District (the "HOA"), which homeowner's association has been formed by the Developer.

The District is within the corporate limits of the Town and is subject to taxation by the Town. Denton County and the Lake Dallas Independent School 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 Town has no control over the level of ad valorem taxes or assessments levied by such taxing authorities. The following table reflects the overlapping ad valorem tax rates currently levied on property located in District.

<u>Taxing Entity</u>	Tax Year 2017 <u>Ad Valorem Tax Rate</u>
The Town <sup>(1)</sup>	0.366933
Denton County, Texas <sup>(1)</sup>	0.237812
Lake Dallas Independent School District <sup>(1)</sup>	<u>1.670000</u>
Total Existing Tax Rate	<u>\$ 2.435483</u>

Estimated Average Annual Assessment in the District as tax rate equivalent per Equivalent Unit <sup>(2)</sup>	<u>\$ 0.</u>
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<b>Estimated Total Tax Rate and Average Annual Installment in the District as tax rate equivalent per Equivalent Unit</b>	<b><u>\$ 3.</u></b>
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<sup>(1)</sup> Per \$100 in taxable assessed value.

<sup>(2)</sup> Derived from information presented in the Service and Assessment Plan. Preliminary, subject to change.

As noted above, the District includes territory located in 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 May 15, 2018, and the amount of debt secured by assessments:

<u>Taxing or Assessing Entity</u>	Gross Outstanding Debt as of 5/15/2018	Estimated Percentage Applicable <sup>(1)</sup>	Direct and Estimated Overlapping Debt
The Town (Assessments for the Bonds) <sup>(2)</sup>	\$ 4,220,000	100.000%	\$ 4,220,000
The Town	8,375,000	7.024%	588,299
Denton County, Texas	642,170,000	0.036%	231,613
Lake Dallas Independent School District	<u>79,292,632</u>	2.100%	<u>1,664,869</u>
	<u>\$734,057,632</u>		<u>\$6,704,781</u>

<sup>(1)</sup> Based on the Tax Year 2017 Net Taxable Assessed Valuations for the taxing entities.

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

Source: Municipal Advisory Council of Texas and Denton Central Appraisal District

## **ASSESSMENT PROCEDURES**

### **General**

Capitalized terms used under this caption and not otherwise defined in the Limited Offering Memorandum shall have the meanings given to such terms in the Service and Assessment Plan. As required by the PID Act, when the Town determines to defray a portion of the costs of the Authorized Improvements through Assessments, it must adopt a resolution generally describing the Authorized Improvements and the land within the District to be subject to Assessments to pay the cost therefor. The Town has caused assessment rolls to be prepared (the “Assessment Rolls”), which Assessment Rolls will show the land within the District to be assessed, 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 Rolls will be filed with the Town Secretary 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 Authorized Improvements and funding a portion of the same with Assessments. The Town has levied the Improvement Area #1 Assessments and accordingly, the Improvement Area #1 Assessments are legal, valid and binding liens upon the property against which the Improvement Area #1 Assessments are made. However, Annual Installments of the Improvement Area #1 Assessments were not due and payable until the “Trigger Date” which is described above under “SECURITY FOR THE BONDS — General.” The Trigger Dates for collection of the Improvement Area #1 Assessments have already occurred. See “ — Improvement Area #1 Assessment Collections” below.

The Town expects to levy the Improvement Area #2 Assessments and adopt an ordinance levying the Improvement Area #2 Assessments immediately prior to adopting the Bond Ordinance. After such adoption, the Improvement Area #2 Assessments will become legal, valid and binding liens upon the property against which the Improvement Area #2 Assessments are made.

Under the PID Act, the Costs of the Authorized Improvements may be assessed by the Town against the assessable property in the District so long as the special benefit conferred upon the assessed property by the Authorized Improvements equals or exceeds the Assessments. The costs of the Authorized Improvements may be assessed using any methodology that results in the imposition of equal shares of cost on assessed property similarly benefited. The allocation of benefits and assessments to the benefitted land within the District is set forth 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 Authorized 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 Town allocates the special benefit of the Authorized 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 Authorized Improvements is being funded with proceeds of the Bonds, which are payable from and secured by Pledged Revenues. As further set forth in the Service and Assessment Plan, the benefits received by the District as a result of the Authorized Improvements are currently spread among the existing parcels in the District (the “Assessed Property”) based on the ratio of the Costs of the Authorized Improvements to the lots within the District.

As set forth in the Service and Assessment Plan, the Town Council has determined that the Actual Costs (as defined in the Service and Assessment Plan) associated with the Improvement Area #1 Improvements will be allocated to the Assessed Parcels in Improvement Area #1 by spreading the entire Improvement Area #1 Assessment across all Parcels and Lots within Improvement Area #1 of the District equally across each Parcel or Lot to the within Improvement Area #1 of the District. As set forth in the Service and Assessment Plan, the Town Council has determined that the Actual Costs associated with the Improvement Area #2 Improvements will be allocated to the Assessed Parcels in Improvement Area #2 by spreading the entire Improvement Area #2 Assessment equally across all Parcels and Lots within Improvement Area #2 of the District.

The following table provides additional analysis with respect to assessment methodology relating to the issuance of the Bonds, including the value to assessment burden ratio per Lot, equivalent tax rate per Lot, and leverage per Lot. The information in the tables was obtained from and calculated using information provided in the Service and Assessment Plan, lot sale prices in the Merchant Builder Lot Purchase and Sale Agreements and estimated average value of homes in the District based on data from the Denton County Central Appraisal District. See “APPENDIX C — Form of Service and Assessment Plan” and “THE DEVELOPMENT – Merchant Builder Lot Purchase and Sale Agreements” and “— Expected Build-out of the District.”

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**LIEN TO VALUE ANALYSIS, ASSESSMENT ALLOCATION, EQUIVALENT TAX RATE AND LEVERAGE IN THE DISTRICT**

Improvement Area	# of Units	Lot Value Per Unit		Home Value per Unit	Assessment Per Unit	Average Annual Installment Per Unit	Tax Rate (Lot Value)		Tax Rate (Home Value)	Leverage (Lot Value)		Leverage (Home Value)
		low	high				low	high		low	high	
IA#1	108	\$ 90,000	\$ 130,000	\$ 475,551	\$ 32,213.74	\$ 2,639.31	2.93	2.03	\$ 0.56	2.79	4.04	14.76
IA#2	23	\$ 90,000	\$ 130,000	\$ 475,551	\$ 32,213.74	\$ 2,639.31	2.93	2.03	\$ 0.56	2.79	4.04	14.76
	131											

Source: P3Works, LLC; Lot values based upon lot sales prices under Merchant Builder Lot Purchase and Sale Agreements (See “THE DEVELOPMENT—Merchant Builder Lot Purchase and Sale Agreements”); Home values based on average Assessed Value reported for homes in the District through data from the Denton County Central Appraisal District.

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The Town has determined that the foregoing method of allocation will result in the imposition of equal shares of the Assessments on parcels similarly situated within the District. The Assessments and interest thereon are expected to be paid in Annual Installments as described above. The determination by the Town of the assessment methodology set forth in the Service and Assessment Plan is the result of the discretionary exercise by the Town Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of Property 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 ad valorem taxes of the Town. The Assessments may be enforced by the Town 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 — Special Assessment Limitations” herein.

In the Indenture, the Town will covenant to collect, or cause to be collected, Assessments as provided in the Assessment Ordinance. No less frequently than annually, Town staff or a designee of the Town shall prepare, and the Town 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 updated Assessment Rolls and a calculation of the Annual Installment for each Parcel. Assessments for Annual Collection Costs shall be allocated among all Parcels in proportion to the amount of the Annual Installments for the Parcels.

In the Indenture, the Town will covenant, agree and warrant that, for so long as any Bonds are Outstanding, 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 Town, to the affected property owners on the same statement or such other mechanism that is used by the Town, 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 Town.

The Town 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 Town 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 Town shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Special Assessment or the corresponding Assessed Parcel. Furthermore, nothing shall obligate the Town, the Town Attorney, or any appropriate designee to undertake collection or foreclosure actions against delinquent accounts in violation of applicable state law, court order, or existing contractual provisions between the Town and its appropriate collections enforcement designees.

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

The Town 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 Town or its agent. Annual Installments are due on October 1 of each year, and become delinquent on February 1 of the following year. In the event Assessments are not timely paid, there are penalties and interest as set forth below:

<u>Date Payment</u> <u>Received</u>	<u>Cumulative</u> <u>Penalty</u>	<u>Cumulative</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 accrues 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 maximum amounts of the Assessments will be established by the methodology described in the Service and Assessment Plan. The Assessment Rolls set forth for each year the Annual Installment for each Assessed Parcel as calculated by the PID Administrator and approved by the Town Council consisting of the annual payment allocable to (i) the principal and interest on the Bonds, which amount includes the Additional Interest that funds Prepayment Costs and Delinquent Collection Costs as described in the Service and Assessment Plan and (ii) the Annual Collection Costs. The Annual Installments for the District may not exceed the amounts shown on the Assessment Rolls. The Assessments will be levied against the Assessed Parcels as indicated on the Assessment Rolls. See "APPENDIX C — Form of Service and Assessment Plan."

The Annual Installments shown on the Assessment Rolls will be reduced to equal the actual costs of repaying the Bonds (which amount will include the Additional Interest) and actual Annual Collection Costs (as provided for in the Indenture), taking into consideration any other available funds for these costs, such as interest income on account balances.

Method of Apportionment of Assessments. For purposes of the Service and Assessment Plan, the Town Council has determined that the Assessments shall be initially allocated equally among the Assessed Parcels.

For purposes of the Service and Assessment Plan, the Town Council has determined that the Improvement Area #1 Assessments shall be initially allocated to the Assessed Property in Improvement Area #1 equally across all parcels in Improvement Area #1 of the District. For purposes of the Service and Assessment Plan, the Town Council has determined that the Improvement Area #2 Assessments shall be initially allocated to the Assessed Property in Improvement Area #2 equally across all parcels in Improvement Area #2 of the District. As the existing parcels are subsequently divided, the Assessments will be further apportioned pro rata based on the number of newly created parcels. See "APPENDIX C — Form of Service and Assessment Plan." See "ASSESSMENT PROCEDURES — Assessment Methodology."

The Improvement Area #1 Assessment per lots with respect to the Bonds is \$32,214\*. The Improvement Area #2 Assessment per lots with respect to the Bonds is \$32,214\*. See "ASSESSMENT PROCEDURES — Assessment Methodology." The Bonds are secured by a first lien on and pledge of Pledged Revenues, including the

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\* Preliminary; subject to change.

Assessments. See “SECURITY FOR THE BONDS” and “APPENDIX C — Form of Service and Assessment Plan.”

### **Prepayment of Assessments**

Pursuant to the PID Act and the Indenture, the owner of any property assessed may voluntarily prepay (a “Prepayment”) all or part of any Special 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.

### **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 respective Assessment Ordinances until the Assessment is paid, and may be enforced by the Town in the same manner as an ad valorem tax levied against real property may be enforced by the Town. 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.

### **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 Town 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 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 Town 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 Town is not required under any circumstance to purchase the property or to pay the delinquent Assessment on the corresponding Assessed Parcel.

In the Indenture the Town will covenant to 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 cause no reduction, abatement or exemption in the Assessments, provided that the Town 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 Town and distributed in accordance with the Indenture. See “APPENDIX B – Form of Indenture. “ See also “APPENDIX E-1 – Form of Disclosure Agreement of Issuer” for a description of the expected timing of certain events with respect to collection of the delinquent Assessments.

In the Indenture, the Town creates the Prepayment and Delinquency Reserve Account of the Reserve Fund and will fund such account as provided in the Indenture. The Town 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 “SECURITY FOR THE BONDS – Delinquency Reserve Account of the Reserve Fund,” “APPENDIX B – Form of Indenture” and “APPENDIX C – Form of Service and Assessment Plan.”

### **Improvement Area #1 Assessment Collections**

Collection of the Annual Installment of the Improvement Area #1 Assessments with respect to each parcel in Improvement Area #1 commenced on the applicable “Trigger Date,” as described under the heading “SECURITY FOR THE BONDS – General.” The Trigger Dates for collection of all Improvement Area #1 Assessments have already occurred. Billing and collection of the Improvement Area #2 Assessments will begin in 2018, after the levy of such assessments by the Town as described under the heading “SECURITY FOR THE BONDS – General.”

The following table sets forth the Annual Installments of Improvement Area #1 Assessments billed and collected for the Town’s fiscal years 2016, 2017, and 2018.

<u>Fiscal Year Ended September 30<sup>(1)</sup></u>	<u>Total Annual Installments Billed</u>	<u>Total Annual Installments Collected<sup>(2)</sup></u>	<u>Collection Rate</u>
2016	\$26,248.00	\$27,019.19	102.9%
2017	\$63,148.00	\$64,544.87	102.2%
2018	\$294,922.49	\$296,351.70	100.5%

<sup>(1)</sup> The Installment Payment Date is October 1 of each fiscal year presented. Each Annual Installment is delinquent if not paid prior to February 1 of the calendar year immediately following the Installment Payment Date.

<sup>(3)</sup> Collected through May 31, 2018.

Source: The PID Administrator

### **Foreclosure History**

As of May 31, 2018, there has never been a foreclosure sale of any of the Assessed Property within the District.

### **Prepayment History of Assessments**

As of May 31, 2018, there have been no prepayments of Assessments in the District.

## **THE TOWN**

### **Background**

The Town of Hickory Creek (the “Town”) is a residential area located in Denton County on the shores of Lake Lewisville, approximately 26 miles northwest of Dallas occupying a land area of 4.6 square miles.

Denton County (the “County”) is located in north central Texas and is the ninth most populous county in the state. The economy is diversified by manufacturing, state supported institutions, and agriculture. Minerals produced in the County include natural gas and clay. Denton County is the 9th largest gas producing county in Texas. Institutions of higher education within Denton County include the University of North Texas and Texas Women’s University. Alliance Airport (the largest industrial airport in the world), Texas Motor Speedway (a major NASCAR race track) and a major Wal-Mart distribution center are also located in Denton County.

### **Town Government**

The Town is a Type A general law municipal corporation governed by a mayor and a five-member council. The Mayor is elected at-large and five council members are elected by place number for two-year staggered terms.

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

<u>Council Member</u>	<u>Term Expires</u> <u>(May)</u>
Lynn Clark, Mayor	2020
Paul Kenney, Mayor Pro Tem	2020
Tracee Elrod	2019
Richard DuPree	2020
Chris Gordon	2019
Ian Theodore	2019

The principal administrators of the Town include the following:

<u>Name</u>	<u>Position</u>
John Smith	Town Administrator
Kristi Rogers	Town Secretary

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

## **THE DISTRICT**

### **General**

The PID Act authorizes municipalities, such as the Town, to create public improvement districts within their boundaries or extraterritorial jurisdiction, and to impose assessments within the public improvement districts to pay for certain improvements. The District was created by Resolution No. 2012-0918-1 of the Town Council adopted on September 18, 2012 in accordance with the PID Act (the “Creation Resolution”) for the purpose of undertaking and financing the cost of certain public improvements within the District, including the Authorized Improvements, authorized by the PID Act and approved by the Town Council that confer a special benefit to property in the District. The District is not a separate political subdivision of the State and is governed by the Town Council. A map of the property within the District is included on page v hereof.

### **Powers and Authority**

Pursuant to the PID Act, the Town may establish and create the District and undertake, or reimburse a developer for the costs of, improvement projects that confer a special benefit on property located within the District, whether located within the Town limits or the Town’s extraterritorial jurisdiction. The PID Act provides that the Town may levy and collect Assessments on property in the District, or portions thereof, payable in full or 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 Town has the power to undertake, or reimburse a developer for the costs of, the financing, acquisition, construction or improvement of the Authorized Improvements. See “THE AUTHORIZED IMPROVEMENTS.” Pursuant to the authority granted by the PID Act and the Creation Resolution, the Town has determined to undertake the construction, acquisition or purchase of certain road, water, sanitary sewer, drainage, and park and open space public improvements within the District and outside of the District comprising the Authorized Improvements and to finance a portion of the costs thereof through the issuance of the Bonds. The Town 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.”

## **THE AUTHORIZED IMPROVEMENTS**

The following information has been provided by the Developer. Certain of the following information is beyond the direct knowledge of the Town, the Town’s representatives and professional providers, the Town’s Financial Advisor and the Underwriter, and none of the Town, the Town’s Financial Advisor or the Underwriter

have any way of guaranteeing the accuracy of such information. The Developer has reviewed this Limited Offering Memorandum and warrants and represents that neither (i) the information under the caption “THE AUTHORIZED IMPROVEMENTS” nor (ii) the information relating to the Authorized Improvements under the caption “BONDHOLDERS’ RISKS” 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 are 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 Town and the Underwriter.

## **General**

The Authorized Improvements consist of major infrastructure benefitting the District. Proceeds of the Bonds will be used to pay for a portion of the costs of the Authorized Improvements. To the extent that the proceeds of the Bonds are insufficient to fund the Authorized Improvements, the balance of the costs of the Authorized Improvements, if any, will be paid by the Developer. The Authorized Improvements will be dedicated to the Town or LCMUA, as applicable. The Developer is responsible for the completion of the construction, acquisition or purchase of the Authorized Improvements, and the Developer or its designee will act as construction manager.

The Town will pay for project costs for a portion of the costs the Authorized Improvements from proceeds of the Bonds. The Developer will submit reimbursement requests on a monthly basis for costs actually incurred in developing and constructing the Authorized Improvements and be reimbursed in accordance with the Indenture and the PID Reimbursement Agreement. See “PLAN OF FINANCE – Development Plan and Status of Development.”

## **Description of Improvements and Status of Construction**

The Authorized Improvements, which consist of the Improvement Area #1 Improvements and the Improvement Area #2 Improvements, include road, water, sanitary sewer and storm drainage improvements benefitting the District. A summary of the Authorized Improvements is below.

### **Improvement Area #1 Improvements**

**Street Improvements.** Improvements including subgrade stabilization (including lime treatment and compaction), concrete and reinforcing steel for roadways, testing, handicapped ramps, and street lights. All related earthwork, excavation, erosion control, retaining walls, intersections, signage, lighting and re-vegetation of all disturbed areas within the right- of-way are included. The street improvements will provide street access to each Lot within Improvement Area #1. All roadway projects will be designed and constructed in accordance with the Town standards and specifications and will be owned and operated by the Town.

**Water Improvements.** Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide water service to all Lots within Improvement Area #1. The water improvements will be designed and constructed in accordance to LCMUA standards and specifications and will be owned and operated by LCMUA.

**Sanitary Sewer Improvements.** Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide wastewater service to all Lots within Improvement Area #1. The sanitary sewer improvements will be designed and constructed in accordance to LCMUA standards and specifications and will be owned and operated by LCMUA.

**Storm Drainage Improvements.** Improvements including earthen channels, swales, curb and drop inlets, RCP piping and boxes, headwalls, concrete flumes, rock rip rap, concrete outfalls, and testing as well as all related earthwork, excavation, and erosion control necessary to provide storm drainage for all Lots within Improvement Area #1. The storm drainage improvements will be designed and constructed according to the Town standards and specifications and will be maintained and operated by the Town.

### **Improvement Area #2 Improvements**

**Street Improvements.** Improvements including subgrade stabilization (including lime treatment and compaction), concrete and reinforcing steel for roadways, testing, handicapped ramps, and street lights. All related earthwork, excavation, erosion control, retaining walls, intersections, signage, lighting and re-vegetation of all disturbed areas within the right-of-way are included. The street improvements will provide street access to each Lot within Improvement Area #2. All roadway projects will be designed and constructed in accordance with the Town standards and specifications and will be owned and operated by the Town.

**Water Improvements.** Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide water service to all Lots within Improvement Area #2. The water system improvements will be designed and constructed in accordance to LCMUA standards and specifications and will be owned and operated by LCMUA.

**Sanitary Sewer Improvements.** Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide wastewater service to all Lots within Improvement Area #2. The sanitary sewer improvements will be designed and constructed in accordance to LCMUA standards and specifications and will be owned and operated by LCMUA.

**Storm Drainage Improvements.** Improvements including earthen channels, swales, curb and drop inlets, RCP piping and boxes, headwalls, concrete flumes, rock rip rap, concrete outfalls, and testing as well as all related earthwork, excavation, and erosion control necessary to provide storm drainage for all Lots within Improvement Area #2. The storm drainage improvements will be designed and constructed according to the Town standards and specifications and will be maintained and operated by the Town.

The following table reflects the total expected costs of the Authorized Improvements:

Authorized Improvements	Improvement Area #1		Improvement Area #2	Estimated Cost
	Phase #1	Phase #2A	Phase #2B	All Phases
Roadway improvement costs	\$1,399,061	\$261,540	\$419,330	\$2,079,931
Water distribution system improvement costs	376,950	100,845	147,805	625,600
Sanitary sewer improvement costs	403,820	94,360	19,550	517,730
Storm drainage improvements	195,879	2,000	79,284	277,163
Other soft and miscellaneous costs	322,076	205,600	175,000	702,676
<b>Total Estimated Authorized Improvement Costs</b>	<b>\$2,697,786</b>	<b>\$664,345</b>	<b>\$840,969</b>	<b>\$4,203,100</b>

The cost of the Authorized Improvements is expected to be approximately \$4,203,100. The Town will use proceeds of the Bonds to pay for a portion of the costs of construction of the Authorized Improvements and, to the extent that the proceeds of the Bonds are insufficient for the cost of the Authorized Improvements, the balance of the costs of the Authorized Improvements will be paid by the Developer.

The Developer has constructed the Improvement Area #1 Improvements. Construction of the Improvement Area #1 Improvements benefitting Phase 1 began in September 2013 and was completed in November 2014. Construction of the Improvement Area #1 Improvements benefitting Phase 2A began in December 2017 and was completed in May 2018. Construction of the Improvement Area #2 Improvements is expected to begin in October 2018 and be completed by May 2019. Development of the District is expected to be completed in 2Q 2019. See “THE DEVELOPMENT—Development Plan and Status of Development” herein.

Additionally, the Developer has begun construction of certain private improvements located within the boundaries of the District and consisting of an approximately 2,200 sq. ft. pool and related facilities and equestrian

stables with 14 stalls (collectively, the “Private Improvements”) to serve homeowners within both the District and PID No. 1, who both enjoy access to the Private Improvements. Construction of the Private Improvements is expected to be completed in August 2018. The costs of such Private Improvements are to be paid entirely by the Developer without reimbursement by the Town and are not subject to the levy of any Assessments.

### **Ownership and Maintenance of the Authorized Improvements**

The Authorized Improvements consisting of road improvements and storm drainage improvements will be dedicated to and accepted by the Town in accordance with Town standards and specifications as outlined in the PID Reimbursement Agreement. The Town will provide for the ongoing operation, maintenance and repair of such Authorized Improvements constructed and conveyed, as outlined in the Service and Assessment Plan. The Authorized Improvements consisting of water system and sanitary sewer improvements will be dedicated to and accepted by the LCMUA in accordance with LCMUA standards and specifications. LCMUA will provide for the ongoing operation, maintenance and repair of such Authorized Improvements constructed and conveyed to LCMUA.

The Private Improvements will be dedicated to and accepted by the HOA. The HOA will provide for the ongoing operation, maintenance and repair of the Private Improvements through the administration of a maintenance and operation fee and/or a property owner’s association fee to be paid by each lot owner within the District.

## **THE DEVELOPMENT**

The following information has been provided by the Developer. Certain of the following information is beyond the direct knowledge of the Town, the Town’s representatives and professional providers, the Town’s Financial Advisor, and the Underwriter, and none of the Town, the Town’s Financial Advisor or the Underwriter have any way of guaranteeing the accuracy of such information. The Developer has reviewed this Limited Offering Memorandum and warrants and represents that neither (i) the information under the caption “THE DEVELOPMENT” nor (ii) the information relating to the Developer’s plan for developing the land within the District to be known as “Steeplechase” (the “Development”) under the caption “BONDHOLDERS’ RISKS” 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 are 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 Town and the Underwriter.

### **Overview**

The Development, commonly known as “Steeplechase”, is a master-planned residential community consisting of approximately 150 acres, of which approximately 38.9197 acres of the Development are located within the PID No. 1 (commonly known as “Steeplechase North”) and wholly within the extraterritorial jurisdiction of the Town. The remaining 111.424 acres of the Development are contained within the District (commonly known as “Steeplechase South”).

The Development is located near the intersection of Harbor Road and Turbeville Road. The Town is located in the north-central region of the Dallas-Fort Worth-Arlington TX Metropolitan Statistical Area (the “DFW MSA”). The Town and the surrounding area are poised for growth as the overall DFW MSA continues its growth trajectory. The Development is primarily located within the Lake Dallas Independent School District.

The Developer develops infrastructure and community improvements (amenities, parks, trails, etc.) and sells commercial lots to developers and residential lots to high-quality production homebuilders under lot takedown contracts. The Development will include a variety of parks, trails, an amenity center, an equestrian center and open space areas for its residents and others to enjoy.

### **Development Plan and Status of Development**

The Developer commenced construction of the PID No. 1 Improvements benefitting PID No. 1 in 2013 and completed development of PID No. 1 in 2016. All of such improvements have been dedicated to and accepted by the Town and LCMUA, as applicable, through the recording of subdivision plats in the real property records of

Denton County. Individual homeowners began purchasing the completed homes within PID No. 1 beginning in October 2014.

The District is composed of approximately 111.424 acres which are being developed as the second phase of development within the Development. The Developer's plans consist of the development of the District in a three phases, designated as Phase 1, Phase 2A and Phase 2B. The Developer has constructed the Improvement Area #1 Improvements consisting of certain street improvements, water system improvements, sanitary sewer improvements and storm drainage improvements that will benefit Improvement Area #1. Construction of the Improvement Area #1 Improvements benefitting Phase 1 began in September 2013 and was completed in November 2014. Construction of the Improvement Area #1 Improvements benefitting Phase 2A began in December 2017 and was completed in May 2018.

The Developer will construct the Improvement Area #2 Improvements consisting of certain street improvements, water system improvements, sanitary sewer improvements and storm drainage improvements that will benefit Improvement Area #2. Construction of the Improvement Area #2 Improvements is expected to begin in October 2018 and be completed by May 2019. Development of the District is expected to be completed in 2Q 2019.

The Developer executed lot contracts with MMLC Texas Builders, LLC d/b/a Oakdale Homes, which was subsequently assigned to AVH DFW, LLC ("AVH"), CalAtlantic, Megatel Homes III, LLC ("Megatel") and one private party for all 131 lots in the District. As of May 22, 2018, seventy-nine (79) of the lots in Improvement Area #1 have been delivered to builders and the private party (one lot). The remaining twenty-three (23) lots in Improvement Area #1 and the twenty-three (23) lots in Improvement Area #2 will be taken down in accordance with the terms of the Merchant Builder Lot Purchase and Sale Agreements (as defined herein). As of May 22, 2018, approximately 56 homes have been constructed in the District (including 2 model homes), with 54 of such homes being sold to end users. Home sales in Improvement Area #1 of the District began in 2015. See – Merchant Builder Lot Purchase and Sale Agreements" below.

The Developer's current expectations regarding estimated home prices in the District are as follows:

#### **ESTIMATED HOME PRICES**

<u>Improvement Area</u>	<u>Phase</u>	<u>Quantity</u>	<u>Base Lot Price</u>	<u>Average Base Home Price*</u>
1	1	85	\$90,000-130,000	\$475,551
	2A	23	\$90,000-130,000	\$475,551
2	2B	<u>23</u>	\$90,000-130,000	\$475,551
	Total	131		

\* Estimated home values based on average Assessed Value reported for homes in the District through data from the Denton County Central Appraisal District.

#### **Merchant Builder Lot Purchase and Sale Agreements**

The Developer has entered into Lot Purchase and Sale Agreements (the "Merchant Builder Lot Purchase and Sale Agreements") with CalAtlantic, AVH and Megatel. Collectively, these homebuilders have contracted to purchase all 130 of the 131 lots in the District. The remaining lot in the District was sold to a private party. The feasibility period under the Lot Purchase and Sale Agreements has expired, and therefore, the earnest money deposited with the Developer to hold these lot contracts is a hard deposit and no longer refundable.

The following table provides the number of lots by lot type and the take down schedule under contract with each homebuilder in the District.



### HOMEBUILDER CONTRACTS

<u>Homebuilder</u>	<u>Total Lots</u>	<u>Lots per Takedown</u>	<u>Allocation of Lots</u>			<u>Lots Delivered as of May 22, 2018</u>	<u>Remaining Lots to be Delivered as of May 22, 2018</u>
			<u>Improvement Area #1</u>	<u>Improvement Area #2</u>			
			<u>Phase #1</u>	<u>Phase #2A</u>	<u>Phase #2B</u>		
Megatel	57	6 lots at initial close; 4 lots on or before 150 days; 4 lots per 120 days thereafter	57	0	0	28	0
CalAtlantic	15	N/A	15	0	0	15	0
AVH	58	2 lots at close; 2 lots on or before 180 days; 2 lots per quarter thereafter	12	23	23	35	0
Total Under Contract	130*		84	23	23	78	52

\*excludes one lot sold to a private party.

The Developer's current expectations regarding sale of lots of the remaining lots in the District in are shown in table below.

### EXPECTED ABSORPTION OF REMAINING LOTS IN THE DISTRICT

<u>Expected Final Sale Date</u>	<u>Improvement Area #1</u>	<u>Improvement Area #2</u>	<u>Total Lots</u>
2018	8	--	8
2019	21	5	26
2020	--	12	12
2021	--	<u>6</u>	<u>6</u>
Total	29	23	52

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### **Expected Build-Out of the Development**

The Developer expects to complete the Development in three phases. The following tables provide the Developer's expected build-out schedule of the Development for the District.

#### **EXPECTED BUILD-OUT SCHEDULE OF THE DEVELOPMENT**

<u>Phase</u>	<u>Single-Family Lots</u>	<u>Expected Infrastructure Completion Date</u>	<u>Expected Final Lot Sale Date</u>
1	85	November 2014	May 2019
2A	23	May 2018	November 2019
2B	<u>23</u>	May 2019	October 2020
Total	131		

### **Photographs of Existing Development in the District**

Photographs of development within the District are attached hereto as APPENDIX F.

### **Concept Plan**

Below is a map of each of the phases within the District and the current conceptual land use plan of the Development as approved by the Town. The concept plan is conceptual and subject to change consistent with the zoning regulations set forth for the District. See "—Zoning/Permitting" below.

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## **Zoning/Permitting**

The District is currently zoned as a planned development pursuant to Ordinance Number 2011-11-675 adopted by the Town (the “Zoning Ordinance”). The Zoning Ordinance allows certain residential uses and establishes guidelines pertaining to purpose, height, area, and setbacks. Because the District lies within the corporate limits of the Town, the Town’s zoning and subdivision regulations control the aspects of development not specifically set forth in the Zoning Ordinance.

## **Assessed Value in the District**

According to the Denton Central Appraisal District, the 2017 net taxable assessed value of property located within the District is \$33,099,362. Based on the total proposed debt after issuance of the Bonds of \$4,220,000\*, the estimated value-to-lien ratio of lots in the District is approximately 7.84\* to 1 on average.

## **Amenities**

The Developer has constructed the Private Improvements certain amenities including an approximately 2,200 sq. ft. pool and related facilities and equestrian stables with 14 stalls to serve the Development. The Amenity Center will include a main pool, restrooms and a parking lot. The Private Improvements to serve homeowners within both the District and PID No. 1, who both enjoy access to the Private Improvements. The costs of such Private Improvements were paid entirely by the Developer without reimbursement by the Town.

## **Education**

The Lake Dallas Independent School District (“LDISD”) serves the District. LDISD is adjacent to Lewisville Lake in North Texas. LDISD is 30 miles from downtown Dallas on the growing 1-35 corridor and covers 9.8 square miles in Denton County. It serves the communities of Lake Dallas, Shady Shores, Corinth and Hickory Creek. LDISD currently enrolls approximately 4,000 students in three elementary schools, one middle school and one high school. Students in the Development will attend Corinth Elementary, Lake Dallas Middle School, Lake and Dallas High School. According to the Texas Education Agency (“TEA”), LEISD received a “District Accountability Rating” of Met Standard from the TEA.

## **Utilities**

LCMUA provides both water and wastewater retail service to the property in the District. LCMUA purchases its water wholesale from the Upper Trinity Regional Water District, and LCMUA maintains its own water distribution system and wastewater collection and treatment system.

Additional utilities are provided to property owners within the District by: (1) Phone/Data – Century Link; (2) Electric – Oncor; (3) Cable - Century Link; and (4) Natural Gas - Atmos Energy.

## **Existing Mineral Rights, Easements and Other Third Party Property Rights**

The County is located within the Barnett Shale, a natural gas shale “play” overlying a portion of the Dallas-Fort Worth Metroplex, in which proven reserves of oil and natural gas have been subject to substantial development activity in the past decade due in part to advancements in drilling technology such as fracking.

Third parties hold title to certain rights applicable to real property within and around the District, including reservations of mineral rights and royalty interests and easements (collectively, the “Third Party Rights”) pursuant to various instruments in the chain of title for various tracts of land within and immediately adjacent to the District. Certain of the Third Party Rights provide mineral rights owners a right to enter onto the surface of the District and use the surface to explore, develop, drill, produce or extract minerals within the District. In particular, pad sites containing active oil and gas wells are located in tracts of land immediately adjacent to the District. The Developer expects such development activity to continue. Certain state and local laws, including rules and regulations of the Texas Railroad Commission, may substantially restrict the ability of mineral rights owners to explore, develop or otherwise exercise their Third Party Rights.

Although the Developer does not expect the above-described Third Party Rights, or the exercise of such rights or any other third party 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 Third Party Property Rights.”

## **Environmental**

Next-Gen Solutions, Inc. (“NSI”) performed a Phase I Environmental Site Assessment dated June 8, 2012 (the “Phase One ESA”) of the District (the “Subject Property”). Based on the information presented in the Phase One ESA, there were no Recognized Environmental Conditions identified in the District.

The Developer obtained a Letter of Map Revision on June 17, 2015 relating to certain areas in the District. After such Letter of Map Revision, according to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), Community Panel Number 41821C0535G and 41821C0395G, dated April 18, 2011, a portion of the District consisting of 19.4 acres lies in Zone AE and a portion of the District consisting of 92.0 acres is located in Zone X. Zone X corresponds to areas with a minimal flood hazard. Zone AE corresponds to areas with 1% annual chance high risk flood hazard.

### Endangered Species

According to the website for the United States Fish and Wildlife Service, the golden cheeked warbler, the black-capped vireo, least tern and the whooping crane are endangered species in Denton County. The Developer is not aware of any endangered species located on District property.

## **THE DEVELOPER**

The following information has been provided by the Developer. Certain of the following information is beyond the direct knowledge of the Town, the Town’s Financial Advisor and the Underwriter, and none of the Town, the Town’s Financial Advisor or the Underwriter have any way of guaranteeing the accuracy of such information. The Developer has reviewed this Limited Offering Memorandum and warrants and represents that neither (i) the information herein under the caption “THE DEVELOPER” nor (ii) the information relating to the Developer under the subcaption “BONDHOLDERS’ RISKS” 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 are made, not misleading.

## **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 Bonds. 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 the Developer**

The Developer is an affiliate of Centurion American Development Group (“CADG”) and was created by CADG 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 Town 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. The Developer's ability to make full and timely payments of Assessments or taxes will directly affect the Town's ability to meet its obligation to make payments on the Bonds.

Since 1990, CADG has developed over 20,000 single-family lots in dozens of communities surrounding North Texas. It has worked closely with investors, land-owners, financial institutions, and vendors to acquire over 15,000 acres of land inventory for a diverse mix of developments in size and scope. CADG's communities include amenities such as parks, golf courses, water parks themes, and hiking and biking trails. Over the past twenty years, CADG has demonstrated the ability to successfully deliver master-planned communities that have been recognized in the real estate industry.

Mr. Mehrdad Moayedi has ultimate control of CADG and its affiliates. CADG maintains a staff of approximately 25 employees. CADG creates single-asset limited liability companies to own development sites and contracts with developers and other professionals in the delivery of its communities.

In addition, CADG works closely with local municipalities, commercial developers, and public school systems as part of its overall master plan. CADG works with North Texas' top builders to deliver the latest concepts ranging from upscale, luxury homes in secluded neighborhoods to affordable housing communities for first-time home buyers. CADG purchases and develops land in prime locations with the right mix of natural land settings, strong job growth, good school systems and access to local community shopping. A snapshot of some of the communities CADG has developed is presented below.

<b><u>Name</u></b>	<b><u>County</u></b>	<b><u>Property Type</u></b>	<b><u>Starting Home Price</u></b>
*Entrada at Westlake	Tarrant	Mixed Use	\$450,000
River Walk at Central Park	Denton	Mixed Use	\$375,000
The Villas at Twin Creeks	Collin	Single Family	\$230,000
Kensington Gardens	Dallas	Single Family	\$500,000
Water's Edge at Hogan's Glen	Denton	Single Family	\$480,000
Montalcino Estates	Denton	Single Family	\$700,000
Estancia Estates	Denton	Single Family	\$400,000
Highlands Glen	Denton	Single Family	\$300,000
The Highlands at Trophy Club	Denton	Single Family	\$250,000
Water's Edge	Denton	Single/Multifamily	\$300,000
Williamsburg	Rockwall	Single Family	\$150,000
Crestview at Prosper Creek	Collin	Single Family	\$250,000
Palomar Estates	Tarrant	Single Family	\$750,000
Estancia	Tarrant	Single Family	\$450,000
Verandah	Rockwall	Single Family	\$100,000
Terracina	Denton	Single Family	\$350,000
The Resort on Eagle Mountain Lake	Tarrant	Single/Multifamily	\$250,000
Travis Ranch	Kaufman	Single Family	\$150,000
Carter Ranch	Collin	Single Family	\$150,000
Frisco Hills	Denton	Single Family	\$200,000
Rolling Meadows	Tarrant	Single Family	\$100,000
Waterfront at Enchanted Bay	Tarrant	Single Family	\$150,000
Thornbury	Travis	Single Family	\$100,000
Rough Hollow	Travis	Single Family	\$550,000
Lexington Parke	Travis	Single Family	\$100,000
Villages of Woodland Springs	Tarrant	Single Family	\$150,000
Spring Creek	Tarrant	Single Family	\$100,000
Silver Ridge	Tarrant	Single Family	\$150,000
Sendera Ranch	Tarrant	Single Family	\$100,000
Rosemary Ridge	Tarrant	Single Family	\$100,000
Llano Springs	Tarrant	Single Family	\$150,000
Hills of Lake Country	Tarrant	Single Family	\$150,000

<b><u>Name</u></b>	<b><u>County</u></b>	<b><u>Property Type</u></b>	<b><u>Starting Home Price</u></b>
Garden Springs	Tarrant	Single Family	\$100,000
Dominion Estates	Tarrant	Single Family	\$100,000
Deer Creek North	Tarrant	Single Family	\$100,000
Creskide of Crowley	Tarrant	Single Family	\$100,000
Bonds Ranch	Tarrant	Single Family	\$150,000
Crown Valley	Parker	Single Family	\$150,000
Windmill Farms	Kaufman	Single Family	\$100,000
Knox Ranch	Hood	Mixed Use	\$450,000
Windsor Hills	Ellis	Single Family	\$250,000
Saddlebrook	Ellis	Mixed Use	\$100,000
The Villas of Indian Creek	Denton	Single Family	\$150,000
*Valencia on the Lake	Denton	Single/Multifamily	\$100,000
Shale Creek	Wise	Single Family	\$100,000
Shahan Prairie	Denton	Single Family	\$150,000
Frisco Ranch	Denton	Single Family	\$150,000
Brookfield	Denton	Single Family	\$100,000
Sweetwater Crossing	Collin	Single Family	\$100,000
Prestwyck	Collin	Mixed Use	\$190,000
Oak Hollow	Collin	Single Family	\$100,000
Northpointe Crossing	Collin	Single Family	\$100,000
McKinney Greens	Collin	Single Family	\$150,000
The Dominion	Dallas	Multifamily	\$250,000
Three Thousand Flora	Dallas	Multifamily	\$250,000
Residences at the Stoneleigh	Dallas	Multifamily	\$750,000
Mountain Creek	Dallas	Single Family	\$350,000
Chateaus of Coppell	Dallas	Single Family	\$350,000
The Bridges at Preston Crossings	Parker	Single Family	\$250,000
*Winn Ridge	Denton	Single Family	\$250,000
*Sutton Fields	Denton	Single Family	\$350,000
*Hickory Creek	Denton	Single Family	\$250,000
*Northlake Estates	Denton	Single Family	\$300,000
*Creeks of Legacy	Denton/Collin	Single Family	\$350,000
University Place	Dallas	Single Family	\$450,000
*Lakewood Hills	Denton	Single Family	\$450,000

\* — developments utilizing public improvement districts

## **Executive Biography**

Mehrdad Moayedi is the President and Chief Executive Officer of CADG. Mr. Moayedi has more than twenty-five years of direct experience in the development industry. With a background in construction and real estate, Mr. Moayedi employs a comprehensive approach to each CADG development. Mr. Moayedi has extensive knowledge of the interconnection of all parts of residential real estate development.

Before forming JBM Development in 1986, Mr. Moayedi completed several construction and fee development projects in Northeast Tarrant County, Texas subdivisions as well as various construction and remodeling projects. JBM Development, along with Centurion American Custom Homes, formed CADG in 1990. The company has become broadly diversified, with residential developments ranging from upscale high-rise residential towers to affordable housing communities for first-time home buyers.

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

**Acquisition** The Developer purchased the property within the District and in PID No. 1 on December 19, 2011 from AS Gold, L.P.



**Acquisition Financing.** In connection with acquisition of property within the District and PID No. 1, the Developer obtained a loan from A.S. Gold, L.P. The Developer subsequently refinanced the loan from A.S. Gold, L.P. with a loan made by Ciera Bank (the “Acquisition Lender”) in the amount of \$6,500,000 made pursuant to a Loan Agreement dated February 27, 2015 (the “Acquisition Loan”). The Acquisition Loan bears interest at a rate of 5.75% or the maximum rate allowed by law. The Acquisition Loan initially matured on February 27, 2018. The maturity date of the Acquisition Loan was extended on May 8, 2018, effective as of February 27, 2018, and currently matures on November 27, 2018. Payments under the Acquisition Loan are interest only payments due monthly, with the full principal of the Acquisition Loan payable at maturity. The Acquisition Loan is secured by a first lien deed of trust on all property within the District (except for property released from such deed in connection with the delivery of lots pursuant to the Merchant Builder Lot Purchase and Sale Agreements), and is personally guaranteed by Mehrdad Moayed. The Acquisition Loan is cross-defaulted with the Development Loan (as defined below). The unpaid principal balance of the Acquisition Loan as of May 8, 2018 was \$1,176,477.94.

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.

**Development Financing.** In connection with the development of property within the District, including construction of most of the Authorized Improvements, the Developer obtained a loan made by from United Development Funding IV (the “Development Lender”) in the original principal amount of \$18,200,000 made pursuant to a Loan Agreement dated April 8, 2014 (the “Development Loan”). The Development Loan bears interest at a rate of 13.0%. The Development Loan initially matured on April 8, 2017. The maturity date of the Development Loan was extended on May 16, 2018, effective April 8, 2018, and currently matures on April 9, 2019. Payments under the Development Loan are interest only payments due monthly, with the full principal of the Development Loan payable at maturity. The Development Loan is secured by a deed of trust on all property within the District except for property released from such deed in connection with the delivery of lots pursuant to the Merchant Builder Lot Purchase and Sale Agreements. The Development Lender has subordinated its interest in such property to the lien for the Acquisition Loan. The Development Loan is cross-defaulted with the Acquisition Loan. The unpaid principal balance of the Acquisition Loan as of April 30, 2018 was \$12,469,130.58.

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.

**Assignment of Reimbursement Rights.** In connection with acquisition and development of property within the District and PID No. 1, including construction of most of the Authorized Improvements and the Developer’s incurrence of the Acquisition Loan and the Development Loan, the Developer assigned and/or pledged its right to reimbursement (the “Assigned Reimbursement Rights”) of a portion of the costs of the Authorized Improvements to third parties.

Pursuant to the Amended and Restated Contract of Sale (“Contract of Sale”) dated November 18, 2011 by and between AS Gold, L.P., as Seller, and Centurion Acquisitions, L.P., as Purchaser (the “Developer’s predecessor in interest”), the consideration to be paid for the purchase of the property described therein was \$11,000,000. Included as an item to be delivered by the Seller and Purchaser at closing was the execution of a reimbursement agreement (the “A.S. Gold Reimbursement Agreement”), the form of which A.S. Gold Reimbursement Agreement was attached as an exhibit to the Contract of Sale. The terms of the A.S. Gold Reimbursement Agreement were to survive closing on the sale of the Property. The A.S. Gold Reimbursement Agreement was executed and delivered and provided that the Purchaser would pay to the Seller \$1,000,000 from future reimbursement proceeds from the sale of bonds or other reimbursement funds received from the District (the “A.S. Gold Reimbursement Obligation”). The A.S. Gold Reimbursement Agreement provides that the parties intended the A.S. Gold Reimbursement Obligation to be additional consideration for the conveyance of the Property. A Memorandum of the A.S. Gold Reimbursement Agreement was filed of record in the Denton County property records on August 17, 2015 as instrument number 2015-94143. A Partial Assignment relating to the payment of the A.S. Gold Reimbursement Obligation from moneys to be received by the Developer under the PID Reimbursement Agreement was filed in the Denton County property records on October 10, 2017 as instrument number 125354. As of May 22, 2018, the unpaid balance of the A.S. Gold Reimbursement Obligation was \$660,807.61



After reimbursement of the Developer from proceeds of the Bonds, the Town and the Trustee will have no further obligation to reimburse the Developer, and the Assigned Reimbursement Rights have no effect on the Town's obligation to reimburse the Developer from proceeds of the Bonds. The Developer does not expect the existence or exercise of the Assigned Reimbursement Rights 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 District, the Town's Financial Advisor, the Underwriter, the Developer or P3Works, LLC provide any assurances as to such Developer expectations.

### **THE PID ADMINISTRATOR**

The Town has selected P3Works, LLC as the initial PID Administrator. Prior to delivery of the Bonds, the Town will enter into an agreement for administration of the District 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 special taxing district services relating to the formation and administration of public improvement districts, and is based in Keller, Texas.

The PID Administrators 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 authorized improvement costs.

The information regarding the Service and Assessment Plan in this Limited Offering Memorandum has been provided by the PID Administrator as the PID Administrator for the Town, and has been included in reliance upon the authority of such firm as an expert in the field of development planning and finance.

### **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 TOWN 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 TOWN 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 TOWN 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 TOWN'S TAXING POWER TO PAY THE PRINCIPAL OF THE BONDS OR THE INTEREST OR REDEMPTION PREMIUM, IF ANY, THEREON. THE TOWN SHALL HAVE NO LEGAL OR MORAL OBLIGATION TO PAY THE BONDS OUT OF ANY FUNDS OF THE TOWN OTHER THAN THE PLEDGED REVENUES, AND OTHER FUNDS COMPRISING THE TRUST ESTATE.

The ability of the Town to pay debt service on the Bonds as due is subject to various factors that are beyond the Town's control. These factors include, among others, (a) the ability or willingness of property owners within the District to pay Assessments levied by the Town, (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 lots within the District, it being understood that poor economic conditions within the Town, State and region may slow the assumed pace of sales of such lots.

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 Town or the Town'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 Town 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 Special 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 Town 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 — Remedies and Bankruptcy" herein.

Upon an ad valorem tax lien foreclosure event of a property within the District, any lien securing an Assessment that is 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.

Under Texas 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. As of the date of adoption of the Assessment Ordinance for Improvement Area #1, no such homestead rights was claimed. As of the date of adoption of the Assessment Ordinance for Improvement Area #2, no such homestead rights will have been claimed. Furthermore, the Developer is not eligible to claim homestead rights and the Developer has represented that it owned all property within the District as of the date of the Assessment Ordinance for the Improvement Area #1 Assessments, and that it owned all property within Improvement Area #2 of the District as of the date of the Assessment Ordinance for the Improvement Area #2 Assessments. Consequently, there are and can be no homestead rights on the Assessed Parcels superior to the Assessment Lien and, therefore, the Assessment Liens may be foreclosed upon by the Town.

Failure by owners of the parcels to pay Annual Installments when due, depletion of the Reserve Fund, delay in foreclosure proceedings, or inability of the Town 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 Town to make full or punctual payments of debt service on the Bonds.

THE ASSESSMENTS WILL 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 WILL BE PERSONAL OBLIGATIONS OF AND CHARGES AGAINST THE OWNERS OF PROPERTY LOCATED WITHIN THE DISTRICT.

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

In prior years, the real estate market 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 resulted from higher interest rates, at a time when many subprime mortgages were due to reset their interest rates, which served to reduce the availability of mortgages to many potential home buyers, making entry into the real estate market difficult. A similar downturn, or other downturn in the real estate markets could affect the timing of the sale of residential homes within the District. These downturns in the real estate market and other factors beyond the control of the Developer, including general economic conditions, may impact the timing of lot and home sales within the District.

## **Competition**

The housing industry in the Dallas-Fort Worth area is very competitive, and none of the Developer, the Town, the Town's Financial Advisor or the Underwriter can give any assurance that the building programs which are planned will ever commence. The competitive position of the Developer in the sale of developed lots or of any other homebuilder in the construction and sale of single-family residential 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.

## **Loss of Tax Exemption**

The Indenture contains covenants by the Town 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 Town 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 Town to foreclose on the lien of a delinquent unpaid Special 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 landowners 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 Reserve Account 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 Account of the Reserve Fund, the amount in the Reserve Account of the Reserve Fund is less than the Reserve Fund 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 such 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 take into account the possible liability of the Developer for the remediation of a hazardous substance condition on the property in the District. The Town has not independently verified, and is not aware, that the Developer has such a current liability with respect to its property; however, it is possible that such liabilities do currently exist and that the Town 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. The actual occurrence of any of these possibilities could significantly negatively affect the value of a parcel that is realizable upon a foreclosure.

See “THE DEVELOPMENT – Environmental” for discussion of the Phase I ESA performed on certain 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.

## **Bondholders’ Remedies and Bankruptcy**

In the event of default in the payment of principal or of interest on the Bonds or the occurrence of any other Event of Default under the Indenture, 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 then outstanding under the Indenture *shall proceed*, to protect and enforce the rights of the bondholders 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 Town’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 Town. In this regard, should the Town file a petition for protection from creditors under federal bankruptcy laws, the remedy of mandamus or the right of the Town 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 Town 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.

Because it is unclear whether the Texas legislature has effectively waived the Town’s sovereign immunity from a suit for money damages in the absence of Town action, the Trustee or the owners of the Bonds may not be able to bring such a suit against the Town 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 Town 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).

### **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.

### **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 Town. The Town is authorized under Texas law to voluntarily proceed under Chapter 9 of the Federal Bankruptcy Code, 11 U.S.C. 901-946. The Town 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 Town decides in the future to proceed voluntarily under the Federal Bankruptcy Code, the Town 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 Town 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 Town’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 development projects comparable to that of the Development.

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

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, 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 lot purchase contracts are not met. Failure to meet the lot purchase contract's conditions allows the applicable lot purchaser to terminate its obligation to purchase lots from the Developer and obtain its earnest money deposit back. See "THE DEVELOPMENT – Expected Build-Out of the Development" 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 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.

## **Dependence Upon Developer**

The Developer currently has the obligation for payment of 39.6% of the total Assessments in the District. The ability of the Developer to make full and timely payment of the Assessments will directly affect the ability of the Town to meet its debt service obligations with respect to the Bonds. The only assets of the Developer are the land within the District, related permits and development rights and minor operating accounts.

The source of funding for future land development activities and infrastructure construction to develop the remaining lots proposed for the District also consists of proceeds of lot sales, as well as possible bank financing and equity contributions by the Developer. There can be no assurances given as to the financial ability of the Developer to advance any funds to the Town to supplement revenues from the Assessments if necessary, or as to whether the Developer will advance such funds.

Moreover, the Town will pay the Developer, or the Developer's designee, from proceeds of the Bonds for project costs actually incurred in developing and constructing the Authorized Improvements within the District. See "THE AUTHORIZED IMPROVEMENTS — General" and "THE DEVELOPMENT — Development Plan." There can be no assurances given as to the financial ability of the Developer to complete such improvements.

The Developer will not guarantee or otherwise be obligated to pay debt service on the Bonds. However, the completion of the Development is dependent upon the receipt of funds from the Developer in addition to

proceeds of the Bonds. In addition, payment of the Assessments on the Assessed Parcels will initially be the responsibility of the Developer as the initial owner of the Assessed Parcels.

### **Exercise of Third Party Property Rights**

As described herein under “THE DEVELOPMENT — Existing Mineral Rights, Easements and Other Third Party Property Rights”, third parties hold title to certain Third Party Rights applicable to real property within and around the District, including reservations of mineral rights and royalty interests and easements, pursuant to various instruments in the chain of title for various tracts of land within and around the District.

The Developer does not expect the existence or exercise of such Third Party Property Rights or other third party 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 District, the Town’s Financial Advisor, the Underwriter, the Developer or P3Works, LLC provide any assurances as to such Developer expectations.

### **Potential Future Changes in State Law Regarding Public Improvement Districts**

On February 27, 2017, HB 2435 was introduced into the Texas House of Representatives (the “Texas House”) to modify the PID Act. The legislation’s intent was to clarify and improve the PID Act, and proposed changes included requiring developers to provide more disclosure to home purchasers within public improvement districts, adding improvements that could be financed through public improvement districts and memorializing the procedure under which a local government entity could add land to a public improvement district. The bill passed the Texas House. Upon receipt of HB 2345 from the Texas House, the Intergovernmental Relations Committee of the Texas Senate proposed substitute bill that would have significantly changed the PID Act. The Senate committee proposal would have imposed certain feasibility requirements on certain municipalities and counties prior to issuance of bonds or obligations wholly or partially payable from or secured by special assessments. Specifically, prior to issuance, the governing bodies of municipalities with a population of 250,000 or less and counties with a population of 1,000,000 or less would have been required to find that (i) all underground water, wastewater, and drainage facilities and roadways necessary to serve the district were at least 95% complete and (ii) the houses or other buildings on the real property liable for assessments necessary to support payment of the bonds or obligations were at least 25% complete. Such changes, if enacted, would have fundamentally altered the use of public improvement districts by municipalities and counties as a financing mechanism for public improvements. The Senate committee proposal was not formally introduced, and no further action on HB 2345 occurred during the 2017 legislative session.

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 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 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 nor has any additional legislation been passed or proposed in the Texas legislature.

It is impossible to predict what new proposals may be presented regarding the PID Act and the issuance of special assessment bonds during upcoming legislative sessions, whether such new proposals or any previous proposals regarding the same will be adopted by the Texas Senate and House of Representatives and signed by the Governor, and, if adopted, 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.

### **Developer Principal Financial Relationships and Other Matters Relating to Developer Affiliates**

*Investigation of United Development Funding.* Mehrdad Moayedi through his company, CADG, and various subsidiaries, is involved in the development of 70 master planned residential community projects comprised



of nearly 25,000 homes either completed, under construction or planned for future construction and commercial/mixed use projects across north Texas comprising approximately \$2 billion in value at build out (the “Moayeddi Projects”). Approximately 42% of the Moayeddi Projects (such projects, the “Moayeddi UDF Projects”) have previously been developed using funding provided by various entities associated with United Development Funding (“UDF”), including United Development Funding IV, a publicly traded real estate investment trust, (“UDF IV”).

Following a series of allegations by Kyle Bass of Hayman Capital Management, L.P., that UDF IV is a Ponzi scheme, UDF has come under federal investigation. On February 18, 2016, the Federal Bureau of Investigation (the “FBI”) raided the headquarters of UDF in Grapevine, Texas, issued subpoenas to UDF executives, and removed materials from the UDF offices. No representations or assurances can be made with respect to the outcome of the FBI’s investigation of UDF.

On May 17, 2016, the Audit Committee of UDF IV issued a press release with the results of an investigation of the UDF IV that was conducted by Thompson & Knight LLP with assistance from forensic accountants. According to that press release, the Audit Committee did not find any evidence of: (i) fraud or misconduct by UDF IV, its management or advisor; (ii) to substantiate the allegations of Ponzi scheme that were made by Kyle Bass, of Hayman Capital, L.P.; or (iii) deception of investors and auditors. The investigation did not find any deficiency in the management team of UDF IV, its advisor or asset manager.

On October 18, 2016, NASDAQ notified UDF IV that it would delist UDF IV’s shares after UDF IV’s failure to file federally required annual and quarterly reports. Trading of UDF IV shares on NASDAQ was suspended on October 19, 2016. NASDAQ reports that UDF IV also disclosed that the U.S. Securities and Exchange Commission (the “SEC”) issued a Wells Notice against UDF IV, an indication that SEC staff has made a preliminary determination to recommend an enforcement action against UDF IV for violation of certain provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. Certain individuals associated with UDF IV and its advisor also received similar Wells Notices. No representations or assurances can be made with respect to the outcome of the SEC’s investigation of UDF IV, including whether any charges will be filed or against whom such charges may be brought.

In connection with a non-public governmental fact-finding investigation of UDF, CADG and certain of its employees were contacted in mid-2016 to provide certain information to such governmental fact-finders, including the SEC, as a part of an information gathering process on the investigation of UDF. CADG and its employees have fully cooperated and continue to cooperate in connection with the information gathering process, including a document hold request from the SEC. Neither CADG nor its employees have received a Wells Notice from the SEC or been provided any information that they are either targets or subjects of any governmental investigation, but no representations or assurances can be made with respect to the outcome of such fact-finding process.

The Developer, the Town and the Underwriter can make no prediction as to the ultimate result of the FBI investigation into UDF, whether the SEC will bring formal enforcement charges against UDF, or, if such enforcement charges are brought, the outcome thereof, or the affect or the result, if any, the investigation or enforcement may have on the Developer or the Developer’s ability to complete the Authorized Improvements or continue funding the Authorized Improvements or the Development.

*Class Action Suit against UDF IV, et al.* In addition, there is a class action suit, Hay, et al. v. United Development Funding IV, et al.; C.A. No. 4:16-cv-00188M-O, N.D. Tex. (Dallas Division) (the “UDF Suit”), pending on behalf of purchasers of shares in UDF IV and United Development Funding V. The plaintiffs allege that UDF violated Texas securities laws by misstatements and omissions in various securities filings, including failure to disclose financial problems and diversion of funds from new investments to prop up old projects. The plaintiffs’ made additional claims against Mehrdad Moayeddi and CADG under the Texas Securities Act based on allegations of aiding and abetting of UDF’s violations. In order to prove their claims against Moayeddi and CADG, the plaintiffs would have to show that Moayeddi and CADG assisted UDF in violating Texas securities laws with intent or reckless disregard. CADG and Moayeddi filed a Motion to Dismiss the claims against them in the UDF Suit on April 3, 2017. The damages the plaintiffs seek are in excess of \$5 million, discovery has commenced, under the UDF Suit, but CADG and Moayeddi are unable to form an opinion of probable loss.

The plaintiffs in the UDF Suit have entered a Joint Status Report on the Progress of a Global Settlement on August 31, 2017 (the “Joint Status Report”). The defendants in the UDF Suit (the “UDF Defendants”) and counsel for plaintiffs have reached an agreement whereas the UDF Defendants are producing approximately 170,000 pages of records for review by counsel for plaintiffs. Those documents were made available beginning on August 29, 2017. As a result of this continued limited discovery taking place, the UDF Defendants filed an Agreed Joint Motion to Extend the Filing of Replies in Support of UDF Defendants’ Pending Motions to Dismiss until October 30, 2017. The Court granted the Motion and extended the time for filing of replies to October 30, 2017.

The Developer, the Town and the Underwriter can make no prediction as to the ultimate result of the UDF Suit, or the impact, if any, the UDF Suit may have on the Developer or the Developer’s ability to complete the Authorized Improvements or continue funding the Authorized Improvements or the Development.

Throughout 2016 and 2017, the CADG entities associated with the Moayeddi UDF Projects have refinanced a portion of the loans made by UDF with financial entities unrelated to UDF and sold certain land holdings financed by loans from UDF and paid off the related UDF loans with the proceeds of such sales. As of December 31, 2017, the outstanding balance of loans made by UDF to CADG entities associated with the Moayeddi UDF Projects is approximately \$681,235,303. In addition, Moayeddi’s personal exposure to the UDF lending arrangements for the Moayeddi UDF Projects is limited to \$10,000,000 in the aggregate based on a personal guarantee. Such guarantee may be called upon in the event of a default under the UDF lending arrangements for the Moayeddi UDF Projects. United Development Funding IV is a lender on the project and a lienholder on property in the District. See “THE DEVELOPER — History and Financing of the District.”

Public Finance Authority Statler Hilton & Dallas Central Library Bonds. An affiliate of CADG, Commerce Statler Development, LLC (the “Centurion Affiliate”), is the developer of the Statler Hilton and Dallas Central Library redevelopment project in Dallas, Texas. The Centurion Affiliate entered into a transaction pursuant to which the Centurion Affiliate monetized a grant from the City of Dallas, which grant was to be funded through a designated portion of ad valorem tax revenues generated in a tax increment reinvestment zone located in the City of Dallas (the “TIF Grant”). In connection with the monetization transaction, the Public Finance Authority (Wisconsin) issued its \$26,533,298.50 Tax Increment Finance Grant Revenue Bonds (Statler Hilton & Dallas Central Library), Series 2016 (the “Statler Bonds”) secured by an assignment of revenues from the TIF Grant. In January 2017, the IRS commenced an audit of the Statler Bonds (the “Statler Audit”), and on July 17, 2017, the Public Finance Authority received a Form 5701-TEB, Notice of Proposed Issue (the “Notice”) that contained the proposed conclusion of the IRS that the interest on the Statler Bonds is not excluded from gross income for federal income tax purposes. The Public Finance Authority is appealing the IRS’ conclusion, but no assurance can be given regarding the outcome of such appeal. In connection with the Statler Audit, CADG and the Centurion Affiliate received, responded to, and complied with certain information requests from the IRS.

While the Developer and the Centurion Affiliate are under common control of CADG, the Centurion Affiliate does not own property in the District and is not associated with the Development or with the Bonds; however, the Developer, the City, and the Underwriter can make no prediction as to the ultimate result of the Statler Audit, or the impact, if any, of the Statler Audit may have on the Developer or the Developer’s ability to complete the Authorized Improvements or continue funding the Authorized Improvements or the Development.

## **TAX MATTERS**

### **Opinion**

On the date of initial delivery of the Bonds, McCall, Parkhurst & Horton L.L.P., Dallas, Texas, Bond Counsel to the Town, 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 Town 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 Town will rely upon (a) certain information and representations of the Town, including information and representations contained in the Town's federal tax certificate, and (b) covenants of the Town contained in the Bond documents relating to certain matters, including arbitrage and the use of the proceeds of the Bonds and the property financed or refinanced therewith. Failure by the Town to observe the aforementioned representations or covenants could cause the interest on the Bonds to become taxable retroactively to the date of issuance.

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 Town is conditioned on compliance by the Town with such requirements, and Bond Counsel to the Town 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. 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 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 Town with respect to the Bonds or the property financed or refinanced with proceeds of the Bonds. 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 Internal Revenue Service audit is commenced, under current procedures the Internal Revenue Service is likely to treat the Town 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 statutes, regulations, published rulings and court decisions, all of which are 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.

## **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 (i) the unqualified approving legal opinion of the Attorney General to the effect that the Bonds are valid and legally binding obligations of the Town under the Constitution and laws of the State, payable from the Trust Estate and, (ii) 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 Town. Winstead PC 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 Town 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 Town. The Town 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 Town under the Constitution and laws of the State. The legal opinion of Bond Counsel will further state that the Bonds, including principal thereof and interest thereon, are payable from and secured by a pledge of and lien on the Pledged Revenues. 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" (except for the last paragraph thereof), "DESCRIPTION OF THE BONDS," "SECURITY FOR THE BONDS" (except for the last paragraph under the subcaption "General"), "ASSESSMENT PROCEDURES" (except for the subcaptions "Assessment Methodology," "Assessment Amounts" AND "Improvement Area #1 Assessment Collections"), "THE DISTRICT," "TAX MATTERS," "LEGAL MATTERS — Legal Proceedings," "LEGAL MATTERS — Legal Opinions," "CONTINUING DISCLOSURE" (except for the subcaption "The Town's Compliance with Prior Undertakings" and "The Developer"), "REGISTRATION AND QUALIFICATION OF BONDS FOR SALE," "LEGAL INVESTMENTS AND ELIGIBILITY TO SECURE PUBLIC FUNDS IN TEXAS" 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 Town**

At the time of delivery and payment for the Bonds, the Town 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 overtly threatened against the Town 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 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 Town 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 Town or its authority with respect to the Bonds or any action of the Town contemplated by any documents relating to the Bonds.

### **Litigation — The Developer**

At the time of delivery and payment for the Bonds, the 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 the Developer, threatened against or affecting the Developer wherein an unfavorable decision, ruling or finding would have a material adverse effect on the financial condition or operations of the Developer or its officers 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 Development 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”).

For a description of litigation and other matters related to affiliated entities of CADG, see “BONDHOLDERS RISKS — Developer Principal Financial Relationships and Other Matters Relating to Developer Affiliates.”

## **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 Town 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 Town 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 Town would have been successful in obtaining an investment grade rating for the Bonds had application been made.

## **CONTINUING DISCLOSURE**

### **The Town**

Pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”), the Town, P3Works, LLC (the “PID Administrator”), and HTS Continuing Disclosure Services, a Division of Hilltop Securities, Inc. (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 Town (collectively, the “Town Reports”). The specific nature of the information to be contained in the Town Reports is set forth in “APPENDIX E-1 — Form of Disclosure Agreement of Issuer.” Under certain circumstances, the failure of the Town 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 Town has agreed to update information and to provide notices of certain specified events only as provided in the Disclosure Agreement of the Issuer. The Town 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 Town 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 Town 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 Town’s Compliance with Prior Undertakings**

Except as hereinafter described, during the last five years, the Town has complied in all material respects with its continuing disclosure agreements made in accordance with the Rule.

The ratings on municipal bond insurers have changed with frequency at various times in recent years and information about such changes has been publicly reported. While notices of certain rating changes of bond insurers were filed by the Town on EMMA, no assurances can be made that all Town filings with respect to changes in the ratings of municipal bond insurers have been made as required by the Rule or the Town’s prior continuing disclosure undertakings.

The Town has implemented additional policies and procedures to ensure that in the future it fully complies with its continuing disclosure undertakings made under the Rule.

## **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 Authorized 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 or the PID Administrator 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 Disclosure Agreement of the Developer is a voluntary agreement made for the benefit of the holders of the Bonds and is not entered into pursuant to the Rule.

The Developer has agreed to provide (i) certain updated information to the PID Administrator, which consultant will prepare and provide such updated information in report form and (ii) 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.

## **UNDERWRITING**

FMSbonds, Inc. (the “Underwriter”) has agreed to purchase the Bonds from the Town at a purchase price of \$\_\_\_\_\_ (the par amount of the Bonds, less a reoffering discount of \$\_\_\_\_\_ 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 Securities Act of 1933 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 Town 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 INVESTMENTS AND ELIGIBILITY TO SECURE PUBLIC FUNDS IN TEXAS**

Under the Public Security Procedures Act (Chapter 1201, Texas Government Code, as amended) 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 that have adopted investment policies and guidelines in accordance with the PFIA, the Bonds may have to be assigned a rating of at least “A” or its equivalent as to investment quality by a national rating agency before such obligations are



eligible investments for sinking funds and other public funds. See “NO RATING” above. In addition, 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 political subdivisions, and are legal security for those deposits only to the extent of their market value. No review by the Town 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 Town 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**

The Town invests its funds in investments authorized by Texas law in accordance with investment policies approved by the Town Council. Both Texas law and the Town’s investment policies are subject to change.

Under Texas law, the Town 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 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 Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor, (8) certificates of deposit and share certificates (i) issued by or through an institution that either has its main office or a branch office in the State of Texas, and are guaranteed or insured by the Federal Deposit Insurance Corporation or the National Credit Union Insurance Fund, or are secured as to principal by obligations described in the clauses (1) through (6) or in any other manner and amount provided by law for County deposits, or (ii) where (a) the funds are invested by the County through (I) a broker that has its main office or a branch office in the State of Texas and is selected from a list adopted by the County as required by law or (II) a depository institution that has its main office or a branch office in the State of Texas that is selected by the County; (b) the broker or the depository institution selected by the County 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 County; (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 County appoints the depository institution selected under (a) above, a custodian 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 County with respect to the certificates of deposit; (9) fully collateralized repurchase agreements that have a defined termination date, are fully secured by a combination of cash and obligations described in clause (1) which are pledged to the County, held in the County’s name, and deposited at the time the investment is made with the County or with a third party selected and approved by the County 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) 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 (6) 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 (6) above, clauses (12) through (14) below, or an authorized investment pool; (ii) securities held as collateral under a loan are pledged to the Town, held in the Town’s name and deposited at the time the investment is made with the Town or a third party designated by the Town; (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, (11) 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, (12) 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, (13) no-load money market mutual funds registered with and regulated by the Securities and Exchange Commission that comply with federal Securities and Exchange Commission Rule 2a-7, and (14) no-load mutual funds registered with the Securities and Exchange Commission that have an average weighted maturity of less than two years, and have a duration of one year or more and are invested exclusively in obligations described in this paragraph or have a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities. 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 in the next succeeding paragraph.

The Town 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 "AAA-m" or an equivalent by at least one nationally recognized rating service. The Town 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 Town retains ultimate responsibility as fiduciary of its assets. In order to renew or extend such a contract, the Town must do so by order, ordinance, or resolution. The Town 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.

Political subdivisions such as the Town are authorized to implement 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 (6) of the first paragraph under this subcaption, (b) irrevocable letters of credit issued by a state or national bank that is continuously rated by a nationally recognized investment rating firm not less than "A" or its equivalent, or (c) cash invested in obligations that are described in clauses (1) through (6) and (10) through (12) of the first paragraph under this subcaption, or an authorized investment pool; (ii) securities held as collateral under a loan are pledged to the governmental body, held in the name of the governmental body and deposited at the time the investment is made with the Town or a third party designated by the Town; (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.

Under Texas law, the Town 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 includes a list of authorized investments for Town funds, the maximum allowable stated maturity of any individual investment, 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 Town 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 Texas law, Town 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 investment officers of the Town shall submit an investment report detailing: (1) the investment position of the Town, (2) that all investment officers jointly prepared and signed the report, (3) the beginning market value, the ending market value and the fully accrued interest for the reporting period of each pooled fund group, (4) the book value and market value of each separately listed asset and fund type invested at the beginning and end of the reporting period by the type of asset and fund type invested, (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 strategy statements and (b) state law. No person may invest Town funds without express written authority from the Town Council.

Under Texas law the Town is additionally required to: (1) annually review its adopted policies and strategies; (2) adopt 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 Town to disclose the relationship and file a statement with the Texas Ethics Commission and the Town Council; (4) require the registered principal of firms seeking to sell securities to the Town to: (a) receive and review the Town’s investment policy, (b) acknowledge that reasonable controls and procedures have been implemented to preclude investment transactions conducted between the Town and the business organization that are not authorized by the Town’s investment policy (except to the extent that this authorization is dependent on an analysis of the makeup of the Town’s entire portfolio or requires an interpretation of subjective investment standards), and (c) deliver a written statement attesting to these requirements; (5) perform an annual audit of the management controls on investments and adherence to the Town’s investment policy; (6) provide specific investment training for the officers of the Town; (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 repurchase agreement; (8) restrict the investment in no-load mutual funds in the aggregate to no more than 15% of the entity’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 Town.

## **INFORMATION RELATING TO THE TRUSTEE**

The Town has appointed U.S. Bank National Association, 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 Town 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 Town. 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 Town'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 Town 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.

### **Source of Certain Information**

The information contained in this Limited Offering Memorandum relating to the description of the Authorized Improvements, the Development and the Developer generally and, in particular, the information included in the sections captioned "PLAN OF FINANCE — The Development Plan," "THE AUTHORIZED IMPROVEMENTS," "THE DEVELOPMENT," "THE DEVELOPER," "BONDHOLDERS' RISKS," (only as it pertains to the Developer, the Authorized Improvements and the Development), "LEGAL MATTERS — Litigation — The Developer," "CONTINUING DISCLOSURE — The Developer" and "CONTINUING DISCLOSURE — The Developer's Compliance with Prior Undertakings" has been provided by the Developer.

### **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.

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

If, subsequent to the date of the Limited Offering Memorandum, the Town 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 Town 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 Town to so amend or supplement the Limited Offering Memorandum will terminate when the Town delivers the Bonds to the Underwriter, unless the Underwriter notifies the Town on or before such date that less than all of the Bonds have been sold to ultimate customers; in which case the Town's obligations hereunder will extend for an additional period of time (but not more than 90 days after the date the Town 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 of 1933. 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 HEREIN TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE TOWN 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**

By resolution, the Town Council approved the form and content this Preliminary Limited Offering Memorandum, and the Town Council authorized this Limited Offering Memorandum to be used by the Underwriter in connection with the marketing and sale of the Bonds.

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## APPENDIX A

### GENERAL INFORMATION REGARDING THE TOWN AND SURROUNDING AREA

The following information has been provided for informational purposes only.

#### Historical Employment in Denton County (Average Annual)<sup>(1)</sup>

	Average Annual				
	2017	2016	2015	2014	2013
Civilian Labor Force	464,581	450,804	432,870	414,631	458,845
Total Employed	449,263	435,772	419,146	399,936	432,890
Total Unemployed	15,318	15,032	13,724	14,695	25,955
Unemployment Rate	3.3%	3.3%	3.2%	3.5%	5.7%

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

#### Major Employers in Surrounding Area

The major employers in the City of Denton, Texas (approximately 9 miles from the Town) are set forth in the table below.

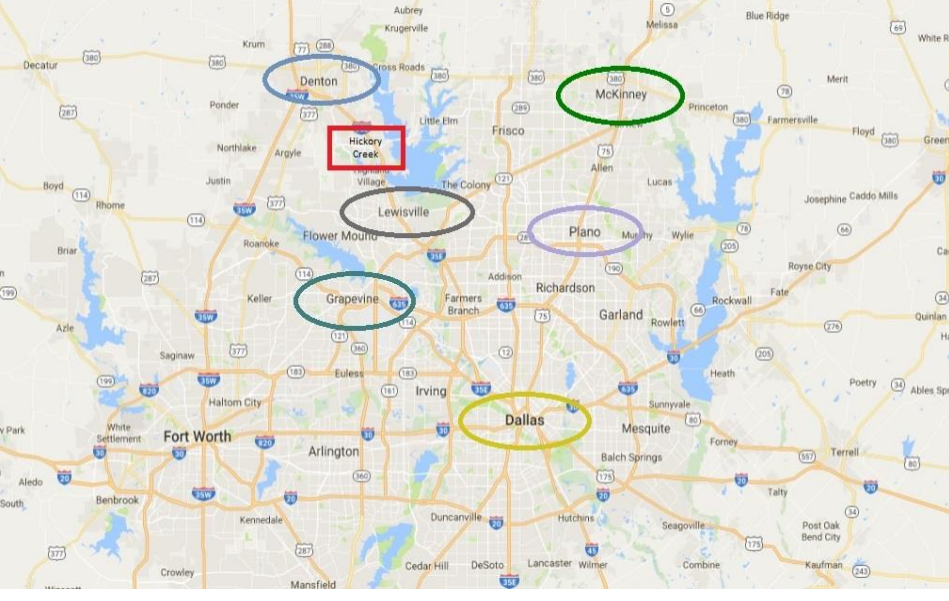
<u>Employer</u>	<u>Product or Service</u>	<u>Employees</u>
University of North Texas	Higher Education	8,738
Denton ISD	Education	4,417
Peterbilt Motors Company	Manufacturer	2,314
Denton State Living Center	MHMR Facility	1,700
Texas Woman's University	Higher Education	1,672
Denton County	Government	1,581
City of Denton	Government	1,383
Texas Health Presbyterian	Healthcare	1,076
Denton Regional Medical	Healthcare	950
Sally Beauty Holdings, Inc.	Distribution	950

Source: Denton Economic Development Partnership

## Surrounding Economic Activity

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

City of McKinney, TX Approximately 25 Miles from Hickory Creek		City of Dallas, TX Approximately 30 Miles from Hickory Creek		City of Plano, TX Approximately 20 Miles from Hickory Creek		City of Denton, TX Approximately 9 Miles from Hickory Creek	
Employer	Employees	Employer	Employees	Employer	Employees	Employer	Employees
Raytheon Space & Airborne Systems	3,600	Wal Mart Stores	25,000	Capital One Finance	5,500	University of North Texas	8,738
McKinney ISD	3,147	American Airlines	25,000	Bank of America Home Loans	3,400	Denton ISD	4,417
Collin County	1,823	Dallas ISD	20,000	HP Enterprise Services	3,250	Peterbilt Motors	2,314
Medical Center of McKinney	1,071	Texas Health Resources	19,100	Ericsson.	3,020	Denton State School	1,700
Encore Wire Corp.	1,050	Baylor Health Care System	16,900	Frito-Lay	2,500	Texas Woman's University	1,672
City of McKinney	975	Bank of America	14,500	J.C. Penny Co., Inc.	2,420	Denton County	1,581
Torchmark/United American	860	Lockheed Martin	13,700	Dell	2,250	City of Denton	1,566
Watson & Chalin	800	Texas Instruments Inc.	13,000	Texas Health Presbyterian Hosp.	1,680	Federal Emergency Management Agency	1,100
Baylor Medical Center	575	City of Dallas	13,000	Medical Center of Plano	1,600	Presbyterian Hospital of Denton	1,076
Collin College	555	JPMorgan Chase	12,600	PepsiCo	1,340	Denton Regional Medical Center	950

City of Lewisville, TX Approximately 5 Miles from Hickory Creek	
Employer	Employees
JP Morgan Chase	3,478
Lewisville I SD	2,919
Vista Ridge Mall	1,500
Wal-Mart	900
Xerox	823
Medical Center of Lewisville	815
City of Lewisville	763
TIAA-CREF	600
SYSCO	563
Med-Fusion	483

City of Grapevine, TX Approximately 15 Miles from Hickory Creek	
Employer	Employees
DFW International Airport	60,000
Gamestop Corp.	2,400
United Parcel Service	2,000
Grapevine-Colleyville ISD	1,800
Gaylord Texas Resort	1,800
Baylor Medical Center	1,100
Great Wolf Lodge	600
City of Grapevine	600
Hilton DFW-Lakes	400
Pavestone Mfg.	400

Source: Municipal Advisory Council of Texas



**APPENDIX B**  
**FORM OF INDENTURE**

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**INDENTURE OF TRUST**

By and Between

**TOWN OF HICKORY CREEK, TEXAS**

*and*

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

**DATED AS OF JUNE 1, 2018**

**SECURING**

**[\$4,750,000]**

**TOWN OF HICKORY CREEK, TEXAS  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)**

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## INDENTURE OF TRUST

THIS INDENTURE, dated as of June 1, 2018, is by and between the TOWN OF HICKORY CREEK, TEXAS (the "*Town*"), and U.S. Bank National Association, as trustee (together with any successors, the "*Trustee*"). Capitalized terms used in the preambles, recitals and granting clauses and not otherwise defined shall have the meanings assigned thereto in Article I.

WHEREAS, a petition was submitted and filed with the Town Secretary of the Town (the "*Town Secretary*") pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "*Act*" or "*PID Act*"), requesting the creation of a public improvement district located within the corporate limits of the Town to be known as Hickory Creek Public Improvement District No. 2 (the "*District*" or "*PID*"); and

WHEREAS, the petition contained the signatures of the owners of taxable real property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of the Denton Central Appraisal District, and the signatures of record property owners who own taxable real property that constitutes more than fifty percent of the area of all taxable property that is liable for assessment by the District; and

WHEREAS, on September 18, 2012, after due notice, the Town Council of the Town (the "*Town Council*") held the public hearing in the manner required by law on the advisability of the improvement projects and services described in the petition as required by Section 372.009 of the PID Act and on September 18, 2012, the Town Council made the findings required by Section 372.009(b) of the PID Act and, by Resolution 2012-0918-1, adopted by a majority of the members of the Town Council, authorized the District in accordance with its finding as to the advisability of the improvement projects and services; and

WHEREAS, following the adoption of Resolution 2012-0918-1, the Town published notice of its authorization of the District in a newspaper of general circulation in the Town; and

WHEREAS, no written protests of the District from any owners of record of property within the District were filed with the Town Secretary within twenty days after the date of publication of such notice; and

WHEREAS, on September 25, 2012, the Town Council by Resolution No. 2012-0925-1 made findings and determinations relating to the Costs of certain Authorized Improvements, received and accepted a preliminary service and assessment plan and proposed assessment roll, called a public hearing for October 16, 2012, and directed Town staff to (i) file said proposed the Initial Assessment Roll with the Town Secretary and to make it available for public inspection as required by Section 372.016(b) of the PID Act, and (ii) publish such notice as required by Section 372.016(b) of the PID Act relating to the October 16, 2012 hearing; and

WHEREAS, the Town, pursuant to Section 372.016(b) of the PID Act, published notice of a public hearing in a newspaper of general circulation in the Town to consider the proposed Initial Assessment Roll described in the Initial SAP and the levy of the Assessments on property in the District; and

WHEREAS, the Town, pursuant to Section 372.016(c) of the PID Act, mailed notice of the public hearing to consider the proposed Initial Assessment Roll and the Initial SAP and the levy of Assessments on property in the District to the last known address of the owners of the property liable for the Assessments; and

WHEREAS, the Town Council convened the public hearing on October 16, 2012, at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Initial SAP, the Initial Assessment Roll, and the Assessments, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the allocation of Costs, the purposes of the Assessments, the special benefits of the Assessments, and the penalties and interest on Annual Installments and on delinquent Annual Installments of the Assessments; and

WHEREAS, at the October 16, 2012 public hearing referenced above, there were no written objections or evidence submitted to the Town Secretary in opposition to the Initial SAP, the allocation of Costs, the Initial Assessment Roll, or the levy of the Assessments; and

WHEREAS, the Town Council closed the public hearing and, after considering all written and documentary evidence presented at the public hearing, including all written comments and statements filed with the Town, at a meeting held on October 16, 2012, approved and accepted the Initial SAP in conformity with the requirements of the PID Act and adopted the Initial Assessment Ordinance, which Initial Assessment Ordinance approved the Initial Assessment Roll and levied the Assessments; and

WHEREAS, the Initial Assessment Ordinance has remained and is currently in effect since its adoption and has not been repealed; and

WHEREAS, on May 29, 2018, the Town Council approved Resolution No. [\_\_\_\_] finding the assessments on the Parcels located in Improvement Area #2 in the District to be stale and therefore invalid and which must be reassessed; and

WHEREAS, the Town, pursuant to Section 372.016(b) of the PID Act, published notice of a public hearing in a newspaper of general circulation in the Town to consider the proposed reassessment of all Parcels located only in Improvement Area #2 in the District and the Service and Assessment Plan, which constitutes an update of the Initial SAP; and

WHEREAS, the Town, pursuant to Section 372.016(c) of the PID Act, mailed notice of the public hearing to consider the proposed reassessment of Parcels located in Improvement Area #2 in the District and the Service and Assessment Plan to the last known address of the owners of the property liable for the Assessments; and

WHEREAS, the Town Council convened the public hearing on June 19, 2018, at which all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Service and Assessment Plan, the Assessment Roll, and the reassessment of Parcels located in Improvement Area #2 in the District, and to offer testimony pertinent to any issue presented on the amount of the Assessments, the allocation of Costs, the purposes of the Assessments, the special benefits of the Assessments, and the penalties

and interest on Annual Installments and on delinquent Annual Installments of the Assessments; and

WHEREAS, at the June 19, 2018 public hearing referenced above, there were no written objections or evidence submitted to the Town Secretary in opposition to the Service and Assessment Plan, the allocation of Costs, the Assessment Roll, or the reassessment of Parcels located in Improvement Area #2 in the District; and

WHEREAS, the Town Council closed the public hearing and approved and accepted the Service and Assessment Plan in conformity with the requirements of the PID Act and adopted the Reassessment Ordinance, which Reassessment Ordinance approved the Assessment Roll and levied the Assessments on the Improvement Area #2 Assessed Property; and

WHEREAS, the Town Council is authorized by the PID Act to issue revenue bonds payable from the Assessments for the purpose of (i) paying the Costs, (ii) funding a reserve fund for payment of principal and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District and (iv) paying the costs of issuance of the Bonds; and

WHEREAS, the Town Council now desires to issue its revenue bonds, in accordance with the PID Act, such bonds to be entitled "Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2)" (the "*Bonds*"), such Bonds being payable solely from the Assessments and other funds pledged under this Indenture to the payment of the Bonds and for the purposes set forth in this preamble; and

WHEREAS, the Trustee has agreed to accept the trusts herein created upon the terms set forth in this Indenture;

NOW, THEREFORE, the Town, in consideration of the foregoing premises and acceptance by the Trustee of the trusts herein created, of the purchase and acceptance of the Bonds by the Owners thereof, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, CONVEY, PLEDGE, TRANSFER, ASSIGN, and DELIVER to the Trustee for the benefit of the Owners, a security interest in all of the moneys, rights and properties described in the Granting Clauses hereof, as follows (collectively, the "*Trust Estate*");

#### FIRST GRANTING CLAUSE

The Pledged Revenues, as herein defined, including all moneys and investments held in the Pledged Funds, including any contract or any evidence of indebtedness related thereto or other rights of the Town to receive any of such moneys or investments, whether now existing or hereafter coming into existence, and whether now or hereafter acquired; and



## SECOND GRANTING CLAUSE

Any and all other property or money of every name and nature which is, from time to time hereafter by delivery or by writing of any kind, conveyed, pledged, assigned or transferred, to the Trustee as additional security hereunder by the Town or by anyone on its behalf or with its written consent, and the Trustee is hereby authorized to receive any and all such property or money at any and all times and to hold and apply the same subject to the terms thereof; and

## THIRD GRANTING CLAUSE

Any and all proceeds of the foregoing property and proceeds from the investment of the foregoing property;

TO HAVE AND TO HOLD the Trust Estate, whether now owned or hereafter acquired, unto the Trustee and its successors or assigns;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the benefit of all present and future Owners of the Bonds from time to time issued under and secured by this Indenture, and for enforcement of the payment of the Bonds in accordance with their terms, and for the performance of and compliance with the obligations, covenants, and conditions of this Indenture;

PROVIDED, HOWEVER, if the Town or its assigns shall well and truly pay, or cause to be paid, the principal or Redemption Price of and the interest on the Bonds at the times and in the manner stated in the Bonds, according to the true intent and meaning thereof, then this Indenture and the rights hereby granted shall cease, terminate and be void; otherwise this Indenture is to be and remain in full force and effect;

IN ADDITION, the Bonds are special obligations of the Town payable solely from the Pledged Revenues, as and to the extent provided in this Indenture. The Bonds do not give rise to a charge against the general credit or taxing powers of the Town and are not payable except as provided in this Indenture. Notwithstanding anything to the contrary herein, the Owners of the Bonds shall never have the right to demand payment thereof out of any funds of the Town other than the Pledged Revenues. The Town shall have no legal or moral obligation to pay for the Bonds out of any funds of the Town other than the Pledged Revenues.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, that all Bonds issued and secured hereunder are to be issued, authenticated, and delivered and the Trust Estate hereby created, assigned, and pledged is to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses, and purposes as hereinafter expressed, and the Town has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective Owners from time to time of the Bonds as follows:

## ARTICLE I

### DEFINITIONS, FINDINGS AND INTERPRETATION

#### Section 1.1. **Definitions.**

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Indenture, the following terms shall have the meanings specified below:

"*Account*", in the singular, means any of the accounts established pursuant to Section 6.1 of this Indenture, and "*Accounts*", in the plural, means, collectively, all of the accounts established pursuant to Section 6.1 of this Indenture.

"*Additional Interest*" means the 0.50% additional interest charged on Assessments pursuant to Section 372.018 of the Act.

"*Administrative Expenses*" mean the actual or budgeted costs and expenses related to the creation and operation of the PID, the issuance and sale of Bonds, and the construction of the Authorized Improvements, including, but not limited to, costs and expenses for: (1) the Administrator; (2) legal counsel, engineers, accounts, financial advisors, and other consultants engaged by the Town; (3) calculating, collecting, and maintaining records with respect to Assessments and Annual Installments; (4) preparing and maintaining records with respect to Assessment Roll and Annual Service Plan Updates; (5) issuing, paying, and redeeming Bonds; (6) investing or depositing Assessments and Annual Installments; (7) complying with the Service and Assessment Plan and the Act with respect to the issuance and sale of the Bonds, including continuing disclosure requirements; (8) the Paying Agent/Registrar, which initially is the Trustee, in connection with the Bonds, including their respective legal counsel; and (9) administering the construction of the Authorized Improvements. Administrative Expenses collected but not expended in any year shall be carried forward and applied to reduce Administrative Expenses for subsequent years.

"*Administrator*" means the person or independent firm designated by the Town Council who shall have the responsibilities provided in the Service and Assessment Plan, this Indenture, or any other agreement or document approved by the Town related to the duties and responsibilities of the administration of the District.

"*Annual Debt Service*" means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, 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).

"*Annual Installment*" means the annual installment payments of an Assessment calculated by the Administrator and approved by the Town Council, including (1) principal; (2) interest; (3) Administrative Expenses; and (4) Additional Interest that funds the Delinquency and Prepayment Reserve Account.

"*Annual Service Plan Update*" means the annual review and update of the Service and Assessment Plan required by the PID Act and the Service and Assessment Plan.

"*Applicable Laws*" means the PID Act, and all other laws or statutes, rules, or regulations, and any amendments thereto, of the State or of the United States of America, by which the Town and its powers, securities, operations, and procedures are, or may be, governed or from which its powers may be derived.

"*Assessed Property*" means any Parcel within the District against which an Assessment is levied. Assessed Property includes all Parcels within PID No. 2 other than Non-Benefited Property. Assessed Property is identified as Improvement Area # 1 and Improvement Area # 2 in the Service and Assessment Plan.

"*Assessment*" means an assessment levied against a Parcel pursuant to the PID Act.

"*Assessment Ordinance*" means, collectively, the Initial Assessment Ordinance and Reassessment Ordinance.

"*Assessment Revenues*" means the revenues received by the Town from the collection of Assessments, including Prepayments, Annual Installments and Foreclosure Proceeds.

"*Assessment Roll*" means the document included in the Service and Assessment Plan as Exhibit F-1 and Exhibit G-1, as updated, modified or amended from time to time in accordance with the procedures set forth in the Service and Assessment Plan and in the PID Act.

"*Attorney General*" means the Attorney General of the State.

"*Authorized Denomination*" means \$25,000 and any integral multiple of \$5,000 in excess thereof.

"*Authorized Improvements*" mean those public improvements described in Section III of the Service and Assessment Plan and Section 372.003 of the PID Act which are constructed pursuant to the Reimbursement Agreement, which are to be undertaken for the benefit of property in the District.

"*Authorized Improvement Costs*" mean the actual costs of a portion of the Authorized Improvements, as described in Section III of the Service and Assessment Plan including, but not limited to, all costs paid or incurred in connection with the issuance of the Bonds, and including all costs otherwise paid or incurred in connection with the transaction that results in the issuance of Bonds (whether such costs are characterized as interest, costs of issuance, reserve fund, or other costs of the transaction).

"*Bond*" means any of the Bonds.

"*Bond Counsel*" means McCall, Parkhurst & Horton L.L.P. or any other attorney or firm of attorneys designated by the Town that are nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

"*Bond Date*" means the date designated as the dated date of the Bonds by Section 3.2(a) of this Indenture.

"*Bond Fund*" means the Fund established pursuant to Section 6.1 and administered pursuant to Section 6.4.

"*Bond Ordinance*" means Ordinance No. 2018-[\_\_\_\_] adopted by the Town Council on Jun 19, 2018 authorizing the issuance of the Bonds pursuant to this Indenture.

"*Bond Pledged Revenue Account*" means the Account in the Pledged Revenue Fund established pursuant to Section 6.1 of this Indenture.

"*Bond Year*" means the one-year period beginning on September 1 in each year and ending on the day prior to September 1 in the following year.

"*Bonds*" means the Town's bonds authorized to be issued by Section 3.1 of this Indenture entitled "Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2)" and, in the event the Town issues Refunding Bonds pursuant to Section 13.2 hereof, the term "Bonds" shall include such Refunding Bonds.

"*Business Day*" means any day other than a Saturday, Sunday or legal holiday in the State observed as such by the Town or the Trustee or any national holiday observed by the Trustee.

"*Certificate for Payment*" means a certificate substantially in the form of Exhibit A hereto and executed by a Person approved by the Town Representative that is delivered to the Town Representative and the Trustee specifying the amount of work performed and the Costs thereof, and requesting payment for such Costs from money on deposit in the Project Fund as further described in Section 6.5 of this Indenture.

"*Closing Date*" means the date of the initial delivery of and payment for the Bonds.

"*Code*" means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

"*Comptroller*" means the Comptroller of Public Accounts of the State.

"*Costs*" means the Authorized Improvement Costs (excluding Administrative Expenses) for the Authorized Improvements, as such amounts are set forth in the Service and Assessment Plan.

"*Costs of Issuance Account*" means the Account in the Project Fund established pursuant to Section 6.1 of this Indenture.

"*Defeasance Securities*" means Investment Securities then authorized by applicable law for the investment of funds to defease public securities.

"*Delinquency and Prepayment Reserve Account*" means the Account in the Reserve Fund established pursuant to Section 6.1 of this Indenture.

"*Delinquency and Prepayment Reserve Requirement*" means an amount equal to 3% of the principal amount of the then Outstanding Bonds.

"*Delinquent Collection Costs*" mean interest, penalties and expenses incurred or imposed with respect to any delinquent Annual Installments of an Assessment in accordance with §372.018(b) of the PID Act, any other delinquent amounts due under the Service and Assessment Plan, and the costs related to pursuing collection of a delinquent Assessment and foreclosing the lien against the Assessed Property, including attorneys' fees.

"*Designated Payment/Transfer Office*" means (i) with respect to the initial Paying Agent/Registrar named in this Indenture, the transfer/payment office designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the Town and such successor.

"*Developer*" means CTMGT Turbeville, LLC, and any successor thereto.

"*DTC*" means The Depository Trust Company of New York, New York, or any successor securities depository.

"*DTC Participant*" means brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"*Foreclosure Proceeds*" means the proceeds, including interest and penalty interest, received by the Town from the enforcement of the Assessments against any Assessed Property, whether by foreclosure of lien or otherwise, but excluding and net of all Delinquent Collection Costs.

"*Fund*", in the singular, means any of the funds established pursuant to Section 6.1 of this Indenture, and "*Funds*", in the plural, means, collectively, all of the funds established pursuant to Section 6.1 of this Indenture.

"*Improvement Account*" means the Account in the Project Fund established pursuant to Section 6.1 of this Indenture for payment or reimbursement of Costs.

"*Improvement Area # 1*" means the developed area within the District as generally shown on the map on Exhibit B and as described by metes and bounds on Exhibit A-2 of the Service and Assessment Plan.

"*Improvement Area # 2*" means the developed area within the District as generally shown on the map on Exhibit B and as described by metes and bounds on Exhibit A-3 of the Service and Assessment Plan.

"*Indenture*" means this Indenture of Trust as originally executed or as it may be from time to time supplemented or amended by one or more indentures supplemental hereto and entered into pursuant to the applicable provisions hereof.

"*Independent Financial Consultant*" means any consultant or firm of such consultants appointed by the Town who, or each of whom: (i) is judged by the Town, as the case may be, to have experience in matters relating to the issuance and/or administration of the Bonds; (ii) is in fact independent and not under the domination of the Town; (iii) does not have any substantial interest, direct or indirect, with or in the Town, or any owner of real property in the District, or any real property in the District; and (iv) is not connected with the Town as an officer or employee of the Town, but who may be regularly retained to make reports to the Town.

"*Initial Assessment Ordinance*" means Ordinance No. 2012-10-699 adopted by the Town Council on October 16, 2012, that levied Assessments on Assessed Property located only in Improvement Area #1.

"*Initial Assessment Roll*" means the document included as Exhibit E in the Initial SAP.

"*Initial Bonds*" means the Initial Bonds authorized by Section 5.2 of this Indenture.

"*Initial SAP*" means the Town of Hickory Creek, Texas, Public Improvement District No. 2 Service and Assessment Plan dated October 16, 2012 approved by the Initial Assessment Ordinance.

"*Interest Payment Date*" means the date or dates upon which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being on March 1 and September 1 of each year, commencing March 1, 2019.

"*Investment Securities*" means those authorized investments described in the Public Funds Investment Act, Chapter 2256, Government Code, as amended, which investments are, at the time made, included in and authorized by the Town's official investment policy as approved by the Town Council from time to time.

"*Maximum Annual Debt Service*" means the largest Annual Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

"*Outstanding*" means, as of any particular date when used with reference to Bonds, all Bonds authenticated and delivered under this Indenture except (i) any Bond that has been canceled by the Trustee (or has been delivered to the Trustee for cancellation) at or before such date, (ii) any Bond for which the payment of the principal or Redemption Price of and interest on such Bond shall have been made as provided in Article IV, (iii) any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered pursuant to Section 3.10 and (iv) Bond alleged to have been mutilated, destroyed, lost or stolen which have been paid as provided in this Indenture.

"*Owner*" means the Person who is the registered owner of a Bond or Bonds, as shown in the Register, which shall be Cede & Co., as nominee for DTC, so long as the Bonds are in book-entry only form and held by DTC as securities depository in accordance with Section 3.11.

"*Parcel*" or "*Parcels*" means a parcel or parcels within the District identified by either a tax map identification number assigned to the Parcel by the Denton Central Appraisal District for real property tax purposes by metes and bounds description or by lot and block number in a final subdivision plat recorded in the real property records of Denton County.

"*Paying Agent/Registrar*" means initially the Trustee, or any successor thereto as provided in this Indenture.

"*Person*" or "*Persons*" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"*Pledged Funds*" means, collectively, the Pledged Revenue Fund, the Bond Fund, the Project Fund, the Reserve Fund, and the Redemption Fund.

"*Pledged Revenue Fund*" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.3.

"*Pledged Revenues*" means, collectively, the (i) Assessment Revenues (excluding the portion of Annual Installments collected for the payment of Administrative Expenses and Delinquent Collection Costs, as set forth in the Service and Assessment Plan), (ii) the moneys held in any of the Pledged Funds and (iii) any additional revenues that the Town may pledge to the payment of the Bonds.

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

"*Prepayment Costs*" means interest and expenses to the date of Prepayment, plus any additional expenses related to the Prepayment, reasonably expected to be incurred by or imposed upon the Town as a result of any Prepayment.

"*Principal and Interest Account*" means the Account in the Bond Fund established pursuant to Section 6.1 of this Indenture.

"*Project Fund*" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.5.

"*Purchaser*" means the initial purchaser of the Bonds.

"*Reassessment Ordinance*" means Ordinance No. 2018-[\_\_\_\_] adopted by the Town Council on June 19, 2018, as may be amended or supplemented, that levied the Assessments only on the Improvement Area # 2 Assessed Property and

"*Rebatable Arbitrage*" means rebatable arbitrage as defined in Section 1.148-3 of the Treasury Regulations.

"*Rebate Fund*" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.8.

"*Record Date*" means the close of business on the fifteenth Business Day of the month next preceding an Interest Payment Date.

"*Redemption Fund*" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.6.

"*Redemption Price*" means, when used with respect to any Bond or portion thereof, the principal amount of such Bond or such portion thereof plus the applicable premium, if any, plus accrued and unpaid interest on such Bond to the date fixed for redemption payable upon redemption thereof pursuant to this Indenture.

"*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 Pledged Revenues, as more specifically described in the indenture authorizing such Refunding Bonds.

"*Register*" means the register specified in Article III of this Indenture.

"*Reimbursement Agreement*" means the Reimbursement Agreement by and between the Town and the Developer, dated as of October 16, 2012.

"*Reserve Account*" means the Account in the Reserve Fund established pursuant to Section 6.1 of this Indenture.

"*Reserve Fund*" means that fund established pursuant to Section 6.1 and administered pursuant to Section 6.7.

"*Reserve Fund Obligations*" means cash or Investment Securities.

"*Reserve Account Requirement*" means \$[\_\_\_\_\_] which is equal to 50% of the Maximum Annual Debt Service on the Bonds as of the date of issuance; provided, however, that such amount shall be reduced by the amount of any transfers made pursuant to Section 6.7(c); and provided further that as a result of (1) a mandatory sinking fund redemption pursuant to Section 4.2, (2) an optional redemption pursuant to Section 4.3 or (3) an extraordinary optional redemption pursuant to Section 4.4, the Reserve Account Requirement shall be reduced by a percentage equal to the pro rata principal amount of Bonds redeemed by such redemption divided by the total principal amount of the Outstanding Bonds prior to such redemption.

"*Service and Assessment Plan*" and "*SAP*" each mean the "Hickory Creek Public Improvement District No. 2 Amended and Restated Service and Assessment Plan" dated June 19, 2018, which includes the Assessment Roll, as may be updated in an annual updated or amended and supplemented from time to time.



"*Sinking Fund Installment*" means the amount of money to redeem or pay at maturity the principal of a Stated Maturity of Bonds payable from such installments at the times and in the amounts provided in Section 4.2.

"*Special Record Date*" has the meaning set forth in in the form of Bond included in Section 5.2 hereof.

"*State*" means the State of Texas.

"*Stated Maturity*" means the date the Bonds, or any portion of the Bonds, as applicable, are scheduled to mature without regard to any redemption or prepayment.

"*Supplemental Indenture*" means an indenture which has been duly executed by the Trustee and a Town Representative pursuant to an ordinance adopted by the Town Council and which indenture amends or supplements this Indenture, but only if and to the extent that such indenture is specifically authorized hereunder.

"*Town Certificate*" means a certificate signed by the Town Representative and delivered to the Trustee.

"*Town Order*" means written instructions by the Town, executed by a Town Representative.

"*Town Representative*" means that official or agent of the Town authorized by the Town Council to undertake the action referenced herein.

"*Treasury Regulations*" shall have the meaning assigned to such term in Section 7.5(c).

"*Trust Estate*" means the Trust Estate described in the granting clauses of this Indenture.

"*Trustee*" means U.S. Bank National Association located in Dallas, Texas and any successors, and any other corporation or association that may at any time be substituted in its place, as provided in Article IX, such entity to serve as Trustee and Paying Agent/Registrar for the Bonds.

"*Value of Investment Securities*" means the amortized value of any Investment Securities, provided, however, that all United States of America, United States Treasury Obligations – State and Local Government Series shall be valued at par and those obligations which are redeemable at the option of the holder shall be valued at the price at which such obligations are then redeemable. The computations shall include accrued interest on the investment securities paid as a part of the purchase price thereof and not collected. For the purposes of this definition "amortized value," when used with respect to a security purchased at par means the purchase price of such security and when used with respect to a security purchased at a premium above or discount below par, means as of any subsequent date of valuation, the value obtained by dividing the total premium or discount by the number of interest payment dates remaining to maturity on any such security after such purchase and by multiplying the amount as calculated by the number of interest payment dates having passed since the date of purchase and (i) in the case of a security purchased at a premium, by deducting the product thus obtained from the purchase

price, and (ii) in the case of a security purchased at a discount, by adding the product thus obtained to the purchase price.

**Section 1.2. Findings.**

The declarations, determinations and findings declared, made and found in the preamble to this Indenture are hereby adopted, restated and made a part of the operative provisions hereof.

**Section 1.3. Table of Contents, Titles and Headings.**

The table of contents, titles, and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Indenture or any provision hereof or in ascertaining intent, if any question of intent should arise.

**Section 1.4. Interpretation.**

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Words importing persons include any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof.

(c) Any reference to a particular Article or Section shall be to such Article or Section of this Indenture unless the context shall require otherwise.

(d) This Indenture and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Indenture.

## **ARTICLE II**

### **THE BONDS**

**Section 2.1. Security for the Bonds.**

(a) The Bonds, as to principal, interest and redemption premium, if any, are and shall be equally and ratably secured by and payable from a first lien on and pledge of the Trust Estate.

(b) 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 this Indenture, without physical delivery or transfer of control of the Pledged Revenues, the filing of this 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 Town under this 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 Town under this 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 Town agrees to take such measures as it determines are reasonable and necessary under State 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.

#### **Section 2.2. Limited Obligations.**

The Bonds are special and limited obligations of the Town, payable solely from and secured solely by the Trust Estate, including the Pledged Revenues; and the Bonds shall never be payable out of funds raised or to be raised by taxation or from any other revenues, properties or income of the Town.

#### **Section 2.3. Authorization for Indenture.**

The terms and provisions of this Indenture and the execution and delivery hereof by the Town to the Trustee have been duly authorized by official action of the Town Council. The Town has ascertained and it is hereby determined and declared that the execution and delivery of this Indenture is necessary to carry out and effectuate the purposes set forth in the preambles of this Indenture and that each and every covenant or agreement herein contained and made is necessary, useful and/or convenient in order to better secure the Bonds and is a contract or agreement necessary, useful and/or convenient to carry out and effectuate the purposes herein described.

#### **Section 2.4. Contract with Owners and Trustee.**

(a) The purposes of this Indenture are to establish a lien and the security for, and to prescribe the minimum standards for the authorization, issuance, execution and delivery of, the Bonds and to prescribe the rights of the Owners, and the rights and duties of the Town and the Trustee.

(b) In consideration of the purchase and acceptance of any or all of the Bonds by those who shall purchase and hold the same from time to time, the provisions of this Indenture shall be a part of the contract of the Town with the Owner, and shall be deemed to be and shall constitute a contract among the Town, the Owners, and the Trustee.

## ARTICLE III

### AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

#### Section 3.1. Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State, including particularly the PID Act. The Bonds shall be issued in the aggregate principal amount of \$[4,750,000] for the purpose of (i) paying or reimbursing a portion of the Costs, (ii) funding a reserve fund for payment of principal and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District, and (iv) paying the costs of issuance of the Bonds.

#### Section 3.2. Date, Denomination, Maturities, Numbers and Interest.

(a) The Bonds shall be dated July 1, 2018 (the "*Bond Date*") and shall be issued in Authorized Denominations. The Bonds shall be in fully registered form, without coupons, and shall be numbered separately from R-1 upward, except the Initial Bond, which shall be numbered T-1.

(b) Interest shall accrue and be paid on each Bond from the Closing Date, at the rate per annum set forth below until the principal thereof has been paid on the maturity date specified below, or on a date of earlier redemption, or otherwise provided for. Such interest shall be payable semiannually on March 1 and September 1 of each year, commencing March 1, 2019, computed on the basis of a 360-day year of twelve 30-day months.

(c) The Bonds shall mature on September 1 in the years and in the principal amounts and shall bear interest at the rates set forth below:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
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(d) The Bonds shall be subject to mandatory sinking fund redemption, optional redemption, and extraordinary optional redemption prior to maturity as provided in Article IV, and shall otherwise have the terms, tenor, denominations, details, and specifications as set forth in the form of Bond set forth in Section 5.2.

### **Section 3.3. Conditions Precedent to Delivery of Bonds.**

The Bonds shall be executed by the Town and delivered to the Trustee, whereupon the Trustee shall authenticate the Bonds and, upon payment of the purchase price of the Bonds, shall deliver the Bonds upon the order of the Town, but only upon delivery to the Trustee of:

- (a) a certified copy of the Assessment Ordinance;
- (b) a certified copy of the Bond Ordinance;
- (c) a copy of the executed Reimbursement Agreement with all executed amendments thereto;
- (d) a copy of this Indenture executed by the Trustee and the Town; and
- (e) an executed Town Certificate directing the authentication and delivery of the Bonds, describing the Bonds to be authenticated and delivered, designating the purchasers to whom the Bonds are to be delivered, stating the purchase price of the Bonds and stating that all items required by this Section are therewith delivered to the Trustee.

### **Section 3.4. Medium, Method and Place of Payment.**

- (a) Principal of and interest on the Bonds shall be paid in lawful money of the United States of America, as provided in this Section.
- (b) Interest on the Bonds shall be payable to the Owners thereof as shown in the Register at the close of business on the relevant Record Date or Special Record Date, as applicable.
- (c) Interest on the Bonds shall be paid by check, dated as of the Interest Payment Date, and sent, first class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner at the address of each as such appears in the Register or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, the Owner shall bear all risk and expense of such other banking arrangement.
- (d) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof, whether at the maturity date or the date of prior redemption thereof, upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.
- (e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the Town where the

Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in Section 3.2 of this Indenture.

(f) Unclaimed payments of amounts due hereunder shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which such unclaimed payments pertain. Subject to any escheat, abandoned property, or similar law of the State, any such payments remaining unclaimed by the Owners entitled thereto for three (3) years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all Outstanding Bonds, shall be paid to the Town to be used for any lawful purpose. Thereafter, none of the Town, the Paying Agent/Registrar, or any other Person shall be liable or responsible to any holders of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to any applicable escheat law or similar law of the State.

### **Section 3.5. Execution and Registration of Bonds.**

(a) The Bonds shall be executed on behalf of the Town by the Mayor and Town Secretary, by their manual or facsimile signatures, and the official seal of the Town shall be impressed or placed in facsimile thereon such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the Town had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the Town whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Indenture unless and until there appears thereon the Certificate of Trustee substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Trustee. It shall not be required that the same officer or authorized signatory of the Trustee sign the Certificate of Trustee on all of the Bonds. In lieu of the executed Certificate of Trustee described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General, is a valid and binding obligation of the Town, and has been registered by the Comptroller.

(d) On the Closing Date, one Initial Bond representing the entire principal amount of all Bonds, payable in stated installments to the Purchaser, or its designee, executed with the manual or facsimile signatures of the Mayor and the Town Secretary, approved by the Attorney

General, and registered and manually signed by the Comptroller, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Trustee shall cancel the Initial Bond and deliver to DTC on behalf of the Purchaser one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC.

### **Section 3.6. Ownership.**

(a) The Town, the Trustee, including in its capacity as the Paying Agent/Registrar, and any other Person may treat the Person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the Person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not such Bond is overdue, and none of the Town, the Trustee, including in its capacity as the Paying Agent/Registrar, shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of any Bond shall be valid and effectual and shall discharge the liability of the Town, the Trustee, including in its capacity as the Paying Agent/Registrar, upon such Bond to the extent of the sums paid.

### **Section 3.7. Registration, Transfer and Exchange.**

(a) So long as any Bond remains outstanding, the Town shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a Register in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Indenture. The Paying Agent/Registrar represents and warrants that it will maintain a copy of the Register, and shall cause the Register to be current with all registration and transfer information as from time to time may be applicable.

(b) A Bond shall be transferable only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any Authorized Denomination and in an aggregate principal amount equal to the unpaid principal amount of the Bond presented for exchange. The Trustee is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) The Trustee is hereby authorized to authenticate and deliver Bonds transferred or exchanged in accordance with this Section. A new Bond or Bonds will be delivered by the Paying Agent/Registrar, in lieu of the Bond being transferred or exchanged, at the Designated Payment/Transfer Office, or sent by United States mail, first class, postage prepaid, to the Owner or his designee. Each transferred Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the Town and shall be

entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such transferred Bond is delivered.

(e) Each exchange Bond delivered in accordance with this Section shall constitute an original contractual obligation of the Town and shall be entitled to the benefits and security of this Indenture to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(f) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer, or exchange of a Bond.

(g) Neither the Town nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond or portion thereof called for redemption prior to maturity within forty-five (45) days prior to the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

#### **Section 3.8. Cancellation.**

All Bonds paid or redeemed before scheduled maturity in accordance with this Indenture, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Indenture, shall be cancelled, and proper records shall be made regarding such payment, redemption, exchange, or replacement. Whenever in this Indenture provision is made for the cancellation by the Trustee of any Bonds, the Trustee shall dispose of cancelled Bonds in accordance with its record retention policies.

#### **Section 3.9. Temporary Bonds.**

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the Town may execute and, upon the Town's request, the Trustee shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the Town executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Indenture.

(c) The Town, without unreasonable delay, shall prepare, execute and deliver to the Trustee the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and the Trustee shall authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the Authorized Denomination, and in the same aggregate principal amount, as the Bond or Bonds in temporary



form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

### Section 3.10. **Replacement Bonds.**

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Trustee shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The Town or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Trustee, pursuant to the applicable laws of the State and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar and the Trustee to save them and the Town harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Trustee, including in its capacity as the Paying Agent/Registrar, and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the Town and the Trustee.

(c) After the delivery of such replacement Bond, if a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the Town and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the Person to whom it was delivered or any Person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost, or expense incurred by the Town, the Paying Agent/Registrar or the Trustee in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the Town and shall be entitled to the benefits and

security of this Indenture to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

**Section 3.11. Book-Entry-Only System.**

(a) The Bonds shall initially be issued in book-entry-only form and shall be deposited with DTC, which is hereby appointed to act as the securities depository therefor, in accordance with the letter of representations from the Town to DTC. On the Closing Date the definitive Bonds shall be issued in the form of a single typewritten certificate for each maturity thereof registered in the name of Cede & Co., as nominee for DTC.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Town and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any Person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the Town and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other Person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other Person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Indenture to the contrary, the Town and the Paying Agent/Registrar shall be entitled to treat and consider the Person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners as shown in the Register, as provided in this Indenture, and all such payments shall be valid and effective to fully satisfy and discharge the Town's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No Person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the Town to make payments of amounts due pursuant to this Indenture. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Indenture with respect to interest checks or drafts being mailed to the registered owner at the close of business on the Record Date or Special Record Date, as applicable, the word "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

**Section 3.12. Successor Securities Depository: Transfer Outside Book-Entry-Only System.**

In the event that the Town determines that DTC is incapable of discharging its responsibilities described herein and in the letter of representations from the Town to DTC, the Town shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more

separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Indenture.

### Section 3.13. **Payments to Cede & Co.**

Notwithstanding any other provision of this Indenture to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the blanket letter of representations from the Town to DTC.

## ARTICLE IV

### REDEMPTION OF BONDS BEFORE MATURITY

#### Section 4.1. **Limitation on Redemption.**

The Bonds shall be subject to redemption before their scheduled maturity only as provided in this Article IV.

#### Section 4.2. **Mandatory Sinking Fund Redemption.**

(a) The Bonds maturing on September 1 in each of the years [ ] (collectively, the "*Term Bonds*"), are subject to mandatory sinking fund redemption prior to their respective maturities and will be redeemed by the Town in part at the redemption price equal to the principal amount of the Term Bonds called for redemption, plus accrued and unpaid interest to the date fixed for redemption from moneys available for such purpose in the Principal and Interest Account of the Bond Fund pursuant to Article VI, on the dates and in the respective Sinking Fund Installments as set forth in the following schedule:

Term Bonds maturing September 1, 20[ ]

<u>Redemption Date</u>	<u>Sinking Fund Installment Amount</u>
------------------------	--

Term Bonds maturing September 1, 20[ ]

<u>Redemption Date</u>	<u>Sinking Fund Installment Amount</u>
------------------------	--

Term Bonds maturing September 1, 20[]

Redemption Date

Sinking Fund Installment Amount

<sup>\*</sup> Stated Maturity.

(b) At least thirty (30) days prior to each sinking fund redemption date, the Trustee shall select a principal amount of Term Bonds of such maturity equal to the Sinking Fund Installment amount of such Term Bonds to be redeemed, shall call such Term Bonds for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.6.

(c) The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.2 shall be reduced, at the option of the Town, by the principal amount of any Term Bonds of such maturity which, at least 30 days prior to the sinking fund redemption date shall have been acquired by the Town at a price not exceeding the principal amount of such Term Bonds plus accrued unpaid interest to the date of purchase thereof, and delivered to the Trustee for cancellation.

(d) The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.2 shall be reduced on a pro rata basis among Sinking Fund Installments by the principal amount of any Term Bonds which, at least 30 days prior to the sinking fund redemption date, shall have been redeemed pursuant to the optional redemption provisions in Section 4.3 hereof or the extraordinary optional redemption provisions in Section 4.4 hereof and not previously credited to a mandatory sinking fund redemption.

#### **Section 4.3. Optional Redemption.**

The Town reserves the right and option to redeem Bonds before their scheduled maturity date, in whole or in part, on any date on or after September 1, 20[], such redemption date or dates to be fixed by the Town, at the redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest to the date fixed for redemption.

#### **Section 4.4. Extraordinary Optional Redemption.**

The Town reserves the right and option to redeem Bonds before their respective scheduled maturity dates or optional redemption date specified in Section 4.3, in whole or in

part, on the fifteenth day of any month, 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 Sections 6.7(a) and 6.7(c)) or any other transfers to the Redemption Fund under the terms of this Indenture.

#### **Section 4.5. Partial Redemption.**

(a) If less than all of the Bonds are to be redeemed pursuant to either Sections 4.2, 4.3 or 4.4, Bonds shall be redeemed in increments of \$5,000 by lot or any other customary method 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. 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 that 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.

(b) Upon surrender of any Bond for redemption in part, the Trustee in accordance with Section 3.7 of this Indenture, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

#### **Section 4.6. Notice of Redemption to Owners.**

(a) 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 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.

(b) 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, and subject to Section 4.5, 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.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

(d) The Town has the right to rescind any optional redemption (described in Section 4.3) or extraordinary optional redemption (described in Section 4.4) 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 this Indenture. The Trustee shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

**Section 4.7. Payment Upon Redemption.**

(a) The Trustee shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust an amount from the Redemption Fund or otherwise received by the Trustee from the Town and shall use such funds solely for the purpose of paying the Redemption Price on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the designated corporate trust office of the Trustee on or after the date fixed for redemption, the Trustee shall pay the Redemption Price on such Bond to the date of redemption from the moneys set aside for such purpose.

**Section 4.8. Effect of Redemption.**

Notice of redemption having been given as provided in Section 4.6 of this 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.

**ARTICLE V**

**FORM OF THE BONDS**

**Section 5.1. Form Generally.**

(a) The Bonds, including the Registration Certificate of the Comptroller, the Certificate of the Trustee, and the Assignment to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Article with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Indenture, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the Town or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General may be typewritten and photocopied or otherwise reproduced.

Section 5.2. **Form of the Bonds.**

(a) Form of Bond.

NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF TEXAS, THE TOWN, OR ANY OTHER POLITICAL CORPORATION, SUBDIVISION OR AGENCY THEREOF, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS BOND.

REGISTERED  
NO. \_\_\_\_\_

United States of America  
State of Texas

REGISTERED  
\$\_\_\_\_\_

TOWN OF HICKORY CREEK, TEXAS  
SPECIAL ASSESSMENT REVENUE BOND, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT  
NO. 2)

INTEREST RATE	MATURITY DATE	DATE OF DELIVERY	CUSIP NUMBER
_____%	September 1, 20__	[], 2018	_____

The Town of Hickory Creek, Texas (the "*Town*"), for value received, hereby promises to pay, solely from the Pledged Revenues, to

\_\_\_\_\_

or registered assigns, on the Maturity Date, as specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provision for such payment shall have been made, and to pay interest on the unpaid principal amount hereof from the later of the Date of Delivery, as specified above, or the most recent Interest Payment Date to which interest has been paid or provided for until such principal amount shall have been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on March 1 and September 1 of each year, commencing March 1, 2019.

Capitalized terms appearing herein that are defined terms in the Indenture (defined below) have the meanings assigned to them in the Indenture. Reference is made to the Indenture for such definitions and for all other purposes.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in Dallas, Texas (the "*Designated Payment/Transfer Office*"), of U.S. Bank National Association, as trustee and paying agent/registrar (the "*Trustee*"), or, with respect

to a successor trustee and paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the Interest Payment Date, mailed by the Trustee to the registered owner at the address shown on the registration books kept by the Trustee or by such other customary banking arrangements acceptable to the Trustee, requested by, and at the risk and expense of, the Person to whom interest is to be paid. For the purpose of the payment of interest on this Bond, the registered owner shall be the Person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the fifteenth Business Day of the month next preceding such Interest Payment Date; provided, however, that in the event of nonpayment of interest on a scheduled Interest Payment Date, and for 30 days thereafter, a new record date for such interest payment (a "*Special Record Date*") will be established by the Trustee, if and when funds for the payment of such interest have been received from the Town. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each Owner of a Bond appearing on the books of the Trustee at the close of business on the last Business Day preceding the date of mailing such notice.

If a date for the payment of the principal of or interest on the Bonds is a Saturday, Sunday, legal holiday, or a day on which banking institutions in the Town in which the Designated Payment/Transfer Office is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of a duly authorized issue of assessment revenue bonds of the Town having the designation specified in its title (herein referred to as the "Bonds"), dated as July 1, 2018 and issued in the aggregate principal amount of \$[4,750,000] and issued, with the limitations described herein, pursuant to an Indenture of Trust, dated as of June 1, 2018 (the "*Indenture*"), by and between the Town and the Trustee, to which Indenture reference is hereby made for a description of the amounts thereby pledged and assigned, the nature and extent of the lien and security, the respective rights thereunder to the holders of the Bonds, the Trustee, and the Town, and the terms upon which the Bonds are, and are to be, authenticated and delivered and by this reference to the terms of which each holder of this Bond hereby consents. All Bonds issued under the Indenture are equally and ratably secured by the amounts thereby pledged and assigned. The Bonds are being issued for the purpose of (i) paying or reimbursing a portion of the Costs, (ii) funding a reserve fund for payment of principal and interest on the Bonds, (iii) paying a portion of the costs incidental to the organization of the District, and (iv) paying the costs of issuance of the Bonds.

The Bonds are limited obligations of the Town payable solely from the Pledged Revenues. Reference is hereby made to the Indenture, copies of which are on file with and available upon request from the Trustee, for the provisions, among others, with respect to the nature and extent of the duties and obligations of the Town, the Trustee and the Owners. The Owner of this Bond, by the acceptance hereof, is deemed to have agreed and consented to the terms, conditions and provisions of the Indenture.

IN THE INDENTURE, THE TOWN HAS RESERVED THE RIGHT to issue Refunding Bonds payable from and secured by a lien on and pledge of the sources described above on a parity with this Bond.



Notwithstanding any provision hereof, the Indenture may be released and the obligation of the Town to make money available to pay this Bond may be defeased by the deposit of money and/or certain direct or indirect Defeasance Securities sufficient for such purpose as described in the Indenture.

The Bonds are issuable as fully registered bonds only in denominations of \$25,000 and any multiple of \$5,000 in excess thereof ("*Authorized Denominations*"). The Town prohibits the breaking up or allocation of CUSIP numbers to any Bond or Bonds in denominations of less than \$25,000, and any attempt to do so will be void and of no effect.

The Bonds maturing on September 1 in each of the years [ ] (collectively, "*Term Bonds*"), are subject to mandatory sinking fund redemption prior to their respective maturities and will be redeemed by the Town in part a redemption price equal to the principal amount thereof plus accrued and unpaid interest thereon to the date set for redemption from moneys available for such purpose in the Principal and Interest Account of the Bond Fund pursuant to Article VI of the Indenture, on the dates and in the respective Sinking Fund Installments as set forth in the following schedule:

Term Bonds maturing September 1, 20[ ]

<u>Redemption Date</u>	<u>Sinking Fund Installment Amount</u>
------------------------	--

Term Bonds maturing September 1, 20[ ]

<u>Redemption Date</u>	<u>Sinking Fund Installment Amount</u>
------------------------	--

Term Bonds maturing September 1, 20[ ]

<u>Redemption Date</u>	<u>Sinking Fund Installment Amount</u>
------------------------	--

\* Stated Maturity.

At least thirty (30) days prior to each sinking fund redemption date, the Trustee shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Bonds of such maturity equal to the Sinking Fund Installments of such Term Bonds to be redeemed, shall call such Term Bonds for redemption on such scheduled mandatory sinking fund redemption date, and shall give notice of such redemption, as provided in Section 4.6 of the Indenture.

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

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

The Town reserves the right and option to redeem Bonds before their scheduled maturity date, in whole or in part, on any date on or after September 1, 20[], such redemption date or dates to be fixed by the Town, at the redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest to the date of redemption.

Bonds are subject to extraordinary optional redemption prior to maturity or optional redemption date in whole or in part, on the fifteenth day of any month, 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 or any other transfers to the Redemption Fund under the terms of the Indenture.

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 days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on 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 notice so given shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

The Town has the right to rescind any optional redemption or extraordinary optional redemption described in the Indenture by written notice to the Trustee on or 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.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Town and the rights of the holders of the Bonds under the Indenture at any time Outstanding affected by such modification. The Indenture also contains provisions permitting the holders of specified percentages in aggregate principal amount of the Bonds at the time Outstanding, on behalf of the holders of all the Bonds, to waive compliance by the Town with certain past defaults under the Bond Ordinance or the Indenture and their consequences. Any such consent or waiver by the holder of this Bond or any predecessor Bond evidencing the same debt shall be conclusive and binding upon such holder and upon all future holders thereof and of any Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, whether or not notation of such consent or waiver is made upon this Bond.

As provided in the Indenture, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office, with such endorsement or other evidence of transfer, and upon delivery to the Trustee of such certifications and/or opinion of counsel as may be required under the Indenture for the transfer of this Bond. Upon satisfaction of such requirements, one or more new fully registered Bonds of the same Stated Maturity, of Authorized Denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the Town nor the Trustee shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within forty-five calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The Town, the Trustee, and any other Person may treat the Person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the Person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the Town nor the Trustee shall be affected by notice to the contrary.

NEITHER THE FULL FAITH AND CREDIT NOR THE GENERAL TAXING POWER OF THE TOWN, DENTON COUNTY, TEXAS OR THE STATE OF TEXAS, OR ANY POLITICAL SUBDIVISION THEREOF, IS PLEDGED TO THE PAYMENT OF THE BONDS.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that the total indebtedness of the Town, including the Bonds, does not exceed any Constitutional or statutory limitation.

IN WITNESS WHEREOF, the Town Council of the Town has caused this Bond to be executed under the official seal of the Town.

\_\_\_\_\_  
Town Secretary

\_\_\_\_\_  
Mayor

[TOWN SEAL]

(b) Form of Comptroller's Registration Certificate.

The following Registration Certificate of Comptroller of Public Accounts shall appear on the Initial Bond:

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
THE STATE OF TEXAS	§	

I HEREBY CERTIFY THAT there is on file and of record in my office a certificate to the effect that the Attorney General of the State of Texas has approved this Bond, and that this Bond has been registered this day by me.

WITNESS MY SIGNATURE AND SEAL OF OFFICE this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

[SEAL]

(c) Form of Certificate of Trustee.

CERTIFICATE OF TRUSTEE

It is hereby certified that this is one of the Bonds of the series of Bonds referred to in the within mentioned Indenture.

U.S. Bank National Association, as Trustee

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto (print or typewrite name and address, including zip code, of Transferee.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed by:

\_\_\_\_\_  
\_\_\_\_\_

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Trustee.

(e) The Initial Bond shall be in the form set forth in paragraphs (a) through (d) of this section, except for the following alterations:

(i) immediately under the name of the Bond the heading "INTEREST RATE" and "MATURITY DATE" shall both be completed with the expression "As Shown Below," and the reference to the "CUSIP NUMBER" shall be deleted;

(ii) in the first paragraph of the Bond, the words "on the Maturity Date, as specified above, the sum of \_\_\_\_\_ DOLLARS" shall be deleted and the following will be inserted: "on September 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rates</u>
--------------	-------------------------------	-----------------------

(Information to be inserted from Section 3.2(b)); and

- (iii) the Initial Bond shall be numbered T-1.

### **Section 5.3. CUSIP Registration.**

The Town may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and none of the Town, the attorneys approving said Bonds as to legality or the Trustee are to be held responsible for CUSIP numbers incorrectly printed on the Bonds. Any redemption notice may include a statement to the effect that the CUSIP numbers on the Bonds have been assigned by an independent service and are included in such notice solely for the convenience of the Bondholders and that neither the Town nor the Trustee shall be liable for any inaccuracies in such numbers.

### **Section 5.4. Legal Opinion.**

The approving legal opinion of Bond Counsel may be printed on or attached to each Bond over the certification of the Town Secretary of the Town, which may be executed in facsimile.

## **ARTICLE VI**

### **FUNDS AND ACCOUNTS**

#### **Section 6.1. Establishment of Funds and Accounts.**

(a) Creation of Funds. The following Funds are hereby created and established under this Indenture:

- (i) Pledged Revenue Fund;
- (ii) Bond Fund;
- (iii) Project Fund;
- (iv) Reserve Fund;
- (v) Redemption Fund;
- (vi) Rebate Fund; and
- (vii) Administrative Fund.

(b) Creation of Accounts.

Bond Fund:

(i) The following Accounts are hereby created and established under the

(A) Principal and Interest Account.

Reserve Fund:

(ii) The following Accounts are hereby created and established under the

(A) Reserve Account; and

(B) Delinquency and Prepayment Reserve Account; and

Project Fund:

(iii) The following Accounts are hereby created and established under the

(A) Improvement Account; and

(B) Costs of Issuance Account.

Pledged Revenue Fund:

(iv) The following Account is hereby created and established under the

(A) Bond Pledged Revenue Account.

(c) Each Fund and each Account created within such Fund shall be maintained by the Trustee separate and apart from all other funds and accounts of the Town. The Pledged Funds shall constitute trust funds which shall be held in trust by the Trustee as part of the Trust Estate solely for the benefit of the Owners of the Bonds. Amounts on deposit in the Funds and Accounts shall be used solely for the purposes set forth herein.

(d) Interest earnings and profit on each respective Fund and Account established by this Indenture shall be applied or withdrawn for the purposes of such Fund or Account as specified below.

**Section 6.2. Initial Deposits to Funds and Accounts.**

(a) The proceeds from the sale of the Bonds shall be paid to the Trustee and deposited or transferred by the Trustee as follows:

(i) to the Reserve Account of the Reserve Fund: \$[ ], which is equal to the initial Reserve Account Requirement;

(ii) to the Delinquency and Prepayment Reserve Account of the Reserve Fund: \$[ ] which amount is equal to the Delinquency and Prepayment Reserve Account Requirement;

- (ii) to the Costs of Issuance Account of the Project Fund: \$[\_]; and
- (iii) to the Improvement Account of the Project Fund: \$[\_]; and
- (iv) to the Administrative Fund: \$[ ].

(b) In addition, funds received from the Town on the Closing Date in the amount of \$[\_] shall be deposited to the Improvement Account of the Project Fund.

### **Section 6.3. Pledged Revenue Fund.**

(a) Immediately upon receipt thereof, the Town shall transfer to the Trustee for deposit to the Pledged Revenue Fund the Assessments and Annual Installments (other than the portion of the Annual Installments allocated to the payment of Administrative Expenses, and Delinquent Collection Costs, which shall be deposited to the Administrative Fund pursuant to Section 6.9 hereof), as set forth in the Service and Assessment Plan. Specifically, the Town shall deposit or cause to be deposited the foregoing amounts as follows: (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, and (iii) third, to pay other costs permitted by the PID Act. Notwithstanding the foregoing, if any funds remain on deposit in the Pledged Revenue Fund after the deposits required by (i) and (ii) above are made, the Town shall have the option, in its sole and absolute discretion, to deposit such excess funds into the Redemption Fund to redeem Bonds as provided in Article IV. Notwithstanding the foregoing, the Additional Interest shall only be utilized for the purposes set forth in Section 6.7 hereof and, immediately following the initial deposit to the Pledged Revenue Fund, the Additional Interest will be deposited into the Delinquency and Prepayment Reserve Account. In addition, in the event the Town owes Rebatale Arbitrage to the United States Government pursuant to Section 6.8 hereof, the Town shall cause the Trustee to transfer to the Rebate Fund, prior to any other transfer under this Section 6.3(a), the full amount of Rebatale Arbitrage owed by the Town, as further described in Section 6.10(f) hereof. Along with each transfer to the Trustee, the Town shall provide a certificate as to the funds, accounts and payments into which the amounts are to be deposited or paid.

(b) 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 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.

(c) If, after the foregoing transfers and any transfer from the Reserve Fund as provided in Section 6.7, there are insufficient funds to make the payments provided in paragraph (b) above, 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.



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

(e) Promptly after the deposit of Foreclosure Proceeds into the Pledged Revenue Fund, the Trustee shall transfer such Foreclosure Proceeds first to the Reserve Fund to restore any transfers from the Reserve Fund made with respect to the particular Assessed Property to which the Foreclosure Proceeds relate, and second, to the Redemption Fund as follows. After deposit of Foreclosure Proceeds into the Reserve Fund, the Trustee shall deposit such Foreclosure Proceeds first into the Reserve Account if the Reserve Account does not contain the Reserve Account Requirement until such account contains the Reserve Account Requirement, and second, such Foreclosure Proceeds shall be deposited into the Delinquency and Prepayment Reserve Account. If both the Reserve Account and Delinquency and Prepayment Reserve Account contain their respective amounts required to be on deposit, the Trustee shall transfer such Foreclosure Proceeds to the Redemption Fund.

(f) 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 Reserve Fund, the Trustee shall transfer any Pledged Revenues remaining in the Pledged Revenue Fund to the Town, which monies may be used for any lawful purpose for which Assessments may be used under the PID Act.

#### **Section 6.4. Bond Fund.**

(a) 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 Bonds.

(b) If amounts in the Principal and Interest Account are insufficient for the purposes set forth in paragraph (a) above, the Trustee shall withdraw from the Reserve Fund amounts to cover the amount of such insufficiency pursuant to Section 6.7(f). Amounts so withdrawn from the Reserve Fund shall be deposited in the Principal and Interest Account and transferred to the Paying Agent/Registrar.

#### **Section 6.5. Project Fund.**

(a) Money on deposit in the Project Fund shall be used for the purposes specified in Section 3.1.

(b) 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 Town Certificates. Disbursements from the Improvement Account of the Project Fund to pay Costs shall be made by the Trustee upon receipt by the Trustee of a properly executed and completed Certificate for Payment. All disbursements of funds pursuant to a Certificate for Payment shall be made from the Improvement Account. Each such Town Certificate shall include a list of the payees and the payments to be made to such payees as well as a statement that all payments shall be made by check or wire transfer in accordance with the payment instructions set forth in such Town Certificate or in the invoices submitted therewith and the Trustee is entitled to rely on such

payment instructions with no duty to investigate or inquire as to the authenticity of or authorization for the invoice or the payment instructions contained therein.

(c) Money on deposit in the Project Fund shall be used solely to pay Costs.

(d) After completion of all transfers, the Improvement Account of the Project Fund shall be closed.

(e) In making any determination pursuant to this Section, the Town Representative may conclusively rely upon a certificate of an Independent Financial Consultant.

(f) Upon a determination by the Town Representative that all costs of issuance of the Bonds have been paid, any amounts remaining in the Costs of Issuance Account shall be transferred to the Principal and Interest Account and used to pay interest on the Bonds, as directed in a Town Certificate filed with the Trustee.

#### **Section 6.6. Redemption Fund.**

The Trustee shall cause to be deposited to the Redemption Fund from the Pledged Revenue Fund an amount sufficient to redeem Bonds as provided in Sections 4.3 and 4.4 on the dates specified for redemption as provided in Sections 4.3 and 4.4. Amounts on deposit in the Redemption Fund shall be used and withdrawn by the Trustee to redeem Bonds as provided in Article IV.

#### **Section 6.7. Reserve Fund.**

(a) The Town agrees with the Owners of the Bonds to accumulate and, when accumulated, maintain in the Reserve Account, an amount equal to not less than the Reserve Account Requirement. All amounts deposited in the Reserve Account shall be used and withdrawn by the Trustee for the purpose of making transfers to the Principal and Interest Account of the Bond Fund as provided in this Indenture.

(b) Subject to 6.3(a) herein, the Trustee will transfer from the Bond Pledged Revenue Account of the Pledged Revenue Fund to the Delinquency and Prepayment Reserve Account on March 1 of each year, commencing March 1, 2019, an amount equal to the Additional Interest into the Delinquency and Prepayment Reserve Account until the Delinquency and Prepayment Reserve Requirement has been accumulated in the Delinquency and Prepayment Reserve Account. 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 been met. Furthermore, 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 first to the Redemption Fund to redeem Bonds as provided in Article IV 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 this Section, 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 Town Order specifying that a different amount be used.

(c) Whenever a transfer is made from the Reserve Fund to the Bond Fund due to a deficiency in the Bond Fund, the Trustee shall provide written notice thereof to the Town, specifying the amount withdrawn and the source or account of said funds.

(d) In the event of an extraordinary optional redemption of Bonds from the proceeds of a Prepayment pursuant to Section 4.4, the Trustee, pursuant to written directions from the Town, 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.

(e) Whenever, on any Interest Payment Date, or on any other date at the request of a Town Representative, the value of cash and Value of Investment Securities on deposit in the Reserve Account exceeds the Reserve Account Requirement, the Trustee shall provide written notice to the Town Representative of the amount of the excess. Such excess shall be transferred to the Principal and Interest Account to be used for the payment of interest on the Bonds on the next Interest Payment Date in accordance with Section 6.4, unless within thirty days of such notice to the Town Representative, the Trustee receives a Town Order instructing the Trustee to apply such excess: (i) to pay amounts due under Section 6.8 hereof or (ii) to the Administrative Fund in an amount not more than the Administrative Expenses for the Bonds.

(f) Whenever, on any Interest Payment Date, or on any other date at the written request of the Town Representative, the amounts on deposit in the Delinquency and Prepayment Reserve Account exceed the Delinquency and Prepayment Reserve Requirement, the Trustee shall provide written notice to the Town of the amount of the excess, and such excess shall be transferred, at the direction of the Town pursuant to a Town Order, to the Administrative Fund for the payment of Administrative Expenses or to the Redemption Fund. In the event that the Trustee does not receive a Town Order directing the transfer of such excess to the Administrative Fund within 45 days of providing notice to the Town of such excess, the Trustee shall transfer such excess to the Redemption Fund to redeem Bonds pursuant to Section 4.4 hereof.

(g) Whenever, on any Interest Payment Date, the amount on deposit in the Bond Fund is insufficient to pay the debt service on the Bonds due on such date, the Trustee shall transfer first from the Delinquency and Prepayment Reserve Account of the Reserve Fund and second from the Reserve Account of the Reserve Fund to the Bond Fund the amounts necessary

to cure such deficiency. Additional Interest shall be used to replenish first the Reserve Account of the Reserve Fund and second the Delinquency and Prepayment Reserve Account of the Reserve Fund.

(h) Reserved.

(i) At the final maturity of the Bonds, the amount on deposit in the Reserve Account and the Delinquency and Prepayment Reserve Account shall be transferred to the Redemption Fund and applied to the payment of the principal of the Bonds.

(j) If, after a Reserve Account withdrawal, the amount on deposit in the Reserve Account is less than the Reserve Account Requirement, the Trustee shall transfer from the Pledged Revenue Fund to the Reserve Account the amount of such deficiency, but only to the extent that such amount is not required for the timely payment of principal, interest, or Sinking Fund Installments.

(k) If the amount held in the Reserve Fund together with the amount held in the Pledged Revenue Fund, the Bond Fund and Redemption Fund is sufficient to pay the principal amount and of all Outstanding Bonds on the next date the Bonds may be optionally redeemed by the Town at a redemption price of par, together with the unpaid interest accrued on such Bonds as of such date, the moneys shall be transferred to the Redemption Fund and thereafter used to redeem all Bonds on such date.

#### **Section 6.8. Rebate Fund: Rebatable Arbitrage.**

(a) The Rebate Fund is to be held by the Trustee in accordance with the terms and provisions of this Indenture. Amounts on deposit in the Rebate Fund shall be used solely for the purpose of paying amounts due the United States Government in accordance with the Code. The Rebate Fund shall not be part of the Trust Estate and shall not be security for the Bonds.

(b) In order to assure that Rebatable Arbitrage is paid to the United States rather than to a third party, investments of funds on deposit in the Rebate Fund shall be made in accordance with the Code and the Tax Certificate.

(c) The Trustee conclusively shall be deemed to have complied with the provisions of this Section and shall not be liable or responsible if it follows the instructions of the Town and shall not be required to take any action under this Section in the absence of instructions from the Town.

(d) If, on the date of each annual calculation, the amount on deposit in the Rebate Fund exceeds the amount of the Rebatable Arbitrage, the Town may direct the Trustee, pursuant to a Town Order, to transfer the amount in excess of the Rebatable Arbitrage to the Bond Fund.

#### **Section 6.9. Administrative Fund.**

(a) Immediately upon receipt thereof, the Town shall deposit or cause to be deposited to the Administrative Fund the portion of the Assessments and Annual Installments allocated to

the payment of Administrative Expenses, and Delinquent Collection Costs, as set forth in the Service and Assessment Plan.

(b) 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 Town Order solely for the purposes set forth in the Service and Assessment Plan, including payment of Administrative Expenses and Delinquent Collection Costs. The Administrative Fund shall not be part of the Trust Estate and shall not be security for the Bonds.

#### **Section 6.10. Investment of Funds.**

(a) Money in any Fund or Account, other than the Reserve Fund, shall be invested by the Trustee as directed by the Town pursuant to a Town Order 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 Fund shall be invested in such Investment Securities as directed by the Town pursuant to a Town Order filed with the Trustee, provided that the final maturity of any individual Investment Security shall not exceed 270 days and the average weighted maturity of any investment pool or no-load money market mutual fund shall not exceed 90 days. Each such Town Order shall be a certification, upon which the Trustee is entitled to conclusively rely without investigation or inquiry, that the investment directed therein constitutes an Investment Security and that such investments meet the maturity and average weighted maturity requirements set forth in the preceding sentence. Such investments shall be valued each year in terms of the Value of Investment Securities as of September 30. For purposes of maximizing investment returns, to the extent permitted by law, money in the Funds and Accounts may be invested in common investments of the kind described above, or in a common pool of such investment which shall be kept and held at an official depository bank, which shall not be deemed to be or constitute a commingling of such money or funds provided that safekeeping receipts or certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such Fund or Account are held by or on behalf of each such Fund or Account. If necessary, such investments shall be promptly sold to prevent any default under this Indenture. To ensure that cash on hand is invested, if the Town does not give the Trustee written or timely instructions with respect to investments of funds, the Trustee may invest cash balances in investments authorized and permitted under the Public Funds Investment Act, Texas Government Code, Chapter 2256, as amended, or any successor law, as in effect from time to time, so long as such investments constitute Investment Securities and the money required to be expended from any Fund will be available at the proper time or times.

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

(c) The Trustee and its affiliates may act as sponsor, advisor, depository, principal or agent in the acquisition or disposition of any investment. The Trustee shall not incur any liability

for losses arising from any investments made pursuant to this Section. The Trustee shall not be required to determine the legality of any investments.

(d) Investments in any and all Funds and Accounts may be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular Funds or Accounts of amounts received or held by the Trustee hereunder, provided that the Trustee shall at all times account for such investments strictly in accordance with the Funds and Accounts to which they are credited and otherwise as provided in this Indenture.

(e) The Trustee will furnish to the Town, upon the Town's written request, periodic cash transaction statements which include detail for all investment transactions effected by the Trustee or brokers selected by the Town. Upon the Town's election, such statements will be delivered via the Trustee's online service and upon electing such service, paper statements will be provided only upon request. The Town waives the right to receive brokerage confirmations of security transactions effected by the Trustee as they occur, to the extent permitted by law. The Town further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

(f) In the event it is found, after an annual calculation has been done pursuant to Section 6.8 hereof, that the Town owes Rebatale Arbitrage to the United States Government, the Town shall direct the Trustee, pursuant to a Town Order, to transfer to the Rebate Fund the investment earnings on funds on deposit in the Pledged Funds in an amount equal to the Rebatale Arbitrage owed by the Town. The Town Order shall specify the amount to be transferred and the Pledged Fund or Pledged Funds from which the investment earnings shall be transferred.

#### **Section 6.11. Security of Funds.**

All Funds heretofore created or reaffirmed, to the extent not invested as herein permitted, shall be secured in the manner and to the fullest extent required by law for the security of public funds, and such Funds shall be used only for the purposes and in the manner permitted or required by this Indenture.

## **ARTICLE VII**

### **COVENANTS**

#### **Section 7.1. Confirmation of Assessments.**

The Town hereby confirms, covenants, and agrees that, in the Assessment Ordinance, it has levied the Assessments against the Assessed Property from which the Assessment Revenues will be collected and received.

## **Section 7.2. Collection and Enforcement of Assessments.**

(a) For so long as any Bonds are Outstanding, the Town covenants, agrees and warrants that it will 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.

(b) To the extent permitted by law, notice of the Annual Installments shall be sent by, or on behalf of, the Town to the affected property owners on the same statement or such other mechanism that is used by the Town, 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 Town.

(c) The Town 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 Town 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 Town shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Assessments or the corresponding particular Assessed Property.

(d) The Town shall not be required under any circumstances to expend any funds for Delinquent Collection Costs or Administrative Expenses in connection with its covenants and agreements under this Section or otherwise other than funds on deposit in the Administrative Fund.

## **Section 7.3. Against Encumbrances.**

(a) Other than Refunding Bonds issued to refund all or a portion of the Bonds, the Town shall not create and, to the extent Pledged Revenues are received, shall not suffer to remain, any lien, encumbrance or charge upon the Pledged Revenues or upon any other property pledged under this Indenture, except the pledge created for the security of the Bonds, and other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds.

(b) So long as Bonds are Outstanding hereunder, the Town shall not issue any bonds, notes or other evidences of indebtedness, other than the Bonds and Refunding Bonds issued to refund all or a portion of the Bonds, secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under this Indenture, other than a lien or pledge subordinate to the lien and pledge of such property related to the Bonds.

## **Section 7.4. Records, Accounts, Accounting Reports.**

The Town hereby covenants and agrees that so long as any Bonds are Outstanding, it will keep and maintain a proper and complete system of records and accounts pertaining to the Assessments. The Trustee and holder or holders of any Bonds or any duly authorized agent or

agents of such holders shall have the right at all reasonable times to inspect all such records, accounts, and data relating thereto, upon written request to the Town by the Trustee or duly authorized representative, as applicable. The Town shall provide the Trustee or duly authorized representative, as applicable, an opportunity to inspect such books and records relating to the Bonds during the Town's regular business hours and on a mutually agreeable date not later than thirty days after the Town receives such request.

**Section 7.5. Covenants Regarding Tax Exemption of Interest on Bonds.**

(a) The Town covenants to take any action necessary to assure, or refrain from any action that would adversely affect, the treatment of the Bonds as an obligation described in section 103 of the Code, the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Town covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Town, with respect to such private business use, do not, under the terms of this Article or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" that is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount that is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action that would otherwise result in the Bonds being treated as a "private activity bond" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds that were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) that produces a materially higher yield over the term of the Bonds, other than investment property acquired with –



(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of an advance refunding bond, for a period of 30 days or less until such proceeds are needed for the purpose for which the Bonds is issued, and in the case of a current refunding bond, for a period of 90 days or less,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(8) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) In order to facilitate compliance with the above covenant (a)(8), the Rebate Fund is established by the Town pursuant to Section 6.1 for the sole benefit of the United States of America, and such Rebate Fund shall not be subject to the claim of any other person, including without limitation the registered Owner. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) The Town understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the Town that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto (the "*Treasury Regulations*"). In the event that regulations or rulings are hereafter promulgated that modify or expand provisions of the Code, as applicable to the Bonds, the Town will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated that impose additional requirements applicable to the Bonds, the Town agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the Town hereby authorizes and directs the Mayor to execute any documents, certificates or reports required by the Code and to

make such elections, on behalf of the Town, that may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

(d) The Town covenants to account for the expenditure of sale proceeds and investment earnings to be used for Costs on its books and records in accordance with the requirements of the Code. The Town recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Authorized Improvements are completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Town recognizes that in order for proceeds to be expended under the Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds is retired. The Town agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the Town shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) The Town covenants that the projects funded with the proceeds of the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the Town of cash or other compensation, unless the Town obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Town shall not be obligated to comply with this covenant if it obtains a legal opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

## **ARTICLE VIII**

### **LIABILITY OF TOWN**

#### **Section 8.1. Liability of Town.**

(a) Neither the full faith and credit nor the general taxing power of the Town is pledged to the payment of the Bonds, and no Town taxes, fee or revenues from any source are pledged to the payment of, or available to pay any portion of, the Bonds or any other obligations relating to the District. The Town shall never be liable for any obligations relating to the Bonds or other obligations relating to the District, other than as specifically provided for in this Indenture.

(b) The Town shall not incur any responsibility in respect of the Bonds or this Indenture other than in connection with the duties or obligations explicitly herein or in the Bonds assigned to or imposed upon it. The Town shall not be liable in connection with the performance of its duties hereunder, except for its own willful default or act of bad faith. The Town shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions covenants or agreements of the Trustee herein or of any of the documents executed by

the Trustee in connection with the Bonds, or as to the existence of a default or event of default thereunder.

(c) In the absence of bad faith, the Town may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Town and conforming to the requirements of this Indenture. The Town shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts.

(d) No provision of this Indenture, the Bonds, the Assessment Ordinance, or any agreement, document, instrument, or certificate executed, delivered or approved in connection with the issuance, sale, delivery, or administration of the Bonds (collectively, the "*Bond Documents*"), shall require the Town to expend or risk its own general funds or other funds or otherwise incur any financial liability (other than with respect to the Pledged Revenues) in the performance of any of its obligations hereunder, or in the exercise of any of its rights or powers, if in the judgment of the Town there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it.

(e) Neither the Owners nor any other Person shall have any claim against the Town or any of its officers, officials, agents, or employees for damages suffered as a result of the Town's failure to perform in any respect any covenant, undertaking, or obligation under any Bond Documents or as a result of the incorrectness of any representation in, or omission from, any of the Bond Documents, except to the extent that any such claim relates to an obligation, undertaking, representation, or covenant of the Town, in accordance with the Bond Documents and the PID Act. Any such claim shall be payable only from Pledged Revenues. Nothing contained in any of the Bond Documents shall be construed to preclude any action or proceeding in any court or before any governmental body, agency, or instrumentality against the Town or any of its officers, officials, agents, or employees to enforce the provisions of any of the Bond Documents or to enforce all rights of the Owners of the Bonds by mandamus or other proceeding at law or in equity.

(f) The Town may rely on and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Town may consult with counsel with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith. Whenever in the administration of its duties under this Indenture the Town shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the Town, be deemed to be conclusively proved and established by a certificate of the Trustee, an Independent Financial Consultant, an independent inspector or Town Manager or other person designated by the Town Council to so act on behalf of the Town, and such certificate shall be full warrant to the Town for any action taken or suffered under the provisions of this Indenture upon the faith thereof, but in its discretion the Town may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

(g) In order to perform its duties and obligations hereunder, the Town may employ such persons or entities as it deems necessary or advisable. The Town shall not be liable for any of the acts or omissions of such persons or entities employed by it in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations, and directions of such persons or entities.

## **ARTICLE IX**

### **THE TRUSTEE**

#### **Section 9.1. Acceptance of Trust; Trustee as Registrar and Paying Agent.**

(a) The Trustee accepts and agrees to execute the respective trusts imposed upon it by this Indenture, but only upon the terms and conditions and subject to the provisions of this Indenture to all of which the parties hereto and the respective Owners of the Bonds agree.

(b) The Trustee is hereby designated and agrees to act also in the capacity as Paying Agent/Registrar for and in respect to the Bonds.

#### **Section 9.2. Trustee Entitled to Indemnity.**

The Trustee shall be under no obligation to institute any suit, or to undertake any proceeding under this Indenture, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction by the Owners against any and all costs and expenses, outlays, and counsel fees and other reasonable disbursements, and against all liability except as a consequence of its own negligence or willful misconduct; provided, however, that in no event shall the Trustee request or require indemnification as a condition to making any deposits, payments or transfers when directed in writing and required hereunder, or to deliver any notice when directed in writing and required hereunder. Nevertheless, the Trustee may begin suit, or appear in and defend suit, or do anything else proper to be done by it as the Trustee, and in such case the Trustee may make transfers from the Pledged Revenue Fund and Administrative Fund to pay all costs and expenses, outlays, and counsel fees and other reasonable disbursements properly incurred in connection therewith and shall be entitled to a preference therefor over any Bonds Outstanding hereunder.

#### **Section 9.3. Responsibilities of the Trustee.**

(a) The recitals contained in this Indenture and in the Bonds shall be taken as the statements of the Town and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or the Bonds or with respect to the security afforded by this Indenture, and the Trustee shall incur no liability with respect thereto. Except as otherwise expressly provided in this Indenture, the Trustee shall have no responsibility or duty with respect to: (i) the issuance of Bonds for value; (ii) the application of the proceeds thereof, except to the extent that such proceeds are received by the Trustee as consideration for serving in its capacity as Trustee; (iii) the application of any moneys paid to the Town or others in accordance with this Indenture, except as to the application of any moneys paid to the Trustee as consideration for serving in its capacity as Trustee; or (iv)

any calculation of arbitrage or rebate under the Code.

(b) The duties and obligations of the Trustee shall be determined by the express provisions of this Indenture, and the Trustee shall not be liable for the performance of such duties and obligations as are specifically set forth in this Indenture, except for the Trustee's own negligence or willful misconduct. The Trustee will, prior to any Event of Default and after curing of any Event of Default, perform such duties and only such duties as are specifically set forth herein. The Trustee will, during the existence of an Event of Default, exercise such rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of his/her own affairs.

(c) The Trustee shall not be liable for any action taken or omitted by it in the performance of its duties under this Indenture, except for its own negligence or willful misconduct. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from this Indenture for the existence or any actions or matters related to the District.

#### **Section 9.4. Property Held in Trust.**

All moneys and securities held by the Trustee at any time pursuant to the terms of this Indenture shall be held by the Trustee in trust for the purposes and under the terms and conditions of this Indenture.

#### **Section 9.5. Trustee Protected in Relying on Certain Documents.**

(a) The Trustee is entitled to rely upon any order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond, or other document provided to the Trustee in accordance with the terms of this Indenture that it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or Person or to have been prepared and furnished pursuant to any of the provisions of this Indenture, or upon the written opinion of any counsel, architect, engineer, insurance consultant, management consultant, or accountant believed by the Trustee to be qualified in relation to the subject matter, and the Trustee shall be under no duty to make any investigation or inquiry into any statements contained, the validity thereof, or matters referred to in any such instrument. Subject to Section 9.1 and 9.3, the Trustee may consult with counsel selected by the Trustee with due care, who may or may not be Bond Counsel, and any advice from such counsel with respect to compliance with the provisions of this Indenture shall be full and complete authorization and protection in respect of any action taken, suffered or omitted to be taken by it hereunder, reasonably and in good faith, in accordance with such advice.

(b) Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Indenture, such matter may be deemed to be conclusively proved and established by a Town Certificate, unless other evidence in respect thereof be hereby specifically prescribed. Such Town Certificate shall be full warrant for any action taken or suffered in good faith under the provisions hereof, but the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable. Except as otherwise expressly provided herein, any request,

order, notice, or other direction required or permitted to be furnished pursuant to any provision hereof by the Town to the Trustee shall be sufficiently executed if executed in the name of the Town by the Town Representative.

(c) The Trustee shall not be under any obligation to see to the recording or filing of this Indenture, or otherwise to the giving to any Person of notice of the provisions hereof except as expressly required in Section 9.13.

#### **Section 9.6. Compensation.**

Unless otherwise provided by contract with the Trustee, the Trustee shall transfer from the Administrative Fund, from time to time, the previously agreed upon schedule of compensation for all services rendered by it hereunder, including its services as Paying Agent/Registrar, together with all its reasonable expenses, charges, and other disbursements and those of its counsel, agents and employees, incurred in and about the administration and execution of the trusts hereby created and the exercise of its powers and the performance of its duties hereunder, all pursuant to a Town Order and subject to any limit on the amount of such compensation or recovery of expenses or other charges as shall be prescribed by such Town Order, and the Trustee shall have a lien therefor on any and all funds at any time held by it hereunder prior to any Bonds Outstanding. None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there are reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it. If the Town shall fail to make any payment required by this Section, the Trustee is entitled to make such payment from any moneys in its possession under the provisions of this Indenture and shall be entitled to a preference therefor over any Bonds Outstanding hereunder.

#### **Section 9.7. Permitted Acts.**

The Trustee and its directors, officers, employees, or agents may become the owner of or may in good faith buy, sell, own, hold and deal in Bonds and may join in any action that any Owner of Bonds may be entitled to take as fully and with the same rights as if it were not the Trustee. The Trustee may act as depository, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, the Town or any committee formed to protect the rights of holders of Bonds or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Indenture, whether or not such committee shall represent the holders of a majority of the Bonds.

#### **Section 9.8. Resignation of Trustee.**

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving not fewer than 60 days' notice, specifying the date when such resignation shall take effect, to the Town and each Owner of any Outstanding Bond. Such resignation shall take effect upon the date provided in such notice.

#### **Section 9.9. Removal of Trustee.**

The Trustee may be removed at any time by (i) the Owners of at least a majority of the Bonds by an instrument or concurrent instruments in writing signed and acknowledged by such

Owners or by their attorneys-in-fact, duly authorized and delivered to the Town, or (ii) so long as the Town is not in default under this Indenture, the Town. Copies of each such instrument shall be delivered by the Town to the Trustee and any successor thereof. The Trustee may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Town or the Owners of not less than 10% of the Bonds.

#### **Section 9.10. Successor Trustee.**

(a) If the Trustee shall resign, be removed, be dissolved, or become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator, or conservator of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of the Trustee hereunder shall thereupon become vacant.

(b) If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, a successor Trustee may be appointed within one year after any such vacancy shall have occurred by the Owners of at least 25% of the Bonds by an instrument or concurrent instruments in writing signed and acknowledged by such Owners or their attorneys-in-fact, duly authorized and delivered to such successor Trustee, with notification thereof being given to the predecessor Trustee and the Town.

(c) Until such successor Trustee shall have been appointed by the Owners of the Bonds, the Town shall forthwith appoint a Trustee to act hereunder. Copies of any instrument of the Town providing for any such appointment shall be delivered by the Town to the Trustee so appointed. The Town shall mail notice of any such appointment to each Owner of any Outstanding Bonds within 30 days after such appointment. Any appointment of a successor Trustee made by the Town immediately and without further act shall be superseded and revoked by an appointment subsequently made by the Owners of Bonds.

(c) If in a proper case no appointment of a successor Trustee shall be made within 45 days after the giving by any Trustee of any notice of resignation in accordance with Section 9.8 or after the occurrence of any other event requiring or authorizing such appointment, the Trustee or any Owner of Bonds may apply to any court of competent jurisdiction for the appointment of such a successor, and the court may thereupon, after such notice, if any, as the court may deem proper, appoint such successor and the Town shall be responsible for the costs of such appointment process.

(e) Any successor Trustee appointed under the provisions of this Section shall be a commercial bank or trust company or national banking association (i) having a capital and surplus and undivided profits aggregating at least \$50,000,000, if there be such a commercial bank or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms, and (ii) authorized by law to perform all the duties of the Trustee required by this Indenture.

(f) Each successor Trustee shall mail, in accordance with the provisions of the Bonds, notice of its appointment to the Trustee, any rating agency which, at the time of such appointment, is providing a rating on the Bonds and each of the Owners of the Bonds.

#### **Section 9.11. Transfer of Rights and Property to Successor Trustee.**

Any successor Trustee appointed under the provisions of Section 9.10 shall execute, acknowledge, and deliver to its predecessor and the Town an instrument in writing accepting such appointment, and thereupon such successor, without any further act, deed, or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers, duties, obligations, and trusts of its predecessor hereunder, with like effect as if originally appointed as Trustee. However, the Trustee then ceasing to act shall nevertheless, on request of the Town or of such successor, execute, acknowledge, and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the rights, immunities, powers, and trusts of such Trustee and all the right, title, and interest of such Trustee in and to the Trust Estate, and shall pay over, assign, and deliver to such successor any moneys or other properties subject to the trusts and conditions herein set forth. Should any deed, conveyance, or instrument in writing from the Town be required by such successor for more fully and certainly vesting in and confirming to it any such moneys, estates, properties, rights, powers, duties, or obligations, any and all such deeds, conveyances, and instruments in writing, on request and so far as may be authorized by law, shall be executed, acknowledged, and delivered by the Town.

#### **Section 9.12. Merger, Conversion or Consolidation of Trustee.**

Any corporation or association into which the Trustee may be merged or with which it may be consolidated or any corporation or association resulting from any merger, conversion or consolidation to which it shall be a party or any corporation or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Trustee hereunder, without any further act, deed or conveyance, provided that such corporation or association shall be a commercial bank or trust company or national banking association qualified to be a successor to such Trustee under the provisions of Section 9.10, or a trust company that is a wholly-owned subsidiary of any of the foregoing.

#### **Section 9.13. Trustee To File Continuation Statements.**

If necessary, the Trustee shall file or cause to be filed, at the Town's expense, such continuation statements as may be delivered to the Trustee and which may be required by the Texas Uniform Commercial Code, as from time to time in effect (the "UCC"), in order to continue perfection of the security interest of the Trustee in such items of tangible or intangible personal property and any fixtures as may have been granted to the Trustee pursuant to this Indenture in the time, place and manner required by the UCC. The Trustee is not responsible for the initial filing of any financing statements.

#### **Section 9.14. Accounts, Periodic Reports and Certificates.**

The Trustee shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in which complete and correct entries shall be made of its transactions relating to the Funds and Accounts established by this Indenture and which shall at all times be subject to inspection by the Town, and the Owner or Owners of not less than 10% in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.



**Section 9.15. Construction of Indenture.**

The Trustee may construe any of the provisions of this Indenture insofar as the same may appear to be ambiguous or inconsistent with any other provision hereof, and any construction of any such provisions hereof by the Trustee in good faith shall be binding upon the Owners of the Bonds.

**ARTICLE X**

**MODIFICATION OR AMENDMENT OF THIS INDENTURE**

**Section 10.1. Amendments Permitted.**

(a) This Indenture and the rights and obligations of the Town and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Indenture, except as provided below, pursuant to the affirmative vote at a meeting of Owners of the Bonds, or with the written consent without a meeting, of the Owners of the Bonds of at least fifty-one percent (51%) of the aggregate principal amount of the Bonds then Outstanding and Town approval of such modification or amendment. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the Town to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the Town of any pledge or lien upon the Pledged Revenues superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by Applicable Laws or this Indenture), or reduce the percentage of Bonds required for the amendment hereof. Any such amendment shall not modify any of the rights or obligations of the Trustee without its prior written consent.

(b) This Indenture and the rights and obligations of the Town and of the Owners may also be modified or amended at any time by a Supplemental Indenture, without the consent of any Owners, only to the extent permitted by law, and only for anyone or more of the following purposes:

(i) to add to the covenants and agreements of the Town in this Indenture contained, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the Town;

(ii) to make modifications not adversely affecting any Outstanding Bonds in any material respect;

(iii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in regard to questions arising under this Indenture, as the Town and the Trustee may deem necessary or desirable and not inconsistent with this Indenture, and that shall not adversely affect the rights of the Owners of the Bonds; and

(iv) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Bonds.

#### **Section 10.2. Owners' Meetings.**

The Town may at any time call a meeting of the Owners of the Bonds. In such event the Town is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof, and to fix and adopt rules and regulations for the conduct of said meeting.

#### **Section 10.3. Procedure for Amendment with Written Consent of Owners.**

(a) The Town and the Trustee may at any time adopt a Supplemental Indenture amending the provisions of the Bonds or of this Indenture, to the extent that such amendment is permitted by Section 10.1, to take effect when and as provided in this Section. A copy of such Supplemental Indenture, together with a request to Owners for their consent thereto, if such consent is required pursuant to Section 10.1, shall be mailed by first class mail, by the Trustee to each Owner of Bonds from whom consent is required under this Indenture, but failure to mail copies of such Supplemental Indenture and request shall not affect the validity of the Supplemental Indenture when assented to as in this Section provided.

(b) Such Supplemental Indenture shall not become effective unless there shall be filed with the Trustee the written consents of the Owners as required by this Indenture and a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 11.6. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof), unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

(c) After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Town shall mail a notice to the Owners in the manner hereinbefore provided in this Section for the mailing of the Supplemental Indenture, stating in substance that the Supplemental Indenture has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of the Supplemental Indenture or consents thereto). Proof of the mailing of such notice shall be filed with the Trustee. A record, consisting of the papers required by this Section 10.3 to be filed with the Trustee, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Indenture shall become effective upon the filing with the Trustee of the proof of mailing of such notice, and the Supplemental Indenture shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the Town and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty-day period.

#### **Section 10.4. Procedure for Amendment Not Requiring Owner Consent.**

(a) The Town and the Trustee may at any time adopt a Supplemental Indenture amending the provisions of the Bonds or of this Indenture, to the extent that such amendment is

permitted by Section 10.1, to take effect when and as provided in this Section. A copy of such Supplemental Indenture, together with a notice stating that the Supplemental Indenture does not require Owner consent, shall be mailed by first class mail by the Trustee to each Owner of Bonds, but failure to mail copies of such Supplemental Indenture shall not affect the validity of the Supplemental Indenture. The Trustee shall retain the proof of its mailing of such notice. A record, consisting of the papers required by this Section 10.4, shall be proof of the matters therein stated until the contrary is proved.

(b) The Supplemental Indenture shall become effective upon the execution and delivery of such Supplemental Indenture by the Trustee and the Town, and the Supplemental Indenture shall be deemed conclusively binding upon the Town, the Trustee and the Owners of all Bonds as of the date of such execution and delivery.

#### **Section 10.5. Effect of Supplemental Indenture.**

From and after the time any Supplemental Indenture becomes effective pursuant to this Article X, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties, and obligations under this Indenture of the Town, the Trustee and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

#### **Section 10.6. Endorsement or Replacement of Bonds Issued After Amendments.**

The Town may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement or otherwise, in form approved by the Town, as to such action. In that case, upon demand of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for that purpose at the designated office of the Trustee or at such other office as the Town may select and designate for that purpose, a suitable notation shall be made on such Bond. The Town may determine that new Bonds, so modified as in the opinion of the Town is necessary to conform to such Owners' action, shall be prepared, executed, and delivered. In that case, upon demand of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the designated office of the Trustee without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

#### **Section 10.7. Amendatory Endorsement of Bonds.**

The provisions of this Article X shall not prevent any Owner from accepting any amendment as to the particular Bonds held by such Owner, provided that due notation thereof is made on such Bonds.

#### **Section 10.8. Waiver of Default.**

With the written consent of at least a majority in aggregate principal amount of the Bonds then Outstanding, the Owners may waive compliance by the Town with certain past defaults under this Indenture and their consequences. Any such consent shall be conclusive and binding upon the Owners and upon all future Owners.

### **Section 10.9. Execution of Supplemental Indenture.**

In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the Town stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

## **ARTICLE XI**

### **DEFAULT AND REMEDIES**

#### **Section 11.1. Events of Default.**

Each of the following occurrences or events shall be and is hereby declared to be an "Event of Default," to wit:

(i) The failure of the Town to deposit the Pledged Revenues to the Pledged Revenue Fund;

(ii) The failure of the Town to enforce the collection of the Assessments including the prosecution of foreclosure proceedings, in accordance with Section 7.2; and

(iii) Default in the performance or observance of any covenant, agreement or obligation of the Town 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 Town by the Trustee, which 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 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 Town shall be entitled to a further extension of time reasonably necessary to remedy such default so long as corrective action is instituted by the Town 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.

(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.

## **Section 11.2. Immediate Remedies for Default.**

(a) Subject to Article VIII, upon the happening and continuance of any of the Events of Default described in Section 11.1, 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 then Outstanding hereunder shall proceed, to protect and enforce the rights of the Owners under this 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 herein, or injunction; provided, however, that no action for money damages against the Town may be sought or shall be permitted.

(b) PURSUANT TO SECTION 11.7, THE PRINCIPAL OF THE BONDS SHALL NOT BE SUBJECT TO ACCELERATION UNDER ANY CIRCUMSTANCES.

(c) If the assets of the Trust Estate are sufficient to pay all amounts due with respect to Outstanding Bonds, in the selection of Trust Estate assets to be used in the payment of Bonds due under this Article, the Town shall determine, in its absolute discretion, and shall instruct the Trustee by Town Order, 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 Town shall fail to deliver to the Trustee such Town Order, the Trustee shall select and liquidate or sell Trust Estate assets as provided in the following paragraph, and the Trustee shall not be liable to any Owner, or other Person, or the Town by reason of the following selection process, liquidation or sale.

(d) Whenever moneys are to be applied pursuant to this Article XI, irrespective of and whether other remedies authorized under this 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 shall 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, according to the following method and as may be required by law and apply the proceeds thereof in accordance with the provisions of this Section. The Trustee shall sell Trust Estate assets, according to the appraised value thereof, beginning with the asset of the highest value and continuing such sales in the order of next succeeding most valuable asset until satisfaction of debts pertaining to the Outstanding Bonds. 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 Town, 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 Town 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 proper for the purpose which may be designated in such request.

## **Section 11.3. Restriction on Owner's Action.**

(a) No Owner shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust thereof or any

other remedy hereunder, unless (i) a default has occurred and is continuing of which the Trustee has received prior notice in writing as provided in Section 11.1, (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 then Outstanding have made written request to the Trustee directing the Trustee to proceed to exercise the powers hereinbefore 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 Section 9.2, (iv) the Trustee has for 60 days after such prior written notice failed or refused to exercise the powers hereinbefore 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 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 shall have any right in any manner whatsoever to affect, disturb, or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner provided herein, and that all proceedings at law or in equity shall be instituted and maintained in the manner provided herein and for the equal benefit of the Owners of all Bonds then Outstanding. The notification, request and furnishing of indemnity set forth above shall be conditions precedent to the execution of the powers and trusts of this Indenture and to any action or cause of action for the enforcement of this Indenture or for any other remedy hereunder.

(b) Subject to Article VIII, nothing in this 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 Town to pay each Bond issued hereunder to the respective Owners thereof at the time and place, from the source and in the manner expressed herein and in the Bonds.

(c) In case the Trustee or any Owners of Bonds shall have proceeded to enforce any right under this 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, then and in every such case the Town, the Trustee and the Owners of Bonds shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

#### **Section 11.4. Application of Revenues and Other Moneys After Default.**

(a) 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 this Article shall, after payment of the cost and expenses of the proceedings resulting in the collection of such amounts, the expenses (including its counsel), liabilities, and advances incurred or made by the Trustee and the fees of the Trustee in carrying out this Indenture, during the continuance of an Event of Default, notwithstanding Section 11.2, be applied by the Trustee, on behalf of the Town, to the payment of interest and principal or Redemption Price then due on Bonds, as follows:

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 Owners entitled thereto, without any discrimination or preference; and

SECOND: To the payment to the Owners entitled thereto of the unpaid principal of Outstanding Bonds, or Redemption Price of any Bonds 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 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.

Within thirty (30) days of receipt of such good and available funds, the Trustee, at the direction of the Town, shall fix a record date and a payment date for any payment to be made to Owners of Bonds pursuant to this Section 11.4.

(b) In the event funds are not adequate to cure any of the Events of Default described in Section 11.1, the available funds shall be allocated to the Bonds that are Outstanding in proportion to the quantity of Bonds that are currently due and in default under the terms of this Indenture.

(c) The restoration of the Town to its prior position after any and all defaults have been cured, as provided in Section 11.3, shall not extend to or affect any subsequent default under this Indenture or impair any right consequent thereon.

#### **Section 11.5. Effect of Waiver.**

No delay or omission of the Trustee, or any Owner, to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or the Owners, respectively, may be exercised from time to time and as often as may be deemed expedient.

#### **Section 11.6. Evidence of Ownership of Bonds.**

(a) Any request, consent, revocation of consent or other instrument which this Indenture may require or permit to be signed and executed by the Owners of Bonds may be in one or more instruments of similar tenor, and shall be signed or executed by such Owners in person or by their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Indenture (except as otherwise herein expressly provided) if made in the following manner:

(i) The fact and date of the execution of such instruments by any Owner of Bonds or the duly appointed attorney authorized to act on behalf of such Owner may be provided by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the Person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation

or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature guarantee, certificate, or affidavit shall also constitute sufficient proof of his authority.

(ii) The ownership of Bonds and the amount, numbers and other identification and date of holding the same shall be proved by the Register.

(b) Except as otherwise provided in this Indenture with respect to revocation of a consent, any request or consent by an Owner of any Bond shall bind all future Owners of the same Bond in respect of anything done or suffered to be done by the Town or the Trustee in accordance therewith.

#### **Section 11.7. No Acceleration.**

In the event of the occurrence of an Event of Default under Section 11.1, the right of acceleration of any Stated Maturity is not granted as a remedy hereunder and the right of acceleration under this Indenture is expressly denied.

#### **Section 11.8. Mailing of Notice.**

Any provision in this Article for the mailing of a notice or other document to Owners shall be fully complied with if it is mailed, first class postage prepaid, only to each Owner at the address appearing upon the Register.

#### **Section 11.9. Exclusion of Bonds.**

Bonds owned or held by or for the account of the Town will not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Indenture, and the Town shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Indenture.

## **ARTICLE XII**

### **GENERAL COVENANTS AND REPRESENTATIONS**

#### **Section 12.1. Representations as to Pledged Revenues.**

(a) The Town represents and warrants that it is authorized by Applicable Laws to authorize and issue the Bonds, to execute and deliver this Indenture and to pledge the Pledged Revenues in the manner and to the extent provided in this Indenture, and that the Pledged Revenues are and will be and remain free and clear of any pledge, lien, charge, or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and lien created in or authorized by this Indenture except as expressly provided herein.

(b) The Town shall at all times, to the extent permitted by Applicable Laws, defend, preserve and protect the pledge of the Pledged Revenues and all the rights of the Owners and the Trustee, under this Indenture against all claims and demands of all Persons whomsoever.

(c) Subject to Section 7.2(d), the Town will take all steps reasonably necessary and appropriate, and will direct the Trustee to take all steps reasonably necessary and appropriate, to



collect all delinquencies in the collection of the Assessments and any other amounts pledged to the payment of the Bonds to the fullest extent permitted by the PID Act and other Applicable Laws.

**Section 12.2. General.**

The Town shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Town under the provisions of this Indenture.

**ARTICLE XIII**

**SPECIAL COVENANTS**

**Section 13.1. Further Assurances; Due Performance.**

(a) At any and all times the Town will duly execute, acknowledge and deliver, or will cause to be done, executed and delivered, all and every such further acts, conveyances, transfers, and assurances in a manner as the Trustee shall reasonably require for better conveying, transferring, pledging, and confirming unto the Trustee, all and singular, the revenues, Funds, Accounts and properties constituting the Pledged Revenues, and the Trust Estate hereby transferred and pledged, or intended so to be transferred and pledged.

(b) The Town will duly and punctually keep, observe and perform each and every term, covenant and condition on its part to be kept, observed and performed, contained in this Indenture.

**Section 13.2. Other Obligations or Other Liens; Refunding Bonds.**

(a) The Town reserves the right to issue obligations under other indentures, assessment ordinances, or similar agreements or other obligations which do not constitute or create a lien on the Trust Estate and are not payable from Pledged Revenues.

(b) Other than Refunding Bonds issued to refund all or a portion of the Bonds, the Town 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 this 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 this Indenture as a lien or charge upon the Pledged Revenues or Pledged Funds; provided, however, that nothing in this Section shall require the Town 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.

(c) Notwithstanding any contrary provision of this Indenture, the Town shall not issue additional bonds, notes or other obligations under this Indenture, secured by any pledge of or other lien or charge on the Pledged Revenues or other property pledged under this Indenture,

other than Refunding Bonds. The Town 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.

**Section 13.3. Books of Record.**

(a) The Town shall cause to be kept full and proper books of record and accounts, in which full, true and proper entries will be made of all dealings, business and affairs of the Town, which relate to the Pledged Revenues, the Pledged Funds, and the Bonds.

(b) The Trustee shall have no responsibility with respect to the financial and other information received by it pursuant to this Section 13.3 except to receive and retain same, subject to the Trustee's document retention policies, and to distribute the same in accordance with the provisions of this Indenture.

**ARTICLE XIV**

**PAYMENT AND CANCELLATION OF THE BONDS AND SATISFACTION OF THE INDENTURE**

**Section 14.1. Trust Irrevocable.**

The trust created by the terms and provisions of this Indenture is irrevocable until the Bonds secured hereby are fully paid or provision is made for their payment as provided in this Article.

**Section 14.2. Satisfaction of Indenture.**

If the Town shall pay or cause to be paid, or there shall otherwise be paid to the Owners, principal of and interest on all of the Bonds, at the times and in the manner stipulated in this Indenture, and all amounts due and owing with respect to the Bonds have been paid or provided for, then the pledge of the Trust Estate and all covenants, agreements, and other obligations of the Town to the Owners of such Bonds, shall thereupon cease, terminate, and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the Town copies of all such documents as it may have evidencing that principal of and interest on all of the Bonds has been paid so that the Town may determine if this Indenture is satisfied; if so, the Trustee shall pay over or deliver all moneys held by it in the Funds and Accounts held hereunder to the Person entitled to receive such amounts, or, if no Person is entitled to receive such amounts, then to the Town.

**Section 14.3. Bonds Deemed Paid.**

(a) 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 this Indenture (a "*Defeased Debt*"), and particularly this Article XIV, 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. Neither Defeasance Securities nor moneys deposited with the Trustee pursuant to this Section 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 Town 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.

(b) Any determination not to redeem Defeased Debt that is made in conjunction with the payment arrangements specified in Sections 14.3(a)(1) or 14.3(a)(2) shall not be irrevocable, provided that: (1) in the proceedings providing for such defeasance, the Town expressly reserves the right to call the Defeased Debt for redemption; (2) the Town gives notice of the reservation of that right to the Owners of the Defeased Debt immediately following the defeasance; (3) the Town directs that notice of the reservation be included in any defeasance or redemption notices that it authorizes; and (4) at or prior to the time of the redemption, the Town satisfies the conditions of clause (a) of this Section 14.3 with respect to such Defeased Debt as though it was being defeased at the time of the exercise of the option to redeem the Defeased Debt, after taking the redemption into account in determining the sufficiency of the provisions made for the payment of the Defeased Debt.

(c) Until all Defeased Debt shall have become due and payable, the Trustee and the Paying Agent/Registrar each shall perform the services of Trustee and Paying Agent/Registrar for such Defeased Debt the same as if they had not been defeased, and the Town shall make proper arrangements to provide and pay for such services as required by this Indenture.

## **ARTICLE XV**

### **MISCELLANEOUS**

#### **Section 15.1. Benefits of Indenture Limited to Parties.**

Nothing in this Indenture, expressed or implied, is intended to give to any Person other than the Town, the Trustee and the Owners, any right, remedy, or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture by and on behalf of the Town shall be for the sole and exclusive benefit of the Owners and the Trustee.

#### **Section 15.2. Successor is Deemed Included in All References to Predecessor.**

Whenever in this Indenture or any Supplemental Indenture either the Town or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Town or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

### **Section 15.3. Execution of Documents and Proof of Ownership by Owners.**

(a) Any request, declaration, or other instrument which this Indenture may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys duly appointed in writing.

(b) Except as otherwise expressly provided herein, the fact and date of the execution by any Owner or his attorney of such request, declaration, or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the Person signing such request, declaration, or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

(c) Except as otherwise herein expressly provided, the ownership of registered Bonds and the amount, maturity, number, and date of holding the same shall be proved by the Register.

(d) Any request, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Town or the Trustee in good faith and in accordance therewith.

### **Section 15.4. No Waiver of Personal Liability.**

No member, officer, agent, or employee of the Town shall be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained shall relieve any such member, officer, agent, or employee from the performance of any official duty provided by law.

### **Section 15.5. Notices to and Demands on Town and Trustee.**

(a) Except as otherwise expressly provided herein, all notices or other instruments required or permitted under this Indenture shall be in writing and shall be faxed, delivered by hand, or mailed by first class mail, postage prepaid, and addressed as follows:

If to the Town

Town of Hickory Creek, Texas  
Attn: Town Administrator  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

with a copy to:

McCall, Parkhurst & Horton LLP  
Attn: Jeff Gulbas  
717 North Harwood, Suite 900  
Dallas, Texas 75201

If to the Trustee  
Or the Paying Agent/Registrar

U.S. Bank National Association  
Attn: [ ]  
13737 Noel Road, Suite 800  
Dallas, Texas 75240

with a copy to:

[ ]

(b) Any such notice, demand, or request may also be transmitted to the appropriate party by telegram or telephone and shall be deemed to be properly given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing and sent as specified above.

(c) Any of such addresses may be changed at any time upon written notice of such change given to the other party by the party effecting the change. Notices and consents given by mail in accordance with this Section shall be deemed to have been given five Business Days after the date of dispatch; notices and consents given by any other means shall be deemed to have been given when received.

(d) The Trustee shall mail to each Owner of a Bond notice of (1) any substitution of the Trustee; or (2) the redemption or defeasance of all Bonds Outstanding.

#### **Section 15.6. Partial Invalidity.**

If any Section, paragraph, sentence, clause, or phrase of this Indenture shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The Town hereby declares that it would have adopted this Indenture and each and every other Section, paragraph, sentence, clause, or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that anyone or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid, or unenforceable.

#### **Section 15.7. Applicable Laws.**

This Indenture shall be governed by and enforced in accordance with the laws of the State applicable to contracts made and performed in the State.

#### **Section 15.8. Payment on Business Day.**

In any case where the date of the maturity of interest or of principal (and premium, if any) of the Bonds or the date fixed for redemption of any Bonds or the date any action is to be taken pursuant to this Indenture is other than a Business Day, the payment of interest or principal (and premium, if any) or the action need not be made on such date but may be made on the next succeeding day that is a Business Day with the same force and effect as if made on the date required and no interest shall accrue for the period from and after such date.

**Section 15.9. Counterparts.**

This Indenture may be executed in counterparts, each of which shall be deemed an original.

**Section 15.10. No Boycott of the State of Israel; No Terrorist Organization.**

(a) The Trustee represents and warrants, for purposes of Chapter 2270, Texas Government Code, that at the time of execution and delivery of this Indenture, neither the Trustee, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Trustee, boycotts the State of Israel. The Trustee agrees that, except to the extent otherwise required by applicable federal law, including, without limitation, 50 U.S.C. Section 4607, neither the Trustee, nor any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the Trustee, will boycott Israel during the term of this Indenture. The terms "boycotts Israel" and "boycott Israel" as used in this clause (a) has the meaning assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code.

(b) The Trustee represents and warrants, for purposes of Subchapter F of Chapter 2252 of the Texas Government Code, that at the time of execution and delivery of this Indenture neither the Trustee, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Trustee t, (i) engages in business with Iran, Sudan or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller under Sections 806.051, 807.051 or 2252.153 of the Texas Government Code. The term "foreign terrorist organization" as used in this clause (B) has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

*[Remainder of page left blank intentionally]*

IN WITNESS WHEREOF, the Town and the Trustee have caused this Indenture of Trust to be executed as of the date hereof.

TOWN OF HICKORY CREEK, TEXAS

By: \_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Town Secretary

(TOWN SEAL)

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

*Signature Page to Indenture of Trust*

Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018  
(Hickory Creek Public Improvement District No. 2)

## EXHIBIT A

### CERTIFICATE FOR PAYMENT

The undersigned is an agent for CTMGT Turbeville, LLC (the "Developer") and requests payment to the Developer (or to the person designated by the Developer) from the Improvement Account of the Project Fund from \_\_\_\_\_ (the "Trustee") in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) to be transferred from the Improvement Account of the Project Fund upon the delivery of the Bonds for costs incurred in the establishment, administration, and operation of the Town of Hickory Creek, Texas Public Improvement District No. 2 (the "District") and costs incurred for the creation, acquisition and construction of the Authorized Improvements, as follows. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Indenture of Trust by and between the Town and the Trustee dated as of June 1, 2018 relating to the "TOWN OF HICKORY CREEK, TEXAS SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018 (HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)" (the "Indenture").

In connection to the above referenced payment, the Developer represents and warrants to the Town as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Certificate for Payment on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced establishment, administration, and operation of the District at the time of the delivery of the Bonds have not been the subject of any prior payment request submitted to the Town. The payment requested for the below referenced Authorized Improvements has not been the subject of any prior payment request submitted for the same work to the Town or, if previously requested, no disbursement was made with respect thereto.
3. The amount listed for the below costs is a true and accurate representation of the costs associated with the establishment, administration and operation of the District at the time of the delivery of the Bonds, and such costs are in compliance with the Service and Assessment Plan. The amount listed for the Authorized Improvements below is a true and accurate representation of the actual Costs associated with the creation, acquisition, or construction of said Authorized Improvements, and such costs (i) are in compliance with the Reimbursement Agreement, and (ii) are consistent with the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Reimbursement Agreement, the Indenture, the Developer Continuing Disclosure Agreement and the Service and Assessment Plan.



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

6. The work with respect to the Authorized Improvements referenced below (or its completed segment) has been completed, and the Town has inspected such Authorized Improvements (or its completed segment).

7. The Developer agrees to cooperate with the Town in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the Town to complete said review.

**Payments requested hereunder shall be made as directed below:**

Attached hereto are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments. Also attached hereto are "bills paid" affidavits and supporting documentation in the standard form for Town construction projects.

[Information regarding Payee, amount, and deposit instructions attached]

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

**CTMGT Turbeville, LLC**

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

**APPROVAL OF REQUEST BY TOWN**

The Town is in receipt of the attached Certificate for Payment, acknowledges the Certificate for Payment, and finds the Certificate for Payment to be in order. After reviewing the Certificate for Payment, the Town approves the Certificate for Payment and shall include said payments in the Town Certificate (as defined in the Bond Indenture) submitted to the Trustee directing payments to be made from the applicable account upon delivery of the Bonds.

**TOWN OF HICKORY CREEK, TEXAS**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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## **APPENDIX C**

### **FORM OF SERVICE AND ASSESSMENT PLAN**



HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2  
AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN

MAY 4, 2018

VERSION 3

## **INTRODUCTION**

The Hickory Creek Public Improvement District No. 2 (“PID No. 2”) was created pursuant to the Act, as defined herein, and Resolution No. 2010-0918-1 of the Town Council on September 18, 2012 to finance certain public improvement projects for the benefit of the property in PID No. 2. A Reimbursement Agreement between the Town and the Developer was signed on October 16, 2012 to provide for the financing of the costs of the Authorized Improvements for the benefit of the property in PID No. 2.

The Town adopted a Service and Assessment Plan (the “Service and Assessment Plan”) which identified the public improvements (the “Authorized Improvements”) to be constructed, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in PID No. 2 for the costs of the Authorized Improvements. Pursuant to Chapter 372, Texas Local Government Code (as amended, the “Act”), the Service and Assessment Plan must be reviewed and updated annually. This document is the annual update of the Service and Assessment Plan for 2018 and amends and restates the Service and Assessment Plan (as so amended and updated the “Amended and Restated Service and Assessment Plan”). This Amended and Restated Service and Assessment Plan also updates the Assessment Rolls for 2018.

## SECTION I: DEFINITIONS

**“Act”** means Texas Local Government Code Chapter 372, as amended.

**“Actual Costs”** mean, with respect to Authorized Improvements, the actual costs paid or incurred by or on behalf of owners and developers of the District: (1) to plan, finance, design, acquire, construct, install, and dedicate such improvements to the Town; (2) to prepare plans, specifications (including bid packages), contracts, and as-built drawings; (3) to obtain zoning, licenses, plan approvals, permits, inspections, and other governmental approvals; (4) to acquire easements and other right-of-way; (5) for third-party professional consulting services including, but not limited to, engineering, surveying, geotechnical, land planning, architectural, landscaping, legal, accounting, and appraisals; (6) of labor, materials, equipment, fixtures, payment and performance bonds and other construction security, and insurance premiums; and (7) of fees charged by the Town or any other political subdivision or governmental authority.

**“Additional Interest”** means the 0.50% additional interest charged on Assessments pursuant to Section 372.018 of the Act.

**“Administrative Expenses”** mean the actual or budgeted costs and expenses related to the creation and operation of the District, the issuance and sale of PID Bonds, and the construction, operation, and maintenance of the Authorized Improvements, including, but not limited to, costs and expenses for: (1) the Administrator; (2) legal counsel, engineers, accountants, financial advisors, and other consultants engaged by the Town; (3) calculating, collecting, and maintaining records with respect to Assessments and Annual Installments; (4) preparing and maintaining records with respect to Assessment Rolls and Annual Service Plan Updates; (5) issuing, paying, and redeeming PID Bonds; (6) investing or depositing Assessments and Annual Installments; (7) complying with this Amended and Restated Service and Assessment Plan and the Act with respect to the issuance and sale of PID Bonds, including continuing disclosure requirements; (8) the paying agent/registrar and Trustee in connection with PID Bonds, including their respective legal counsel; and (9) administering the construction of the Authorized Improvements. Administrative Expenses collected but not expended in any year shall be carried forward and applied to reduce Administrative Expenses for subsequent years.

**“Administrator”** means the person or independent firm designated by the Town Council to perform the duties and obligations of the "Administrator" in this Amended and Restated Service and Assessment Plan. P3Works, LLC is the initial Administrator.

**“Annual Installment”** means the annual installment payment of an Assessment as calculated by the Administrator and approved by the Town Council, that includes: (1) principal; (2) interest; (3) Administrative Expenses; and (4) Additional Interest.

**“Annual Service Plan Update”** means an update to the Amended and Restated Service and Assessment Plan prepared no less frequently than annually by the Administrator and approved by the Town Council.

**“Amended and Restated Service and Assessment Plan”** means this Amended and Restated Service and Assessment Plan, as it may be modified and updated from time to time.

**“Assessed Property”** means any Parcel within the District against which an Assessment is levied.

**“Assessment”** means an assessment levied against a Parcel imposed pursuant to an Assessment Ordinance and the provisions herein, as shown on any Assessment Roll, subject to reallocation upon the subdivision of such Parcel or reduction according to the provisions herein and the Act.

**“Assessment Ordinance”** means any Assessment Ordinance adopted by the Town Council in accordance with the Act that levied Assessments within the District.

**“Assessment Roll”** means any Assessment Roll for Assessed Property within the District.

**“Assessment Plan”** assesses the Actual Costs of the Authorized Improvements against the District based on the special benefits conferred on the District by the Authorized Improvements, more specifically described in **Section V**.

**“Authorized Improvements”** mean improvements authorized by Section 372.003 of the Act as more specifically described in **Section III**.

**“Bond Issuance Costs”** mean the costs associated with issuing PID Bonds, including but not limited to attorney fees, financial advisory fees, consultant fees, appraisal fees, printing costs, publication costs, Town costs, capitalized interest, reserve fund requirements, first year Administration Expenses, underwriter’s discount, fees charged by the Texas Attorney General, and any other cost or expense directly associated with the issuance of PID Bonds.

**“County”** means Denton County, Texas.

**“Delinquent Collection Costs”** mean, for a Parcel, interest, penalties, and other costs and expenses authorized by the Act that directly or indirectly relate to the collection of delinquent Assessments, delinquent Annual Installments, or any other delinquent amounts due under this Amended and Restated Service and Assessment Plan, including costs and expenses to foreclose liens.

**“Developer”** means CTMGT Tuberville, LLC, a Texas limited liability company and any successor owner of the Property or any portion thereof.

**“District”** means approximately 111.424 acres located within the Town, as shown on **Exhibit B** and as more specifically described by metes and bounds on **Exhibit A-1**.



**“Final Plat”** means the replat of Steeplechase South Addition, a copy of which is attached on **Exhibit H**.

**“Improvement Area #1”** means the developed area within the District as generally shown on the map on **Exhibit B** and as described by metes and bounds on **Exhibit A-2** consisting of approximately [REDACTED] acres.

**“Improvement Area #1 Assessed Property”** means any and all Parcels within Improvement Area #1, against which an Improvement Area #1 Assessment is levied.

**“Improvement Area #1 Assessment Ordinance”** means Resolution No. 2012-10-699 adopted by the Town Council on October 16, 2012 in accordance with the Act that levied the Improvement Area #1 Assessments.

**“Improvement Area #1 Assessment Roll”** means the Assessment Roll for the Improvement Area #1 Assessed Property within the District, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the Act, including updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Updates. The Improvement Area #1 Assessment Roll is included in this Amended and Restated Service and Assessment Plan on **Exhibit F-1**.

**“Improvement Area #1 Assessments”** mean the Assessments levied on Parcels within Improvement Area #1.

**“Improvement Area #1 Improvements”** mean the Authorized Improvements which only benefit the Improvement Area #1 Assessed Property and are described in **Section III.A** hereto.

**“Improvement Area #2”** means the developed area within the District as generally shown on the map on **Exhibit B** and as described by metes and bounds on **Exhibit A-3** consisting of approximately [REDACTED] acres.

**“Improvement Area #2 Assessed Property”** means any and all Parcels within Improvement Area #2, against which an Improvement Area #2 Assessment is levied.

**“Improvement Area #2 Assessment Ordinance”** means the ordinance by which this Amended and Restated Service and Assessment Plan will be adopted by the Town Council in accordance with the Act that shall levy the Improvement Area #2 Assessments.

**“Improvement Area #2 Assessment Roll”** means the Assessment Roll for the Improvement Area #2 Assessed Property within the District, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the Act, including updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Updates. The Improvement Area #2 Assessment Roll is included in this Amended and Restated Service and Assessment Plan on **Exhibit G-1**.

**“Improvement Area #2 Assessments”** mean the Assessments levied on Parcels within Improvement Area #2.

**“Improvement Area #2 Improvements”** mean the Authorized Improvements which only benefit the Improvement Area #2 Assessed Property and are described in **Section III.B** hereto.

**“Indenture”** means an Indenture or Indentures of Trust entered into in connection with the issuance of one or more series of PID Bonds, as amended from time to time, between the Town and the Trustee setting forth terms and conditions related to the applicable PID Bonds.

**“Lot”** means for any portion of the District for which a final subdivision plat has been recorded in the Official Public Records of the County, a tract of land described by "lot" in such recorded and final subdivision plat.

**“Non-Benefited Property”** means Parcels that receive no special benefit from the Authorized Improvements as determined by the Town Council which may include Public Property.

**“Parcel”** or **“Parcels”** mean a specific property within the District identified by either a tax map identification number assigned by the Denton Central Appraisal District for real property tax purpose, by metes and bounds description, or by lot and block number in a final subdivision plat recorded in the Official Public Records of the County, or by any other means determined by the Town.

**“PID Bonds”** mean the bonds to be issued by the Town, in one or more series, to finance the Authorized Improvements that confer special benefit on the property within the District, which may include funds for any required reserves and amounts necessary to pay the PID Bond issuance costs, and to be secured by a pledge of the Assessments pursuant to the authority granted in the Act, for the purposes of (i) financing the costs of Authorized Improvements and related costs, and (ii) reimbursement for Actual Costs paid prior to the issuance of the PID Bonds.

**“Prepayment Costs”** mean interest and expenses to the date of Prepayment, plus any additional expenses related to the Prepayment, reasonably expected to be incurred by or imposed upon the Town as a result of any Prepayment.

**“Public Property”** means real property, whether conveyed or dedicated in fee simple, as an easement, license, or otherwise, to the Federal Government, to the County, to the Town, or to any other political subdivision, public or government agency, or public utility.

**“Service Plan”** means as required by the Act, a plan that covers a period of five years and defines the annual projected costs and indebtedness for the Authorized Improvements undertaken within the District during the five year period.

**“Town”** means the Town of Hickory Creek, Texas.

**“Town Council”** means the governing body of the Town.

**“Trustee”** means the trustee (or successor trustee) under an Indenture.

## **SECTION II: THE DISTRICT**

The District includes approximately 111.424 contiguous acres located within the Town, legally described by metes and bounds on **Exhibit A-1** and depicted on **Exhibit B**. Development of the District is anticipated to include 131 single-family homes, of which 108 are located within Improvement Area #1 and the remaining 23 are located within Improvement Area #2.

## **SECTION III: AUTHORIZED IMPROVEMENTS**

The Town Council, based on information provided by the Developer and its engineer and reviewed by the Town staff and by third-party consultants retained by the Town, has determined that the improvements described below are Authorized Improvements authorized by the Act that confer a special benefit on the Assessed Property, as summarized on **Exhibit C**. Authorized Improvements have been or will be designed and constructed in accordance with Town standards and specifications, and owned and operated by the Town.

### **A. Improvement Area #1 Improvements**

#### ▪ *Street*

Improvements including subgrade stabilization (including lime treatment and compaction), concrete and reinforcing steel for roadways, testing, handicapped ramps, and street lights. All related earthwork, excavation, erosion control, retaining walls, intersections, signage, lighting and re-vegetation of all disturbed areas within the right-of-way are included. The street improvements will provide street access to each Lot within Improvement Area #1.

#### ▪ *Water*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide water service to all Lots within Improvement Area #1.

#### ▪ *Sanitary Sewer*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion

control all necessary appurtenances required to provide wastewater service to all Lots within Improvement Area #1.

- *Storm Drainage*

Improvements including earthen channels, swales, curb and drop inlets, RCP piping and boxes, headwalls, concrete flumes, rock rip rap, concrete outfalls, and testing as well as all related earthwork, excavation, and erosion control necessary to provide storm drainage for all Lots within Improvement Area #1.

- *Soft Costs*

Improvements including engineering and design, construction inspection fees, geotechnical testing and governmental submittal fees for the costs associated with the street, water, sanitary sewer and storm drainage improvements as described above.

## **B. Improvement Area #2 Improvements**

- *Street*

Improvements including subgrade stabilization (including lime treatment and compaction), concrete and reinforcing steel for roadways, testing, handicapped ramps, and street lights. All related earthwork, excavation, erosion control, retaining walls, intersections, signage, lighting and re-vegetation of all disturbed areas within the right-of-way are included. The street improvements will provide street access to each Lot within Improvement Area #2.

- *Water*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide water service to all Lots within Improvement Area #2.

- *Sanitary Sewer*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide wastewater service to all Lots within Improvement Area #2.

- *Storm Drainage*

Improvements including earthen channels, swales, curb and drop inlets, RCP piping and boxes, headwalls, concrete flumes, rock rip rap, concrete outfalls, and testing as well as all related earthwork, excavation, and erosion control necessary to provide storm drainage for all Lots within Improvement Area #2.

- *Soft Costs*

Improvements including engineering and design, construction inspection fees, geotechnical testing and governmental submittal fees for the costs associated with the street, water, sanitary sewer and storm drainage improvements as described above.

**C. Bond Issuance Costs**

- *Debt Service Reserve Fund*

Equals the amount required under an Indenture in connection with the issuance of PID Bonds.

- *Capitalized Interest*

Equals the capitalized interest payments on PID Bonds as reflected in an applicable Indenture.

- *Underwriting Discount*

Equals a percentage of the par amount of a series of PID Bonds plus a fee for underwriter's counsel.

- *Cost of Issuance*

Includes costs associated with issuing PID Bonds, including but not limited to attorney fees, financial advisory fees, first year Administrative Expenses, consultant fees, appraisal fees, printing costs, publication costs, Town costs, fees charged by the Texas Attorney General, and any other cost or expense directly associated with the issuance of PID Bonds.

<b>SECTION IV: SERVICE PLAN</b>
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The Act requires the service plan to cover a period of at least five years and to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the District during the five year period. The Service Plan must be reviewed and updated by the Town

Council at least annually. Exhibit D of this Amended and Restated Service and Assessment Plan summarizes the Service Plan for the District.

**Exhibit E** summarizes the sources and uses of funds required to construct the Authorized Improvements, fund required reserves and issue the PID Bonds. The sources and uses of funds shown on **Exhibit E** shall be updated each year in the Annual Service Plan Update to reflect any budget revisions and Actual Costs.

## **SECTION V: ASSESSMENT PLAN**

The Act allows the Town Council to apportion the Authorized Improvements to the Assessed Property based on the special benefit received by the Authorized Improvements. The Act provides that such costs may be apportioned: (i) equally per front foot or square foot; (ii) according to the value of property as determined by the Town Council, with or without regard to improvements constructed on the property; or (iii) in any other manner approved by the Town Council that results in imposing equal shares of such costs on property similarly benefited. The Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

The determination by the Town Council of the assessment methodologies set forth below is the result of the discretionary exercise by the Town Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of the Assessed Property.

### **A. Assessment Methodology**

The Town Council, acting in its legislative capacity based on information provided by the Developer and its engineer and reviewed by the Town staff and by third-party consultants retained by the Town, has determined that the Assessments shall be allocated as follows:

#### *1. Improvement Area #1*

The Improvement Area #1 Assessments relating to the Improvement Area #1 Improvements shall be allocated 100% to the Improvement Area #1 Assessed Property. The Improvement Area #1 Assessments shall be allocated equally among all Lots located within Improvement Area #1.

#### *2. Improvement Area #2*

The Improvement Area #2 Assessments relating to the Improvement Area #2 Improvements shall be allocated 100% to the Improvement Area #2 Assessed Property. The Improvement Area #2 Assessments shall be allocated equally among all Lots located within Improvement Area #2.

## **B. Assessments**

The Improvement Area #1 Assessments are shown on the Improvement Area #1 Assessment Roll, attached hereto on **Exhibit F-1**. The projected Improvement Area #1 Annual Installments are shown on **Exhibit F-2**. The projected Improvement Area #1 Annual Installments per Lot are shown on **Exhibit F-3**. The Improvement Area #2 Assessments are shown on the Improvement Area #2 Assessment Roll, attached hereto on **Exhibit G-1**. The projected Improvement Area #2 Annual Installments are shown on **Exhibit G-2**. The projected Improvement Area #2 Annual Installments per Lot are shown on **Exhibit G-3**.

## **C. Findings of Special Benefit**

The Town Council, acting in its legislative capacity based on information provided by the Developer and its engineer and reviewed by the Town staff and by third-party consultants retained by the Town, has found and determined:

### *1. Improvement Area #1*

- a. The Improvement Area #1 Improvements cost plus Bond Issuance Costs allocable to Improvement Area #1 equal \$3,482,166, as shown on **Exhibit C**; and
- b. The Improvement Area #1 Assessed Property receives special benefit from the Improvement Area #1 Improvements equal to or greater than the Actual Cost of the Improvement Area #1 Improvements; and
- c. The sum of the Improvement Area #1 Assessments for all Lots within Improvement Area #1 equals \$3,479,084 as shown on the Improvement Area #1 Assessment Roll attached hereto as **Exhibit F-1**; and
- d. The special benefit ( $\geq$  \$3,482,166) received by Improvement Area #1 Assessed Property from the Improvement Area #1 Improvements is greater than the amount of the Improvement Area #1 Assessments (\$3,479,084) levied for the Improvement Area #1 Improvements.
- e. At the time the Town Council levied the Improvement Area #1 Assessments, the Developer owned 100% of the Improvement Area #1 Assessed Property. The Developer acknowledged that the Improvement Area #1 Improvements confer a special benefit on the Improvement Area #1 Assessed Property and consented to the imposition of the Improvement Area #1 Assessments to pay for the Actual

Costs associated therewith. The Developer ratified, confirmed, accepted, agreed to and approved: (i) the determinations and findings by the Town Council as to the special benefits described herein and the Improvement Area #1 Assessment Ordinance; (ii) the Amended and Restated Service and Assessment Plan and the Improvement Area #1 Assessment Ordinance, and (iii) the levying of Improvement Area #1 Assessments on the Improvement Area #1 Assessed Property.

*2. Improvement Area #2*

- a. The Improvement Area #2 Improvements cost plus the Bond Issuance Costs allocable to Improvement Area #2 equal \$855,973, as shown on **Exhibit C**; and
- b. The Improvement Area #2 Assessed Property receives special benefit from the Improvement Area #2 Improvements equal to or greater than the Actual Cost of the Improvement Area #2 Improvements; and
- c. The sum of the Improvement Area #2 Assessments for all Lots within Improvement Area #2 equals \$740,916 as shown on the Improvement Area #2 Assessment Roll attached on **Exhibit G-1**; and
- d. The special benefit (  $\geq$  \$855,973) received by Improvement Area #2 Assessed Property from the Improvement Area #2 Improvements is greater than the amount of the Improvement Area #2 Assessments (\$740,916) levied for the Improvement Area #2 Improvements.
- e. At the time the Town Council levied the Improvement Area #2 Assessments, the Developer owned 100% of the Improvement Area #2 Assessed Property. The Developer acknowledged that the Improvement Area #2 Improvements confer a special benefit on the Improvement Area #2 Assessed Property and consented to the imposition of the Improvement Area #2 Assessments to pay for the Actual Costs associated therewith. The Developer has ratified, confirmed, accepted, agreed to and approved: (i) the determinations and findings by the Town Council as to the special benefits described herein and the Improvement Area #2 Assessment Ordinance; (ii) the Amended and Restated Service and Assessment Plan and the Improvement Area #2 Assessment Ordinance, and (iii) the levying of Improvement Area #2 Assessments on the Improvement Area #2 Assessed Property.

**D. Administrative Expenses**

The costs of administering the District and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on



the Parcel. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts shown on the Assessment Roll, which may be revised based on Actual Costs incurred in Annual Service Plan Updates.

#### **E. Additional Interest**

The interest rate on Assessments levied on the Assessed Property may exceed the interest rate on the PID Bonds by the Additional Interest. The Additional Interest shall be collected as part of each Annual Installment. The Additional Interest shall be deposited and used as described in the Indenture for any PID Bonds.

## **SECTION VI: TERMS OF THE ASSESSMENTS**

### **A. Reallocation of Assessments**

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

Upon the division of any Assessed Property (without the recording of a subdivision plat), the Administrator shall reallocate the Assessment for the Assessed Property prior to the division among the newly divided Assessed Properties according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

A = the Assessment for the newly divided Assessed Property

B = the Assessment for the Assessed Property prior to division

C = the estimated number of Lots within the newly divided Assessed Property

D = the estimated number of Lots for all of the newly divided Assessed Properties

The sum of the Assessments for all newly divided Assessed Properties shall equal the Assessment for the Assessed Property prior to subdivision. The calculation shall be made separately for each newly divided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in an update to this Amended and Restated Service and Assessment Plan approved by the Town Council.

#### *2. Upon Subdivision by a Recorded Subdivision Plat*

Upon the subdivision of any Assessed Property based on a recorded Subdivision Plat, the Administrator shall reallocate the Assessment for the Assessed Property prior to the subdivision among the newly subdivided Lots according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

A = the Assessment for the newly divided Assessed Property

B = the Assessment for the Assessed Property prior to division

C = the number of Lots within the newly divided Assessed Property

D = the number of Lots for all of the newly divided Assessed Properties

The sum of the Assessments for all newly subdivided Lots shall not exceed the Assessment for the portion of the Assessed Property subdivided prior to subdivision. The calculation shall be made separately for each newly subdivided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in an update to this Amended and Restated Service and Assessment Plan approved by the Town Council.

### *3. Upon Consolidation*

If two or more Lots or Parcels are consolidated, the Administrator shall allocate the Assessments against the Lots or Parcels before the consolidation to the consolidated Lot or Parcel, which allocation shall be approved by the Town Council in the next Annual Service Plan Update.

## **B. Mandatory Prepayment of Assessments**

If the Assessed Property is transferred to a person or entity that is exempt from payment of the Assessment, the owner transferring the Assessed Property shall pay to the Town the full amount of the Assessment, plus Prepayment Costs and Delinquent Collection Costs, prior to the transfer. If the owner of the Assessed Property causes the Assessed Property to become Non-Benefited Property, the owner causing the change in status shall pay to the Town the full amount of the Assessment, plus Prepayment Costs and Delinquent Collection Costs, prior to the change in status.

## **C. Reduction of Assessments**

If as a result of cost savings or an Authorized Improvement not being constructed, the Actual Costs of completed Authorized Improvements are less than the Assessments levied for such Authorized Improvements, the Town Council shall reduce each Assessment related to such Authorized Improvements on a pro-rata basis such that the sum of the resulting reduced Assessments for all Assessed Properties receiving benefit from the Authorized Improvements equals the reduced Actual Costs. The Assessments shall not, however, be reduced to an amount less than the outstanding PID Bonds.

The Administrator shall update (and submit to the Town Council for review and approval as part of the next Annual Service Plan Update) the Assessment Rolls and corresponding Annual

Installments to reflect the reduced Assessments.

#### **D. Prepayment of Assessments**

The owner of the Assessed Property may pay, at any time, all or any part of an Assessment in accordance with the Act. If an Annual Installment has been billed prior to payment, the Annual Installment shall be due and payable and shall be credited against the prepayment.

If an Assessment is paid in full, with interest: (1) the Administrator shall cause the Assessment to be reduced to zero and the Assessment Roll to be revised accordingly; (2) the Administrator shall cause the revised Assessment Roll to be approved by the Town Council as part of the next Annual Service Plan Update; (3) the obligation to pay the Assessment and corresponding Annual Installments shall terminate; and (4) the Town shall provide the owner with a recordable "Notice of PID Assessment Termination."

If an Assessment is paid in part, with interest: (1) the Administrator shall cause the Assessment to be reduced and the Assessment Roll revised accordingly; (2) the Administrator shall cause the revised Assessment Roll to be approved by the Town Council as part of the next Annual Service Plan Update; and (3) the obligation to pay the Assessment and corresponding Annual Installments shall be reduced.

#### **E. Payment of Assessment in Annual Installments**

**Exhibit F-2** shows the projected Improvement Area #1 Annual Installments, **Exhibit G-2** shows the projected Improvement Area #2 Annual Installments, **Exhibit F-3** shows the projected Improvement Area #1 Annual Installments per Lot, and **Exhibit G-3** shows the projected Improvement Area #2 Annual Installments per Lot. Assessments that are not paid in full shall be due and payable in Annual Installments. Annual Installments are subject to adjustment in each Annual Service Plan Update.

The Administrator shall prepare and submit to the Town Council for its review and approval an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and updated calculations of Annual Installments. Annual Installments shall be reduced by any credits applied under the applicable Indenture, such as capitalized interest, interest earnings on account balances, and any other funds available to the Trustee for such purposes. Annual Installments shall be collected by the Town in the same manner and at the same time as ad valorem taxes. Annual Installments shall be subject to the penalties, procedures, and foreclosure sale in case of delinquencies as set forth in the Act and in the same manner as ad valorem taxes for the Town. The Town Council may provide for other means of collecting Annual Installments. Assessments shall have the lien priority specified in the Act.

Sales of the Assessed Property for nonpayment of Annual Installments shall be subject to the lien for the remaining unpaid Assessment against the Assessed Property, and the Assessed Property may again be sold at a judicial foreclosure sale if the purchaser fails to timely pay the Annual Installments as they become due and payable.

The Town reserves the right to refund PID Bonds in accordance with the Act. In the event of a refunding, the Administrator shall recalculate the Annual Installments so that total Annual Installments will be sufficient to pay the refunding bonds, and the refunding bonds shall constitute "PID Bonds."

Each Annual Installment of an Assessment, including interest on the unpaid principal of the Assessment, shall be updated annually. Each Annual Installment shall be delinquent if not paid prior to February 1 of the following year.

## **SECTION VII: ASSESSMENT ROLL**

The Improvement Area #1 Assessment Roll is attached on **Exhibit F-1** and the Improvement Area #2 Assessment Rolls is attached on Exhibit **G-1**. The Administrator shall prepare and submit to the Town Council for review and approval, proposed revisions to the Assessment Rolls as well as the Annual Installments as part of each Annual Service Plan Update.

## **SECTION VIII: ADDITIONAL PROVISIONS**

### **A. Calculation Errors**

If the owner of a Parcel claims that an error has been made in any calculation required by this Amended and Restated Service and Assessment Plan, including, but not limited to, any calculation made as part of any Annual Service Plan Update, the owner's sole and exclusive remedy shall be to submit a written notice of error to the Town within 30 days of the mailing of a bill for the Annual Installment resulting from the Amended and Restated Service and Assessment Plan or any Annual Service Plan Update; otherwise, the owner shall be deemed to have unconditionally approved the calculation. Upon receipt of a written notice of error from an owner, the Town shall refer the notice to the Administrator who shall provide a written response to the Town and the owner within 30 days of such referral. The Town Council shall consider the owner's notice of error and the Administrator's response, and within 30 days the Town Council shall make a final determination as to whether or not an error has been made. If the Town Council determines that an error has been made, the Town Council shall take such corrective action as is authorized by the Act, this Amended and Restated Service and Assessment Plan, the Assessment Ordinance, or the Indenture, or is otherwise authorized by the discretionary power of the Town Council. The determination by the Town Council as to whether an error has been

made, and any corrective action taken by the Town Council, shall be final and binding on the owner and the Administrator.

#### **B. Amendments**

Amendments to this Amended and Restated Service and Assessment Plan must be made by the Town Council in accordance with the Act. To the extent permitted by the Act, this Amended and Restated Service and Assessment Plan may be amended without notice to owners of the Assessed Property: (1) to correct mistakes and clerical errors; (2) to clarify ambiguities; and (3) to provide procedures to collect Assessments, Annual Installments, and other charges imposed by this Amended and Restated Service and Assessment Plan.

#### **C. Administration and Interpretation**

The Administrator shall: (1) perform the obligations of the Administrator as set forth in this Amended and Restated Service and Assessment Plan; (2) administer the District for and on behalf of and at the direction of the Town Council; and (3) interpret the provisions of this Amended and Restated Service and Assessment Plan. Interpretations of this Amended and Restated Service and Assessment Plan by the Administrator shall be in writing and shall be appealable to the Town Council by owners or developers adversely affected by the interpretation. Appeals shall be decided by the Town Council after holding a public hearing at which all interested parties have an opportunity to be heard. Decisions by the Town Council shall be final and binding on the owners and developers and their successors and assigns.

#### **D. Severability**

If any provision of this Amended and Restated Service and Assessment Plan is determined by a governmental agency or court to be unenforceable, the unenforceable provision shall be deleted and, to the maximum extent possible, shall be rewritten to be enforceable. Every effort shall be made to enforce the remaining provisions.

## **EXHIBITS**

The following Exhibits are attached to and made a part of this Amended and Restated Service and Assessment Plan for all purposes:

<b>Exhibit A-1</b>	District Legal Description
<b>Exhibit A-2</b>	Improvement Area #1 Legal Description
<b>Exhibit A-3</b>	Improvement Area #2 Legal Description
<b>Exhibit B</b>	Map of District, Improvement Area #1, and Improvement Area #2
<b>Exhibit C</b>	Allocation of Authorized Improvements
<b>Exhibit D</b>	Service Plan
<b>Exhibit E</b>	Sources and Uses of Funds
<b>Exhibit F-1</b>	Improvement Area #1 Assessment Roll
<b>Exhibit F-2</b>	Projected Improvement Area #1 Annual Installments
<b>Exhibit F-3</b>	Projected Improvement Area #1 Annual Installments Per Lot
<b>Exhibit G-1</b>	Improvement Area #2 Assessment Roll
<b>Exhibit G-2</b>	Projected Improvement Area #2 Annual Installments
<b>Exhibit G-3</b>	Projected Improvement Area #2 Annual Installments Per Lot
<b>Exhibit H</b>	Final Plat

## **Exhibit A-1**

### **District Legal Description**

#### TRACT 1 – 112.4 ACRES

(part of the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton, Texas, and being all of that tract of land described as Tract 3- South in Special Warranty Deed to CTMGT Turbeville, LLC as recorded in Document Number 2011-121573 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)]("Record" bearings and distances cited herein are from said Special Warranty Deed to CTMGT Turbeville, LLC):

BEGINNING at a found PK nail for the southeast corner of said Tract 3- South, said point being in the centerline of Harbor Lane (a called 60 foot wide right-of-way in said Document Number 2011-121573), and being in the north line of the Harbor Grove Estates, Section 3, an addition to the Town of Hickory Creek, Texas, as recorded in Volume 2, Page 151 of the Plat Records of Denton County, Texas;

THENCE South 89 degrees 43 minutes 27 seconds West (record South 89 degrees 47 minutes 55 seconds West 666.64 feet), with the common north line of said Harbor Grove Estates, Section 3 and the south line of said Tract 3- South, a distance of 667.21 feet to a found Corps of Engineers monument for the common northwest corner of said Harbor Grove Estates, Section 3 and the northeast corner of that tract of land described as Tract No. F-522 in deed to United States of America as recorded in Volume 383, Page 375 of the Deed Records of Denton County, Texas (D.R.D.C.T.);

THENCE North 88 degrees 47 minutes 24 seconds West (record North 88 degrees 51 minutes 13 seconds West 658.88 feet), with the common north line of said Tract No. F-522 and the south line of said Tract 3- South, a distance of 658.67 feet to a found Corp of Engineers monument for the common northwest corner of said Unites States of America tract and the northeast corner of that tract of land described in deeds to Sabrina Holkar-Ellis Irrevocable 2007 Trust as recorded in Document Number 2007-127619, O.P.R.D.C.T., and Yeshwant R. Holkar Irrevocable 2007 Trust as recorded in, Document Number 2007-127629, O.P.R.D.C.T.;

THENCE North 89 degrees 46 minutes 12 seconds West (record North 89 degrees 46 minutes 12 seconds West 478.46 feet), with the common north line of said Holkar Trusts tract and the south line of said Tract 3- South, a distance of 478.46 feet to a found PK nail for the southwest corner of said Tract 3- South in the approximate centerline of Sycamore Bend Road (a variable width roadway by usage, no deed of record found);

THENCE with the west line of said Tract 3- South and along the approximate centerline of said Sycamore Bend Road through the following calls:

North 03 degrees 50 minutes 37 seconds West (record North 03 degrees 50 minutes 37 seconds West 502.49 feet), a distance of 502.49 feet to a found PK nail for corner;

North 05 degrees 22 minutes 06 seconds West (record North 05 degrees 22 minutes 06 seconds West 254.96 feet), a distance of 255.11 feet to a found PK nail for corner;

North 06 degrees 22 minutes 51 seconds West (record North 06 degrees 25 minutes 21 seconds West 259.59 feet), a distance of 259.28 feet to a found PK nail for corner;

North 07 degrees 54 minutes 41 seconds West (record North 07 degrees 52 minutes 58 seconds West 361.37 feet), a distance of 361.68 feet to a found PK nail for corner;

North 07 degrees 01 minute 29 seconds West (record North 07 degrees 01 minute 29 seconds West 448.45 feet), a distance of 448.45 feet to a found PK nail for corner;

North 10 degrees 09 minutes 53 seconds West (record North 10 degrees 09 minutes 53 seconds West 139.03 feet), a distance of 139.03 feet to a found PK nail for corner;

North 12 degrees 10 minutes 59 seconds West (record North 12 degrees 10 minutes 59 seconds West 706.84 feet), a distance of 706.84 feet to a found PK nail for the northwest corner of said Tract 3- South, said point being within the right-of-way of Turbeville Road (a variable width roadway by usage, no deed of record found);

THENCE South 89 degrees 13 minutes 35 seconds East (record South 89 degrees 13 minutes 35 seconds East 2,142.75 feet), with the north line of said Tract 3- South and within said Turbeville Road, a distance of 2,143.10 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" for the northeast corner of said Tract 3- South, said point being on the centerline of the aforementioned Harbor Lane as described in said Document Number 2011-121573, and from which point a 1/2-inch found iron rod for the northeast corner of that called 116.768 acre tract of land described in deed to Alan H. Goldfield and Shirley M. Goldfield as recorded in Document Number 95-R0035165 (hereinafter referred to as the "Goldfield tract") bears North 48 degrees 36 minutes 21 seconds West a distance of 9.32 feet;

THENCE South 00 degrees 33 minutes 59 seconds East (record South 00 degrees 33 minutes 59 seconds East 1,511.92 feet), with the east line of said Tract 3- South and said centerline of Harbor Lane as described in said Document Number 2011-121573, a distance of 1,511.92 feet to a found PK nail for corner;

THENCE with a jog in the east line of said Tract 3- South through the following calls:

South 89 degrees 19 minutes 44 seconds West (record South 89 degrees 19 minutes 44 seconds West 638.96 feet), departing said centerline of Harbor Lane, at a distance of 2.20 feet passing the east line of said Goldfield tract, a distance of 639.15 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

South 00 degrees 40 minutes 15 seconds East (record South 00 degrees 40 minutes 15 seconds East 318.16 feet), a distance of 318.16 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

North 89 degrees 42 minutes 51 seconds East (record North 89 degrees 42 minutes 51 seconds East 436.59 feet), a distance of 436.59 feet to a found 5/8-inch iron rod with a



cap stamped "RPLS 1890" for the point curvature of a non-tangent circular curve to the right having a radius of 50.00 feet and a chord that bears North 78 degrees 17 minutes 44 seconds East, a distance of 19.14 feet (record radius 50.00 feet, central angle 22 degrees 04 minutes 01 second, arc distance 19.26 feet, chord North 78 degrees 17 minutes 44 seconds East 19.14 feet);

Easterly, with said curve, through a central angle of 22 degrees 04 minutes 01 second, an arc distance of 19.26 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

North 89 degrees 34 minutes 27 seconds East (record North 89 degrees 34 minutes 27 seconds East 183.02 feet), at a distance of 182.00 feet passing the east line of said Goldfield tract, a distance of 183.21 feet to a found PK nail for corner on the aforementioned centerline of the Harbor Lane as described in said Document Number 2011-121573;

THENCE South 00 degrees 33 minutes 59 seconds East (record South 00 degrees 33 minutes 59 seconds East 797.79 feet), with the east line of said Tract 3- South and with said centerline of Harbor Lane as described in said Document Number 2011-121573, a distance of 797.79 feet to the POINT OF BEGINNING and containing 112.4 acres (4,896,020 square feet) (record 112.3629 acres) of land, more or less.

TRACT 2 – 5,789 SQUARE FEET  
(part of the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton County, Texas, and being part of the remainder of a called 116.768 acre tract of land described in General Warranty Deed with Vendor's Lien to Alan H. Goldfield and Shirley M. Goldfield, as recorded in Document Number 95-R0035165 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)] ("Record" bearings and distances cited herein are from that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573, O.P.R.D.C.T.):

COMMENCING at a found PK nail for an "ell" corner of that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573, O.P.R.D.C.T., said corner also being on the approximate centerline of Harbor Lane (a called 60-foot wide right-of-way in said Document Number 2011-121573);

THENCE South 89 degrees 34 minutes 27 seconds West (*record North 89 degrees 34 minutes 27 seconds East*), with a jog in the east line of said CTMGT tract, passing at a distance of 1.21 feet the east line of said Goldfield tract, and continuing with said jog, in all a total distance of 37.10 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner, said point also being the POINT OF BEGINNING;

THENCE South 89 degrees 34 minutes 27 seconds West (*record North 89 degrees 34 minutes 27 seconds East*), continuing with said jog, a distance of 146.11 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for the point of curvature of a non-tangent circular curve to the left having a radius of 50.00 feet and a chord that bears South 78 degrees 17 minutes 44 seconds West a distance of 19.14 feet (*record radius 50.00 feet, central angle 22 degrees 04 minutes 01 second, arc distance 19.20 feet, chord North 78 degrees 17 minutes 44 seconds East, 19.14 feet*);

THENCE Westerly, with said curve, continuing with said jog, through a central angle of 22 degrees 04 minutes 01 second, an arc distance of 19.26 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for the end of said curve;

THENCE South 89 degrees 42 minutes 51 seconds West (*record North 89 degrees 42 minutes 51 seconds East*), continuing with said jog, a distance of 107.68 feet to a 1/2-inch set iron rod with cap for corner;

THENCE North 00 degrees 17 minutes 09 seconds West, departing said jog and over and across said Goldfield tract, a distance of 22.74 feet to a 1/2-inch set iron rod with cap for corner;

THENCE North 89 degrees 22 minutes 49 seconds East, continuing over and across said Goldfield tract, a distance of 272.57 feet to a 1/2-inch set iron rod with cap for corner;

THENCE South 00 degrees 15 minutes 06 seconds East, continuing over and across said Goldfield tract, a distance of 20.19 feet to the POINT OF BEGINNING and containing 0.1329 of an acre (5,789 square feet) of land, more or less.

TRACT 3 – 1.109 ACRES  
(excluded from the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton County, Texas, and being part of that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [ The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)] ("Record" bearings and distances cited herein are from said Special Warranty Deed to CTMGT Turbeville, LLC):

COMMENCING at a found PK nail for an "ell" corner of said CTMGT tract, said corner also being on the approximate centerline of Harbor Lane (a called 60-foot wide right-of-way in said Document Number 2011-121573);

THENCE South 89 degrees 19 minutes 44 seconds West (*record South 89 degrees 19 minutes 44 seconds West*), with a jog in the east line of said CTMGT tract, passing at a distance of 2.20 feet the east line of the remainder of that called 116.768 acre tract of land described in deed to Alan H. Goldfield and Shirley M. Goldfield, as recorded in Document Number 95-R0035165, O.P.R.D.C.T., continuing with said jog, in all a total distance of 34.40 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner, said point also being the POINT OF BEGINNING;

THENCE South 89 degrees 19 minutes 44 seconds West (*record South 89 degrees 19 minutes 44 seconds West*), continuing with said jog, a distance of 604.75 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for an interior "ell" corner in said jog;

THENCE South 00 degrees 40 minutes 15 seconds East (*record South 00 degrees 40 minutes 15 seconds East, 318.16 feet*), continuing with said jog, a distance of 318.16 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for an interior "ell" corner in said jog;

THENCE North 89 degrees 42 minutes 51 seconds East (*record North 89 degrees 42 minutes 51 seconds East*), continuing with said jog, a distance of 278.91 feet to a 1/2-inch set iron rod with cap for corner;

THENCE South 00 degrees 17 minutes 07 seconds East, departing said jog and over and across said CTMGT tract, a distance of 30.02 feet to a 1/2-inch set iron rod with cap for corner;

THENCE continuing over and across said CTMGT tract, through the following calls:

South 89 degrees 42 minutes 53 seconds West a distance of 283.82 feet to a 1/2-inch set iron rod with cap for corner;

North 00 degrees 40 minutes 13 seconds West a distance of 177.48 feet to a 1/2-inch set iron rod with cap for corner;

North 24 degrees 07 minutes 19 seconds West a distance of 236.36 feet to a 1/2-inch set iron rod with cap for corner;

North 89 degrees 22 minutes 49 seconds East a distance of 703.97 feet to a 1/2-inch set iron rod with cap for corner;

South 00 degrees 37 minutes 11 seconds East a distance of 45.54 feet to the POINT OF BEGINNING and containing 1.109 acres (48,285 square feet) of land, more or less.

**Exhibit A-2**

**Improvement Area #1 Legal Description**

**Exhibit A-3**

**Improvement Area #2 Legal Description**

**Exhibit B**

**Map of District, Improvement Area #1, and Improvement Area #2**



## Exhibit C

### Allocation of Authorized Improvements

Completed Work	Work Performed	Costs	Allocation of Costs	
			Improvement Area #1	Improvement Area #2
Ellerbee-Walczak, Inc	Engineering	\$ 44,899.13	\$ 44,899.13	\$ -
eScreenLogic, Inc	Environmental Report	2,300.00	2,300.00	-
Halff Associates, INC	Engineering	264,513.19	264,513.19	-
Juan Carlos E. Hernandez	Erosion Control	20,997.45	20,997.45	-
Kart Construction & Equipment Co	Roadway Construction	81,121.36	81,121.36	-
Lake City Municipal Utility District	Engineering	33,513.65	33,513.65	-
Miller Services Inc	Streets	35,014.50	35,014.50	-
PPG Site Services, LLC	Erosion Control	1,001.31	1,001.31	-
Reno Environmental Corp	Erosion Control	14,345.00	14,345.00	-
RKM Utility Services, INC	Water,Sewer, Stormwater	97,200.00	97,200.00	-
SWPPP Inspections, Inc	Erosion Control	4,345.00	4,345.00	-
THB Construction LLC	Roadway Construction	1,560,761.28	1,560,761.28	-
Town of Hickory Creek	City Fees	28,300.00	28,300.00	-
Walker Utilites, Inc	Water,Sewer, Stormwater	795,278.68	795,278.68	-
Xroads, LP	Street Signs	4,248.81	4,248.81	-
		\$ 2,987,839.36	\$ 2,987,839.36	\$ -
<b>Future Work</b>				
Earthwork		\$ 73,076.00	\$ -	\$ 73,076.00
Water		147,805.00	-	147,805.00
Sanitary Sewer		19,550.00	-	19,550.00
Storm Drain		79,284.00	-	79,284.00
Paving		419,330.00	-	419,330.00
Performance and Payment Bonds		11,654.46	-	11,654.46
		\$ 750,699.46	\$ -	\$ 750,699.46
<b>Bond Issuance Costs</b>				
Reserve Fund		\$ 304,200	\$ 250,790.84	\$ 53,409.16
Capitalized Interest		-	-	-
Underwriters Discount		126,600	104,373	22,227
Cost of Issuance		168,800	139,163	29,637
		\$ 599,600.00	\$ 494,326.72	\$ 105,273.28
<b>Total Authorized Improvement Costs</b>		<b>\$ 4,338,138.81</b>	<b>\$ 3,482,166.07</b>	<b>\$ 855,972.74</b>

**[NOTE: \$611,345.18 OF "COMPLETED WORK" IS STILL BEING REVIEWED TO DETERMINE ELIGIBILITY]**

## Exhibit D

### Service Plan

<b>Year</b> <b>(as of 1/31)</b>	<b>Authorized</b> <b>Improvement Costs</b>	<b>Outstanding</b> <b>Indebtedness</b>	<b>Annual Installments</b>
2019	\$ 750,699.46	\$ 4,220,000	\$ 345,750
2020	\$ -	\$ 4,160,000	\$ 347,440
2021	\$ -	\$ 4,095,000	\$ 343,826
2022	\$ -	\$ 4,030,000	\$ 345,222
2023	\$ -	\$ 3,960,000	\$ 346,314

## Exhibit E

### Sources and Uses of Funds

#### SOURCES

PID Bond Par	\$ 4,220,000.00
Less: Reserve Fund	(304,200.00)
Less: Capitalized Interest	-
Less: Underwriter Discount	(126,600.00)
Less: Cost of Issuance	<u>(168,800.00)</u>
Deposit to Project Fund	\$ 3,620,400.00
Developer Contribution	<u>118,138.81</u>
<b>TOTAL SOURCES</b>	<b><u>\$ 3,738,538.81</u></b>

#### USES

Completed Improvements	\$ 2,987,839.36
Future Improvements	<u>750,699.46</u>
<b>TOTAL USES</b>	<b><u>\$ 3,738,538.81</u></b>

## Exhibit F-1

### Improvement Area #1 Assessment Roll

Parcel ID	Improvement Area		Outstanding Assessment	Annual Installment Due 1/31/19					
				Principal	Interest	Additional Interest	Administration Expense	Total Annual Installment	
557932	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557931	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557930	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557929	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557928	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557927	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557925	IA #1	(b)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
557924	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557923	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557922	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557921	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557920	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557919	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557918	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557917	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557916	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557915	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557914	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557913	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557912	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557911	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557910	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557909	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557908	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557907	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557906	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557905	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557904	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557903	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557902	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557901	IA #1	(b)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
557900	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557899	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557897	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557896	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557895	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557894	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557893	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557892	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557891	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557890	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557889	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557888	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557887	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557886	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	

Improvement                      Outstanding				Annual Installment Due 1/31/19				
				Principal                      Interest		Additional	Administration	Total Annual
Parcel ID	Area	Assessment			Interest	Expense	Installment	
557885	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557884	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557883	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557882	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557881	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557880	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557879	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557878	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557877	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557876	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557875	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557874	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557873	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557872	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557871	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557870	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557869	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557868	IA #1	(b) \$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
557867	IA #1	(b) \$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
557866	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557865	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557864	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557863	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557862	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557861	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557860	IA #1	(a) \$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
Total			\$ 3,479,083.97	\$ 49,465.65	\$ 200,047.33	\$ 17,395.42	\$ 18,137.40	\$ 285,045.80

(a) Improvement Area #1 Lots

(b) Non-Benefitted property within PID No. 2 has no Assessment levy.

## Exhibit F-2

### Projected Improvement Area #1 Annual Installments

Installments Due 1/31	Improvement Area #1 Debt Service			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 49,465.65	\$ 200,047.33	\$ 17,395.42	\$ 18,137.40	\$ 285,045.80
2020	53,587.79	197,203.05	17,148.09	18,500.15	286,439.08
2021	53,587.79	194,121.76	16,880.15	18,870.16	283,459.85
2022	57,709.92	191,040.46	16,612.21	19,247.56	284,610.15
2023	61,832.06	187,722.14	16,323.66	19,632.51	285,510.37
2024	65,954.20	184,166.79	16,014.50	20,025.16	286,160.66
2025	70,076.34	180,374.43	15,684.73	20,425.66	286,561.16
2026	74,198.47	176,345.04	15,334.35	20,834.18	286,712.04
2027	78,320.61	172,078.63	14,963.36	21,250.86	286,613.46
2028	82,442.75	167,575.19	14,571.76	21,675.88	286,265.57
2029	86,564.89	162,834.73	14,159.54	22,109.39	285,668.56
2030	90,687.02	157,857.25	13,726.72	22,551.58	284,822.58
2031	94,809.16	152,642.75	2,535.11	23,002.61	272,989.64
2032	103,053.44	147,191.22	-	23,462.67	273,707.32
2033	107,175.57	141,265.65	-	23,931.92	272,373.14
2034	115,419.85	135,103.05	-	24,410.56	274,933.46
2035	119,541.98	128,466.41	-	24,898.77	272,907.17
2036	127,786.26	121,592.75	-	25,396.75	274,775.75
2037	136,030.53	114,245.04	-	25,904.68	276,180.25
2038	140,152.67	106,423.28	-	26,422.77	272,998.73
2039	148,396.95	98,364.50	-	26,951.23	273,712.68
2040	160,763.36	89,831.68	-	27,490.25	278,085.29
2041	169,007.63	80,587.79	-	28,040.06	277,635.48
2042	177,251.91	70,869.85	-	28,600.86	276,722.62
2043	189,618.32	60,677.86	-	29,172.88	279,469.06
2044	197,862.60	49,774.81	-	29,756.33	277,393.74
2045	210,229.01	38,397.71	-	30,351.46	278,978.18
2046	222,595.42	26,309.54	-	30,958.49	279,863.45
2047	234,961.83	13,510.31	-	31,577.66	280,049.80
<b>Total</b>	<b>\$ 3,479,083.97</b>	<b>\$ 3,746,620.99</b>	<b>\$ 191,349.62</b>	<b>\$ 703,590.45</b>	<b>\$ 8,120,645.03</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

## Exhibit F-3

### Projected Improvement Area #1 Annual Installments Per Lot

Installments Due 1/31	Improvement Area #1 Debt Service Per Lot			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
2020	496.18	1,825.95	158.78	171.30	2,652.21
2021	496.18	1,797.42	156.30	174.72	2,624.63
2022	534.35	1,768.89	153.82	178.22	2,635.28
2023	572.52	1,738.17	151.15	181.78	2,643.61
2024	610.69	1,705.25	148.28	185.42	2,649.64
2025	648.85	1,670.13	145.23	189.13	2,653.34
2026	687.02	1,632.82	141.98	192.91	2,654.74
2027	725.19	1,593.32	138.55	196.77	2,653.83
2028	763.36	1,551.62	134.92	200.70	2,650.61
2029	801.53	1,507.73	131.11	204.72	2,645.08
2030	839.69	1,461.64	127.10	208.81	2,637.25
2031	877.86	1,413.36	23.47	212.99	2,527.68
2032	954.20	1,362.88	-	217.25	2,534.33
2033	992.37	1,308.02	-	221.59	2,521.97
2034	1,068.70	1,250.95	-	226.02	2,545.68
2035	1,106.87	1,189.50	-	230.54	2,526.92
2036	1,183.21	1,125.86	-	235.16	2,544.22
2037	1,259.54	1,057.82	-	239.86	2,557.22
2038	1,297.71	985.40	-	244.66	2,527.77
2039	1,374.05	910.78	-	249.55	2,534.38
2040	1,488.55	831.77	-	254.54	2,574.86
2041	1,564.89	746.18	-	259.63	2,570.70
2042	1,641.22	656.20	-	264.82	2,562.25
2043	1,755.73	561.83	-	270.12	2,587.68
2044	1,832.06	460.88	-	275.52	2,568.46
2045	1,946.56	355.53	-	281.03	2,583.13
2046	2,061.07	243.61	-	286.65	2,591.33
2047	2,175.57	125.10	-	292.39	2,593.05
<b>Total</b>	<b>\$ 32,213.74</b>	<b>\$ 34,690.94</b>	<b>\$ 1,771.76</b>	<b>\$ 6,514.73</b>	<b>\$ 75,191.16</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

## Exhibit G-1

### Improvement Area #2 Assessment Roll

Parcel ID	Improvement Area		Outstanding Assessment	Annual Installment Due 1/31/19				
				Principal	Interest	Additional Interest	Administrative Expense	Total Annual Installment
New Lot 1	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 2	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 3	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 4	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 5	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 6	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 7	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 8	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 9	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 10	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 11	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 12	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 13	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 14	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 15	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 16	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 17	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 18	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 19	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 20	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 21	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 22	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 23	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
<b>Total</b>			<b>\$ 740,916.03</b>	<b>\$ 10,534.35</b>	<b>\$ 42,602.67</b>	<b>\$ 3,704.58</b>	<b>\$ 3,862.60</b>	<b>\$ 60,704.20</b>

(a) TO BE UPDATED WITH FINAL PLAT INFORMATION PRIOR TO APPROVING SAP



## Exhibit G-2

### Projected Improvement Area #2 Annual Installments

Installments Due 1/31	Improvement Area #2 Debt Service			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 10,534.35	\$ 42,602.67	\$ 3,704.58	\$ 3,862.60	\$ 60,704.20
2020	11,412.21	41,996.95	3,651.91	3,939.85	61,000.92
2021	11,412.21	41,340.74	3,594.85	4,018.64	60,366.45
2022	12,290.08	40,684.54	3,537.79	4,099.02	60,611.42
2023	13,167.94	39,977.86	3,476.34	4,181.00	60,803.13
2024	14,045.80	39,220.71	3,410.50	4,264.62	60,941.62
2025	14,923.66	38,413.07	3,340.27	4,349.91	61,026.91
2026	15,801.53	37,554.96	3,265.65	4,436.91	61,059.05
2027	16,679.39	36,646.37	3,186.64	4,525.65	61,038.05
2028	17,557.25	35,687.31	3,103.24	4,616.16	60,963.96
2029	18,435.11	34,677.77	3,015.46	4,708.48	60,836.82
2030	19,312.98	33,617.75	2,923.28	4,802.65	60,656.66
2031	20,190.84	32,507.25	539.89	4,898.70	58,136.68
2032	21,946.56	31,346.28	-	4,996.68	58,289.52
2033	22,824.43	30,084.35	-	5,096.61	58,005.39
2034	24,580.15	28,771.95	-	5,198.54	58,550.64
2035	25,458.02	27,358.59	-	5,302.52	58,119.12
2036	27,213.74	25,894.75	-	5,408.57	58,517.06
2037	28,969.47	24,329.96	-	5,516.74	58,816.16
2038	29,847.33	22,664.22	-	5,627.07	58,138.62
2039	31,603.05	20,948.00	-	5,739.61	58,290.66
2040	34,236.64	19,130.82	-	5,854.41	59,221.87
2041	35,992.37	17,162.21	-	5,971.49	59,126.07
2042	37,748.09	15,092.65	-	6,090.92	58,931.67
2043	40,381.68	12,922.14	-	6,212.74	59,516.56
2044	42,137.40	10,600.19	-	6,337.00	59,074.59
2045	44,770.99	8,177.29	-	6,463.74	59,412.02
2046	47,404.58	5,602.96	-	6,593.01	59,600.55
2047	50,038.17	2,877.19	-	6,724.87	59,640.23
<b>Total</b>	<b>\$ 740,916.03</b>	<b>\$ 797,891.51</b>	<b>\$ 40,750.38</b>	<b>\$ 149,838.71</b>	<b>\$ 1,729,396.63</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

## Exhibit G-3

### Projected Improvement Area #2 Annual Installments Per Lot

Installments Due 1/31	Improvement Area #2 Debt Service Per Lot			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
2020	496.18	1,825.95	158.78	171.30	2,652.21
2021	496.18	1,797.42	156.30	174.72	2,624.63
2022	534.35	1,768.89	153.82	178.22	2,635.28
2023	572.52	1,738.17	151.15	181.78	2,643.61
2024	610.69	1,705.25	148.28	185.42	2,649.64
2025	648.85	1,670.13	145.23	189.13	2,653.34
2026	687.02	1,632.82	141.98	192.91	2,654.74
2027	725.19	1,593.32	138.55	196.77	2,653.83
2028	763.36	1,551.62	134.92	200.70	2,650.61
2029	801.53	1,507.73	131.11	204.72	2,645.08
2030	839.69	1,461.64	127.10	208.81	2,637.25
2031	877.86	1,413.36	23.47	212.99	2,527.68
2032	954.20	1,362.88	-	217.25	2,534.33
2033	992.37	1,308.02	-	221.59	2,521.97
2034	1,068.70	1,250.95	-	226.02	2,545.68
2035	1,106.87	1,189.50	-	230.54	2,526.92
2036	1,183.21	1,125.86	-	235.16	2,544.22
2037	1,259.54	1,057.82	-	239.86	2,557.22
2038	1,297.71	985.40	-	244.66	2,527.77
2039	1,374.05	910.78	-	249.55	2,534.38
2040	1,488.55	831.77	-	254.54	2,574.86
2041	1,564.89	746.18	-	259.63	2,570.70
2042	1,641.22	656.20	-	264.82	2,562.25
2043	1,755.73	561.83	-	270.12	2,587.68
2044	1,832.06	460.88	-	275.52	2,568.46
2045	1,946.56	355.53	-	281.03	2,583.13
2046	2,061.07	243.61	-	286.65	2,591.33
2047	2,175.57	125.10	-	292.39	2,593.05
<b>Total</b>	<b>\$ 32,213.74</b>	<b>\$ 34,690.94</b>	<b>\$ 1,771.76</b>	<b>\$ 6,514.73</b>	<b>\$ 75,191.16</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

**Exhibit H**

**Final Plat**

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**APPENDIX D**

**FORM OF OPINION OF BOND COUNSEL**

**Proposed Form of Opinion of Bond Counsel**

*An opinion in substantially the following form will be delivered by McCall, Parkhurst & Horton L.L.P., Bond Counsel, upon the delivery of the Bonds, assuming no material changes in facts or law.*

**TOWN OF HICKORY CREEK, TEXAS  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)**

**IN THE AGGREGATE PRINCIPAL AMOUNT OF \$4,750,000**

---

AS BOND COUNSEL for the Town of Hickory Creek, Texas (the "Issuer"), we have examined into the legality and validity of the issue of the bonds described above (the "Bonds"), which bear interest from the date specified in the text of the Bonds, until maturity or prior redemption, at the rates and payable on the dates as stated in the text of the Bonds, and maturing and subject to redemption on the dates specified in the text of the Bonds, all in accordance with the Ordinance authorizing the issuance of the Bonds (the "Bond Ordinance") and the Trust Indenture (as defined below).

WE HAVE EXAMINED the applicable and pertinent provisions of the Constitution and laws of the State of Texas, and have examined and relied upon a transcript of certified proceedings of the Issuer and other pertinent instruments furnished by the Issuer relating to the authorization, issuance and delivery of the Bonds; and we have examined various certificates and documents executed by officers and officials of the Issuer upon which certificates and documents we rely as to certain matters stated below. We have also examined one executed Bond which we found to be in proper form and duly executed.

BASED ON SAID EXAMINATION, IT IS OUR OPINION that the Bonds have been duly authorized, and have been duly issued and delivered, all in accordance with law, and that, except as may be limited by laws relating to governmental immunity, bankruptcy, reorganization, and other similar matters affecting creditors' rights or by general principles of equity which permit the exercise of judicial discretion, (i) the Bonds constitute valid and legally binding obligations of the Issuer which are payable as to principal and interest from the sources provided in the Bond Ordinance and the Indenture of Trust between the Issuer and U.S. Bank National Association, dated as of July 1, 2018 (the "Trust Indenture"), (ii) the covenants and agreements in the Trust Indenture constitute valid and binding obligations of the Issuer, (iii) the Bonds constitute valid and legally binding special obligations of the Issuer secured as Bonds under the Trust Indenture, and (iv) the Bonds are payable in accordance with the priorities established in the Trust Indenture from the sources provided therein.

THE ISSUER has reserved the right, subject to the restrictions stated in the Trust Indenture, to amend the Trust Indenture in the manner provided therein; and under some (but not all) circumstances amendments thereto must be approved by the registered owners



of a majority in principal amount of all outstanding bonds affected by such amendment and secured by the Trust Indenture.

THE REGISTERED OWNERS of the Bonds shall never have the right to demand payment of the principal thereof or interest thereon out of any funds raised or to be raised by taxation, or from any source whatsoever other than specified in the Trust Indenture.

IT IS FURTHER OUR OPINION, except as discussed below, that the interest on the Bonds is excludable from the gross income of the owners thereof for federal income tax purposes under the statutes, regulations, published rulings, and court decisions existing on the date of this opinion. We are further of the opinion that the Bonds are not "specified private activity bonds" and that, accordingly, interest on the Bonds will not be included as an individual or corporate alternative minimum tax preference item under section 57(a)(5) of the Internal Revenue Code of 1986 (the "Code"). In expressing the aforementioned opinions, we have relied on certain representations, the accuracy of which we have not independently verified, and assume compliance by the Issuer with certain covenants, regarding the use and investment of the proceeds of the Bonds and the use of the property financed and refinanced therewith. In expressing the aforementioned opinions, we have relied on certain representations and covenants regarding the use and investment of the proceeds of the Bonds. We call your attention to the fact that if such representations are determined to be inaccurate or upon a failure by the Issuer to comply with such covenants, interest on the Bonds may become includable in gross income retroactively to the date of issuance of the Bonds.

EXCEPT AS STATED ABOVE, we express no opinion as to any other federal, state, or local tax consequences of acquiring, carrying, owning, or disposing of the Bonds.

OUR OPINIONS ARE BASED ON EXISTING LAW, which is subject to change. Such opinions are further based on our knowledge of facts as of the date hereof. We assume no duty to update or supplement our opinions to reflect any facts or circumstances that may thereafter come to our attention or to reflect any changes in any law that may thereafter occur or become effective. Moreover, our opinions are not a guarantee of result and are not binding on the Internal Revenue Service (the "Service"); rather, such opinions represent our legal judgment based upon our review of existing law and in reliance upon the representations and covenants referenced above that we deem relevant to such opinions. The Service has an ongoing audit program to determine compliance with rules that relate to whether interest on state or local obligations is includable in gross income for federal income tax purposes. No assurance can be given whether or not the Service will commence an audit of the Bonds. If an audit is commenced, in accordance with its current published procedures the Service is likely to treat the Issuer as the taxpayer. We observe that the Issuer has covenanted not to take any action, or omit to take any action within its control, that if taken or omitted, respectively, may result in the treatment of interest on the Bonds as includable in gross income for federal income tax purposes.

WE EXPRESS NO OPINION as to any insurance policies issued with respect to the payments due for the principal of and interest on the Bonds, nor as to any such insurance policies issued in the future.



OUR SOLE ENGAGEMENT in connection with the issuance of the Bonds is as Bond Counsel for the Issuer, and, in that capacity, we have been engaged by the Issuer for the sole purpose of rendering our opinions with respect to the legality and validity of the Bonds under the Constitution and laws of the State of Texas, and with respect to the exclusion from gross income of the interest on the Bonds for federal income tax purposes, and for no other reason or purpose. The foregoing opinions represent our legal judgment based upon a review of existing legal authorities that we deem relevant to render such opinions and are not a guarantee of a result. We have not been requested to investigate or verify, and have not independently investigated or verified, any records, data, or other material relating to the financial condition or capabilities of the Issuer, or the disclosure thereof in connection with the sale of the Bonds, and have not assumed any responsibility with respect thereto. We express no opinion and make no comment with respect to the marketability of the Bonds. Our role in connection with the Issuer's Limited Offering Memorandum prepared for use in connection with the sale of the Bonds has been limited as described therein.

Respectfully,



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**APPENDIX E-1**

**FORM OF DISCLOSURE AGREEMENT OF ISSUER**

**TOWN OF HICKORY CREEK, TEXAS,  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)**

**CONTINUING DISCLOSURE AGREEMENT OF THE ISSUER**

This Continuing Disclosure Agreement of the Issuer dated as of July 1, 2018 (this “Disclosure Agreement”) is executed and delivered by and between the Town of Hickory Creek, Texas (the “Issuer”) and HTS Continuing Disclosure Services, a Division of Hilltop Securities Inc. (the “Dissemination Agent”) with respect to the Issuer’s “Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2)” (the “Bonds”). The Issuer and the Dissemination Agent covenant and agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Issuer and the Dissemination Agent for the benefit of the Owners (defined below) and beneficial owners of the Bonds. Unless and until a different filing location is designated by the MSRB (defined below) or the SEC (defined below), all filings made by the Dissemination Agent pursuant to this Agreement shall be filed with the MSRB through EMMA (defined below).

SECTION 2. Definitions. In addition to the definitions set forth above and in the Indenture of Trust dated as of July 1, 2018, relating to the Bonds (the “Indenture”), which apply to any capitalized term used in this Disclosure Agreement, including the Appendices hereto unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Administrative Expenses” shall have the meaning assigned to such term in the Indenture.

“Administrator” shall mean the employee or designee of the Town, identified in the Indenture relating to the Bonds, the District’s Service and Assessment Plan, or any other agreement or document approved by the Issuer related to the duties and responsibilities of the administration of the District. The Issuer has selected P3Works, LLC as the initial Administrator.

“Annual Financial Information” shall mean annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 4(a) of this Disclosure Agreement.

“Annual Installment” shall have the meaning assigned to such term in the Indenture.

“Annual Issuer Report” shall mean any report provided by the Issuer pursuant to, and as described in, Sections 3 and 4 and Exhibit B (if applicable) of this Disclosure Agreement.

“Business Day” shall mean any day other than a Saturday, Sunday or legal holiday in the State of Texas observed as such by the Issuer or the Trustee.

“Developer” shall mean CTMGT Turbeville, LLC, a Texas limited liability company, and its successors and assigns.

“Disclosure Agreement of the Developer” shall mean the Continuing Disclosure Agreement of the Developer dated as of July 1, 2018 executed and delivered by the Developer, the Administrator and the Dissemination Agent.

“Disclosure Representative” shall mean the Administrator of the Issuer or his or her designee, or such other officer or employee as the Issuer, may designate in writing to the Dissemination Agent from time to time.

“Dissemination Agent” shall mean HTS Continuing Disclosure Services, a Division of Hilltop Securities Inc., or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Trustee a written acceptance of such designation.

“District” shall mean Hickory Creek Public Improvement District No. 2.

“EMMA” shall mean the Electronic Municipal Market Access System available on the internet at <http://emma.msrb.org>.

“Fiscal Year” shall mean the calendar year from October 1 through September 30.

“Limited Offering Memorandum” means the Limited Offering Memorandum dated \_\_\_\_\_, 2018 prepared in connection with the Bonds.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule.

“Outstanding” shall have the meaning given to it in the Indenture.

“Owner” shall mean the registered owner of any Bonds.

“Participating Underwriter” means FMSbonds, Inc. and its successors and assigns.

“Rule” shall mean Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“Service and Assessment Plan” shall have the meaning assigned to such term in the Indenture.

“Trustee” shall mean U.S. Bank National Association or any successor trustee pursuant to the Indenture.

### SECTION 3. Provision of Annual Issuer Reports.

(a) The Issuer shall cause and hereby directs the Dissemination Agent to provide or cause to be provided to the MSRB, in the electronic or other form required by the MSRB, commencing with the Fiscal Year ended September 30, 2018, an Annual Issuer Report provided to the Dissemination Agent which is consistent with the requirements of and within the time periods specified in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the Issuer, if prepared and when available, may be submitted separately from the Annual Issuer Report, and later than the date required in this paragraph for the filing of the Annual Issuer Report if audited financial statements are not available by that date; provided further, however, that the Annual Financial Information must be submitted not later than six months after the end of the Issuer's Fiscal Year, commencing with the Fiscal Year ended September 30, 2018. In each case, the Annual Issuer Report may be submitted as a single document or as separate documents comprising a package and may include by reference other information as provided in Section 4 of this Disclosure Agreement. If the Issuer's Fiscal Year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(a). All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

(b) The Issuer shall or shall cause the Dissemination Agent to:

(i) determine the filing address or other filing location of the MSRB each year prior to filing the Annual Issuer Report on the date required in subsection (a);

(ii) file the Annual Issuer Report containing or incorporating by reference the information set forth in Section 4 hereof; and

(iii) if the Issuer has provided the Dissemination Agent with the completed Annual Issuer Report and the Dissemination Agent has filed such Annual Issuer Report with the MSRB, then the Dissemination Agent shall file a report with the Issuer certifying that the Annual Issuer Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and that it was filed with the MSRB.

SECTION 4. Content and Timing of Annual Issuer Reports. The Annual Issuer Report for the Bonds shall contain or incorporate by reference, and the Issuer agrees to provide or cause to be provided to the Dissemination Agent, the following:

(a) Within six months after the end of each Fiscal Year (any or all of which may be unaudited),

(i) Tables setting forth the following information, as of the end of such Fiscal Year:

(A) For the Bonds, the maturity date or dates, the interest rate or rates, the original aggregate principal amount and principal amount remaining Outstanding;

(B) The amounts in the funds and accounts under the Indenture securing the Bonds; and

(C) The principal and interest paid on the Bonds during such Fiscal Year and the minimum scheduled principal and interest required to be paid on the Bonds in the next Fiscal Year.

(ii) Financial information and operating data with respect to the Issuer of the general type included in the final Limited Offering Memorandum, being the information under the heading "DEBT SERVICE REQUIREMENTS".

(iii) Audited financial statements of the Issuer, if available; however, if audited financial statements of the Issuer are not available by the date required by this Section 4(a), the Issuer shall provide unaudited financial statements as described in Section 4(b).

(iv) Until building permits have been issued for parcels or lots representing, in the aggregate, 95% of the total Assessments levied within the District, the number of new homes completed in the District during such Fiscal Year and the aggregate number of new homes completed within the District since the District's creation. Completion of a home shall be evidenced by the Issuer's issuance of a certificate of occupancy for any such home

(v) The current or delinquent status of the payment of the Assessment for each parcel or lot within the District as of February 15 of the calendar year immediately succeeding such Fiscal Year.

(vi) Updates to the information in the Service and Assessment Plan as most recently amended or supplemented (a "SAP Update"), including any changes to the methodology for levying the Assessments in the District.

(vii) The total amount of (A) Annual Installments invoiced, (B) Annual Installments collected (as reported by the County Tax Assessor Collector or the Administrator), (C) delinquent Annual Installments, (D) Foreclosure Proceeds collected, and (E) prepaid Assessments collected, as of the February 15 of the calendar year immediately succeeding such Fiscal Year, in each case with respect to the most recent billing period (generally, October 1 of the preceding calendar year through January 31 of the current calendar year).

(viii) A description of any amendment to this Disclosure Agreement and a copy of any restatements to the Issuer's audited financial statements during such Fiscal Year.

(b) If not provided with the Annual Financial Information provided under subsection 4(a) above, the audited financial statements of the Issuer must be provided when and if available and, in any event, within 12 months after the end of each of the Issuer's fiscal year. If the audit of such financial statements is not complete within 12 months after any such fiscal year end, then unaudited financial statements of the Issuer must be filed within such 12-month period and audited financial statements for the applicable fiscal year shall be filed when and if the audit report on such statements becomes available.

See Exhibit B hereto for a form for submitting certain information set forth in Section 4(a).

(c) The Issuer has designated P3Works, LLC as the initial Administrator. The Administrator shall prepare and provide the Annual Financial Information required (except for the information of the type included under the heading “DEBT SERVICE REQUIREMENTS” and audited or unaudited financial statements of the Issuer) under Section 4(a) above to the Dissemination Agent no later than five (5) business days prior to the day that is six months after the end of each Fiscal Year. If no Administrator has been designated, the Issuer shall prepare and provide the Annual Financial Information required under Section 4(a) above to the Dissemination Agent no later than five (5) business days prior to the day that is six months after the end of each Fiscal Year.

Any or all of the items listed above may be included by specific reference to other documents, including disclosure documents of debt issues of the Issuer, which have been submitted to and are publicly accessible from the MSRB. If the document included by reference is a final offering document, it must be available from the MSRB. The Issuer shall clearly identify each such other document so included by reference.

#### SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, each of the following is a Listed Event with respect to the Bonds:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Unscheduled draws on debt service reserves reflecting financial difficulties.
4. Unscheduled draws on credit enhancements reflecting financial difficulties.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.
7. Modifications to rights of Owners, if material.
8. Bond calls, if material.
9. Defeasances.
10. Release, substitution, or sale of property securing repayment of the Bonds, if material.
11. Rating changes.
12. Bankruptcy, insolvency, receivership or similar event of the Issuer.

13. The consummation of a merger, consolidation, or acquisition of the Issuer, or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

14. Appointment of a successor or additional trustee under the Indenture or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Issuer in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer.

Whenever the Issuer obtains knowledge of the occurrence of a Listed Event, the Issuer shall promptly, but in no case more than five (5) Business Days after the occurrence of the event, notify the Dissemination Agent in writing and the Issuer shall direct the Dissemination Agent to immediately file a notice of such occurrence with the MSRB. Any such notice is required to be filed within ten (10) Business Days of the occurrence of such Listed Event.

Additionally, the Issuer shall notify the MSRB, in a timely manner, of any failure by the Issuer to provide annual audited financial statements or Annual Financial Information as required under this Disclosure Agreement. See Exhibit A hereto for a form for submitting "Notice To MSRB of Failure To File."

Any notice under the preceding paragraphs shall be accompanied with the text of the disclosure that the Issuer desires to make, the written authorization of the Issuer for the Dissemination Agent to disseminate such information as provided herein, and the date the Issuer desires for the Dissemination Agent to disseminate the information (which date shall not be more than ten (10) Business Days after the occurrence of the Listed Event or failure to file).

In all cases, the Issuer shall have the sole responsibility for the content, design and other elements comprising substantive contents of all disclosures. In addition, the Issuer shall have the sole responsibility to ensure that any notice required to be filed under this Section 5 is filed within (10) Business Days of the occurrence of the Listed Event.

(b) The Dissemination Agent shall, within three (3) Business Days of obtaining actual knowledge of the occurrence of any Listed Event with respect to the Bonds, notify the Disclosure Representative of such Listed Event. The Dissemination Agent shall not be required to file a notice of the occurrence of such Listed Event with the MSRB unless and until it receives written instructions from the Disclosure Representative to do so. It is agreed and understood that the duty to make or cause to be made the disclosures herein is that of the Issuer and not that of the Trustee or the Dissemination Agent. It is agreed and understood that the Dissemination Agent has agreed to give the foregoing



notice to the Issuer as an accommodation to assist it in monitoring the occurrence of such event, but is under no obligation to investigate whether any such event has occurred. As used above, “actual knowledge” means the actual fact or statement of knowing, without a duty to make any investigation with respect thereto. In no event shall the Dissemination Agent be liable in damages or in tort to the Issuer or any Owner or beneficial owner of any interests in the Bonds as a result of its failure to give the foregoing notice or to give such notice in a timely fashion.

(c) If in response to a notice from the Dissemination Agent under subsection (b), the Issuer determines that the Listed Event under number 2, 7, 8, 10, 13, or 14 of subparagraph (a) above is not material under applicable federal securities laws, the Issuer shall promptly, but in no case more than five (5) Business Days after the occurrence of the event, notify the Dissemination Agent and the Trustee (if the Dissemination Agent is not the Trustee) in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (d).

(d) If the Dissemination Agent has been instructed by the Issuer to report the occurrence of a Listed Event, the Dissemination Agent shall immediately file a notice of such occurrence with the MSRB.

SECTION 6. Termination of Reporting Obligations. The obligations of the Issuer and the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Issuer is no longer an obligated person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Dissemination Agent of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required. So long as any of the Bonds remain Outstanding, the Dissemination Agent may assume that the Issuer is an obligated person with respect to the Bonds until it receives written notice from the Disclosure Representative stating that the Issuer is no longer an obligated person with respect to the Bonds, and the Dissemination Agent may conclusively rely upon such written notice with no duty to make investigation or inquiry into any statements contained or matters referred to in such written notice. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event with respect to such series of Bonds under Section 5(a).

SECTION 7. Dissemination Agent. The Issuer may, from time to time, appoint or engage a Dissemination Agent or successor Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the Issuer shall be the Dissemination Agent. The initial Dissemination Agent appointed hereunder shall be HTS Continuing Disclosure Services, a Division of Hilltop Securities Inc.

SECTION 8. Amendment; Waiver. Notwithstanding any other provisions of this Disclosure Agreement, the Issuer and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall not unreasonably withhold its consent to any amendment so requested by the Issuer), and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal

requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the delivery of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Owners of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or beneficial owners of the Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Issuer shall describe such amendment in the next related Annual Issuer Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(a), and (ii) the Annual Issuer Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. No amendment which adversely affects the Dissemination Agent may be made without its prior written consent (which consent will not be unreasonably withheld or delayed).

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Issuer Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Issuer chooses to include any information in any Annual Issuer Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the Issuer shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Issuer Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Agreement, the Dissemination Agent may (and, at the request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Bonds, shall, upon being indemnified to its satisfaction as provided in the Indenture), or any Owner or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to cause the Issuer, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture with respect to the Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the Issuer to comply with this Disclosure Agreement shall be an action for mandamus or specific performance. A default under this Disclosure Agreement by the Issuer shall not be deemed a default under the Disclosure Agreement of Developer by the Developer, and a default under the Disclosure Agreement

of the Developer by the Developer shall not be deemed a default under this Disclosure Agreement by the Issuer.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Dissemination Agent. To the extent permitted by law, the Issuer agrees to hold harmless the Dissemination Agent, its officers, directors, employees and agents, but only with funds to be provided by the Developer or from Assessments collected from the property owners in the District, against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct; provided, however, that nothing herein shall be construed to require the Issuer to indemnify the Dissemination Agent for losses, expenses or liabilities arising from information provided to the Dissemination Agent by the Developer or the failure of the Developer to provide information to the Dissemination Agent as and when required under the Disclosure Agreement of Developer. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Dissemination Agent is an "obligated person" under the Rule. The Dissemination Agent is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The fact that the Dissemination Agent may have a banking or other business relationship with the Issuer or any person with whom the Issuer contracts in connection with the transaction described in the Indenture, apart from the relationship created by the Indenture or this Disclosure Agreement, shall not be construed to mean that the Dissemination Agent has actual knowledge of any event described in Section 5 above, except as may be provided by written notice to the Dissemination Agent pursuant to this Disclosure Agreement.

The Dissemination Agent may, from time to time, consult with legal counsel of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or their respective duties hereunder, and the Dissemination Agent shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. UNDER NO CIRCUMSTANCES SHALL THE DISSEMINATION AGENT OR THE ISSUER BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE ISSUER OR THE DISSEMINATION AGENT, RESPECTIVELY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS DISCLOSURE AGREEMENT, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE. THE DISSEMINATION AGENT IS UNDER NO OBLIGATION NOR IS IT REQUIRED TO BRING SUCH AN ACTION.

SECTION 12. Assessment Timeline. The basic expected timeline for the collection of Assessments and the anticipated procedures for pursuing the collection of delinquent Assessments is

set forth in Exhibit C which is intended to illustrate the general procedures expected to be followed in enforcing the payment of delinquent Assessments.

SECTION 13. No Personal Liability. No covenant, stipulation, obligation or agreement of the Issuer or Dissemination Agent contained in this Disclosure Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future council members, officer, agent or employee of the Issuer or Dissemination Agent in other than that person's official capacity.

SECTION 14. Severability. In case any section or provision of this Disclosure Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision thereof or any other covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder (except to the extent that such remainder or section or provision or other covenant, stipulation, obligation, agreement, act or action, or part thereof is wholly dependent for its operation on the provision determined to be invalid), which shall be construed and enforced as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

SECTION 15. Sovereign Immunity. The Dissemination Agent agrees that nothing in this Disclosure Agreement shall constitute or be construed as a waiver of the Issuer's sovereign or governmental immunities regarding liability or suit.

SECTION 16. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Dissemination Agent, the Participating Underwriter and the Owners and the beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity. Nothing in this Disclosure Agreement is intended or shall act to disclaim, waive or otherwise limit the duties of the Issuer under federal and state securities laws.

SECTION 17. Dissemination Agent Compensation. The fees and expenses incurred by the Dissemination Agent for its services rendered in accordance with this Disclosure Agreement constitute Administrative Expenses and will be included in the Annual Installments as provided in the annual updates to the Service and Assessment Plan. The Issuer shall pay or reimburse the Dissemination Agent, but only with funds to be provided from Assessments collected from the property owners in the District, for its fees and expenses for the Dissemination Agent's services rendered in accordance with this Disclosure Agreement.

SECTION 18. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of Texas.

SECTION 19. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*[remainder of page left blank intentionally]*

TOWN OF HICKORY CREEK, TEXAS

By: \_\_\_\_\_  
Mayor

HTS CONTINUING DISCLOSURE SERVICES,  
a Division of Hilltop Securities Inc.  
(as Dissemination Agent)

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**NOTICE TO MSRB OF FAILURE TO FILE  
ANNUAL ISSUER REPORT**

Name of Issuer: Town of Hickory Creek, Texas  
Name of Bond Issue: Special Assessment Revenue Bonds, Series 2018  
(Hickory Creek Public Improvement District No. 2)  
Date of Delivery: \_\_\_\_\_, 2018

NOTICE IS HEREBY GIVEN that the Town of Hickory Creek, Texas, has not provided [an Annual Issuer Report][annual audited financial statements] with respect to the above-named bonds as required by the Continuing Disclosure Agreement dated July 1, 2018, between the Issuer and HTS Continuing Disclosure Services, a Division of Hilltop Securities Inc., as Dissemination Agent. The Issuer anticipates that [the Annual Issuer Report][annual audited financial statements] will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

HTS Continuing Disclosure Services, a Division of  
Hilltop Securities Inc.,  
on behalf of the Town of Hickory Creek, Texas  
(as Dissemination Agent)

By: \_\_\_\_\_

Title: \_\_\_\_\_

cc: Town of Hickory Creek, Texas



**EXHIBIT B**

**TOWN OF HICKORY CREEK, TEXAS,  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2 PROJECT)**

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**ANNUAL BOND DISCLOSURE REPORT\***

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Delivery Date: \_\_\_\_\_, 20\_\_

**DISSEMINATION AGENT**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

**BONDS OUTSTANDING**

CUSIP Number	Maturity Date	Interest Rate	Original Principal Amount	Outstanding Principal Amount	Outstanding Interest Amount

**INVESTMENTS**

Fund/ Account Name	Investment Description	Par Value	Book Value	Market Value

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\*Excluding Audited Financial Statements of the Issuer

## ASSETS AND LIABILITIES OF PLEDGED TRUST ESTATE

Bonds (Principal Balance)	_____
Funds and Accounts [list]	_____
<b>TOTAL ASSETS</b>	_____

## LIABILITIES

Outstanding Bond Principal	_____
Outstanding Program Expenses (if any)	_____
<b>TOTAL LIABILITIES</b>	_____

## EQUITY

Assets Less Liabilities	_____
Parity Ratio	_____

**Form of Accounting**   ☐ Cash   ☐ Accrual   ☐ Modified Accrual

## ITEMS REQUIRED BY SECTION 4(a)(ii) - (viii)

[Insert a line item for each applicable listing]

## EXHIBIT C

### BASIC EXPECTED TIMELINE FOR SPECIAL ASSESSMENT COLLECTIONS AND PURSUIT OF DELINQUENCIES\*

<u>Date</u>	<u>Delinquency Clock (Days)</u>	<u>Activity</u>
January 31		Assessments are due.
February 1	1	Assessments Delinquent if not received
February 15	15	<p>Issuer forwards payment to Trustee for all collections received as of February 15, along with detailed breakdown. Subsequent payments and relevant details will follow monthly thereafter.</p> <p>Issuer and/or Administrator should be aware of actual and specific delinquencies</p> <p>Administrator should be aware if Reserve Fund needs to be utilized for debt service payments during the corresponding Fiscal Year. <b>If there is to be a shortfall of any Annual Installments due to be paid that Fiscal Year, the Trustee and Dissemination Agent should be immediately notified.</b></p> <p>Administrator should determine if previously collected surplus funds, if any, plus actual Annual Installment collections will be fully adequate for debt service in the corresponding March and September.</p> <p>At this point, if total delinquencies are under 5% and if there is adequate funding for March and September payments, no further action is anticipated for collection of Assessments except that the Issuer or Administrator, working with the Town Attorney or an appropriate designee, will begin process to cure deficiency. <b>For properties delinquent by more than one year or if the delinquency exceeds \$10,000 the matter will be referred for commencement of foreclosure.</b></p> <p><b>If there are over 5% delinquencies or if there is insufficient funding in the Pledged Revenue Fund for transfer to the Principal and Interest Account of such amounts as shall be required</b></p>

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\* Illustrates anticipated dates and procedures for pursuing the collection of delinquent Assessments, which dates and procedures are subject to adjustment.

		<b>for the full March and September payments, the collection-foreclosure procedure will proceed against all delinquent properties.</b>
March 1	28/29	Trustee pays bond interest payments to bondholders.  Issuer, or the Trustee on behalf of the Issuer, to notify Dissemination Agent of the occurrence of draw on the Reserve Fund and, following receipt of such notice, Dissemination Agent to notify MSRB of such draw or the Reserve Fund.
<b>July 1</b>	<b>150/151</b>	Issuer, or the Administrator on behalf of the Issuer, determines whether or not any Annual Installments are delinquent and, if such delinquencies exist, the Issuer commences as soon as practicable appropriate and legally permissible actions to obtain such delinquent Annual Installments.  <b>Issuer and/or Administrator to notify Dissemination Agent for disclosure to MSRB of all delinquencies.</b>  <b>Preliminary Foreclosure activity commences, and Issuer to notify Dissemination Agent of the commencement of preliminary foreclosure activity.</b>  If Dissemination Agent has not received Foreclosure Schedule and Plan of Collections, Dissemination Agent to request same from the Issuer.  If the Issuer has not provided the Dissemination Agent with Foreclosure Schedule and Plan of Collections, and if instructed by the bondholders under Section 11.2 of the Indenture, Dissemination Agent requests that the Issuer commence foreclosure or provide plan for collection.
August 15	195/196	The designated lawyers or law firm will be preparing the formal foreclosure documents and will provide periodic updates to the Dissemination Agent for dissemination to those bondholders who have requested to be notified of collections progress. The goal for the foreclosure actions is a filing by no later than August 15 (day 195/196).  <b>Foreclosure action to be filed with the court.</b>

**Issuer notifies Trustee and Dissemination Agent of Foreclosure filing status.** Dissemination Agent notifies bondholders.

If bondholders and Dissemination Agent have not been notified of a foreclosure action, Dissemination Agent will notify the Issuer that it is appropriate to file action.

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**APPENDIX E-2**

**FORM OF DISCLOSURE AGREEMENT OF DEVELOPER**

**TOWN OF HICKORY CREEK, TEXAS,  
SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2018  
(HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2)**

**CONTINUING DISCLOSURE AGREEMENT OF THE DEVELOPER**

This Continuing Disclosure Agreement of the Developer dated as of July 1, 2018 (this “Disclosure Agreement”) is executed and delivered by and between CTMGT Turbeville, LLC, a Texas limited liability company (the “Developer”), P3Works, LLC (the “Administrator”) and HTS Continuing Disclosure Services, a Division of Hilltop Securities Inc. the “Dissemination Agent”) with respect to the “Town of Hickory Creek, Texas, Special Assessment Revenue Bonds, Series 2018 (Hickory Creek Public Improvement District No. 2)” (the “Bonds”). The Developer, the Administrator and the Dissemination Agent covenant and agree as follows:

SECTION 1. Purpose of the Disclosure Agreement. This Disclosure Agreement is being executed and delivered by the Developer, the Administrator and the Dissemination Agent for the benefit of the Owners (defined below) and beneficial owners of the Bonds. Unless and until a different filing location is designated by the MSRB (defined below) or the SEC (defined below), all filings made by the Dissemination Agent pursuant to this Disclosure Agreement shall be filed with the MSRB through EMMA (defined below).

SECTION 2. Definitions. In addition to the definitions set forth above and in the Indenture of Trust dated as of July 1, 2018, relating to the Bonds (the “Indenture”), which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Administrative Expenses” shall have the meaning assigned to such term in the Indenture.

“Administrator” shall mean the employee or designee of the Issuer, identified in any indenture of trust or relating to the Bonds, the District’s Service and Assessment Plan, or any other agreement or document approved by the Issuer related to the duties and responsibilities of the administration of the District. The Issuer has selected P3Works, LLC as the initial Administrator.

“Affiliate” shall mean an entity that owns property within the District and is controlled by, controls, or is under common control with the Developer or any Subsequent Third Party Owner.

“Annual Installment(s)” shall have the meaning assigned to such term in the Indenture.

“Authorized Improvements” shall have the meaning assigned to such term in the Service and Assessment Plan.

“Business Day” shall mean any day other than a Saturday, Sunday or legal holiday in the State of Texas observed as such by the Issuer or the Trustee.



“Developer” shall mean CTMGT Turbeville, LLC, a Texas limited liability company, including any Affiliate of the Developer, its successors and assigns.

“Development Agreement” has the meaning given to it in the Indenture.

“Disclosure Agreement of Issuer” shall mean the Continuing Disclosure Agreement of the Issuer dated as of July 1, 2018 executed and delivered by the Issuer and the Dissemination Agent.

“Dissemination Agent” shall mean HTS Continuing Disclosure Services, a Division of Hilltop Securities Inc., or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Trustee a written acceptance of such designation.

“District” shall mean Hickory Creek Public Improvement District No. 2.

“EMMA” shall mean the Electronic Municipal Market Access System available on the internet at <http://emma.msrb.org>.

“Fiscal Year” shall mean the calendar year from October 1 through September 30.

“Issuer” shall mean the Town of Hickory Creek, Texas.

“Listed Events” shall mean any of the events listed in Section 4(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board or any other entity designated or authorized by the SEC to receive reports pursuant to the Rule.

“Owner” shall mean the registered owner of any Bonds.

“Participating Underwriter” shall mean FMSbonds, Inc. and its successors and assigns.

“Quarterly Improvement Implementation Report” shall mean any Quarterly Improvement Implementation Report prepared by the Administrator pursuant to, and as described in, Section 3 of this Disclosure Agreement.

“Reimbursement Agreement” has the meaning given to it in the Indenture.

“Rule” shall mean Rule 15c2-12 adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“Service and Assessment Plan” shall have the meaning assigned to such term in the Indenture.

“Subsequent Third Party Owner” shall have the meaning assigned to such term in Section 3(f) of this Disclosure Agreement.

“Trustee” shall mean U.S. Bank National Association or any successor trustee pursuant to the Indenture.

SECTION 3. Quarterly Improvement Implementation Reports.

(a) The Developer shall provide, or cause to be provided, to the Administrator, at its cost and expense, at least five (5) Business Days prior to each March 30, June 30, September 30 and December 30 (beginning September 30, 2018), any information in its knowledge or possession or that will enable the Administrator to complete each Quarterly Improvement Implementation Report containing the information described in this Section 3. The Developer shall provide, or cause to be provided, such information required for the preparation of each Quarterly Improvement Implementation Report during the period from the delivery of the Bonds until such time as the Developer is no longer liable for the payment of Annual Installments of Assessments equal to at least 20% of the total Annual Installments of Assessments for any year.

(b) The Administrator shall provide to the Issuer and the Dissemination Agent, on or before each March 30, June 30, September 30 and December 30 (beginning September 30, 2018), each Quarterly Improvement Implementation Report containing the information described in this Section 3. The Issuer shall review the information and authorize the Dissemination Agent to provide such information to the MSRB and the Participating Underwriter within fifteen (15) Business Days of the Dissemination Agent’s receipt thereof pursuant to this subsection 3(b).

(c) Such Quarterly Improvement Implementation Report shall include:

(i) Statement from the Developer as to the status of acquisition loans, development loans and any permanent financing with respect to any development undertaken by the Developer in the District not financed with Bond proceeds, including loan balance, existence of deeds of trust or other similar encumbrances against the property within the District, existence of any default and remaining term;

(ii) Statement as to available funds to complete development in the District under construction as contemplated (both Bond financed and non-Bond financed development undertaken by the Developer);

(iii) Status of parcel and/or lot sales from the Developer to any other party by type and average pricing, as well as anticipated future absorption rates;

(iv) A statement as to material changes, if any, in the form, organization or controlling ownership of the Developer;

(v) The status of any governmental approvals (other than customary home building permits required after delivery of a finished lot) required for completion of the Authorized Improvements within the District;

(vi) Any information regarding the Authorized Improvements or other information as may be reasonably requested by the Issuer relating to the ability of the Developer to fulfill its obligations under the Development Agreement and the Reimbursement Agreement;

(vii) Written notification of any zoning or land use entitlement changes or any other matter that would have a material adverse impact on land values within the District, development potential of lands within the District or the likelihood of the timely payment of the Assessments levied on land or parcels owned by the Developer; and

(viii) Any changes to the land use designation for the property in the District that might negatively impact its development for those purposes identified in the final Service and Assessment Plan, as the same may be amended and supplemented from time to time.

(d) Additionally, the Developer shall provide or cause to be provided the following information to the Administrator for inclusion in each Quarterly Improvement Implementation Report:

(i) The number, dollar amount, and property type (e.g., developed lots, undeveloped pads, parcels, raw land) under contract with wholesale purchasers and the name of each such purchaser;

(ii) A listing of any Subsequent Third Party Owners (defined below) liable for least twenty percent (20%) of the Assessments, the amount of the levy of Assessments against such Subsequent Third Party Owner, and the percentage of such Assessments relative to the entire levy of Assessments; and

(iii) For each residential home builder, on a per quarter and running total basis, (A) the number of residential units for which construction has begun, (B) the number of residential units for which construction has been completed, (C) the number of residential units which have been sold to end users and the average sales price therefor and (D) the estimated date of completion for all residential units expected to be constructed in the District.

(e) With respect to the Authorized Improvements, the Developer will establish an accounting and budgeting system and shall provide or cause to be provided the following information to the Administrator for inclusion in each Quarterly Improvement Implementation Report:

(i) Total expected costs for design and engineering to be completed after delivery of the Bonds;

(ii) Total expected construction budget;

(iii) Construction budget allocated to each progress milestone;

(iv) Forecast construction milestones by date;

(v) Forecast completion date; and

(vi) Forecast Issuer acceptance date.

The Developer shall prepare, within ninety (90) days of the issuance of the Bonds, a schedule reflecting the points listed above for each of the Authorized Improvements within the District to be funded by the Bond proceeds. Quarterly progress reports, reflecting the points listed above, will be summarized by the Developer to reflect the progress and conformance with the overall project budget.

These quarterly summaries will be filed with the Administrator for assembly into the Quarterly Improvement Implementation Report and delivered to the Issuer and the Dissemination Agent. Budget overruns in excess of \$250,000 per quarter or delays of greater than sixty (60) days will be highlighted and explained and the Developer shall include a plan to remedy the situation. The Developer's filings under this Section 3(e) will terminate after the Issuer accepts the final segment of the Authorized Improvements and Developer provides a final summary report covering the period from the date of its last preceding quarterly progress report to the date of Issuer acceptance of the final segment of the Authorized Improvements.

(f) If the Developer sells, assigns or otherwise transfers ownership of real property in the District to a third party, which results in such third party, including any Affiliate of such third party, owning property liable for at least twenty percent (20%) of the total Annual Installments of the Assessments first coming due after such transfer of ownership (a "Subsequent Third Party Owner"), the Developer shall (i) require such Subsequent Third Party Owner to comply with the Developer's disclosure obligations hereunder with respect to such acquired real property or (ii) obtain a contractual commitment of the Subsequent Third Party Owner to provide such disclosure information to the Developer for use in complying with its disclosure obligations hereunder for so long as such Subsequent Third Party Owner is the owner of property liable for at least twenty percent (20%) of the total of Annual Installments of the Assessments next coming due; provided however, a Subsequent Third Party Owner shall not be required to provide the disclosure information required by Sections 3(c)(i), 3(c)(ii), 3(c)(v), 3(c)(vi), and 3(e) above unless the Subsequent Third Party Owner has assumed the obligation to construct one or more of the Projects, through an assignment of the obligations, requirements or covenants under the Development Agreement or through any contractual arrangement resulting in the same, in which case the Subsequent Third Party Owner shall include the disclosure information required by Sections 3(c)(i), 3(c)(ii), 3(c)(v), 3(c)(vi), and 3(e) above for the Projects it is constructing. The Developer shall deliver to the Dissemination Agent and the Issuer a written acknowledgement from each Subsequent Third Party Owner, acknowledging and assuming its obligations under this Disclosure Agreement. Upon any such transfer to a Subsequent Third Party Owner, and such Subsequent Third Party Owner's assumption of Developer's obligations under this Disclosure Agreement as to the property transferred, Developer shall have no further obligation or liability for disclosures or other responsibilities under this Disclosure Agreement as to the property transferred.

#### SECTION 4. Event Reporting Obligations of Developer.

(a) Pursuant to the provisions of this Section 4, each of the following is a Listed Event with respect to the Bonds:

(i) Failure to pay any real property taxes or Assessments levied within the District on a parcel owned by the Developer;

(ii) Material damage to or destruction of any development or improvements, including the Authorized Improvements within the District;

(iii) Material default by the Developer on any loan with respect to the development or permanent financing of the Authorized Improvements or development of the District undertaken by the Developer;

(iv) Material default by the Developer on any loan secured by property within the District owned by the Developer;

(v) The bankruptcy filing of the Developer or any determination that the Developer is unable to pay its debts as they become due;

(vi) The consummation of a merger, consolidation, or acquisition of the Developer, or the sale of all or substantially all of the assets of the Developer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(vii) The filing of any lawsuit with claim for damage, in excess of \$1,000,000 against the Developer which may adversely affect the completion of the development or litigation which would materially adversely affect the financial condition of the Developer; and

(viii) Any change in the legal structure, chief executive officer or controlling ownership of the Developer.

Whenever the Developer obtains knowledge of the occurrence of a Listed Event, the Developer shall promptly notify the Issuer and the Dissemination Agent in writing and the Developer shall direct the Dissemination Agent, subject to the Issuer's written approval, to immediately file a notice of such occurrence with the MSRB and the Participating Underwriter. Any such notice is required to be filed within ten (10) Business Days of the occurrence of such Listed Event.

Any notice under the preceding paragraph shall be accompanied with the text of the disclosure that the Developer desires to make, the written authorization of the Developer for the Dissemination Agent to disseminate such information as provided herein, and the date the Developer desires for the Dissemination Agent to disseminate the information (which date shall not be more than ten (10) Business Days after Developer becomes aware of the occurrence of the Listed Event).

(b) The Dissemination Agent shall, within one (1) Business Day of obtaining actual knowledge of the occurrence of any Listed Event with respect to the Bonds, notify the Issuer and the Developer of such Listed Event. It is agreed and understood that the duty to make or cause to be made the disclosures herein is that of the Developer and not that of the Trustee or the Dissemination Agent. It is agreed and understood that the Dissemination Agent has agreed to give the foregoing notice to the Developer as an accommodation to assist it in monitoring the occurrence of such event, but is under no obligation to investigate whether any such event has occurred. As used above, "actual knowledge" means the actual fact or statement of knowing, without a duty to make any investigation with respect thereto. In no event shall the Dissemination Agent be liable in damages or in tort to the Participating Underwriter, the Issuer, the Developer or any Owner or beneficial owner of any interests in the Bonds as a result of its failure to give the foregoing notice or to give such notice in a timely fashion.

(c) If the Dissemination Agent has been instructed by the Developer to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the MSRB within one (1) Business Day of its receipt of such written instructions from the Developer.

## SECTION 5. Termination of Reporting Obligations.

(a) The reporting obligations of the Developer or a Subsequent Third Party Owner, if any, under this Disclosure Agreement shall terminate (i) upon the legal defeasance, prior redemption or payment in full of all of the Bonds or (ii) when the Developer or a Subsequent Third Party Owner, if any, is no longer liable for the payment of Annual Installments of Assessments equal to at least 20% of the total Annual Installment of Assessments for any year.

(b) At such time that the Developer or a Subsequent Third Party Owner, if any, is no longer liable for the payment of Annual Installments of Assessments equal to at least 20% of the total Annual Installment of Assessments for any year, the Administrator shall provide written notice to the Developer, any Subsequent Third Party Owner, if applicable, the Issuer and the Dissemination Agent that such party is no longer liable for the payment of Annual Installments of Assessments equal to at least 20% of the total Annual Installment of Assessments for any year, thereby, terminating such party's reporting obligations under this Disclosure Agreement (the "Termination Notice"). If such termination notice with respect to the Developer or a Subsequent Third Party Owner occurs prior to the legal defeasance, prior redemption or payment in full of all of the Bonds, the Administrator shall immediately provide, or cause to be provided, the Termination Notice to the Dissemination Agent, and the Dissemination Agent shall provide such Termination Notice to the MSRB and the Participating Underwriter within ten (10) Business Days of its receipt thereof.

(c) The reporting obligations of the Administrator and the Dissemination Agent under this Disclosure Agreement shall terminate (i) upon the legal defeasance, prior redemption or payment in full of all of the Bonds or (ii) when the Developer and any Subsequent Third Party Owner, if any, are no longer liable for the payment of Annual Installments of Assessments equal to at least 20% of the total Annual Installment of Assessments for any year and any Termination Notice required by subsection (b) of this Section 5 has been provided to the MSRB and Participating Underwriter.

SECTION 6. Dissemination Agent. The Issuer may, from time to time, appoint or engage a Dissemination Agent or successor Dissemination Agent to assist it in carrying out the Developer's obligations under this Disclosure Agreement, and may discharge such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the Issuer shall be the Dissemination Agent. The initial Dissemination Agent appointed hereunder shall be HTS Continuing Disclosure Services, a Division of Hilltop Securities Inc.

SECTION 7. Amendment; Waiver. Notwithstanding any other provisions of this Disclosure Agreement, the Developer, the Administrator and the Dissemination Agent may jointly amend this Disclosure Agreement (and the Dissemination Agent shall not unreasonably withhold its consent to any amendment so requested by the Developer or Administrator), and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3 or 4, it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Developer, or the type of business conducted; and

(b) The amendment or waiver either (i) is approved by the Owners of the Bonds in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of

the Owners or beneficial owners of the Bonds. No amendment which adversely affects the Dissemination Agent or the Issuer may be made without the respective party's prior written consent (which consent will not be unreasonably withheld or delayed).

(c) In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Administrator shall describe such amendment in the next related Quarterly Improvement Implementation Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Developer. The Developer shall provide, or cause to be provided, at its cost and expense, an executed copy of any amendment or waiver entered into under this Section 7 to the Issuer and the Participating Underwriter.

SECTION 8. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the Developer from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in addition to that which is required by this Disclosure Agreement. If the Developer chooses to include any information in any Quarterly Improvement Implementation Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the Developer shall have no obligation under this Disclosure Agreement to update such information or include it in any future notice of occurrence of a Listed Event.

SECTION 9. Default. In the event of a failure of the Developer or Administrator to comply with any provision of this Disclosure Agreement, the Dissemination Agent may (and, at the request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Bonds, shall, upon being indemnified to its satisfaction as provided in the Indenture), or any Owner or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to cause the Developer and/or Administrator to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture with respect to the Bonds, and the sole remedy under this Disclosure Agreement in the event of any failure of the Developer or Administrator to comply with this Disclosure Agreement shall be an action to mandamus or specific performance. A default under this Disclosure Agreement by the Developer shall not be deemed a default under the Disclosure Agreement of Issuer by the Issuer, and a default under the Disclosure Agreement of the Issuer by the Issuer shall not be deemed a default under this Disclosure Agreement by the Developer or Administrator.

SECTION 10. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Dissemination Agent. To the extent permitted by law, the Developer agrees to hold harmless the Dissemination Agent, its officers, directors, employees and agents, against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Developer under this Section shall survive resignation or removal of the Dissemination Agent and payment in full of the

Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Dissemination Agent is an “obligated person” under the Rule. The Dissemination Agent is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The fact that the Dissemination Agent may have a financial advisory relationship with the Issuer in connection with the transaction described in the Indenture shall not be construed to mean that the Dissemination Agent has actual knowledge of any event described in Section 4 above, except as may be provided by written notice to the Dissemination Agent pursuant to this Disclosure Agreement. The Dissemination Agent shall not in any event incur any liability with respect to (i) any action taken or omitted to be taken in good faith upon advice of legal counsel given with respect to any question relating to duties and responsibilities of the Dissemination Agent hereunder, or (ii) any action taken or omitted to be taken in reliance upon any document delivered to the Dissemination Agent and believed to be genuine and to have been signed or presented by the proper party or parties.

(b) Except as otherwise provided herein, the Administrator shall not have any duty with respect to the content of any disclosures made pursuant to the terms hereof. The Administrator shall have only such duties as are specifically set forth in this Disclosure Agreement, and no implied covenants shall be read into this Disclosure Agreement with respect to the Administrator. To the extent permitted by law, the Developer agrees to hold harmless the Administrator, its officers, directors, employees and agents, against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including reasonable attorneys’ fees) of defending against any claim of liability, but excluding liabilities due to the Administrator’s negligence or willful misconduct. The obligations of the Developer under this Section shall survive resignation or removal of the Administrator and payment in full of the Bonds. Nothing in this Disclosure Agreement shall be construed to mean or to imply that the Administrator is an “obligated person” under the Rule. The Administrator is not acting in a fiduciary capacity in connection with the performance of its respective obligations hereunder. The Administrator shall not in any event incur any liability with respect to (i) any action taken or omitted to be taken in good faith upon advice of legal counsel given with respect to any question relating to duties and responsibilities of the Administrator hereunder, or (ii) any action taken or omitted to be taken in reliance upon any document delivered to the Administrator and believed to be genuine and to have been signed or presented by the proper party or parties.

(c) The Dissemination Agent or the Administrator may, from time to time, consult with legal counsel of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or their respective duties hereunder, and the Dissemination Agent and Administrator shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. UNDER NO CIRCUMSTANCES SHALL THE DISSEMINATION AGENT, THE ADMINISTRATOR OR THE DEVELOPER BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE DEVELOPER, THE DISSEMINATION AGENT OR THE ADMINISTRATOR, RESPECTIVELY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS DISCLOSURE AGREEMENT, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE. THE DISSEMINATION AGENT AND THE ADMINISTRATOR ARE UNDER NO OBLIGATION NOR ARE THEY REQUIRED TO BRING SUCH AN ACTION.



SECTION 11. No Personal Liability. No covenant, stipulation, obligation or agreement of the Developer, the Administrator or the Dissemination Agent contained in this Disclosure Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future officer, agent or employee of the Developer, the Administrator or Dissemination Agent in other than that person's official capacity.

SECTION 12. Severability. In case any section or provision of this Disclosure Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder or any application thereof, is for any reasons held to be illegal or invalid, such illegality or invalidity shall not affect the remainder thereof or any other section or provision thereof or any other covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into, or taken thereunder (except to the extent that such remainder or section or provision or other covenant, stipulation, obligation, agreement, act or action, or part thereof is wholly dependent for its operation on the provision determined to be invalid), which shall be construed and enforced as if such illegal or invalid portion were not contained therein, nor shall such illegality or invalidity of any application thereof affect any legal and valid application thereof, and each such section, provision, covenant, stipulation, obligation, agreement, act or action, or part thereof shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Developer, the Administrator, the Dissemination Agent, the Issuer, the Participating Underwriter, and the Owners and the beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity. Nothing in this Disclosure Agreement is intended or shall act to disclaim, waive or otherwise limit the duties of the Issuer under federal and state securities laws.

SECTION 14. Dissemination Agent Compensation. The fees and expenses incurred by the Dissemination Agent for its services rendered in accordance with this Disclosure Agreement constitute Administrative Expenses and will be included in the Annual Installments as provided in the annual updates to the Service and Assessment Plan. The Dissemination Agent has entered into a separate agreement with the Issuer, which agreement provides for the payment of the fees and expenses of the Dissemination Agent for its services rendered in accordance with this Disclosure Agreement.

SECTION 15. Administrator Compensation. The fees and expenses incurred by the Administrator for its services rendered in accordance with this Disclosure Agreement constitute Administrative Expenses and will be included in the Annual Installments as provided in the annual updates to the Service and Assessment Plan. The Administrator has entered into a separate agreement with the Issuer, which agreement governs the administration of the District, including the payment of the fees and expenses of the Administrator for its services rendered in accordance with this Disclosure Agreement.

SECTION 16. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of Texas.

SECTION 17. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

HTS CONTINUING DISCLOSURE SERVICES,  
a Division of Hilltop Securities Inc.  
(as Dissemination Agent)

By: \_\_\_\_\_  
Authorized Officer

**DEVELOPER:**

CTMGT Turbeville, LLC,  
a Texas limited liability company

By: Centamar Terras, LLC,  
a Texas limited liability company  
Its Manager

By: CTMGT, LLC,  
a Texas limited liability company  
Its Manager and Member

By: \_\_\_\_\_  
Name: Mehrdad Moayed  
Its: Manager and Member

P3WORKS, LLC  
(as Administrator)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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## **APPENDIX F**

### **PHOTOGRAPHS OF DEVELOPMENT WITHIN THE DISTRICT**

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## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.16

Consider and act on resolution of the Town of Hickory Creek, Texas determining the costs of certain improvements to be financed by the Hickory Creek Public Improvement District No. 2; approving a revised service plan and assessment plan, including proposed assessment rolls; calling and noticing a public hearing for June 19, 2018 to consider an ordinance levying assessments on property located within Improvement Area #2 of the Hickory Creek Public Improvement District No. 2; directing the filing of the proposed assessment rolls with the Town Secretary to make available for public inspection; directing town staff to publish and mail notice of said public hearing; and resolving other matters incident and related thereto.



**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-9**

**A RESOLUTION OF THE TOWN OF HICKORY CREEK, TEXAS DETERMINING THE COSTS OF CERTAIN IMPROVEMENTS TO BE FINANCED BY THE HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2; APPROVING A REVISED SERVICE PLAN AND ASSESSMENT PLAN, INCLUDING PROPOSED ASSESSMENT ROLLS; CALLING AND NOTICING A PUBLIC HEARING FOR JUNE 19, 2018 TO CONSIDER AN ORDINANCE LEVYING ASSESSMENTS ON PROPERTY LOCATED WITHIN IMPROVEMENT AREA #2 OF THE HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2; DIRECTING THE FILING OF THE PROPOSED ASSESSMENT ROLLS WITH THE TOWN SECRETARY TO MAKE AVAILABLE FOR PUBLIC INSPECTION; DIRECTING TOWN STAFF TO PUBLISH AND MAIL NOTICE OF SAID PUBLIC HEARING; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED THERETO.**

**RECITALS**

**WHEREAS**, the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended (the "Act") authorizes the governing body (the "Town Council") of the Town of Hickory Creek, Texas (the "Town") to create a public improvement district within the Town; and

**WHEREAS**, on September 21, 2012 the Town Council conducted a public hearing to consider a petition received by the Town titled "Petition Requesting the Establishment of Hickory Creek Public Improvement District No. 2," requesting the creation of a public improvement district; and

**WHEREAS**, on September 21, 2012, the Town Council approved Resolution No. 2012-0918-1 (the "Creation Resolution"), authorizing, establishing and creating the Hickory Creek Public Improvement District No. 2 (the "District"); and

**WHEREAS**, District encompasses 111.424 contiguous acres (the "Property"); and

**WHEREAS**, the Town authorized the creation of the District and the reimbursement of up to \$4,739,000.00 in improvement costs for certain public improvements authorized by the Act for the benefit of the property within the District (the "Authorized Improvements"); and

**WHEREAS**, the Town Council approved a "Hickory Creek Public Improvement District Service and Assessment Plan" including an assessment roll attached thereto (the "Assessment Rolls"), dated October 16, 2012 ( the "SAP"), as part of a levy of assessments on the Property, a copy of which is attached hereto as **Exhibit A** and is incorporated herein for all purposes; and

**WHEREAS**, the Town Council approved a "Hickory Creek Public Improvement District Revised Service and Assessment Plan" dated September 30, 2014 ( the "2014 Revised SAP"), which altered the collection methodology for the assessments that had been levied on the Property, a copy of which is attached hereto as **Exhibit B** and is incorporated herein for all purposes; and

**WHEREAS**, of the 131 lots on the Property, assessments had been levied on all 131 lots. However, assessments were only collected on 108 of the lots. The assessments for 23 lots were never collected; and

**WHEREAS**, the Town, on written advice of their legal counsel, has declared those assessments on the 23 lots as stale and now invalid by Resolution \_\_\_\_\_ approved on May 29, 2018; and

**WHEREAS**, the Town Council and the Town staff have been presented a "Hickory Creek Public Improvement District No. 2 Amended and Restated Service and Assessment Plan" (the "2018 SAP") including the proposed assessment rolls attached thereto (the "Proposed 2018 Assessment Rolls"), dated May 4, 2018 (the 2018 SAP and the Proposed 2018 Assessment Rolls are referred to herein as the "Preliminary Revised 2018 SAP"), a copy of which is attached hereto as **Exhibit C** and is incorporated herein for all purposes; and

**WHEREAS**, the Preliminary Revised 2018 SAP sets forth the estimated total costs of certain Authorized Improvements to be financed by the District for the development and the Proposed 2018 Assessment Rolls state the assessments proposed to be levied against the 23 lots in Improvement Area #2 of the District with the same method of assessment chosen by the Town in the 2014 Revised SAP; and

**WHEREAS**, the assessments to be levied against the 23 lots in Improvement Area #2 shall be reduced to the amount shown in the 2018 SAP but the assessment shall be remain valid and unchanged for the 108 lots for which assessments have been collected; and

**WHEREAS**, the Act requires that the Proposed Assessment Roll be filed with the Town Secretary of the Town (the “Town Secretary”) and be subject to public inspection; and

**WHEREAS**, the Act requires that a public hearing (the “Assessment Hearing”) be called to consider proposed assessments and requires the Town Council to hear and pass on any objections to the proposed assessments at, or on the adjournment of, the Assessment Hearing; and

**WHEREAS**, the Act requires that notice of the Assessment Hearing be mailed to property owners liable for assessment and published in a newspaper of general circulation in the Town before the tenth (10th) day before the date of the Assessment Hearing.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS AS FOLLOWS:**

**SECTION 1.** THAT the recitals set forth above in this Resolution are true and correct and are hereby adopted as findings of the Town Council and are incorporated into the body of this Resolution as if fully set forth herein.

**SECTION 2.** THAT the Town Council does hereby accept the Preliminary Revised 2018 SAP for the District, including the Proposed 2018 Assessment Rolls, a copy of which is attached hereto as **Exhibit C** and is incorporated herein for all purposes. All capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Preliminary Revised 2018 SAP.

**SECTION 3.** THAT the Town Council hereby determines that the total costs of the Authorized Improvements (as defined in the Preliminary Revised 2018 SAP) to be financed by the District are as set forth in Exhibit C of the Preliminary Revised 2018 SAP, which costs do include the payment of expenses incurred in the administration of the District or related to the issuance of any bonds.

**SECTION 4.** THAT the Town Council's final determination and approval of the costs of the Authorized Improvements, or any portion thereof, shall be subject to and contingent upon Town Council approval of a final Revised 2018 Service and Assessment Plan which will include a final 2018 Assessment Roll, after the properly noticed and held Assessment Hearing relating to the Improvement Area #2 reassessments.

**SECTION 5.** THAT the Proposed 2018 Assessment Roll states the assessment proposed to be levied against each parcel of land in Improvement Area #2 of the District as more fully described in the Preliminary Revised 2018 SAP.

**SECTION 6.** THAT the Town Council hereby authorizes and directs the filing of the Proposed Assessment Rolls with the Town Secretary and the same shall be available for public inspection.

**SECTION 7.** THAT the Town Council hereby authorizes, and calls a public hearing (the Assessment Hearing as defined above) to be held on June 19, 2018 at 6:30 p.m. at Hickory Creek Town Hall, 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065, at which the Town Council shall, among other actions, hear and pass on any objections to the proposed assessments; and, upon the adjournment of the Assessment Hearing, the Town Council will consider an ordinance levying the assessments as special assessments on property within Improvement Area #2 of the District (which ordinance shall specify the method of payment of the assessments).

**SECTION 8.** THAT the Town Council hereby authorizes and directs the Town Secretary to publish notice of the Assessment Hearing to be held on June 19, 2018, in substantially the form attached hereto as **Exhibit D** and incorporated herein for all purposes, in a newspaper of general circulation in the Town, before the tenth (10th) day before the date of the Assessment Hearing, as required by Section 372.016(b) of the Act.

**SECTION 9.** THAT when the Proposed Assessment Rolls are filed with the Town Secretary, the Town Council hereby authorizes and directs the Town Secretary to mail to owners of property liable for assessment notice of the Assessment Hearing to be held on June 19, 2018 as required by Section 372.016(c) of the Act.

**SECTION 10.** THAT Town staff is authorized and directed to take such other actions as are required (including, but not limited to, notice of the public hearing as required by the Texas Open Meetings Act) to place the public hearing on the agenda for the June 19, 2018 meeting of the Town Council.

**SECTION 11.** THAT this Resolution shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED** on this the 29th of May, 2018.

ATTEST:

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Lynn C. Clark, Mayor

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Kristi Rogers, Town Secretary

**EXHIBIT A**

**ORIGINAL SERVICE AND ASSESSMENT PLAN**

Town of Hickory Creek, Texas,  
Public Improvement District No. 2  
Service and Assessment Plan  
October 16, 2012

## SECTION 1 INTRODUCTION

1.1. On September 18, 2012, the Town Council of the Town of Hickory Creek, Texas (the "Town Council") and the "Town") passed and approved Resolution No. 2012-0918-1 creating Hickory Creek Public Improvement District No. 2 ( the "District") pursuant to the Act. The District includes within its boundaries approximately 111.424 contiguous acres located in the southeast quadrant of the intersection of Sycamore Bend Road and Turbeville Road, which property is described in Resolution No. 2012-0918-\_\_ and is the same property described by metes and bounds on **Exhibit A** and depicted by the drawing on **Exhibit A-1** (the "Property"). The Property is currently undeveloped; however, it will be developed to include approximately 131 single-family lots currently being patted as the Steeplechase South Addition, an addition to the Town of Hickory Creek. The purposes of the District are (i) to facilitate such development by undertaking public improvement projects authorized by the Act that promote the interests of the Town and confer a special benefit on the Property, and (ii) to finance such public improvement projects by levying special assessments against the Property in an amount that does not exceed the special benefit conferred upon the property by such projects.

1.2. The public improvement projects being undertaken and financed by the District are described on **Exhibit B** (the "Public Improvements"), which public improvement projects were approved by the Town Council by Resolution No. 2012-0925-1 passed and approved September 25, 2012.

1.3. The total cost of the Public Improvements is shown on **Exhibit B** to be \$4,689,000.00, which total cost was approved by the Town Council by Resolution No. 2012-0925-1 passed and approved September 25, 2012.

1.4. The total cost of the Public Improvements plus the cost to establish the District (\$50,000.00) recommended by this SAP to be assessed against the Property is \$4,739,000.00 (the "District Cost"). The District Cost is authorized by the Act. The line items of estimated costs shown on **Exhibit B** may vary without requiring an update to this SAP so long as the total District Cost does not exceed \$4,739,000.00.

1.5. The amount by which the total cost of the Public Improvements plus the cost to establish the District exceeds the District Cost is a contribution by Developer for which Developer will not be reimbursed through the District.

1.6. The Act governs the process by which the District Cost is allocated to and assessed against the Property. This process requires the preparation of an ongoing service plan (a "Service Plan"), an assessment plan (an "Assessment Plan"), and an assessment roll (an "Assessment Roll").

1.7. The Act requires the preparation, and the presentment to and review and approval by the Town Council, of a Service Plan covering a period of at least five years and defining the annual indebtedness and projected costs of the Public Improvements. The Service Plan must be



reviewed and updated at least annually to determine the annual budget for the Public Improvements. The Service Plan is contained in Section 3.

1.8. The Act requires the Service Plan to include an Assessment Plan. The Assessment Plan assesses the District Cost against the Property on the basis of the special benefits conferred upon the Property by the improvements. The District Cost may be assessed in any manner that results in imposing equal shares of the cost on Parcels of Property similarly benefited; and the Town Council may establish reasonable classifications and formulas for the apportionment of the District Cost between the Town and the Property and methods of assessing special benefits for various classes of the Public Improvements. The special benefit of the Public Improvements is being apportioned to the Property in the amount of the District Cost, and none of the District Cost is being apportioned to the Town. The Assessment Plan is contained in Section 4.

1.9. The Act requires the preparation of an Assessment Roll after the total District Cost has been determined. The Assessment Roll must state the assessment against each Parcel determined by the method of assessment chosen by the Town Council in the Assessment Plan. The assessment against a Parcel must be sufficient to pay the share of the District Cost allocated to the Parcel and cannot exceed the special benefit conferred upon the Parcel. The Assessment Roll for the District is contained in Section 5.

## SECTION 2 DEFINITIONS

Capitalized terms used in this SAP shall have the meanings set forth in this Section. Unless otherwise defined, all references to "Section" shall mean a section of this SAP, and all references to "Exhibit" shall mean an exhibit attached to and made a part of this SAP.

"Act" means Texas Local Government Code Chapter 372, Public Improvement Assessment Act, Subchapter A, Public Improvement Districts, as amended.

"Administrator" means any person or entity designated by the Town to perform the obligations of the Administrator under this SAP.

"Annual Administrative Costs" mean the actual or estimated costs paid or incurred in connection with the administration and operation of the District that are paid from the additional interest authorized by Section 372.018(a) of the Act including, but not limited to: (a) an amount to pay Prepayment Costs; (b) an amount equal to the amount by which Annual Collection Costs paid or incurred exceed Annual Collection Costs collected; and (c) an amount to pay District Cost under circumstances determined appropriate by the Town Council. If PID Bonds are issued to pay the unpaid principal amount plus accrued and unpaid interest due under the Reimbursement Agreement, Annual Administration Costs will include costs of issuance and amounts to establish and maintain debt service and other reserves and obligations required by the Bond Ordinance or Trust Indenture.

"Annual Collection Costs" mean the actual or estimated costs (including reasonable attorneys' fees) paid or incurred in connection with: (a) the preparation of Service Plan Updates and the

resulting adjustments, if any, to Assessments or Annual Installments; (b) the computation, collection, and application of payments of Assessments and Annual Installments and any other payments related thereto; (c) the performance of any duties or obligations imposed by this SAP or any Bond Ordinance or Trust Indenture related to the computation, collection, and application of payments of Assessments and Annual Installments and any other related payments, or related to the use of any of the foregoing payments to pay District Cost; and (d) maintaining books and records with respect to the foregoing. If PID Bonds are issued to pay the unpaid principal amount plus accrued and unpaid interest due under the Reimbursement Agreement, Annual Collection Costs will include payment of debt service and other reserves and obligations required by the Bond Ordinance or Trust Indenture and costs incurred performing any other duties or obligations imposed by the Bond Ordinance or Trust Indenture (including the calculation and disposition of the costs of arbitrage).

“Annual Installment” means, for a Parcel for which the Assessment will be collected in annual installments, the sum of: (a) the annual installment of the principal amount of the Assessment; (b) annual interest on the unpaid principal amount of the Assessment; (3) Annual Collection Costs allocated to the Parcel; (c) Delinquent Collection Costs attributable to the Parcel; and (d) Annual Administrative Costs (up to a maximum amount determined by the additional interest authorized by Section 372.018(a) of the Act) allocated to the Parcel. If PID Bonds are issued to pay the unpaid principal amount plus accrued and unpaid interest due under the Reimbursement Agreement, Annual Installments may be reduced by credits applied under the Bond Ordinance or Trust Indenture.

“Assessment” means, for a Parcel, the portion of the District Cost that is allocated to and assessed against the Parcel based on the special benefit conferred on the Parcel by the Public Improvements.

“Assessment Ordinance” is defined in Section 4.15.

“Assessment Plan” is defined in Section 1.6, including amendments, modifications, and updates authorized by the Act.

“Assessment Roll” is defined in Section 1.6, including amendments, modifications, and updates authorized by the Act.

“Assessment Revenue” means the revenues received by the Town from the payment of Assessments and Annual Installments.

“Bond Ordinance” means the ordinance, order, or document setting forth the terms and other provisions relating to the PID Bonds, as modified, amended, and/or supplemented from time to time.

“Delinquent Collection Costs” mean, for a Parcel, interest, penalties and attorneys’ fees that are authorized by the Act and that directly or indirectly relate to the collection of delinquent Assessments, delinquent Annual Installments, or any other delinquent payments due under this SAP with respect to such Parcel, including costs and expenses related to the foreclosure of liens.

“Developer” means CTMGT Turbeville, LLC, a Texas limited liability company, and its successors and assigns.

“District” is defined in Section 1.1.

“District Cost” is defined in Section 1.4.

“Exempt Parcel” is defined in Section 4.10.

“Lot” means a Parcel that can be legally described by a “Block” and “Lot” number on a final subdivision plat recorded in the real property records of Denton County, Texas.

“Lot's Plat Date” is defined in Section 4.15.

“Maximum Assessment” is defined in Section 4.8.

“Owner Association Property” means property within the District that is owned by or dedicated to a property owners’ association.

“Parcel” means a parcel or tract of land within the District that is identified by (a) a tax map identification number assigned to the parcel or tract by the Denton County Appraisal District for real property tax purposes, or (b) a lot and block number shown on a final subdivision plat recorded in the real property records of the Denton County, Texas.

“PID Bonds” mean bonds issued by the Town in one or more series and secured by Assessment Revenue to pay District Cost, including any unpaid principal amount plus accrued and unpaid interest due under the Reimbursement Agreement.

“Prepayment Costs” mean: (a) expenses paid or incurred by the Town in connection with the prepayment of an Assessment; plus (b) if PID Bonds have been issued, interest on the Assessment from the date of the prepayment until the first available Bond redemption date.

“Public Improvements” are defined in Section 1.2.

“Prior Owner” is defined in Section 4.10.

“Property” is defined in Section 1.1.

“Reimbursement Agreement” means the reimbursement agreement (in substantially the form attached as **Exhibit F**) between the Town and Developer pursuant to which the Town agrees to reimburse Developer for the District Cost plus interest.

“SAP” means this Town of Hickory Creek Public Improvement District No. 2 Service and Assessment Plan, as amended and updated.

“Service Plan” is defined in Section 1.6, including amendments, modifications, and updates authorized by the Act.

“Service Plan Update” is defined in Section 3.3.

“Town” is defined in Section 1.1.

“Town Council” is defined in Section 1.1.

“Trust Indenture” means the indenture or similar document setting forth the terms and other provisions relating to the issuance of PID Bonds and the trust estate created by the issuance, as modified, amended, and/or supplemented from time to time.

### SECTION 3 SERVICE PLAN

3.1 This Section 3 constitutes the Service Plan for the District. This Service Plan is required by the Act to cover a period of at least five years and define the annual indebtedness for the Public Improvements and the projected District Cost.

3.2 The District Cost is \$4,739,000.00, and the five-year projection of the District Cost is shown on **Exhibit C**. The District Cost will be reimbursed to Developer, plus interest, solely from Assessment Revenue in accordance with the Reimbursement Agreement. It is contemplated, however, that the Town will issue PID Bonds if and when financially feasible as determined by the Town Council, and the proceeds of such PID Bonds will be used to pay the unpaid principal amount plus accrued and unpaid interest payable under the Reimbursement Agreement and to pay any remaining District Cost.

3.3 The annual indebtedness for the Public Improvements for each of the five years is shown on **Exhibit D**. The annual indebtedness for the Public Improvements for any given year equals the sum of the Annual Installments for all Parcels for such year. The annual indebtedness estimated for each year is the sum of: (1) principal and interest payable on the Reimbursement Agreement (or payable on PID Bonds if issued) for such year; (2) Annual Collection Costs for such year; (3) Delinquent Collection Costs for such year; and (4) Annual Administrative Costs for such year (up to a maximum amount determined by the additional interest authorized by Section 372.018(a) of the Act). This Service Plan, together with the exhibits to this SAP and the Assessment Roll, will be reviewed and updated in accordance with the Act as needed (but no less frequently than once each calendar year) and with the approval of the Town Council (each such update, a “Service Plan Update”). The principal amount of an Assessment may be reduced but not increased. Interest, Annual Collection Costs, Delinquent Collection Costs, and Annual Administrative Costs, which are treated separately under the Act, may be reduced or increased as authorized by the Act and this SAP. All of the foregoing adjustments (i.e., both reductions and increases) shall be reflected in each Service Plan Update.

### SECTION 4 ASSESSMENT PLAN

4.1 Method of Assessment. This Section 4 constitutes the Assessment Plan for the District. This Assessment Plan assesses the District Cost against the Property on the basis of the special

benefits conferred upon the Property by the Public Improvements. The Act provides that the District Cost may be assessed: (1) equally per front foot or square foot; (2) according to the value of the property as determined by the Town Council with or without regard to improvements on the property; or (3) in any other manner that results in imposing equal shares of the cost on property similarly benefited. The Act further provides that the Town Council may establish, by ordinance or order, reasonable classifications and formulas for the apportionment of the cost between the Town and the area to be assessed and methods of assessing the special benefits for various classes of improvements.

4.2 Best and Highest Use. Based on: (1) the location of the Property within the corporate limits of the Town; (2) the size of the Property; (3) the proximity of the Property to population and employment centers; (4) the proximity of the Property to public roadways; (5) existing and projected land uses in the vicinity of the Property; (6) projected growth in the greater Dallas/Fort Worth metropolitan area; (7) the quality of the existing and proposed development within the Property; and (8) the projected demand for residential development within the Town, the Town Council has determined that: (A) the best and highest use of the Property<sup>1</sup> is for single-family residential lots; (B) achieving the best and highest use of the Property requires the Public Improvements; (C) without the Public Improvements the Property will not be developed to its best and highest use; (D) the establishment of the District provides the most effective means of funding the Public Improvements to achieve the best and highest use for the Property without financial burden to the Town, including the use of the Reimbursement Agreement with the possibility of a future Bond issue by the Town to pay the unpaid principal amount plus accrued and unpaid interest due under the Reimbursement Agreement; and (E) the Public Improvements will confer a special benefit on the Property that exceeds the District Cost and the Assessments levied against the Property to pay the District Cost.

4.3 Allocation of District Cost. The Town Council has determined that based on the special benefit conferred on the Property by the Public Improvements, none of the District Cost shall be apportioned to the Town. The Town Council has further determined: (1) that the Public Improvements will confer a special benefit on all the residential lots within the District; (2) that each of the lots within the District will be equally benefitted by the Public Improvements; and (3) that the special benefit conferred on each lot within the District will exceed the amount of the Assessment for each lot.

4.4 Property Not Special Benefited. The Town Council has determined that Owner Association Property, which is owned by a non-profit association solely for the benefit of, and funded solely by, its members, does not benefit separately from its members. This SAP provides for land owners within the District to be assessed directly for the special benefit conferred by the Public Improvements. Any assessment against Owner Association Property would be paid indirectly by its members; accordingly, the Town Council has not apportioned any of the District Cost to any Owner Association Property.

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<sup>1</sup> The "best and highest use" is defined to mean the reasonably probably and most valuable legal use of the property, including costs required for such use, that is physically possible and financially feasible and that results in the highest value.

4.5 Assessment Against the Property. The District Cost in the amount of \$4,739,000.00 will be assessed against the Property. The Assessment will be allocated uniformly to each Lot that results from the subdivision of the Property. Assuming the Property is subdivided into 131 single-family Lots, the per-Lot assessment will be \$36,175.00. The amount of the Assessment against the Property, and amount of the Assessment against each Lot, will not increase. The Assessment against the Property is based on the District Cost estimate set forth in the Official Report; therefore, if the actual cost of the Public Improvements is less than the estimated District Cost, the Assessment against the Property and against each Lot must be reduced accordingly. The maximum assessment per Lot shall not exceed the District Cost divided by the number of Lots into which the Property is subdivided. The Administrator shall determine the Assessment against each Lot when the Property has been subdivided, and such determination shall be approved by the Town Council in the next Service Plan Update.

4.6 Reallocation of Assessments Upon Subdivision. If a Parcel is subdivided, the Assessment against the Parcel before subdivision will be reallocated among the new subdivided Parcels by applying a portion of the Assessment before subdivision to each new subdivided Parcel. The sum of the Assessments for the new subdivided Parcels cannot exceed the Assessment on the original Parcel before subdivision. Upon the subdivision of any Parcel, the Assessment for the Parcel before subdivision shall be reallocated among the new subdivided Parcels according to the following formula and subject to the Maximum Assessment:

$$A = B \div C$$

A = the new Assessment against each new subdivided Parcel.

B = the Assessment against the original Parcel before subdivision.

C = the total number of new Parcels created by the subdivision.

The Administrator shall determine the total number of new Parcels created by the subdivision (i) based on the number of Parcels shown on an approved subdivision plat, or (ii) if no approved subdivision plat exists for any portion of the subdivided Parcel, based on the number of Parcels estimated for such portions as shown on the owner's then-existing land use plan. The Assessments for subdivided Parcels in accordance with this section will be determined by the Administrator and recommended to and approved by the Town Council in a future Service Plan Update.

4.7 Reallocation of Assessments Upon Consolidation. If two or more Parcels are consolidated, the Assessment for the consolidated Parcel shall be the sum of the Assessments for the Parcels prior to consolidation. Assessments for consolidated Parcels will be calculated by the Administrator and approved by the Town Council in future Service Plan Updates.

4.8 Maximum Assessment. Assuming the Property will be subdivided into 131 Lots, the maximum Assessment for a Lot (the "Maximum Assessment") is \$36,175.00. The Maximum Assessment may be reduced but not increased.

4.9 Owner Initiated Subdivision and Consolidation. If an owner-initiated subdivision of a Parcel or owner-initiated consolidation of Parcels results in a reallocated Assessment for a Parcel



that would exceed the Maximum Assessment, the owner shall pay to the Town at the time of the subdivision or consolidation the amount by which the reallocated Assessment for the Parcel exceeds the Maximum Assessment plus, if applicable, accrued interest through the date of such payment. Prepayment Costs, if any, that result from such owner-initiated subdivision or consolidation, shall be paid by the owner to the Town at the time of the subdivision or consolidation. Payments made by an owner pursuant to this section shall be used to reduce the outstanding principal due under the Reimbursement Agreement and reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator and approved by the Town Council in future Service Plan Updates. If PID Bonds have been issued to pay the District Cost, including unpaid principal plus the accrued and unpaid interest due under the Reimbursement Agreement, payments made by an owner pursuant to this section shall be used to reduce the outstanding principal amount of PID Bonds and reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator in accordance with the Bond Ordinance and Trust Indenture and approved by the Town Council in future Service Plan Updates.

4.10 Owner-Caused Exempt Parcels. If, after the levy of Assessments, the owner of a Parcel for which an Assessment has been levied (“Prior Owner”) causes the Parcel to become Owner Association Property or otherwise causes the Parcel to become exempt from payment of the Assessment or Annual Installments (an “Exempt Parcel”), the Prior Owner shall pay to the Town at the time the Parcel changes to an Exempt Parcel the full unpaid principal amount of the Assessment for the Parcel prior to the date of such change to an Exempt Parcel plus, if applicable, accrued interest through the date of such payment. Prepayment Costs, if any, that result from the change to an Exempt Parcel shall be paid by the Prior Owner to the Town. When such payments have been made by the Prior Owner or the Town as provided in this section, the obligation to pay the Assessment for the Parcel shall automatically terminate, and the Assessment shall be reduced to zero in future Service Plan Updates. If the payments are not made, the lien against the Exempt Parcel to secure payment of the Assessment and Annual Installments shall continue until paid. Payments made by a Prior Owner pursuant to this section shall be used to reduce the outstanding principal due under the Reimbursement Agreement and reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator and approved by the Town Council in future Service Plan Updates. If PID Bonds have been issued to pay the District Cost, including unpaid principal plus the accrued and unpaid interest due under the Reimbursement Agreement, payments made by a Prior Owner pursuant to this section shall be used to reduce the outstanding principal amount of PID Bonds and reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator in accordance with the Bond Ordinance and Trust Indenture and approved by the Town Council in future Service Plan Updates.

4.11 Prepayment of Assessments.

(a) Full Prepayment. The unpaid principal amount of an Assessment may be prepaid by the owner in full at any time, together with accrued interest through the date of prepayment; whereupon the obligation to pay the Assessment for the Parcel automatically terminates and the Assessment shall be reduced to zero in future Service Plan Updates. If an Annual Installment has been billed prior to prepayment, the Annual Installment shall be due and payable and shall be credited against the prepayment amount. Prepayment Costs, if any, shall be paid by the Town

from Annual Administrative Costs collected by the Town. Payments made by an owner pursuant to this section shall be used to reduce the outstanding principal due under the Reimbursement Agreement and reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator in accordance with this SAP and approved by the Town Council in future Service Plan Updates. If PID Bonds have been issued to pay the unpaid principal plus the accrued and unpaid interest due under the Reimbursement Agreement, payments made by an owner pursuant to this section shall be used to pay the PID Bonds in accordance with the Bond Ordinance and Trust Indenture and may reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator in accordance with this SAP and the Bond Ordinance and Trust Indenture and approved by the Town Council in future Service Plan Update.

(b) Partial Prepayment. The unpaid principal amount of an Assessment may be prepaid by the owner in part at any time, together with accrued interest through the date of prepayment. The partial prepayment shall be calculated by the Administrator and paid to the Town. Prepayment Costs, if any, shall be paid by the Town from Annual Administrative Costs collected by the Town. Payments made by an owner pursuant to this section shall be used to reduce the outstanding principal due under the Reimbursement Agreement and reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator in accordance with this SAP and approved by the Town Council in future Service Plan Updates. If PID Bonds have been issued to pay the District Cost, including unpaid principal plus the accrued and unpaid interest due under the Reimbursement Agreement, payments made by an owner pursuant to this section shall be used to pay the PID Bonds in accordance with the Bond Ordinance and Trust Indenture and may reduce the Assessments and Annual Installments for the affected Parcels, which reductions shall be calculated by the Administrator in accordance with this SAP and the Bond Ordinance and Trust Indenture and approved by the Town Council in future Service Plan Updates.

4.12 Annual Installments. An Assessment that is not paid in full shall be paid in Annual Installments calculated by the Administrator and approved by the Town Council as part of each Service Plan Update. Assessments may be reduced but not increased. Annual Installments, however, may be reduced or increased from year to year. Annual Installments include principal and interest amounts determined upon execution of the Reimbursement Agreement. Annual Installments also include amounts that will vary from year to year; namely, (1) Annual Collection Costs, (2) Delinquent Collection Costs, and (3) Annual Administrative Costs (up to a maximum amount determined by the additional interest authorized by Section 372.018(a) of the Act). Annual Installments shall be billed and collected by the Town, or by any other person, entity, or governmental agency authorized by state law and designated by the Town Council in accordance with the Act, in the same manner and at the same time as Town ad valorem taxes are billed and collected beginning upon execution of the Reimbursement Agreement. If PID Bonds are issued to pay the District Cost, including unpaid principal plus the accrued and unpaid interest due under the Reimbursement Agreement, Annual Installments shall be reduced by any credits applied under the Bond Ordinance and Trust Indenture and approved by the Town Council in future Service Plan Updates.

4.13 Findings and Determinations. The findings and determinations by the Town Council set forth in this SAP are based on (1) official reports prepared by qualified professionals and on file



with the Town for public inspection, (2) evidence and testimony presented to the Town Council, and (3) information made available to the Town Council. The Town Council has relied on the information contained in such official reports, evidence, and testimony in the preparation and approval of this SAP and the allocation of the District Cost to the Property. Such findings and determinations represent the discretionary exercise by the Town Council of its legislative and governmental authority and power, and such findings and determinations are binding on the current and future owners of the Property. Calculations performed by the Administrator in accordance with this SAP and approved by the Town Council in future Service Plan Updates, shall be conclusive upon approval by the Town Council. Developer, as the owner of all the Property, has concurred in and unconditionally approved the findings and determinations by the Town Council as set forth in this Assessment Plan and has otherwise concurred in and unconditionally approved this SAP and the levy of Assessments against the Property. Developer acknowledges that the Property will be subject to payment of Assessments and/or Annual Installments as provided in the SAP, as provided in the Reimbursement Agreement, and, if issued, under any Bond Ordinance or Trust Indenture in connection with the issuance by the Town of PID Bonds.

4.14 Security for Payment. All payments due in accordance with this SAP shall be treated the same with respect to the liens created to secure payment and the rights of the Town, including foreclosure, in the event of delinquencies. Any foreclosure sale of a Parcel for nonpayment of any such amounts shall be subject to a continuing lien for the remaining unpaid amounts in accordance with state law.

4.15 Accrual of Interest; Collection of Assessments. It is anticipated that the Town Council will adopt an ordinance (the "Assessment Ordinance"), that will levy an Assessment in the amount of \$4,739,000.00 against the Property which will be allocated uniformly to each Lot. Although the effective date of the Assessment and the corresponding assessment lien is the effective date of the Assessment Ordinance, the accrual of interest and the collection of the Assessment (or Annual Installment thereof) will be deferred. Interest will be deferred and shall not begin to accrue until the date on which a final plat is recorded that includes the Lot (the "Lot's Plat Date"). Collection of the Assessment (or Annual Installments thereof) will be deferred until the first January 31<sup>st</sup> to occur after the Lot's Plat Date.

4.16 Release of Lien. When an Assessment has been paid in full, including Delinquent Collection Costs and any other related amounts owed under this SAP, the Administrator shall notify the Town, and the Town shall execute a release, in recordable form, evidencing full payment of the Assessment and the unconditional release of the lien securing payment of the Assessment. All releases shall be reflected in future Service Plan Updates.

## SECTION 5 ASSESSMENT ROLL

The Assessment Roll on Exhibit E identifies the Assessment against the Property, the anticipated Assessment against each Lot (based on the assumption that the Property will be subdivided into 131 single-family residential lots), and the estimated Annual Installments for

each Lot for which the Assessment is not paid in full. The Assessment Roll shall be updated by the Administrator as required by this SAP and the Act, which updates shall be approved by the Town Council in future Service Plan Updates.

## SECTION 6 ADDITIONAL PROVISIONS

6.1 Calculation Errors. If the owner of a Parcel claims that an error has been made in any calculation required by this SAP, including, but not limited to, any calculation made as part of any Service Plan Update, the owner's sole and exclusive remedy shall be to submit a written notice of error to the Town Council within 10 days after Town Council approval of the calculation; otherwise, the owner shall be deemed to have unconditionally approved the calculation. Upon receipt of a written notice of error from an owner, the Town Council shall refer the notice to the Administrator who shall provide a written response to the Town Council and the owner within 30 days of such referral. The Town Council shall consider the owner's notice of error and the Administrator's response at a public hearing, and within 30 days after closing such hearing, the Town Council shall make a final determination as to whether or not an error has been made. If the Town Council determines that an error has been made, the Town Council shall take such corrective action as is authorized by the Act, this SAP, the Bond Ordinance, or the Trust Indenture, or is otherwise authorized by the discretionary power of the Town Council. The determination by the Town Council as to whether an error has been made, and any corrective action taken by the Town Council, shall be final and binding on the owner and the Administrator.

6.2 Severability. The provisions of this SAP are intended to be severable. In the event any provision of this SAP, or the application thereof to any person or circumstance, is held or determined to be invalid, illegal, or unenforceable, and if such invalidity, unenforceability, or illegality does not cause substantial deviation from the underlying intent of the Town Council as expressed in this SAP, then such provision shall be deemed severed from this SAP with respect to such person, entity, or circumstance without invalidating the remainder of this SAP or the application of such provision to other persons, entities, or circumstances.

6.3 Exhibits. The following exhibits are included as part of this SAP:

- Exhibit A: Legal Description of the Property
- Exhibit A-1: Depiction of the Property
- Exhibit B: Public Improvements
- Exhibit C: Service Plan Five-Year Costs
- Exhibit D: Service Plan Five-Year Annual Indebtedness
- Exhibit E: Assessment Roll
- Exhibit F: Reimbursement Agreement

Exhibit A

Legal Description of the Property

TRACT 1 – 112.4 ACRES

(part of the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton, Texas, and being all of that tract of land described as Tract 3- South in Special Warranty Deed to CTMGT Turbeville, LLC as recorded in Document Number 2011-121573 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)]("Record" bearings and distances cited herein are from said Special Warranty Deed to CTMGT Turbeville, LLC):

BEGINNING at a found PK nail for the southeast corner of said Tract 3- South, said point being in the centerline of Harbor Lane (a called 60 foot wide right-of-way in said Document Number 2011-121573), and being in the north line of the Harbor Grove Estates, Section 3, an addition to the Town of Hickory Creek, Texas, as recorded in Volume 2, Page 151 of the Plat Records of Denton County, Texas;

THENCE South 89 degrees 43 minutes 27 seconds West (record South 89 degrees 47 minutes 55 seconds West 666.64 feet), with the common north line of said Harbor Grove Estates, Section 3 and the south line of said Tract 3- South, a distance of 667.21 feet to a found Corps of Engineers monument for the common northwest corner of said Harbor Grove Estates, Section 3 and the northeast corner of that tract of land described as Tract No. F-522 in deed to United States of America as recorded in Volume 383, Page 375 of the Deed Records of Denton County, Texas (D.R.D.C.T.);

THENCE North 88 degrees 47 minutes 24 seconds West (record North 88 degrees 51 minutes 13 seconds West 658.88 feet), with the common north line of said Tract No. F-522 and the south line of said Tract 3- South, a distance of 658.67 feet to a found Corp of Engineers monument for the common northwest corner of said Unites States of America tract and the northeast corner of that tract of land described in deeds to Sabrina Holkar-Ellis Irrevocable 2007 Trust as recorded in Document Number 2007-127619, O.P.R.D.C.T., and Yeshwant R. Holkar Irrevocable 2007 Trust as recorded in, Document Number 2007-127629, O.P.R.D.C.T.;

THENCE North 89 degrees 46 minutes 12 seconds West (record North 89 degrees 46 minutes 12 seconds West 478.46 feet), with the common north line of said Holkar Trusts tract and the south line of said Tract 3- South, a distance of 478.46 feet to a found PK nail for the southwest corner of said Tract 3- South in the approximate centerline of Sycamore Bend Road (a variable width roadway by usage, no deed of record found);

THENCE with the west line of said Tract 3- South and along the approximate centerline of said Sycamore Bend Road through the following calls:

North 03 degrees 50 minutes 37 seconds West (record North 03 degrees 50 minutes 37 seconds West 502.49 feet), a distance of 502.49 feet to a found PK nail for corner;

North 05 degrees 22 minutes 06 seconds West (record North 05 degrees 22 minutes 06 seconds West 254.96 feet), a distance of 255.11 feet to a found PK nail for corner;

Exhibit A

Legal Description of the Property

North 06 degrees 22 minutes 51 seconds West (record North 06 degrees 25 minutes 21 seconds West 259.59 feet), a distance of 259.28 feet to a found PK nail for corner;

North 07 degrees 54 minutes 41 seconds West (record North 07 degrees 52 minutes 58 seconds West 361.37 feet), a distance of 361.68 feet to a found PK nail for corner;

North 07 degrees 01 minute 29 seconds West (record North 07 degrees 01 minute 29 seconds West 448.45 feet), a distance of 448.45 feet to a found PK nail for corner;

North 10 degrees 09 minutes 53 seconds West (record North 10 degrees 09 minutes 53 seconds West 139.03 feet), a distance of 139.03 feet to a found PK nail for corner;

North 12 degrees 10 minutes 59 seconds West (record North 12 degrees 10 minutes 59 seconds West 706.84 feet), a distance of 706.84 feet to a found PK nail for the northwest corner of said Tract 3- South, said point being within the right-of-way of Turbeville Road (a variable width roadway by usage, no deed of record found);

THENCE South 89 degrees 13 minutes 35 seconds East (record South 89 degrees 13 minutes 35 seconds East 2,142.75 feet), with the north line of said Tract 3- South and within said Turbeville Road, a distance of 2,143.10 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" for the northeast corner of said Tract 3- South, said point being on the centerline of the aforementioned Harbor Lane as described in said Document Number 2011-121573, and from which point a 1/2-inch found iron rod for the northeast corner of that called 116.768 acre tract of land described in deed to Alan H. Goldfield and Shirley M. Goldfield as recorded in Document Number 95-R0035165 (hereinafter referred to as the "Goldfield tract") bears North 48 degrees 36 minutes 21 seconds West a distance of 9.32 feet;

THENCE South 00 degrees 33 minutes 59 seconds East (record South 00 degrees 33 minutes 59 seconds East 1,511.92 feet), with the east line of said Tract 3- South and said centerline of Harbor Lane as described in said Document Number 2011-121573, a distance of 1,511.92 feet to a found PK nail for corner;

THENCE with a jog in the east line of said Tract 3- South through the following calls:

South 89 degrees 19 minutes 44 seconds West (record South 89 degrees 19 minutes 44 seconds West 638.96 feet), departing said centerline of Harbor Lane, at a distance of 2.20 feet passing the east line of said Goldfield tract, a distance of 639.15 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

South 00 degrees 40 minutes 15 seconds East (record South 00 degrees 40 minutes 15 seconds East 318.16 feet), a distance of 318.16 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

North 89 degrees 42 minutes 51 seconds East (record North 89 degrees 42 minutes 51 seconds East 436.59 feet), a distance of 436.59 feet to a found 5/8-inch iron rod with a

Exhibit A

Legal Description of the Property

cap stamped "RPLS 1890" for the point curvature of a non-tangent circular curve to the right having a radius of 50.00 feet and a chord that bears North 78 degrees 17 minutes 44 seconds East, a distance of 19.14 feet (record radius 50.00 feet, central angle 22 degrees 04 minutes 01 second, arc distance 19.26 feet, chord North 78 degrees 17 minutes 44 seconds East 19.14 feet);

Easterly, with said curve, through a central angle of 22 degrees 04 minutes 01 second, an arc distance of 19.26 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

North 89 degrees 34 minutes 27 seconds East (record North 89 degrees 34 minutes 27 seconds East 183.02 feet), at a distance of 182.00 feet passing the east line of said Goldfield tract, a distance of 183.21 feet to a found PK nail for corner on the aforementioned centerline of the Harbor Lane as described in said Document Number 2011-121573;

THENCE South 00 degrees 33 minutes 59 seconds East (record South 00 degrees 33 minutes 59 seconds East 797.79 feet), with the east line of said Tract 3- South and with said centerline of Harbor Lane as described in said Document Number 2011-121573, a distance of 797.79 feet to the POINT OF BEGINNING and containing 112.4 acres (4,896,020 square feet) (record 112.3629 acres) of land, more or less.

Exhibit A

Legal Description of the Property

TRACT 2 – 5,789 SQUARE FEET  
(part of the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton County, Texas, and being part of the remainder of a called 116.768 acre tract of land described in General Warranty Deed with Vendor's Lien to Alan H. Goldfield and Shirley M. Goldfield, as recorded in Document Number 95-R0035165 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)] ("Record" bearings and distances cited herein are from that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573, O.P.R.D.C.T.):

COMMENCING at a found PK nail for an "ell" corner of that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573, O.P.R.D.C.T., said corner also being on the approximate centerline of Harbor Lane (a called 60-foot wide right-of-way in said Document Number 2011-121573);

THENCE South 89 degrees 34 minutes 27 seconds West (*record North 89 degrees 34 minutes 27 seconds East*), with a jog in the east line of said CTMGT tract, passing at a distance of 1.21 feet the east line of said Goldfield tract, and continuing with said jog, in all a total distance of 37.10 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner, said point also being the POINT OF BEGINNING;

THENCE South 89 degrees 34 minutes 27 seconds West (*record North 89 degrees 34 minutes 27 seconds East*), continuing with said jog, a distance of 146.11 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for the point of curvature of a non-tangent circular curve to the left having a radius of 50.00 feet and a chord that bears South 78 degrees 17 minutes 44 seconds West a distance of 19.14 feet (*record radius 50.00 feet, central angle 22 degrees 04 minutes 01 second, arc distance 19.20 feet, chord North 78 degrees 17 minutes 44 seconds East, 19.14 feet*);

THENCE Westerly, with said curve, continuing with said jog, through a central angle of 22 degrees 04 minutes 01 second, an arc distance of 19.26 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for the end of said curve;

THENCE South 89 degrees 42 minutes 51 seconds West (*record North 89 degrees 42 minutes 51 seconds East*), continuing with said jog, a distance of 107.68 feet to a 1/2-inch set iron rod with cap for corner;

THENCE North 00 degrees 17 minutes 09 seconds West, departing said jog and over and across said Goldfield tract, a distance of 22.74 feet to a 1/2-inch set iron rod with cap for corner;

THENCE North 89 degrees 22 minutes 49 seconds East, continuing over and across said Goldfield tract, a distance of 272.57 feet to a 1/2-inch set iron rod with cap for corner;

Exhibit A

Legal Description of the Property

THENCE South 00 degrees 15 minutes 06 seconds East, continuing over and across said Goldfield tract, a distance of 20.19 feet to the POINT OF BEGINNING and containing 0.1329 of an acre (5,789 square feet) of land, more or less.

Exhibit A

Legal Description of the Property

TRACT 3 – 1.109 ACRES  
(excluded from the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton County, Texas, and being part of that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [ The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)] ("Record" bearings and distances cited herein are from said Special Warranty Deed to CTMGT Turbeville, LLC):

COMMENCING at a found PK nail for an "ell" corner of said CTMGT tract, said corner also being on the approximate centerline of Harbor Lane (a called 60-foot wide right-of-way in said Document Number 2011-121573);

THENCE South 89 degrees 19 minutes 44 seconds West (*record South 89 degrees 19 minutes 44 seconds West*), with a jog in the east line of said CTMGT tract, passing at a distance of 2.20 feet the east line of the remainder of that called 116.768 acre tract of land described in deed to Alan H. Goldfield and Shirley M. Goldfield, as recorded in Document Number 95-R0035165, O.P.R.D.C.T., continuing with said jog, in all a total distance of 34.40 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner, said point also being the POINT OF BEGINNING;

THENCE South 89 degrees 19 minutes 44 seconds West (*record South 89 degrees 19 minutes 44 seconds West*), continuing with said jog, a distance of 604.75 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for an interior "ell" corner in said jog;

THENCE South 00 degrees 40 minutes 15 seconds East (*record South 00 degrees 40 minutes 15 seconds East, 318.16 feet*), continuing with said jog, a distance of 318.16 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for an interior "ell" corner in said jog;

THENCE North 89 degrees 42 minutes 51 seconds East (*record North 89 degrees 42 minutes 51 seconds East*), continuing with said jog, a distance of 278.91 feet to a 1/2-inch set iron rod with cap for corner;

THENCE South 00 degrees 17 minutes 07 seconds East, departing said jog and over and across said CTMGT tract, a distance of 30.02 feet to a 1/2-inch set iron rod with cap for corner;

THENCE continuing over and across said CTMGT tract, through the following calls:

South 89 degrees 42 minutes 53 seconds West a distance of 283.82 feet to a 1/2-inch set iron rod with cap for corner;

North 00 degrees 40 minutes 13 seconds West a distance of 177.48 feet to a 1/2-inch set iron rod with cap for corner;



Exhibit A

Legal Description of the Property

North 24 degrees 07 minutes 19 seconds West a distance of 236.36 feet to a 1/2-inch set iron rod with cap for corner;

North 89 degrees 22 minutes 49 seconds East a distance of 703.97 feet to a 1/2-inch set iron rod with cap for corner;

South 00 degrees 37 minutes 11 seconds East a distance of 45.54 feet to the POINT OF BEGINNING and containing 1.109 acres (48,285 square feet) of land, more or less.

Exhibit A-1  
Depiction of the Property

Exhibit B – Public Improvements

Hickory Creek Public Improvement District No. 2

Steeplechase South Residential Development

Official Engineer's Report

August 16, 2012

AVO 28705

## SECTION 1 INTRODUCTION

1.1 The purpose of Hickory Creek Public Improvement District No. 2 ("PID 2") is to undertake and finance public improvements authorized by resolution that promote the interests of the Town of Hickory Creek and confer a special benefit to the property. The PID 2 property is located in the corporate limits of the Town of Hickory Creek, includes 111.4 acres and will include 131 platted single-family lots.

1.2 This purpose of this report is to provide the basis for determining the total cost of the on-site and off-site improvements being undertaken in order to construct the residential development located at the southeast corner of Turbeville Road and Sycamore Bend Road located in the Town of Hickory Creek, County of Denton, Texas. The estimated construction cost of such improvements is \$4,689,000. A detailed description of the allocation and assessment of these and other costs is provided in the attached cost estimate labeled Exhibit "B-1".

## SECTION 2 DESCRIPTION OF IMPROVEMENTS

2.1 General. Improvements associated with this development are classified into two categories; On-Site Infrastructure Improvements and Off-Site Infrastructure Improvements. A description of each is provided below.

2.2 On-Site Infrastructure Improvements. On-Site Infrastructure Improvements consist of all design, permitting and construction associated with the 111.4 acre residential development within PID 2. Specific construction features include clearing, grubbing, excavation, grading, soil stabilization, erosion control, grass cover, retaining walls, concrete paving, curb and gutter, storm sewer, water, sanitary sewer, USACE mitigation, engineering, and inspection. The estimated construction cost of these On-Site Infrastructure Improvements is \$3,220,000. Since all the On-Site Infrastructure Improvements are located entirely within PID 2, all of these costs are being assessed against PID 2.

2.3 Off-Site Infrastructure Improvements. Off-Site Infrastructure Improvements consist of improvements required in order to serve the residential development. Specific construction features include the construction of the south half of Turbeville Road along the frontage of this tract, 12" water main extension from Ronald Reagan Ave. west along Turbeville Road and south along Harbor Lane, a triplex sanitary sewer lift station with a six inch (6") sanitary sewer force main back to Ronald Reagan Ave., and floodplain reclamation associated with the drainage improvements to the culvert crossing Turbeville Road just east of Sycamore Bend Road. The portion of Turbeville Road included within the Engineer's construction cost estimate is comprised of the south half of approximately 2,180 linear feet of 37' wide back to back reinforced concrete roadway and associated drainage. The estimated construction cost of these Off-Site Infrastructure Improvements is \$1,469,000. Only the portion of the Off-Site Infrastructure Improvements that directly benefit PID 2 are being assessed against PID 2.

2.4 Estimated Construction Costs. Detailed estimates of PID 2 On-Site and Off-Site Infrastructure Improvement construction costs are provided in Exhibit B-1.

**EXHIBIT "B-1"**

**STEEPLECHASE SOUTH ADDITION, HICKORY CREEK, TEXAS**

**STATEMENT OF PROBABLE CONSTRUCTION COST  
August 16, 2012**

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<b>ON-SITE INFRASTRUCTURE IMPROVEMENTS</b>					
1	Erosion Control	1	LS	\$ 30,000.00	\$ 30,000
2	Clearing and Grubbing	112	AC	\$ 750.00	\$ 84,000
3	Unclassified Excavation/Grading	130,000	CY	\$ 1.85	\$ 240,500
4	Retaining Wall	5,000	SF	\$ 10.00	\$ 50,000
5	Subgrade Preparation	34,800	SY	\$ 1.85	\$ 64,380
6	Lime (30#/SY)	522	TON	\$ 153.00	\$ 79,866
7	6" Reinforced Concrete Pavement w/ 4" mountable curb	32,470	SY	\$ 29.50	\$ 957,865
8	Temporary Turn Around for Phase 1	1	EA	\$ 9,190.00	\$ 9,190
9	Storm Drain (18" - 36" RCP, 4'x2' RBC)	904	LF	\$ 90.00	\$ 81,360
10	Storm Drain Appurtenances (inlets, headwalls, riprap, etc.)	1	LS	\$ 130,000.00	\$ 130,000
11	Water Main (8" PVC)	8,175	LF	\$ 22.00	\$ 179,850
12	Water Main Appurtenances (FH, fittings, valves, etc.)	1	LS	\$ 235,000.00	\$ 235,000
13	Sanitary Sewer Main (8")	7,400	LF	\$ 22.00	\$ 162,800
14	Sanitary Sewer Main (10")	2,700	LF	\$ 28.00	\$ 75,600
15	Sanitary Sewer Appurtenances (manholes, etc.)	1	LS	\$ 255,000.00	\$ 255,000
16	USACE Mitigation Credits	4	EA	\$ 15,000.00	\$ 60,000
17	Franchise Utility Services	131	EA	\$ 800.00	\$ 104,800
18	Engineering, Survey, USACE Permitting, Staking	1	LS	\$ 260,000.00	\$ 260,000
19	Inspection, Misc. Soft Costs	1	LS	\$ 160,000.00	\$ 160,000
	<b>ON-SITE INFRASTRUCTURE TOTAL</b>				<b>\$ 3,220,000</b>
<b>OFF-SITE INFRASTRUCTURE IMPROVEMENTS</b>					
20	Turbeville Rd Improvements (50% along frontage)	2,180	LF	\$ 365.00	\$ 795,700
21	Water Main (12" PVC)	3,680	LF	\$ 34.00	\$ 125,120
22	Water Main Appurtenances (FH, fittings, valves, etc.)	1	LS	\$ 92,000.00	\$ 92,000
23	Sanitary Sewer Appurtenances (manholes, valves, etc.)	1	LS	\$ 44,000.00	\$ 44,000
24	Sanitary Sewer Lift Station	1	EA	\$ 275,000.00	\$ 275,000
25	Sanitary Sewer Force Main (6")	6,067	LF	\$ 22.00	\$ 133,474
26	Deduct for Sanitary Sewer Proportion in HC PID No. 1	1	LS	\$ (310,900.00)	\$ (310,900)
27	Engineering, Survey, H&H, LOMR	1	LS	\$ 249,570.00	\$ 249,570
28	Inspection, Misc. Soft Costs	1	LS	\$ 65,000.00	\$ 65,000
	<b>OFF-SITE INFRASTRUCTURE TOTAL</b>				<b>\$ 1,469,000</b>
	<b>ON-SITE &amp; OFF-SITE INFRASTRUCTURE TOTALS</b>				<b>\$ 4,689,000</b>
This statement was prepared utilizing standard cost estimating practices. It is understood and agreed that this is an estimate only, and that the Engineer shall not be liable to the Owner or to a third party for any failure to accurately estimate the cost of the project, or any part thereof.					

Exhibit C  
Service Plan Five-Year Projected Cost of the Public Improvements

<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>TOTALS</u>
\$50,000	\$3,000,000	\$0	\$1,689,000	\$0	\$4,739,000

Exhibit D  
Service Plan Five-Year Annual Indebtedness for the Public Improvements

Year	Principal <sup>1</sup>	Interest <sup>1</sup>	Annual Collection Costs <sup>2</sup>	Delinquent Collection Costs <sup>3</sup>	Annual Administrative Costs <sup>4</sup>	Estimated Annual Indebtedness [sum of Annual Installments for all Parcels]
2012	\$0	\$2,351	\$135	\$0	\$117.57	\$2603.57
2013	\$0	\$2,351	\$135	\$0	\$117.57	\$2603.57
2014	\$0	\$2,351	\$135	\$0	\$117.57	\$2603.57
2015	\$0	\$2,351	\$135	\$0	\$117.57	\$2603.57
2016	\$0	\$2,351	\$135	\$0	\$117.57	\$2603.57

1. This exhibit assumes the execution of a Reimbursement Agreement for the aggregate principal amount of \$4,739,000.00, which agreement provides, in part, that if Assessments are not paid in full when due, they will be deemed payable in Annual Installments over 35 years at an interest rate of 6.5% per annum, simple interest for the first five years and 6.23% per annum simple interest for years six through 35,. The accrual of interest and collection of Assessments and Annual Installments are deferred until after each Lot's Plat Date.
2. Annual Collection Costs may be increased or reduced as part of each Service Plan Update. If the Annual Collection Costs collected are less than the Annual Collection Costs paid or incurred, the deficit may be carried forward and added to the Annual Collection Costs for the next year or paid as Annual Administrative Costs. If the Annual Collection Costs collected exceed the Annual Collection Costs paid or incurred, the excess shall be carried forward to reduce the Annual Collection Costs for the next year. Annual Collection Costs shall be allocated pro rata among all Parcels with unpaid Assessments.
3. This exhibit includes no Delinquent Collection Costs. The actual amount of Delinquent Collection Costs attributable to a Parcel will, if not paid upon demand, be added to the Annual Installment for the Parcel as part of the Service Plan Update for the next year. If Delinquent Collection Costs remain unpaid, they will continue to be added to the Annual Installment for the Parcel as part of the Service Plan Update for the next year.
4. Annual Administrative Costs (up to the maximum amount determined by the additional interest authorized by Section 372.018(a) of the Act) are estimated and may be increased or reduced as part of each Service Plan Update. If the Annual Administrative Costs collected are not enough to pay the Annual Administrative Costs paid or incurred, the deficit may be carried forward and added to the Annual Administrative Costs for the next year. If the Annual Administrative Costs collected exceed the Annual Administrative Costs paid or incurred, the excess shall be carried forward to reduce the Annual Administration Costs for the next year. Annual Administrative Costs shall be allocated pro rata among all Parcels with unpaid Assessments.



### Exhibit E Assessment Roll

Parcel	Assessment
The approximately 111.424 contiguous acres described by metes and bounds on <u>Exhibit A</u> and depicted by the drawing on <u>Exhibit A-1</u> .	\$4,739,000.00

Based on the assumption that the 111.424 acres will be subdivided into 131 Lots, each Lot will be assessed \$36,175.00. Page 2 of this Exhibit E assumes an Assessment of \$36,175.00 per Lot that is paid in Annual Installments over a period of 35 years, plus interest at 6.5% per annum, simple interest for the first five years and 6.23% per annum simple interest for years six through 35. Year 1 begins for each Lot on the Lot's Plat Date. The amount of interest, Annual Collection Costs, Delinquent Collection Costs, and Annual Administrative Costs will vary from year to year as determined by the Administrator and approved by the Town Council as part of each Service Plan Update.

Exhibit E Assessment Roll

Estimated 35-Year Annual Installments for a \$36,175.00 Assessment

YEAR	PRINCIPAL	INTEREST	ANNUAL COLLECTION COSTS	ANNUAL DELINQUENT COSTS	ANNUAL ADMIN COSTS	ANNUAL INSTALLMENT PAYMENTS
1	\$0	\$2,351	<b>\$135</b>	\$0	<b>\$117.57</b>	<b>\$ 2,604</b>
2	\$0	\$2,351	<b>\$135</b>	\$0	<b>\$117.57</b>	<b>\$ 2,604</b>
3	\$0	\$2,351	<b>\$135</b>	\$0	<b>\$117.57</b>	<b>\$ 2,604</b>
4	\$0	\$2,351	<b>\$135</b>	\$0	<b>\$117.57</b>	<b>\$ 2,604</b>
5	\$0	\$2,351	<b>\$135</b>	\$0	<b>\$117.57</b>	<b>\$ 2,604</b>
6	\$233	\$2,336	<b>\$135</b>	\$0	<b>\$128.45</b>	<b>\$ 2,832</b>
7	\$420	\$2,309	<b>\$135</b>	\$0	<b>\$136.44</b>	<b>\$ 3,000</b>
8	\$448	\$2,280	<b>\$135</b>	\$0	<b>\$136.39</b>	<b>\$ 2,999</b>
9	\$478	\$2,249	<b>\$135</b>	\$0	<b>\$136.34</b>	<b>\$ 2,998</b>
10	\$510	\$2,216	<b>\$135</b>	\$0	<b>\$136.28</b>	<b>\$ 2,997</b>
11	\$544	\$2,180	<b>\$135</b>	\$0	<b>\$136.22</b>	<b>\$ 2,996</b>
12	\$581	\$2,142	<b>\$135</b>	\$0	<b>\$136.16</b>	<b>\$ 2,994</b>
13	\$620	\$2,102	<b>\$135</b>	\$0	<b>\$136.09</b>	<b>\$ 2,993</b>
14	\$661	\$2,059	<b>\$135</b>	\$0	<b>\$136.02</b>	<b>\$ 2,991</b>
15	\$705	\$2,013	<b>\$135</b>	\$0	<b>\$135.94</b>	<b>\$ 2,990</b>
16	\$753	\$1,964	<b>\$135</b>	\$0	<b>\$135.85</b>	<b>\$ 2,988</b>
17	\$803	\$1,912	<b>\$135</b>	\$0	<b>\$135.76</b>	<b>\$ 2,986</b>
18	\$857	\$1,857	<b>\$135</b>	\$0	<b>\$135.67</b>	<b>\$ 2,984</b>
19	\$914	\$1,797	<b>\$135</b>	\$0	<b>\$135.57</b>	<b>\$ 2,982</b>
20	\$975	\$1,734	<b>\$135</b>	\$0	<b>\$135.46</b>	<b>\$ 2,980</b>
21	\$1,041	\$1,666	<b>\$135</b>	\$0	<b>\$135.34</b>	<b>\$ 2,977</b>
22	\$1,110	\$1,594	<b>\$135</b>	\$0	<b>\$135.22</b>	<b>\$ 2,975</b>
23	\$1,185	\$1,517	<b>\$135</b>	\$0	<b>\$135.08</b>	<b>\$ 2,972</b>
24	\$1,264	\$1,435	<b>\$135</b>	\$0	<b>\$134.94</b>	<b>\$ 2,969</b>
25	\$1,349	\$1,347	<b>\$135</b>	\$0	<b>\$134.79</b>	<b>\$ 2,966</b>
26	\$1,439	\$1,254	<b>\$135</b>	\$0	<b>\$134.63</b>	<b>\$ 2,962</b>
27	\$1,535	\$1,154	<b>\$135</b>	\$0	<b>\$134.46</b>	<b>\$ 2,959</b>
28	\$1,638	\$1,047	<b>\$135</b>	\$0	<b>\$134.28</b>	<b>\$ 2,955</b>
29	\$1,748	\$934	<b>\$135</b>	\$0	<b>\$134.08</b>	<b>\$ 2,951</b>
30	\$1,865	\$812	<b>\$135</b>	\$0	<b>\$133.87</b>	<b>\$ 2,946</b>
31	\$1,990	\$683	<b>\$135</b>	\$0	<b>\$133.65</b>	<b>\$ 2,942</b>
32	\$2,123	\$545	<b>\$135</b>	\$0	<b>\$133.42</b>	<b>\$ 2,937</b>
33	\$2,265	\$398	<b>\$135</b>	\$0	<b>\$133.16</b>	<b>\$ 2,931</b>
34	\$2,417	\$241	<b>\$135</b>	\$0	<b>\$132.89</b>	<b>\$ 2,926</b>
35	\$3,704	\$0	<b>\$135</b>	\$0	<b>\$185.19</b>	<b>\$ 4,024</b>

Exhibit F  
Reimbursement Agreement

This Hickory Creek Public Improvement District No. 2 Reimbursement Agreement (this "Reimbursement Agreement") is executed between the Town of Hickory Creek, Texas (the "Town"), and CTMGT Turbeville, LLC, a Texas limited liability company ("Developer") to be effective October 16, 2012. The Town and Developer are individually referred to as a "Party" and collectively as the "Parties".

**RECITALS**

A. **WHEREAS**, on September 18, 2012, the Town Council of the Town (the "Town Council") passed and approved Resolution No. 2012-0918-1 establishing Hickory Creek Public Improvement District No. 2 (the "District") pursuant to Chapter 372, Texas Local Government Code, as amended (the "Act");

B. **WHEREAS**, the District includes approximately 111.424 contiguous acres generally located in the southeast quadrant of the intersection of Sycamore Bend Road and Turbeville Road, which property is the same property included in the Preliminary Plat Steeplechase South Addition, Town of Hickory Creek, containing 131 single-family lots, which property is described by metes and bounds and depicted in Resolution No. 2012-0918-1 (the "Property");

C. **WHEREAS**, the District was created to undertake the public improvement projects (the "Public Improvements") described in the *Town of Hickory Creek, Texas, Public Improvement District No. 2 Service and Assessment Plan* dated October 16, 2012 (as amended and updated, the "SAP");

D. **WHEREAS**, the SAP estimated the total cost of the Public Improvements to be \$4,739,000.00;

E. **WHEREAS**, the SAP recommended an assessment against the Property in the amount of \$4,739,000.00;

F. **WHEREAS**, the SAP recommended that each of the 131 Lots (as defined in the SAP) within the Property be assessed \$36,175.00;

G. **WHEREAS**, on October 16, 2012, the Town Council passed and approved Ordinance No. 2012-10-699 which, among other things, levied an assessment against the Property in the amount of \$4,739,000.00 and against each of the 131 Lots in the amount of \$36,175.00;

H. **WHEREAS**, all revenue received and collected by the Town from the assessments (excluding Annual Collection Costs, Delinquent Collection Costs, and Annual Administrative Costs as defined in the SAP) ("Assessment Revenue") shall be deposited into a project fund that is segregated from all other funds of the Town and used solely for the purposes set forth herein (the "Project Fund"); and

I. **WHEREAS**, the Parties intend that the sum of \$4,739,000.00, plus interest, shall be reimbursed to Developer from the Project Fund or from the net proceeds of PID Bonds (as defined by the SAP) issued by the Town and secured by the Project Fund.

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

1. The Town agrees to pay Developer the sum of FOUR MILLION SEVEN HUNDRED THIRTY NINE THOUSAND AND NO100THS DOLLARS (\$4,739,000.00) (the "Reimbursement Amount") plus interest at 6.5% per annum, simple interest for the first five years and 6.23% per annum simple interest for years six through 35 (but not exceeding the rate allowed by the Act): (i) from the net proceeds of PID Bonds after deducting costs of issuance ("Net Bond Proceeds"); and (ii) until PID Bonds are issued, if ever, from the Project Fund. Assessment Revenue shall be collected and deposited in the Project Fund subject to the following limitations:

(a) The assessment against the Property shall not accrue interest, and no portion of the assessment shall be due and payable, prior to the subdivision of the Property or portions thereof into Lots and the corresponding allocation of the Property assessment uniformly among the Lots.

(b) The assessment allocated to each Lot shall bear interest at the rate set forth above beginning on the Lot's Plat Date (as defined in the SAP) and continuing for 35 years or until the assessment against the Lot, including interest, is paid in full.

(c) Except as provided in Section 1.d., the full amount of the assessment allocated to each Lot shall be due and payable on or before the first January 31<sup>st</sup> to occur after the Lot's Plat Date.

(d) If the assessment for a Lot is not paid in full on or before the first January 31<sup>st</sup> to occur after the Lot's Plat Date, the owner of the Lot shall be deemed to have elected to pay the assessment in Annual Installments (as defined in the SAP) beginning on or before the first January 31<sup>st</sup> to occur after the Lot's Plat Date. Annual Installments shall continue for 35 years or until the assessment against the Lot, including interest at the rate set forth above, is paid in full.

2. The Reimbursement Amount, plus interest at the rate set forth above (collectively, the "Unpaid Balance"), is secured by and payable solely from Net Bond Proceeds; and until PID Bonds are issued, if ever, from the Project Fund. Until PID Bonds are issued, the balance in the Project Fund shall be paid to the Developer monthly within 15 days after the end of each calendar month until the Unpaid Balance is paid in full. No other Town funds, revenue, taxes, or income of any kind shall be used to pay the Unpaid Balance. This Reimbursement Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the Town or a debt or other obligation of the Town payable from any source other than Net Bond Proceeds and the Project Fund. The Town will use all reasonable efforts to

receive and collect Assessment Revenue concurrently with the collection of Town ad valorem taxes (including the foreclosure of liens resulting from the non payment of Assessments or Annual Installments or other charges due and owing under the SAP), and upon receipt and collection, immediately deposit the same into the Project Fund.

3. Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with notice to) the Town, all or any portion of Developer's right, title, or interest under this Reimbursement Agreement including, but not limited to, any right, title, or interest of Developer in and to payment of the Unpaid Balance, whether from Net Bond Proceeds or the Project Fund (any of the foregoing, a "Transfer," and the person or entity to whom the transfer is made, a "Transferee"). Notwithstanding the foregoing, no Transfer shall be effective until notice of the Transfer, including the name and address of the Transferee, is provided to the Town. The Town may rely conclusively on any notice of a Transfer provided by Developer without any obligation to investigate or confirm the Transfer.

4. The Town acknowledges and agrees that until PID Bonds are issued, the obligation of the Town to use the Project Fund to pay the Unpaid Balance to Developer is absolute and unconditional and that the Town does not have, and will not assert, any defenses to such obligation.

5. The Town acknowledges and agrees that from and after PID Bonds are issued, the obligations of the Town to use the Net Bond Proceeds to pay the Unpaid Balance to Developer and to use the Project Fund to pay the PID Bonds in accordance with the applicable bond ordinance and trust indenture are absolute and unconditional and that the Town does not have, and will not assert, any defenses to such obligations.

6. The Town will use all reasonable efforts to issue PID Bonds to pay the Unpaid Balance to Developer when requested by Developer in writing, provided the bond issue is considered financially feasible by an underwriter experienced in the issuance of such bonds. If the Net Bond Proceeds plus the balance in the Project Fund will be insufficient to pay the Unpaid Balance, Developer may elect to proceed with the PID Bond issue or may elect to continue to receive money in the Project Fund until the Unpaid Balance can be paid in full from Net Bond Proceeds and the balance in the Project Fund. The Town will not, without Developer's written consent, issue PID Bonds if the Net Bond Proceeds and the balance in the Project Fund would be insufficient to pay the Unpaid Balance to Developer. Notwithstanding the foregoing, the decision by the Town Council to issue PID Bonds will be a governmental function within the legislative discretion of the Town Council.

7. This Reimbursement Agreement is being executed and delivered, and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply to the terms hereof, the substantive laws of the State of Texas shall govern the validity, construction, enforcement, and interpretation of this Reimbursement Agreement.

8. Any notice required or contemplated by this Reimbursement Agreement must be in writing and shall be deemed given at the addresses shown below: (a) when delivered by a

nationally recognized delivery service such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person is the named addressee; or (b) 72 hours after deposited with the United States Postal Service, Certified Mail, Return Receipt Requested. A Party may change its address by delivering written notice of the change in accordance with this section.

Town: The Town of Hickory Creek, Texas  
Attn: Town Secretary  
1075 Ronald Reagan Avenue  
Hickory Creek, Texas 75065

With a copy to: Hayes, Berry, White & Vanzant, LLP  
Attn: Lance Vanzant  
512 W. Hickory, Suite 100  
Denton, Texas 76201

Developer: CTMGT Turbeville, LLC,  
Attn: Mehrdad Moayedi  
1221 N. Interstate 35-E, Suite 200  
Carrollton, Texas 75006

With a copy to: Shupe Ventura Lindelow & Olson, PLLC  
Attn: Ike Shupe and Misty Ventura  
500 Main Street, Suite 800  
Fort Worth, Texas 76102

9. Failure; Default; Remedies.

(a) If either Party fails to perform an obligation imposed on such Party by this Reimbursement Agreement (a “Failure”) and such Failure is not cured after written notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a “Default.” If a Failure is monetary (i.e., the Failure to make a payment due under this Reimbursement Agreement), the non-performing Party shall have 10 days within which to cure. If the Failure is non-monetary, the non-performing Party shall have 30 days within which to cure.

(b) If Developer is in Default, the Town's sole and exclusive remedies shall be to compel performance through injunctive relief or specific performance. No default by Developer shall entitle the Town to terminate this Reimbursement Agreement.

(c) If the Town is in Default, Developer's sole and exclusive remedies shall be to compel performance through injunctive relief or specific performance. No default by the Town shall entitle Developer to terminate this Reimbursement Agreement. This Reimbursement Agreement is a contract for providing goods and services (i.e., the Public Improvements and the services to design, construct, and install such improvements) within the meaning of Section

271.151, Texas Local Government Code, as amended, and the Unpaid Balance is the balance due and owed by the Town to Developer within the meaning of Section 271.153, Texas Local Government Code, as amended.

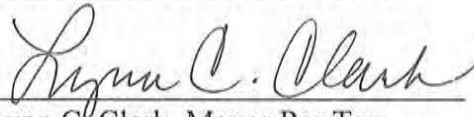
10. This Reimbursement Agreement supersedes all prior agreements (whether written or oral) between the Parties regarding the subject matter hereof and constitutes the only agreement between the Parties with regard to the subject matter hereof. In the event of any conflict between this Reimbursement Agreement and any other resolution, order, instrument, document, or agreement, the provisions and intent of this Reimbursement Agreement shall control. This Reimbursement Agreement may only be amended by written agreement of the Parties.

11. If any provision of this Reimbursement Agreement, or the application of any provision to any person or set of circumstances, is held by any court to be invalid, the remaining provisions shall be unaffected. All provisions of this Reimbursement Agreement are severable for such purpose.

12. The term of this Reimbursement Agreement shall begin on October 16, 2012, and continue until the Unpaid Balance has been paid in full to Developer.

**IN WITNESS WHEREOF**, the Parties have caused this Reimbursement Agreement to be executed as of October 16, 2012.

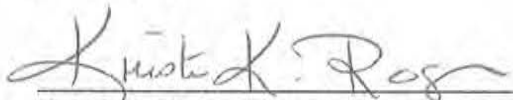
**Town of Hickory Creek, Texas**



Lynn C. Clark, Mayor Pro Tem


Date: 10-16-2012

**ATTEST:**

  
Kristi K. Rogers, Town Secretary



**APPROVED AS TO FORM**

  
Lance Vanzant, Town Attorney

**CTMGT Turbeville, LLC**, a Texas limited liability company

By: Centamtar Terras, LLC, a Texas limited liability company,  
its Manager

By: CTMGT, LLC, a Texas limited liability company

By: Mehrdad Moayedi

Name: Mehrdad Moayedi, its Manager

Date: Effective as of October 16, 2012



**EXHIBIT B**

**2014 REVISED SERVICE AND ASSESSMENT PLAN**

**HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2**

**HICKORY CREEK, TEXAS**

**ANNUAL SERVICE PLAN UPDATE**

September 19, 2014

**HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2**  
**HICKORY CREEK, TEXAS**

**ANNUAL SERVICE PLAN UPDATE**

**A. Introduction**

The Hickory Creek Public Improvement District No. 2 (the "District") was created pursuant to the PID Act and a resolution of the Town Council on September 18, 2012 to finance certain public improvement projects for the benefit of the property in District. The District Property is shown in Exhibit A-1 attached hereto. A Reimbursement Agreement between the Town and the Developer was signed on October 16, 2012 to finance, provide or otherwise assist in the acquisition, construction and maintenance of the public improvements provided for the benefit of the property in District. The reimbursement obligations (the "Reimbursement Amount") for the Public Improvements are secured by special assessments.

A service and assessment plan (the "Service and Assessment Plan") was prepared at the direction of the Town identifying the public improvements (the "Public Improvements") to be provided by District, the costs of the Public Improvements, the indebtedness to be incurred for the Public Improvements, and the manner of assessing the property in District for the costs of the Public Improvements. Pursuant to Chapter 372, Texas Local Government Code, the Service and Assessment Plan must be reviewed and updated annually. This document is the annual update of the Service and Assessment Plan for 2014 (the "Annual Service Plan Update").

The Town also adopted an assessment roll (the "Assessment Roll") identifying the assessments on each parcel within District, based on the method of assessment identified in the Service and Assessment Plan. This Annual Service Plan Update also updates the Assessment Roll for 2014. Capitalized terms used in this Annual Service Plan Update shall have the meanings set forth in the Service and Assessment Plan or the Reimbursement Agreement, as applicable.

**B. Update of the Service Plan**

***Annual Budget for the Public Improvements***

The total estimated costs of the Public Improvements is equal to \$4,739,000, which remains the same as the budget estimates included in the original Service and Assessment Plan. There have been no budget line item amount revisions for the Public Improvements reported by the Developer and therefore no changes for the Annual Service Plan Update. Exhibit B to this Annual Service Plan Update shows the Public Improvements.

As shown by Table A in the following page, the PID has incurred indebtedness in the total amount of \$4,739,000 in the form of the Reimbursement Agreement, which is to be repaid from assessments.

**Table A**  
**Sources and Uses of Funds**  
**Public Improvements**

<b>Sources of Funds</b>	<b>Total</b>
Reimbursement Amount	\$4,739,000
<b>Total Sources</b>	<b>\$4,739,000</b>
<b>Uses of Funds</b>	
<u>Public Improvements</u>	
Total estimated costs	\$4,739,000
<b>Total Uses</b>	<b>\$4,739,000</b>

A service plan must cover a period of five years. All of the Public Improvements are expected to be built within a period of five years. The District Costs and the anticipated budget for the Public Improvements over a period of five years and the indebtedness expected to be incurred for these costs is shown by Exhibits C and D to this Annual Service Plan Update.

**C. Update of the Assessment Plan**

The Service and Assessment Plan adopted by the Town Council provided that the District Costs shall be allocated to the District Property equally on the basis of the number of residential dwelling units anticipated to be built on each Parcel once such property is fully developed, and that such method of allocation will result in the imposition of equal shares of the District Costs to parcels similarly benefited.

Pursuant to Section 4.15 of the Service and Assessment Plan, "Interest will be deferred and shall not begin to accrue until the date on which a final plat is recorded that includes the Lot (the "Lot's Plat Date"). Collection of the Assessment (or Annual Installment thereof) will be deferred until the first January 31<sup>st</sup> to occur after the Lot's Plat Date."

The above provision is revised in this Annual Service Plan Update as follows:

"For each Lot, the date on which the final plat is recorded that includes the Lot is hereinafter referred to as the "Lot's Plat Date"). Interest shall begin to accrue on each Assessment for a Lot as determined by the Service Plan Update on the earlier of (1) the date the Town issues a building permit for the Lot, (2) issuance of PID Bonds, or (3) the fourth anniversary of the Lot's Plat Date. The Assessment for each Lot as determined by the Service Plan Update (or the first Annual Installment thereof if the Assessment is not paid in full) shall be due and payable on the first January 31<sup>st</sup> to occur after the earlier of the date the Town issues a building permit for the Lot, the issuance of PID Bonds or the fourth anniversary of the Lot's Plat Date."

The revised collection timing corresponds with the assessment methodology used for the similar development in the Hickory Creek Public Improvement District No. 1, which is located adjacent to the District.

Based on the above revised provision above, the collection of the Assessments or the Annual Installments (if such Assessments are not paid in full) will commence upon the earliest occurrence of the three events described in the revised provision.

As of August 31, 2014, the Developer reported that there are no building permits issued for the Lots in the District. There are no PID Bonds issued and the fourth anniversary of the Lot's Plat Date for the current Lots in the District is October 12, 2016. As a result, there are no Annual Installments to be collected for 2014.

#### **D. Update of the Assessment Roll**

Pursuant to the original Service and Assessment Plan, the Assessment Roll shall be updated each year.

The Assessment Roll summary is shown in Exhibit E. Each parcel in District is identified, along with the Assessment on each Parcel and the Annual Installment to be collected from each parcel. Assessments are to be reallocated for the subdivision of any parcels.

According to the Service and Assessment Plan, upon the subdivision of any Parcel, the Administrator shall reallocate the Assessment for the Parcel prior to the subdivision among the new subdivided Parcels using the formula shown in the Service and Assessment Plan. Such formula is updated as follows in order to account for potential multiple lot subdivisions:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

A = the Assessment for each new subdivided Parcel.

B = the Assessment for the Parcel prior to subdivision.

C = the estimated number of units to be built on each newly subdivided Parcel

D = the sum of the estimated number of units to be built on all of the new subdivided Parcels

The Administrator shall determine the total number of new Parcels created by the subdivision (i) based on the number of Parcels shown on an approved subdivision plat, or (ii) if no approved subdivision plat exists for any portion of the subdivided Parcel, based on the number of Parcels estimated for such portions as shown on the owner's then-existing land use plan. The Assessments for subdivided Parcels in accordance with this section will be determined by the Administrator and recommended to and approved by the Town Council in a future Service Plan Update.

According to the Denton Central Appraisal District (the "DCAD") online records, 108 lots were subdivided from Parcel R218878. The total Assessment originally allocated to all Parcels in the District is reallocated to each of the 108 newly subdivided lots using the above shown formula.

The Assessments allocated to each of the 108 newly subdivided Lots is equal to \$36,176 [ $\$4,739,000 \times (1 \div 131) = \$36,176$ ].

Table B below shows a summary of the Assessment reallocation following the subdivision of parcels.

**Table B**  
**Reallocation of Assessments**

Prior to Subdivision			After Subdivision			
Parcel ID	Estimated No. of Units	Total Assessment	Parcel ID	Estimated No. of Units	Assessment per Lot	Total Assessments
R218878	131	\$4,739,000	Various	108	\$36,176	\$3,906,962
			R218878	23	\$36,176	\$832,038
<b>Total</b>	<b>131</b>	<b>\$4,739,000</b>	<b>Total</b>	<b>160</b>		<b>\$4,739,000</b>

There have been no Assessment prepayments as of August 31, 2014.

The list of current parcels within District, the corresponding total assessments and current annual installment are shown in the assessment roll summary attached hereto as Exhibit E.

The complete Assessment Roll is available for review at Hickory Creek Town Hall, located at 1075 Ronald Reagan Ave, Hickory Creek, Texas 75065.

**Exhibit B – Public Improvements**  
**STATEMENT OF PROBABLE CONSTRUCTION COST**  
**March 6, 2012**

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
ON-SITE INFRASTRUCTURE IMPROVEMENTS					
1	Erosion Control	1	LS	\$ 15,000.00	\$ 15,000
2	Clearing and Grubbing	38	AC	\$ 1,100.00	\$ 41,800
3	Unclassified Excavation/Grading	115,000	CY	\$ 2.50	\$ 287,500
4	Retaining Wall	8,000	SF	\$ 25.00	\$ 200,000
5	Street Excavation	12,000	CY	\$ 3.50	\$ 42,000
6	6" Reinforced Concrete Pavement	22,500	SY	\$ 36.00	\$ 810,000
7	6" Concrete Mountable Curb and Gutter	12,000	LF	\$ 6.00	\$ 72,000
8	Lime Stabilization & Lime	24,000	SY	\$ 5.00	\$ 120,000
9	Temporary Turn Around for Phase 1	3	EA	\$ 4,000.00	\$ 12,000
10	Storm Drain (18" to 42")	1,800	LF	\$ 85.00	\$ 153,000
11	Storm Drain (Box Culvert Trunk Line)	2,250	EA	\$ 320.00	\$ 720,000
12	Storm Drain Appurtenances	1	LS	\$ 180,000.00	\$ 180,000
13	Temporary Creek Crossing for Phase I	1	LS	\$ 60,000.00	\$ 60,000
14	Water Main (6" & 8")	7,100	LF	\$ 26.00	\$ 184,600
15	Water Main Appurtenances	1	LS	\$ 105,000.00	\$ 105,000
16	Sanitary Sewer Main	7,100	LF	\$ 28.00	\$ 198,800
17	Sanitary Sewer Appurtenances	1	LS	\$ 95,000.00	\$ 95,000
18	USACE Mitigation Credits	14	EA	\$ 15,000.00	\$ 210,000
19	Engineering, Survey, USACE Permitting, Staking	1	LS	\$ 260,000.00	\$ 260,000
20	Inspection, Misc. Soft Costs	1	LS	\$ 160,000.00	\$ 160,000
	ON-SITE INFRASTRUCTURE TOTAL				\$ 3,927,000
OFF-SITE INFRASTRUCTURE IMPROVEMENTS					
21	Turbeville Rd Improvements (50% along frontage)	1,050	LF	\$ 300.00	\$ 315,000
22	Water Main (12")(Ronald Reagan to Parkridge)	3,800	LF	\$ 38.00	\$ 144,400
23	Water Main Appurtenances	1	LS	\$ 40,000.00	\$ 40,000
24	Sanitary Sewer Main to Lift Station	2,600	LF	\$ 30.00	\$ 78,000
25	Sanitary Sewer Appurtenances	1	LS	\$ 18,000.00	\$ 18,000
26	Sanitary Sewer Lift Station	1	EA	\$ 50,000.00	\$ 50,000
27	Sanitary Sewer Force Main	6,300	LF	\$ 27.00	\$ 170,100
28	Engineering, Survey, H&H, CLOMR, LOMR	1	LS	\$ 170,000.00	\$ 170,000
29	Inspection, Misc. Soft Costs	1	LS	\$ 50,000.00	\$ 50,000
	OFF-SITE INFRASTRUCTURE TOTAL				\$ 1,036,000
ON-SITE & OFF-SITE INFRASTRUCTURE TOTALS					\$ 4,963,000
This statement was prepared utilizing standard cost estimating practices. It is understood and agreed that this is an estimate only, and that the Engineer shall not be liable to the Owner or to a third party for any failure to accurately estimate the cost of the project, or any part thereof.					

Exhibit C  
Service Plan Five-Year Projected Cost of the Public Improvements

<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>TOTALS</u>
\$50,000	\$3,000,000	\$0	\$1,689,000	\$0	\$4,739,000



Exhibit D  
Service Plan Five-Year Annual Indebtedness for the Public Improvements

Year	Principal <sup>1</sup>	Interest <sup>1</sup>	Annual Collection Costs <sup>2</sup>	Delinquent Collection Costs <sup>3</sup>	Annual Administrative Costs <sup>4</sup>	Estimated Annual Indebtedness [sum of Annual Installments for all Lots]
2014	\$0	\$0	\$0	\$0	\$0	\$0
2015	\$0	\$307,981	\$17,685	\$0	\$15,402	\$341,068
2016	\$0	\$307,981	\$17,685	\$0	\$15,402	\$341,068
2017	\$0	\$307,981	\$17,685	\$0	\$15,402	\$341,068
2018	\$0	\$307,981	\$17,685	\$0	\$15,402	\$341,068

1. This exhibit is based on a Reimbursement Agreement for the aggregate principal amount of \$4,739,000, which agreement provides, in part, that in the event Assessments are not paid in full when due, they will be deemed payable in Annual Installments over 35 years beginning in 2015 at an interest rate of 6.5% per annum, simple interest for the first five years and 6.23% per annum simple interest for years six through 35.
2. Annual Collection Costs may be increased or reduced as part of each Service Plan Update. If the Annual Collection Costs collected are less than the Annual Collection Costs paid or incurred, the deficit may be carried forward and added to the Annual Collection Costs for the next year or paid as Annual Administrative Costs. If the Annual Collection Costs collected exceed the Annual Collection Costs paid or incurred, the excess shall be carried forward to reduce the Annual Collection Costs for the next year. Annual Collection Costs shall be allocated pro rata among all Lots with unpaid Assessments.
3. This exhibit includes no Delinquent Collection Costs. The actual amount of Delinquent Collection Costs attributable to a Lot will, if not paid upon demand, be added to the Annual Installment for the Lot as part of the Service Plan Update for the next year. If Delinquent Collection Costs remain unpaid, they will continue to be added to the Annual Installment for the Lot as part of the Service Plan Update for the next year.
4. Annual Administrative Costs (up to the maximum amount determined by the additional interest authorized by Section 372.018(a) of the Act) are estimated and may be increased or reduced as part of each Service Plan Update. If the Annual Administrative Costs collected are not enough to pay the Annual Administrative Costs paid or incurred, the deficit may be carried forward and added to the Annual Administrative Costs for the next year. If the Annual Administrative Costs collected exceed the Annual Administrative Costs paid or incurred, the excess shall be carried forward to reduce the Annual Administrative Costs for the next year. Annual Administrative Costs shall be allocated pro rata among all Lots with unpaid Assessments.

Exhibit E  
Assessment Roll Summary

**Hickory Creek Public Improvement District No. 2**  
**Assessment Roll Summary**  
**2014**

<b>Parcel ID</b>	<b>Assessment</b>	<b>Principal and Interest</b>	<b>Annual Collection Costs</b>	<b>Annual Administrative Costs</b>	<b>Annual Installments</b>
R557860	\$36,176	\$0	\$0	\$0	\$0
R557861	\$36,176	\$0	\$0	\$0	\$0
R557862	\$36,176	\$0	\$0	\$0	\$0
R557863	\$36,176	\$0	\$0	\$0	\$0
R557864	\$36,176	\$0	\$0	\$0	\$0
R557865	\$36,176	\$0	\$0	\$0	\$0
R557866	\$36,176	\$0	\$0	\$0	\$0
R557869	\$36,176	\$0	\$0	\$0	\$0
R557870	\$36,176	\$0	\$0	\$0	\$0
R557871	\$36,176	\$0	\$0	\$0	\$0
R557872	\$36,176	\$0	\$0	\$0	\$0
R557873	\$36,176	\$0	\$0	\$0	\$0
R557874	\$36,176	\$0	\$0	\$0	\$0
R557875	\$36,176	\$0	\$0	\$0	\$0
R557876	\$36,176	\$0	\$0	\$0	\$0
R557877	\$36,176	\$0	\$0	\$0	\$0
R557878	\$36,176	\$0	\$0	\$0	\$0
R557879	\$36,176	\$0	\$0	\$0	\$0
R557880	\$36,176	\$0	\$0	\$0	\$0
R557881	\$36,176	\$0	\$0	\$0	\$0
R557882	\$36,176	\$0	\$0	\$0	\$0
R557883	\$36,176	\$0	\$0	\$0	\$0
R557884	\$36,176	\$0	\$0	\$0	\$0
R557885	\$36,176	\$0	\$0	\$0	\$0
R557886	\$36,176	\$0	\$0	\$0	\$0
R557887	\$36,176	\$0	\$0	\$0	\$0
R557888	\$36,176	\$0	\$0	\$0	\$0
R557889	\$36,176	\$0	\$0	\$0	\$0
R557890	\$36,176	\$0	\$0	\$0	\$0
R557891	\$36,176	\$0	\$0	\$0	\$0
R557892	\$36,176	\$0	\$0	\$0	\$0
R557893	\$36,176	\$0	\$0	\$0	\$0
R557894	\$36,176	\$0	\$0	\$0	\$0
R557895	\$36,176	\$0	\$0	\$0	\$0
R557896	\$36,176	\$0	\$0	\$0	\$0
R557897	\$36,176	\$0	\$0	\$0	\$0
R557899	\$36,176	\$0	\$0	\$0	\$0
R557900	\$36,176	\$0	\$0	\$0	\$0

**Hickory Creek Public Improvement District No. 2**  
**Assessment Roll Summary**  
**2014**

<b>Parcel ID</b>	<b>Assessment</b>	<b>Principal and Interest</b>	<b>Annual Collection Costs</b>	<b>Annual Administrative Costs</b>	<b>Annual Installments</b>
R557902	\$36,176	\$0	\$0	\$0	\$0
R557903	\$36,176	\$0	\$0	\$0	\$0
R557904	\$36,176	\$0	\$0	\$0	\$0
R557905	\$36,176	\$0	\$0	\$0	\$0
R557906	\$36,176	\$0	\$0	\$0	\$0
R557907	\$36,176	\$0	\$0	\$0	\$0
R557908	\$36,176	\$0	\$0	\$0	\$0
R557909	\$36,176	\$0	\$0	\$0	\$0
R557910	\$36,176	\$0	\$0	\$0	\$0
R557911	\$36,176	\$0	\$0	\$0	\$0
R557912	\$36,176	\$0	\$0	\$0	\$0
R557913	\$36,176	\$0	\$0	\$0	\$0
R557914	\$36,176	\$0	\$0	\$0	\$0
R557915	\$36,176	\$0	\$0	\$0	\$0
R557916	\$36,176	\$0	\$0	\$0	\$0
R557917	\$36,176	\$0	\$0	\$0	\$0
R557918	\$36,176	\$0	\$0	\$0	\$0
R557919	\$36,176	\$0	\$0	\$0	\$0
R557920	\$36,176	\$0	\$0	\$0	\$0
R557921	\$36,176	\$0	\$0	\$0	\$0
R557922	\$36,176	\$0	\$0	\$0	\$0
R557923	\$36,176	\$0	\$0	\$0	\$0
R557924	\$36,176	\$0	\$0	\$0	\$0
R557927	\$36,176	\$0	\$0	\$0	\$0
R557928	\$36,176	\$0	\$0	\$0	\$0
R557929	\$36,176	\$0	\$0	\$0	\$0
R557930	\$36,176	\$0	\$0	\$0	\$0
R557931	\$36,176	\$0	\$0	\$0	\$0
R557932	\$36,176	\$0	\$0	\$0	\$0
R557933	\$36,176	\$0	\$0	\$0	\$0
R557934	\$36,176	\$0	\$0	\$0	\$0
R557935	\$36,176	\$0	\$0	\$0	\$0
R557936	\$36,176	\$0	\$0	\$0	\$0
R557937	\$36,176	\$0	\$0	\$0	\$0
R557938	\$36,176	\$0	\$0	\$0	\$0
R557939	\$36,176	\$0	\$0	\$0	\$0
R557940	\$36,176	\$0	\$0	\$0	\$0
R557943	\$36,176	\$0	\$0	\$0	\$0

**Hickory Creek Public Improvement District No. 2**  
**Assessment Roll Summary**  
**2014**

<b>Parcel ID</b>	<b>Assessment</b>	<b>Principal and Interest</b>	<b>Annual Collection Costs</b>	<b>Annual Administrative Costs</b>	<b>Annual Installments</b>
R557944	\$36,176	\$0	\$0	\$0	\$0
R557945	\$36,176	\$0	\$0	\$0	\$0
R557946	\$36,176	\$0	\$0	\$0	\$0
R557947	\$36,176	\$0	\$0	\$0	\$0
R557949	\$36,176	\$0	\$0	\$0	\$0
R557950	\$36,176	\$0	\$0	\$0	\$0
R557951	\$36,176	\$0	\$0	\$0	\$0
R557952	\$36,176	\$0	\$0	\$0	\$0
R557953	\$36,176	\$0	\$0	\$0	\$0
R557954	\$36,176	\$0	\$0	\$0	\$0
R557955	\$36,176	\$0	\$0	\$0	\$0
R557956	\$36,176	\$0	\$0	\$0	\$0
R557957	\$36,176	\$0	\$0	\$0	\$0
R557958	\$36,176	\$0	\$0	\$0	\$0
R557959	\$36,176	\$0	\$0	\$0	\$0
R557960	\$36,176	\$0	\$0	\$0	\$0
R557961	\$36,176	\$0	\$0	\$0	\$0
R557962	\$36,176	\$0	\$0	\$0	\$0
R557963	\$36,176	\$0	\$0	\$0	\$0
R557964	\$36,176	\$0	\$0	\$0	\$0
R557965	\$36,176	\$0	\$0	\$0	\$0
R557966	\$36,176	\$0	\$0	\$0	\$0
R557967	\$36,176	\$0	\$0	\$0	\$0
R557968	\$36,176	\$0	\$0	\$0	\$0
R557969	\$36,176	\$0	\$0	\$0	\$0
R557971	\$36,176	\$0	\$0	\$0	\$0
R557972	\$36,176	\$0	\$0	\$0	\$0
R557973	\$36,176	\$0	\$0	\$0	\$0
R557974	\$36,176	\$0	\$0	\$0	\$0
R557975	\$36,176	\$0	\$0	\$0	\$0
R557976	\$36,176	\$0	\$0	\$0	\$0
R557977	\$36,176	\$0	\$0	\$0	\$0
R581613	\$0	\$0	\$0	\$0	\$0
R557867	\$0	\$0	\$0	\$0	\$0
R557868	\$0	\$0	\$0	\$0	\$0
R557901	\$0	\$0	\$0	\$0	\$0
R557925	\$0	\$0	\$0	\$0	\$0
R557941	\$0	\$0	\$0	\$0	\$0

**Hickory Creek Public Improvement District No. 2**  
**Assessment Roll Summary**  
**2014**

<b>Parcel ID</b>	<b>Assessment</b>	<b>Principal and Interest</b>	<b>Annual Collection Costs</b>	<b>Annual Administrative Costs</b>	<b>Annual Installments</b>
R557979	\$0	\$0	\$0	\$0	\$0
R557981	\$0	\$0	\$0	\$0	\$0
R557982	\$0	\$0	\$0	\$0	\$0
R218878	\$832,038	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$4,739,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXHIBIT C**

**PRELIMINARY REVISED 2018 SERVICE AND ASSESSMENT PLAN**



HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 2  
AMENDED AND RESTATED SERVICE AND ASSESSMENT PLAN

MAY 4, 2018

VERSION 3



## **INTRODUCTION**

The Hickory Creek Public Improvement District No. 2 (“PID No. 2”) was created pursuant to the Act, as defined herein, and Resolution No. 2010-0918-1 of the Town Council on September 18, 2012 to finance certain public improvement projects for the benefit of the property in PID No. 2. A Reimbursement Agreement between the Town and the Developer was signed on October 16, 2012 to provide for the financing of the costs of the Authorized Improvements for the benefit of the property in PID No. 2.

The Town adopted a Service and Assessment Plan (the “Service and Assessment Plan”) which identified the public improvements (the “Authorized Improvements”) to be constructed, the costs of the Authorized Improvements, the indebtedness to be incurred for the Authorized Improvements, and the manner of assessing the property in PID No. 2 for the costs of the Authorized Improvements. Pursuant to Chapter 372, Texas Local Government Code (as amended, the “Act”), the Service and Assessment Plan must be reviewed and updated annually. This document is the annual update of the Service and Assessment Plan for 2018 and amends and restates the Service and Assessment Plan (as so amended and updated the “Amended and Restated Service and Assessment Plan”). This Amended and Restated Service and Assessment Plan also updates the Assessment Rolls for 2018.

## SECTION I: DEFINITIONS

**“Act”** means Texas Local Government Code Chapter 372, as amended.

**“Actual Costs”** mean, with respect to Authorized Improvements, the actual costs paid or incurred by or on behalf of owners and developers of the District: (1) to plan, finance, design, acquire, construct, install, and dedicate such improvements to the Town; (2) to prepare plans, specifications (including bid packages), contracts, and as-built drawings; (3) to obtain zoning, licenses, plan approvals, permits, inspections, and other governmental approvals; (4) to acquire easements and other right-of-way; (5) for third-party professional consulting services including, but not limited to, engineering, surveying, geotechnical, land planning, architectural, landscaping, legal, accounting, and appraisals; (6) of labor, materials, equipment, fixtures, payment and performance bonds and other construction security, and insurance premiums; and (7) of fees charged by the Town or any other political subdivision or governmental authority.

**“Additional Interest”** means the 0.50% additional interest charged on Assessments pursuant to Section 372.018 of the Act.

**“Administrative Expenses”** mean the actual or budgeted costs and expenses related to the creation and operation of the District, the issuance and sale of PID Bonds, and the construction, operation, and maintenance of the Authorized Improvements, including, but not limited to, costs and expenses for: (1) the Administrator; (2) legal counsel, engineers, accountants, financial advisors, and other consultants engaged by the Town; (3) calculating, collecting, and maintaining records with respect to Assessments and Annual Installments; (4) preparing and maintaining records with respect to Assessment Rolls and Annual Service Plan Updates; (5) issuing, paying, and redeeming PID Bonds; (6) investing or depositing Assessments and Annual Installments; (7) complying with this Amended and Restated Service and Assessment Plan and the Act with respect to the issuance and sale of PID Bonds, including continuing disclosure requirements; (8) the paying agent/registrar and Trustee in connection with PID Bonds, including their respective legal counsel; and (9) administering the construction of the Authorized Improvements. Administrative Expenses collected but not expended in any year shall be carried forward and applied to reduce Administrative Expenses for subsequent years.

**“Administrator”** means the person or independent firm designated by the Town Council to perform the duties and obligations of the "Administrator" in this Amended and Restated Service and Assessment Plan. P3Works, LLC is the initial Administrator.

**“Annual Installment”** means the annual installment payment of an Assessment as calculated by the Administrator and approved by the Town Council, that includes: (1) principal; (2) interest; (3) Administrative Expenses; and (4) Additional Interest.

**“Annual Service Plan Update”** means an update to the Amended and Restated Service and Assessment Plan prepared no less frequently than annually by the Administrator and approved by the Town Council.

**“Amended and Restated Service and Assessment Plan”** means this Amended and Restated Service and Assessment Plan, as it may be modified and updated from time to time.

**“Assessed Property”** means any Parcel within the District against which an Assessment is levied.

**“Assessment”** means an assessment levied against a Parcel imposed pursuant to an Assessment Ordinance and the provisions herein, as shown on any Assessment Roll, subject to reallocation upon the subdivision of such Parcel or reduction according to the provisions herein and the Act.

**“Assessment Ordinance”** means any Assessment Ordinance adopted by the Town Council in accordance with the Act that levied Assessments within the District.

**“Assessment Roll”** means any Assessment Roll for Assessed Property within the District.

**“Assessment Plan”** assesses the Actual Costs of the Authorized Improvements against the District based on the special benefits conferred on the District by the Authorized Improvements, more specifically described in **Section V**.

**“Authorized Improvements”** mean improvements authorized by Section 372.003 of the Act as more specifically described in **Section III**.

**“Bond Issuance Costs”** mean the costs associated with issuing PID Bonds, including but not limited to attorney fees, financial advisory fees, consultant fees, appraisal fees, printing costs, publication costs, Town costs, capitalized interest, reserve fund requirements, first year Administration Expenses, underwriter’s discount, fees charged by the Texas Attorney General, and any other cost or expense directly associated with the issuance of PID Bonds.

**“County”** means Denton County, Texas.

**“Delinquent Collection Costs”** mean, for a Parcel, interest, penalties, and other costs and expenses authorized by the Act that directly or indirectly relate to the collection of delinquent Assessments, delinquent Annual Installments, or any other delinquent amounts due under this Amended and Restated Service and Assessment Plan, including costs and expenses to foreclose liens.

**“Developer”** means CTMGT Tuberville, LLC, a Texas limited liability company and any successor owner of the Property or any portion thereof.

**“District”** means approximately 111.424 acres located within the Town, as shown on **Exhibit B** and as more specifically described by metes and bounds on **Exhibit A-1**.

**“Final Plat”** means the replat of Steeplechase South Addition, a copy of which is attached on **Exhibit H**.

**“Improvement Area #1”** means the developed area within the District as generally shown on the map on **Exhibit B** and as described by metes and bounds on **Exhibit A-2** consisting of approximately [REDACTED] acres.

**“Improvement Area #1 Assessed Property”** means any and all Parcels within Improvement Area #1, against which an Improvement Area #1 Assessment is levied.

**“Improvement Area #1 Assessment Ordinance”** means Resolution No. 2012-10-699 adopted by the Town Council on October 16, 2012 in accordance with the Act that levied the Improvement Area #1 Assessments.

**“Improvement Area #1 Assessment Roll”** means the Assessment Roll for the Improvement Area #1 Assessed Property within the District, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the Act, including updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Updates. The Improvement Area #1 Assessment Roll is included in this Amended and Restated Service and Assessment Plan on **Exhibit F-1**.

**“Improvement Area #1 Assessments”** mean the Assessments levied on Parcels within Improvement Area #1.

**“Improvement Area #1 Improvements”** mean the Authorized Improvements which only benefit the Improvement Area #1 Assessed Property and are described in **Section III.A** hereto.

**“Improvement Area #2”** means the developed area within the District as generally shown on the map on **Exhibit B** and as described by metes and bounds on **Exhibit A-3** consisting of approximately [REDACTED] acres.

**“Improvement Area #2 Assessed Property”** means any and all Parcels within Improvement Area #2, against which an Improvement Area #2 Assessment is levied.

**“Improvement Area #2 Assessment Ordinance”** means the ordinance by which this Amended and Restated Service and Assessment Plan will be adopted by the Town Council in accordance with the Act that shall levy the Improvement Area #2 Assessments.

**“Improvement Area #2 Assessment Roll”** means the Assessment Roll for the Improvement Area #2 Assessed Property within the District, as updated, modified or amended from time to time in accordance with the procedures set forth herein and in the Act, including updates prepared in connection with the issuance of PID Bonds or in connection with any Annual Service Plan Updates. The Improvement Area #2 Assessment Roll is included in this Amended and Restated Service and Assessment Plan on **Exhibit G-1**.

**“Improvement Area #2 Assessments”** mean the Assessments levied on Parcels within Improvement Area #2.

**“Improvement Area #2 Improvements”** mean the Authorized Improvements which only benefit the Improvement Area #2 Assessed Property and are described in **Section III.B** hereto.

**“Indenture”** means an Indenture or Indentures of Trust entered into in connection with the issuance of one or more series of PID Bonds, as amended from time to time, between the Town and the Trustee setting forth terms and conditions related to the applicable PID Bonds.

**“Lot”** means for any portion of the District for which a final subdivision plat has been recorded in the Official Public Records of the County, a tract of land described by "lot" in such recorded and final subdivision plat.

**“Non-Benefited Property”** means Parcels that receive no special benefit from the Authorized Improvements as determined by the Town Council which may include Public Property.

**“Parcel”** or **“Parcels”** mean a specific property within the District identified by either a tax map identification number assigned by the Denton Central Appraisal District for real property tax purpose, by metes and bounds description, or by lot and block number in a final subdivision plat recorded in the Official Public Records of the County, or by any other means determined by the Town.

**“PID Bonds”** mean the bonds to be issued by the Town, in one or more series, to finance the Authorized Improvements that confer special benefit on the property within the District, which may include funds for any required reserves and amounts necessary to pay the PID Bond issuance costs, and to be secured by a pledge of the Assessments pursuant to the authority granted in the Act, for the purposes of (i) financing the costs of Authorized Improvements and related costs, and (ii) reimbursement for Actual Costs paid prior to the issuance of the PID Bonds.

**“Prepayment Costs”** mean interest and expenses to the date of Prepayment, plus any additional expenses related to the Prepayment, reasonably expected to be incurred by or imposed upon the Town as a result of any Prepayment.

**“Public Property”** means real property, whether conveyed or dedicated in fee simple, as an easement, license, or otherwise, to the Federal Government, to the County, to the Town, or to any other political subdivision, public or government agency, or public utility.

**“Service Plan”** means as required by the Act, a plan that covers a period of five years and defines the annual projected costs and indebtedness for the Authorized Improvements undertaken within the District during the five year period.

**“Town”** means the Town of Hickory Creek, Texas.

**“Town Council”** means the governing body of the Town.

**“Trustee”** means the trustee (or successor trustee) under an Indenture.

## **SECTION II: THE DISTRICT**

The District includes approximately 111.424 contiguous acres located within the Town, legally described by metes and bounds on **Exhibit A-1** and depicted on **Exhibit B**. Development of the District is anticipated to include 131 single-family homes, of which 108 are located within Improvement Area #1 and the remaining 23 are located within Improvement Area #2.

## **SECTION III: AUTHORIZED IMPROVEMENTS**

The Town Council, based on information provided by the Developer and its engineer and reviewed by the Town staff and by third-party consultants retained by the Town, has determined that the improvements described below are Authorized Improvements authorized by the Act that confer a special benefit on the Assessed Property, as summarized on **Exhibit C**. Authorized Improvements have been or will be designed and constructed in accordance with Town standards and specifications, and owned and operated by the Town.

### **A. Improvement Area #1 Improvements**

#### ▪ *Street*

Improvements including subgrade stabilization (including lime treatment and compaction), concrete and reinforcing steel for roadways, testing, handicapped ramps, and street lights. All related earthwork, excavation, erosion control, retaining walls, intersections, signage, lighting and re-vegetation of all disturbed areas within the right-of-way are included. The street improvements will provide street access to each Lot within Improvement Area #1.

#### ▪ *Water*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide water service to all Lots within Improvement Area #1.

#### ▪ *Sanitary Sewer*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion

control all necessary appurtenances required to provide wastewater service to all Lots within Improvement Area #1.

- *Storm Drainage*

Improvements including earthen channels, swales, curb and drop inlets, RCP piping and boxes, headwalls, concrete flumes, rock rip rap, concrete outfalls, and testing as well as all related earthwork, excavation, and erosion control necessary to provide storm drainage for all Lots within Improvement Area #1.

- *Soft Costs*

Improvements including engineering and design, construction inspection fees, geotechnical testing and governmental submittal fees for the costs associated with the street, water, sanitary sewer and storm drainage improvements as described above.

## **B. Improvement Area #2 Improvements**

- *Street*

Improvements including subgrade stabilization (including lime treatment and compaction), concrete and reinforcing steel for roadways, testing, handicapped ramps, and street lights. All related earthwork, excavation, erosion control, retaining walls, intersections, signage, lighting and re-vegetation of all disturbed areas within the right-of-way are included. The street improvements will provide street access to each Lot within Improvement Area #2.

- *Water*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide water service to all Lots within Improvement Area #2.

- *Sanitary Sewer*

Improvements including trench excavation and embedment, trench safety, PVC piping, manholes, service connections, testing, related earthwork, excavation, and erosion control all necessary appurtenances required to provide wastewater service to all Lots within Improvement Area #2.

- *Storm Drainage*

Improvements including earthen channels, swales, curb and drop inlets, RCP piping and boxes, headwalls, concrete flumes, rock rip rap, concrete outfalls, and testing as well as all related earthwork, excavation, and erosion control necessary to provide storm drainage for all Lots within Improvement Area #2.

- *Soft Costs*

Improvements including engineering and design, construction inspection fees, geotechnical testing and governmental submittal fees for the costs associated with the street, water, sanitary sewer and storm drainage improvements as described above.

**C. Bond Issuance Costs**

- *Debt Service Reserve Fund*

Equals the amount required under an Indenture in connection with the issuance of PID Bonds.

- *Capitalized Interest*

Equals the capitalized interest payments on PID Bonds as reflected in an applicable Indenture.

- *Underwriting Discount*

Equals a percentage of the par amount of a series of PID Bonds plus a fee for underwriter's counsel.

- *Cost of Issuance*

Includes costs associated with issuing PID Bonds, including but not limited to attorney fees, financial advisory fees, first year Administrative Expenses, consultant fees, appraisal fees, printing costs, publication costs, Town costs, fees charged by the Texas Attorney General, and any other cost or expense directly associated with the issuance of PID Bonds.

<b>SECTION IV: SERVICE PLAN</b>
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The Act requires the service plan to cover a period of at least five years and to define the annual projected costs and indebtedness for the Authorized Improvements undertaken within the District during the five year period. The Service Plan must be reviewed and updated by the Town



Council at least annually. Exhibit D of this Amended and Restated Service and Assessment Plan summarizes the Service Plan for the District.

**Exhibit E** summarizes the sources and uses of funds required to construct the Authorized Improvements, fund required reserves and issue the PID Bonds. The sources and uses of funds shown on **Exhibit E** shall be updated each year in the Annual Service Plan Update to reflect any budget revisions and Actual Costs.

## **SECTION V: ASSESSMENT PLAN**

The Act allows the Town Council to apportion the Authorized Improvements to the Assessed Property based on the special benefit received by the Authorized Improvements. The Act provides that such costs may be apportioned: (i) equally per front foot or square foot; (ii) according to the value of property as determined by the Town Council, with or without regard to improvements constructed on the property; or (iii) in any other manner approved by the Town Council that results in imposing equal shares of such costs on property similarly benefited. The Act further provides that the governing body may establish by ordinance or order reasonable classifications and formulas for the apportionment of the cost between the municipality and the area to be assessed and the methods of assessing the special benefits for various classes of improvements.

The determination by the Town Council of the assessment methodologies set forth below is the result of the discretionary exercise by the Town Council of its legislative authority and governmental powers and is conclusive and binding on the Developer and all future owners and developers of the Assessed Property.

### **A. Assessment Methodology**

The Town Council, acting in its legislative capacity based on information provided by the Developer and its engineer and reviewed by the Town staff and by third-party consultants retained by the Town, has determined that the Assessments shall be allocated as follows:

#### *1. Improvement Area #1*

The Improvement Area #1 Assessments relating to the Improvement Area #1 Improvements shall be allocated 100% to the Improvement Area #1 Assessed Property. The Improvement Area #1 Assessments shall be allocated equally among all Lots located within Improvement Area #1.

#### *2. Improvement Area #2*

The Improvement Area #2 Assessments relating to the Improvement Area #2 Improvements shall be allocated 100% to the Improvement Area #2 Assessed Property. The Improvement Area #2 Assessments shall be allocated equally among all Lots located within Improvement Area #2.

## **B. Assessments**

The Improvement Area #1 Assessments are shown on the Improvement Area #1 Assessment Roll, attached hereto on **Exhibit F-1**. The projected Improvement Area #1 Annual Installments are shown on **Exhibit F-2**. The projected Improvement Area #1 Annual Installments per Lot are shown on **Exhibit F-3**. The Improvement Area #2 Assessments are shown on the Improvement Area #2 Assessment Roll, attached hereto on **Exhibit G-1**. The projected Improvement Area #2 Annual Installments are shown on **Exhibit G-2**. The projected Improvement Area #2 Annual Installments per Lot are shown on **Exhibit G-3**.

## **C. Findings of Special Benefit**

The Town Council, acting in its legislative capacity based on information provided by the Developer and its engineer and reviewed by the Town staff and by third-party consultants retained by the Town, has found and determined:

### *1. Improvement Area #1*

- a. The Improvement Area #1 Improvements cost plus Bond Issuance Costs allocable to Improvement Area #1 equal \$3,482,166, as shown on **Exhibit C**; and
- b. The Improvement Area #1 Assessed Property receives special benefit from the Improvement Area #1 Improvements equal to or greater than the Actual Cost of the Improvement Area #1 Improvements; and
- c. The sum of the Improvement Area #1 Assessments for all Lots within Improvement Area #1 equals \$3,479,084 as shown on the Improvement Area #1 Assessment Roll attached hereto as **Exhibit F-1**; and
- d. The special benefit ( $\geq$  \$3,482,166) received by Improvement Area #1 Assessed Property from the Improvement Area #1 Improvements is greater than the amount of the Improvement Area #1 Assessments (\$3,479,084) levied for the Improvement Area #1 Improvements.
- e. At the time the Town Council levied the Improvement Area #1 Assessments, the Developer owned 100% of the Improvement Area #1 Assessed Property. The Developer acknowledged that the Improvement Area #1 Improvements confer a special benefit on the Improvement Area #1 Assessed Property and consented to the imposition of the Improvement Area #1 Assessments to pay for the Actual

Costs associated therewith. The Developer ratified, confirmed, accepted, agreed to and approved: (i) the determinations and findings by the Town Council as to the special benefits described herein and the Improvement Area #1 Assessment Ordinance; (ii) the Amended and Restated Service and Assessment Plan and the Improvement Area #1 Assessment Ordinance, and (iii) the levying of Improvement Area #1 Assessments on the Improvement Area #1 Assessed Property.

*2. Improvement Area #2*

- a. The Improvement Area #2 Improvements cost plus the Bond Issuance Costs allocable to Improvement Area #2 equal \$855,973, as shown on **Exhibit C**; and
- b. The Improvement Area #2 Assessed Property receives special benefit from the Improvement Area #2 Improvements equal to or greater than the Actual Cost of the Improvement Area #2 Improvements; and
- c. The sum of the Improvement Area #2 Assessments for all Lots within Improvement Area #2 equals \$740,916 as shown on the Improvement Area #2 Assessment Roll attached on **Exhibit G-1**; and
- d. The special benefit (  $\geq$  \$855,973) received by Improvement Area #2 Assessed Property from the Improvement Area #2 Improvements is greater than the amount of the Improvement Area #2 Assessments (\$740,916) levied for the Improvement Area #2 Improvements.
- e. At the time the Town Council levied the Improvement Area #2 Assessments, the Developer owned 100% of the Improvement Area #2 Assessed Property. The Developer acknowledged that the Improvement Area #2 Improvements confer a special benefit on the Improvement Area #2 Assessed Property and consented to the imposition of the Improvement Area #2 Assessments to pay for the Actual Costs associated therewith. The Developer has ratified, confirmed, accepted, agreed to and approved: (i) the determinations and findings by the Town Council as to the special benefits described herein and the Improvement Area #2 Assessment Ordinance; (ii) the Amended and Restated Service and Assessment Plan and the Improvement Area #2 Assessment Ordinance, and (iii) the levying of Improvement Area #2 Assessments on the Improvement Area #2 Assessed Property.

**D. Administrative Expenses**

The costs of administering the District and collecting the Annual Installments shall be paid for on a pro rata basis by each Parcel based on the amount of outstanding Assessment remaining on

the Parcel. The Administrative Expenses shall be collected as part of and in the same manner as Annual Installments in the amounts shown on the Assessment Roll, which may be revised based on Actual Costs incurred in Annual Service Plan Updates.

#### **E. Additional Interest**

The interest rate on Assessments levied on the Assessed Property may exceed the interest rate on the PID Bonds by the Additional Interest. The Additional Interest shall be collected as part of each Annual Installment. The Additional Interest shall be deposited and used as described in the Indenture for any PID Bonds.

## **SECTION VI: TERMS OF THE ASSESSMENTS**

### **A. Reallocation of Assessments**

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

Upon the division of any Assessed Property (without the recording of a subdivision plat), the Administrator shall reallocate the Assessment for the Assessed Property prior to the division among the newly divided Assessed Properties according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

A = the Assessment for the newly divided Assessed Property

B = the Assessment for the Assessed Property prior to division

C = the estimated number of Lots within the newly divided Assessed Property

D = the estimated number of Lots for all of the newly divided Assessed Properties

The sum of the Assessments for all newly divided Assessed Properties shall equal the Assessment for the Assessed Property prior to subdivision. The calculation shall be made separately for each newly divided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in an update to this Amended and Restated Service and Assessment Plan approved by the Town Council.

#### *2. Upon Subdivision by a Recorded Subdivision Plat*

Upon the subdivision of any Assessed Property based on a recorded Subdivision Plat, the Administrator shall reallocate the Assessment for the Assessed Property prior to the subdivision among the newly subdivided Lots according to the following formula:

$$A = B \times (C \div D)$$

Where the terms have the following meanings:

A = the Assessment for the newly divided Assessed Property

B = the Assessment for the Assessed Property prior to division

C = the number of Lots within the newly divided Assessed Property

D = the number of Lots for all of the newly divided Assessed Properties

The sum of the Assessments for all newly subdivided Lots shall not exceed the Assessment for the portion of the Assessed Property subdivided prior to subdivision. The calculation shall be made separately for each newly subdivided Assessed Property. The reallocation of an Assessment for an Assessed Property that is a homestead under Texas law may not exceed the Assessment prior to the reallocation. Any reallocation pursuant to this section shall be reflected in an update to this Amended and Restated Service and Assessment Plan approved by the Town Council.

### *3. Upon Consolidation*

If two or more Lots or Parcels are consolidated, the Administrator shall allocate the Assessments against the Lots or Parcels before the consolidation to the consolidated Lot or Parcel, which allocation shall be approved by the Town Council in the next Annual Service Plan Update.

## **B. Mandatory Prepayment of Assessments**

If the Assessed Property is transferred to a person or entity that is exempt from payment of the Assessment, the owner transferring the Assessed Property shall pay to the Town the full amount of the Assessment, plus Prepayment Costs and Delinquent Collection Costs, prior to the transfer. If the owner of the Assessed Property causes the Assessed Property to become Non-Benefited Property, the owner causing the change in status shall pay to the Town the full amount of the Assessment, plus Prepayment Costs and Delinquent Collection Costs, prior to the change in status.

## **C. Reduction of Assessments**

If as a result of cost savings or an Authorized Improvement not being constructed, the Actual Costs of completed Authorized Improvements are less than the Assessments levied for such Authorized Improvements, the Town Council shall reduce each Assessment related to such Authorized Improvements on a pro-rata basis such that the sum of the resulting reduced Assessments for all Assessed Properties receiving benefit from the Authorized Improvements equals the reduced Actual Costs. The Assessments shall not, however, be reduced to an amount less than the outstanding PID Bonds.

The Administrator shall update (and submit to the Town Council for review and approval as part of the next Annual Service Plan Update) the Assessment Rolls and corresponding Annual

Installments to reflect the reduced Assessments.

#### **D. Prepayment of Assessments**

The owner of the Assessed Property may pay, at any time, all or any part of an Assessment in accordance with the Act. If an Annual Installment has been billed prior to payment, the Annual Installment shall be due and payable and shall be credited against the prepayment.

If an Assessment is paid in full, with interest: (1) the Administrator shall cause the Assessment to be reduced to zero and the Assessment Roll to be revised accordingly; (2) the Administrator shall cause the revised Assessment Roll to be approved by the Town Council as part of the next Annual Service Plan Update; (3) the obligation to pay the Assessment and corresponding Annual Installments shall terminate; and (4) the Town shall provide the owner with a recordable "Notice of PID Assessment Termination."

If an Assessment is paid in part, with interest: (1) the Administrator shall cause the Assessment to be reduced and the Assessment Roll revised accordingly; (2) the Administrator shall cause the revised Assessment Roll to be approved by the Town Council as part of the next Annual Service Plan Update; and (3) the obligation to pay the Assessment and corresponding Annual Installments shall be reduced.

#### **E. Payment of Assessment in Annual Installments**

**Exhibit F-2** shows the projected Improvement Area #1 Annual Installments, **Exhibit G-2** shows the projected Improvement Area #2 Annual Installments, **Exhibit F-3** shows the projected Improvement Area #1 Annual Installments per Lot, and **Exhibit G-3** shows the projected Improvement Area #2 Annual Installments per Lot. Assessments that are not paid in full shall be due and payable in Annual Installments. Annual Installments are subject to adjustment in each Annual Service Plan Update.

The Administrator shall prepare and submit to the Town Council for its review and approval an Annual Service Plan Update to allow for the billing and collection of Annual Installments. Each Annual Service Plan Update shall include an updated Assessment Roll and updated calculations of Annual Installments. Annual Installments shall be reduced by any credits applied under the applicable Indenture, such as capitalized interest, interest earnings on account balances, and any other funds available to the Trustee for such purposes. Annual Installments shall be collected by the Town in the same manner and at the same time as ad valorem taxes. Annual Installments shall be subject to the penalties, procedures, and foreclosure sale in case of delinquencies as set forth in the Act and in the same manner as ad valorem taxes for the Town. The Town Council may provide for other means of collecting Annual Installments. Assessments shall have the lien priority specified in the Act.

Sales of the Assessed Property for nonpayment of Annual Installments shall be subject to the lien for the remaining unpaid Assessment against the Assessed Property, and the Assessed Property may again be sold at a judicial foreclosure sale if the purchaser fails to timely pay the Annual Installments as they become due and payable.

The Town reserves the right to refund PID Bonds in accordance with the Act. In the event of a refunding, the Administrator shall recalculate the Annual Installments so that total Annual Installments will be sufficient to pay the refunding bonds, and the refunding bonds shall constitute "PID Bonds."

Each Annual Installment of an Assessment, including interest on the unpaid principal of the Assessment, shall be updated annually. Each Annual Installment shall be delinquent if not paid prior to February 1 of the following year.

## **SECTION VII: ASSESSMENT ROLL**

The Improvement Area #1 Assessment Roll is attached on **Exhibit F-1** and the Improvement Area #2 Assessment Rolls is attached on Exhibit **G-1**. The Administrator shall prepare and submit to the Town Council for review and approval, proposed revisions to the Assessment Rolls as well as the Annual Installments as part of each Annual Service Plan Update.

## **SECTION VIII: ADDITIONAL PROVISIONS**

### **A. Calculation Errors**

If the owner of a Parcel claims that an error has been made in any calculation required by this Amended and Restated Service and Assessment Plan, including, but not limited to, any calculation made as part of any Annual Service Plan Update, the owner's sole and exclusive remedy shall be to submit a written notice of error to the Town within 30 days of the mailing of a bill for the Annual Installment resulting from the Amended and Restated Service and Assessment Plan or any Annual Service Plan Update; otherwise, the owner shall be deemed to have unconditionally approved the calculation. Upon receipt of a written notice of error from an owner, the Town shall refer the notice to the Administrator who shall provide a written response to the Town and the owner within 30 days of such referral. The Town Council shall consider the owner's notice of error and the Administrator's response, and within 30 days the Town Council shall make a final determination as to whether or not an error has been made. If the Town Council determines that an error has been made, the Town Council shall take such corrective action as is authorized by the Act, this Amended and Restated Service and Assessment Plan, the Assessment Ordinance, or the Indenture, or is otherwise authorized by the discretionary power of the Town Council. The determination by the Town Council as to whether an error has been

made, and any corrective action taken by the Town Council, shall be final and binding on the owner and the Administrator.

#### **B. Amendments**

Amendments to this Amended and Restated Service and Assessment Plan must be made by the Town Council in accordance with the Act. To the extent permitted by the Act, this Amended and Restated Service and Assessment Plan may be amended without notice to owners of the Assessed Property: (1) to correct mistakes and clerical errors; (2) to clarify ambiguities; and (3) to provide procedures to collect Assessments, Annual Installments, and other charges imposed by this Amended and Restated Service and Assessment Plan.

#### **C. Administration and Interpretation**

The Administrator shall: (1) perform the obligations of the Administrator as set forth in this Amended and Restated Service and Assessment Plan; (2) administer the District for and on behalf of and at the direction of the Town Council; and (3) interpret the provisions of this Amended and Restated Service and Assessment Plan. Interpretations of this Amended and Restated Service and Assessment Plan by the Administrator shall be in writing and shall be appealable to the Town Council by owners or developers adversely affected by the interpretation. Appeals shall be decided by the Town Council after holding a public hearing at which all interested parties have an opportunity to be heard. Decisions by the Town Council shall be final and binding on the owners and developers and their successors and assigns.

#### **D. Severability**

If any provision of this Amended and Restated Service and Assessment Plan is determined by a governmental agency or court to be unenforceable, the unenforceable provision shall be deleted and, to the maximum extent possible, shall be rewritten to be enforceable. Every effort shall be made to enforce the remaining provisions.



## EXHIBITS

The following Exhibits are attached to and made a part of this Amended and Restated Service and Assessment Plan for all purposes:

<b>Exhibit A-1</b>	District Legal Description
<b>Exhibit A-2</b>	Improvement Area #1 Legal Description
<b>Exhibit A-3</b>	Improvement Area #2 Legal Description
<b>Exhibit B</b>	Map of District, Improvement Area #1, and Improvement Area #2
<b>Exhibit C</b>	Allocation of Authorized Improvements
<b>Exhibit D</b>	Service Plan
<b>Exhibit E</b>	Sources and Uses of Funds
<b>Exhibit F-1</b>	Improvement Area #1 Assessment Roll
<b>Exhibit F-2</b>	Projected Improvement Area #1 Annual Installments
<b>Exhibit F-3</b>	Projected Improvement Area #1 Annual Installments Per Lot
<b>Exhibit G-1</b>	Improvement Area #2 Assessment Roll
<b>Exhibit G-2</b>	Projected Improvement Area #2 Annual Installments
<b>Exhibit G-3</b>	Projected Improvement Area #2 Annual Installments Per Lot
<b>Exhibit H</b>	Final Plat

## **Exhibit A-1**

### **District Legal Description**

#### TRACT 1 – 112.4 ACRES

(part of the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton, Texas, and being all of that tract of land described as Tract 3- South in Special Warranty Deed to CTMGT Turbeville, LLC as recorded in Document Number 2011-121573 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)]("Record" bearings and distances cited herein are from said Special Warranty Deed to CTMGT Turbeville, LLC):

BEGINNING at a found PK nail for the southeast corner of said Tract 3- South, said point being in the centerline of Harbor Lane (a called 60 foot wide right-of-way in said Document Number 2011-121573), and being in the north line of the Harbor Grove Estates, Section 3, an addition to the Town of Hickory Creek, Texas, as recorded in Volume 2, Page 151 of the Plat Records of Denton County, Texas;

THENCE South 89 degrees 43 minutes 27 seconds West (record South 89 degrees 47 minutes 55 seconds West 666.64 feet), with the common north line of said Harbor Grove Estates, Section 3 and the south line of said Tract 3- South, a distance of 667.21 feet to a found Corps of Engineers monument for the common northwest corner of said Harbor Grove Estates, Section 3 and the northeast corner of that tract of land described as Tract No. F-522 in deed to United States of America as recorded in Volume 383, Page 375 of the Deed Records of Denton County, Texas (D.R.D.C.T.);

THENCE North 88 degrees 47 minutes 24 seconds West (record North 88 degrees 51 minutes 13 seconds West 658.88 feet), with the common north line of said Tract No. F-522 and the south line of said Tract 3- South, a distance of 658.67 feet to a found Corp of Engineers monument for the common northwest corner of said Unites States of America tract and the northeast corner of that tract of land described in deeds to Sabrina Holkar-Ellis Irrevocable 2007 Trust as recorded in Document Number 2007-127619, O.P.R.D.C.T., and Yeshwant R. Holkar Irrevocable 2007 Trust as recorded in, Document Number 2007-127629, O.P.R.D.C.T.;

THENCE North 89 degrees 46 minutes 12 seconds West (record North 89 degrees 46 minutes 12 seconds West 478.46 feet), with the common north line of said Holkar Trusts tract and the south line of said Tract 3- South, a distance of 478.46 feet to a found PK nail for the southwest corner of said Tract 3- South in the approximate centerline of Sycamore Bend Road (a variable width roadway by usage, no deed of record found);

THENCE with the west line of said Tract 3- South and along the approximate centerline of said Sycamore Bend Road through the following calls:

North 03 degrees 50 minutes 37 seconds West (record North 03 degrees 50 minutes 37 seconds West 502.49 feet), a distance of 502.49 feet to a found PK nail for corner;

North 05 degrees 22 minutes 06 seconds West (record North 05 degrees 22 minutes 06 seconds West 254.96 feet), a distance of 255.11 feet to a found PK nail for corner;

North 06 degrees 22 minutes 51 seconds West (record North 06 degrees 25 minutes 21 seconds West 259.59 feet), a distance of 259.28 feet to a found PK nail for corner;

North 07 degrees 54 minutes 41 seconds West (record North 07 degrees 52 minutes 58 seconds West 361.37 feet), a distance of 361.68 feet to a found PK nail for corner;

North 07 degrees 01 minute 29 seconds West (record North 07 degrees 01 minute 29 seconds West 448.45 feet), a distance of 448.45 feet to a found PK nail for corner;

North 10 degrees 09 minutes 53 seconds West (record North 10 degrees 09 minutes 53 seconds West 139.03 feet), a distance of 139.03 feet to a found PK nail for corner;

North 12 degrees 10 minutes 59 seconds West (record North 12 degrees 10 minutes 59 seconds West 706.84 feet), a distance of 706.84 feet to a found PK nail for the northwest corner of said Tract 3- South, said point being within the right-of-way of Turbeville Road (a variable width roadway by usage, no deed of record found);

THENCE South 89 degrees 13 minutes 35 seconds East (record South 89 degrees 13 minutes 35 seconds East 2,142.75 feet), with the north line of said Tract 3- South and within said Turbeville Road, a distance of 2,143.10 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" for the northeast corner of said Tract 3- South, said point being on the centerline of the aforementioned Harbor Lane as described in said Document Number 2011-121573, and from which point a 1/2-inch found iron rod for the northeast corner of that called 116.768 acre tract of land described in deed to Alan H. Goldfield and Shirley M. Goldfield as recorded in Document Number 95-R0035165 (hereinafter referred to as the "Goldfield tract") bears North 48 degrees 36 minutes 21 seconds West a distance of 9.32 feet;

THENCE South 00 degrees 33 minutes 59 seconds East (record South 00 degrees 33 minutes 59 seconds East 1,511.92 feet), with the east line of said Tract 3- South and said centerline of Harbor Lane as described in said Document Number 2011-121573, a distance of 1,511.92 feet to a found PK nail for corner;

THENCE with a jog in the east line of said Tract 3- South through the following calls:

South 89 degrees 19 minutes 44 seconds West (record South 89 degrees 19 minutes 44 seconds West 638.96 feet), departing said centerline of Harbor Lane, at a distance of 2.20 feet passing the east line of said Goldfield tract, a distance of 639.15 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

South 00 degrees 40 minutes 15 seconds East (record South 00 degrees 40 minutes 15 seconds East 318.16 feet), a distance of 318.16 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

North 89 degrees 42 minutes 51 seconds East (record North 89 degrees 42 minutes 51 seconds East 436.59 feet), a distance of 436.59 feet to a found 5/8-inch iron rod with a

cap stamped "RPLS 1890" for the point curvature of a non-tangent circular curve to the right having a radius of 50.00 feet and a chord that bears North 78 degrees 17 minutes 44 seconds East, a distance of 19.14 feet (record radius 50.00 feet, central angle 22 degrees 04 minutes 01 second, arc distance 19.26 feet, chord North 78 degrees 17 minutes 44 seconds East 19.14 feet);

Easterly, with said curve, through a central angle of 22 degrees 04 minutes 01 second, an arc distance of 19.26 feet to a found 5/8-inch iron rod with a cap stamped "RPLS 1890" for corner;

North 89 degrees 34 minutes 27 seconds East (record North 89 degrees 34 minutes 27 seconds East 183.02 feet), at a distance of 182.00 feet passing the east line of said Goldfield tract, a distance of 183.21 feet to a found PK nail for corner on the aforementioned centerline of the Harbor Lane as described in said Document Number 2011-121573;

THENCE South 00 degrees 33 minutes 59 seconds East (record South 00 degrees 33 minutes 59 seconds East 797.79 feet), with the east line of said Tract 3- South and with said centerline of Harbor Lane as described in said Document Number 2011-121573, a distance of 797.79 feet to the POINT OF BEGINNING and containing 112.4 acres (4,896,020 square feet) (record 112.3629 acres) of land, more or less.

TRACT 2 – 5,789 SQUARE FEET  
(part of the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton County, Texas, and being part of the remainder of a called 116.768 acre tract of land described in General Warranty Deed with Vendor's Lien to Alan H. Goldfield and Shirley M. Goldfield, as recorded in Document Number 95-R0035165 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)] ("Record" bearings and distances cited herein are from that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573, O.P.R.D.C.T.):

COMMENCING at a found PK nail for an "ell" corner of that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573, O.P.R.D.C.T., said corner also being on the approximate centerline of Harbor Lane (a called 60-foot wide right-of-way in said Document Number 2011-121573);

THENCE South 89 degrees 34 minutes 27 seconds West (*record North 89 degrees 34 minutes 27 seconds East*), with a jog in the east line of said CTMGT tract, passing at a distance of 1.21 feet the east line of said Goldfield tract, and continuing with said jog, in all a total distance of 37.10 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner, said point also being the POINT OF BEGINNING;

THENCE South 89 degrees 34 minutes 27 seconds West (*record North 89 degrees 34 minutes 27 seconds East*), continuing with said jog, a distance of 146.11 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for the point of curvature of a non-tangent circular curve to the left having a radius of 50.00 feet and a chord that bears South 78 degrees 17 minutes 44 seconds West a distance of 19.14 feet (*record radius 50.00 feet, central angle 22 degrees 04 minutes 01 second, arc distance 19.20 feet, chord North 78 degrees 17 minutes 44 seconds East, 19.14 feet*);

THENCE Westerly, with said curve, continuing with said jog, through a central angle of 22 degrees 04 minutes 01 second, an arc distance of 19.26 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for the end of said curve;

THENCE South 89 degrees 42 minutes 51 seconds West (*record North 89 degrees 42 minutes 51 seconds East*), continuing with said jog, a distance of 107.68 feet to a 1/2-inch set iron rod with cap for corner;

THENCE North 00 degrees 17 minutes 09 seconds West, departing said jog and over and across said Goldfield tract, a distance of 22.74 feet to a 1/2-inch set iron rod with cap for corner;

THENCE North 89 degrees 22 minutes 49 seconds East, continuing over and across said Goldfield tract, a distance of 272.57 feet to a 1/2-inch set iron rod with cap for corner;

THENCE South 00 degrees 15 minutes 06 seconds East, continuing over and across said Goldfield tract, a distance of 20.19 feet to the POINT OF BEGINNING and containing 0.1329 of an acre (5,789 square feet) of land, more or less.

TRACT 3 – 1.109 ACRES  
(excluded from the Property)

BEING a tract of land situated in the M.E.P. & P.R.R. Company Survey, Abstract Number 915, Town of Hickory Creek, Denton County, Texas, and being part of that tract of land described as Tract 3-South in Special Warranty Deed to CTMGT Turbeville, LLC, as recorded in Document Number 2011-121573 of the Official Public Records of Denton County, Texas (O.P.R.D.C.T.), and being more particularly described as follows [ The basis of bearing is the Texas Coordinate System of 1983, North Central Zone (4202)] ("Record" bearings and distances cited herein are from said Special Warranty Deed to CTMGT Turbeville, LLC):

COMMENCING at a found PK nail for an "ell" corner of said CTMGT tract, said corner also being on the approximate centerline of Harbor Lane (a called 60-foot wide right-of-way in said Document Number 2011-121573);

THENCE South 89 degrees 19 minutes 44 seconds West (*record South 89 degrees 19 minutes 44 seconds West*), with a jog in the east line of said CTMGT tract, passing at a distance of 2.20 feet the east line of the remainder of that called 116.768 acre tract of land described in deed to Alan H. Goldfield and Shirley M. Goldfield, as recorded in Document Number 95-R0035165, O.P.R.D.C.T., continuing with said jog, in all a total distance of 34.40 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") for corner, said point also being the POINT OF BEGINNING;

THENCE South 89 degrees 19 minutes 44 seconds West (*record South 89 degrees 19 minutes 44 seconds West*), continuing with said jog, a distance of 604.75 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for an interior "ell" corner in said jog;

THENCE South 00 degrees 40 minutes 15 seconds East (*record South 00 degrees 40 minutes 15 seconds East, 318.16 feet*), continuing with said jog, a distance of 318.16 feet to a 5/8-inch found iron rod with "RPLS 1890" cap for an interior "ell" corner in said jog;

THENCE North 89 degrees 42 minutes 51 seconds East (*record North 89 degrees 42 minutes 51 seconds East*), continuing with said jog, a distance of 278.91 feet to a 1/2-inch set iron rod with cap for corner;

THENCE South 00 degrees 17 minutes 07 seconds East, departing said jog and over and across said CTMGT tract, a distance of 30.02 feet to a 1/2-inch set iron rod with cap for corner;

THENCE continuing over and across said CTMGT tract, through the following calls:

South 89 degrees 42 minutes 53 seconds West a distance of 283.82 feet to a 1/2-inch set iron rod with cap for corner;

North 00 degrees 40 minutes 13 seconds West a distance of 177.48 feet to a 1/2-inch set iron rod with cap for corner;

North 24 degrees 07 minutes 19 seconds West a distance of 236.36 feet to a 1/2-inch set iron rod with cap for corner;

North 89 degrees 22 minutes 49 seconds East a distance of 703.97 feet to a 1/2-inch set iron rod with cap for corner;

South 00 degrees 37 minutes 11 seconds East a distance of 45.54 feet to the POINT OF BEGINNING and containing 1.109 acres (48,285 square feet) of land, more or less.



**Exhibit A-2**

**Improvement Area #1 Legal Description**

**Exhibit A-3**

**Improvement Area #2 Legal Description**

**Exhibit B**

**Map of District, Improvement Area #1, and Improvement Area #2**

## Exhibit C

### Allocation of Authorized Improvements

Completed Work	Work Performed	Costs	Allocation of Costs	
			Improvement Area #1	Improvement Area #2
Ellerbee-Walczak, Inc	Engineering	\$ 44,899.13	\$ 44,899.13	\$ -
eScreenLogic, Inc	Environmental Report	2,300.00	2,300.00	-
Halff Associates, INC	Engineering	264,513.19	264,513.19	-
Juan Carlos E. Hernandez	Erosion Control	20,997.45	20,997.45	-
Kart Construction & Equipment Co	Roadway Construction	81,121.36	81,121.36	-
Lake City Municipal Utility District	Engineering	33,513.65	33,513.65	-
Miller Services Inc	Streets	35,014.50	35,014.50	-
PPG Site Services, LLC	Erosion Control	1,001.31	1,001.31	-
Reno Environmental Corp	Erosion Control	14,345.00	14,345.00	-
RKM Utility Services, INC	Water,Sewer, Stormwater	97,200.00	97,200.00	-
SWPPP Inspections, Inc	Erosion Control	4,345.00	4,345.00	-
THB Construction LLC	Roadway Construction	1,560,761.28	1,560,761.28	-
Town of Hickory Creek	City Fees	28,300.00	28,300.00	-
Walker Utilites, Inc	Water,Sewer, Stormwater	795,278.68	795,278.68	-
Xroads, LP	Street Signs	4,248.81	4,248.81	-
		\$ 2,987,839.36	\$ 2,987,839.36	\$ -
<b>Future Work</b>				
Earthwork		\$ 73,076.00	\$ -	\$ 73,076.00
Water		147,805.00	-	147,805.00
Sanitary Sewer		19,550.00	-	19,550.00
Storm Drain		79,284.00	-	79,284.00
Paving		419,330.00	-	419,330.00
Performance and Payment Bonds		11,654.46	-	11,654.46
		\$ 750,699.46	\$ -	\$ 750,699.46
<b>Bond Issuance Costs</b>				
Reserve Fund		\$ 304,200	\$ 250,790.84	\$ 53,409.16
Capitalized Interest		-	-	-
Underwriters Discount		126,600	104,373	22,227
Cost of Issuance		168,800	139,163	29,637
		\$ 599,600.00	\$ 494,326.72	\$ 105,273.28
<b>Total Authorized Improvement Costs</b>		<b>\$ 4,338,138.81</b>	<b>\$ 3,482,166.07</b>	<b>\$ 855,972.74</b>

**[NOTE: \$611,345.18 OF "COMPLETED WORK" IS STILL BEING REVIEWED TO DETERMINE ELIGIBILITY]**

## Exhibit D

### Service Plan

<b>Year</b> <b>(as of 1/31)</b>	<b>Authorized</b> <b>Improvement Costs</b>	<b>Outstanding</b> <b>Indebtedness</b>	<b>Annual Installments</b>
2019	\$ 750,699.46	\$ 4,220,000	\$ 345,750
2020	\$ -	\$ 4,160,000	\$ 347,440
2021	\$ -	\$ 4,095,000	\$ 343,826
2022	\$ -	\$ 4,030,000	\$ 345,222
2023	\$ -	\$ 3,960,000	\$ 346,314

## Exhibit E

### Sources and Uses of Funds

#### SOURCES

PID Bond Par	\$ 4,220,000.00
Less: Reserve Fund	(304,200.00)
Less: Capitalized Interest	-
Less: Underwriter Discount	(126,600.00)
Less: Cost of Issuance	<u>(168,800.00)</u>
Deposit to Project Fund	\$ 3,620,400.00
Developer Contribution	<u>118,138.81</u>
<b>TOTAL SOURCES</b>	<b><u>\$ 3,738,538.81</u></b>

#### USES

Completed Improvements	\$ 2,987,839.36
Future Improvements	<u>750,699.46</u>
<b>TOTAL USES</b>	<b><u>\$ 3,738,538.81</u></b>

## Exhibit F-1

### Improvement Area #1 Assessment Roll

Parcel ID	Improvement Area		Outstanding Assessment	Annual Installment Due 1/31/19					
				Principal	Interest	Additional Interest	Administration Expense	Total Annual Installment	
557932	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557931	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557930	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557929	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557928	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557927	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557925	IA #1	(b)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
557924	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557923	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557922	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557921	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557920	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557919	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557918	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557917	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557916	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557915	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557914	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557913	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557912	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557911	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557910	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557909	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557908	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557907	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557906	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557905	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557904	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557903	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557902	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557901	IA #1	(b)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
557900	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557899	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557897	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557896	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557895	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557894	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557893	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557892	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557891	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557890	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557889	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557888	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557887	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	
557886	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31	

Improvement      Outstanding				Annual Installment Due 1/31/19							
				Principal      Interest		Additional Interest		Administration Expense		Total Annual Installment	
Parcel ID	Area		Assessment								
557885	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557884	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557883	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557882	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557881	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557880	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557879	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557878	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557877	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557876	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557875	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557874	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557873	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557872	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557871	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557870	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557869	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557868	IA #1	(b)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
557867	IA #1	(b)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
557866	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557865	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557864	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557863	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557862	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557861	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
557860	IA #1	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31			
Total			\$ 3,479,083.97	\$ 49,465.65	\$ 200,047.33	\$ 17,395.42	\$ 18,137.40	\$ 285,045.80			

(a) Improvement Area #1 Lots

(b) Non-Benefitted property within PID No. 2 has no Assessment levy.



## Exhibit F-2

### Projected Improvement Area #1 Annual Installments

Installments Due 1/31	Improvement Area #1 Debt Service			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 49,465.65	\$ 200,047.33	\$ 17,395.42	\$ 18,137.40	\$ 285,045.80
2020	53,587.79	197,203.05	17,148.09	18,500.15	286,439.08
2021	53,587.79	194,121.76	16,880.15	18,870.16	283,459.85
2022	57,709.92	191,040.46	16,612.21	19,247.56	284,610.15
2023	61,832.06	187,722.14	16,323.66	19,632.51	285,510.37
2024	65,954.20	184,166.79	16,014.50	20,025.16	286,160.66
2025	70,076.34	180,374.43	15,684.73	20,425.66	286,561.16
2026	74,198.47	176,345.04	15,334.35	20,834.18	286,712.04
2027	78,320.61	172,078.63	14,963.36	21,250.86	286,613.46
2028	82,442.75	167,575.19	14,571.76	21,675.88	286,265.57
2029	86,564.89	162,834.73	14,159.54	22,109.39	285,668.56
2030	90,687.02	157,857.25	13,726.72	22,551.58	284,822.58
2031	94,809.16	152,642.75	2,535.11	23,002.61	272,989.64
2032	103,053.44	147,191.22	-	23,462.67	273,707.32
2033	107,175.57	141,265.65	-	23,931.92	272,373.14
2034	115,419.85	135,103.05	-	24,410.56	274,933.46
2035	119,541.98	128,466.41	-	24,898.77	272,907.17
2036	127,786.26	121,592.75	-	25,396.75	274,775.75
2037	136,030.53	114,245.04	-	25,904.68	276,180.25
2038	140,152.67	106,423.28	-	26,422.77	272,998.73
2039	148,396.95	98,364.50	-	26,951.23	273,712.68
2040	160,763.36	89,831.68	-	27,490.25	278,085.29
2041	169,007.63	80,587.79	-	28,040.06	277,635.48
2042	177,251.91	70,869.85	-	28,600.86	276,722.62
2043	189,618.32	60,677.86	-	29,172.88	279,469.06
2044	197,862.60	49,774.81	-	29,756.33	277,393.74
2045	210,229.01	38,397.71	-	30,351.46	278,978.18
2046	222,595.42	26,309.54	-	30,958.49	279,863.45
2047	234,961.83	13,510.31	-	31,577.66	280,049.80
<b>Total</b>	<b>\$ 3,479,083.97</b>	<b>\$ 3,746,620.99</b>	<b>\$ 191,349.62</b>	<b>\$ 703,590.45</b>	<b>\$ 8,120,645.03</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

## Exhibit F-3

### Projected Improvement Area #1 Annual Installments Per Lot

Installments Due 1/31	Improvement Area #1 Debt Service Per Lot			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
2020	496.18	1,825.95	158.78	171.30	2,652.21
2021	496.18	1,797.42	156.30	174.72	2,624.63
2022	534.35	1,768.89	153.82	178.22	2,635.28
2023	572.52	1,738.17	151.15	181.78	2,643.61
2024	610.69	1,705.25	148.28	185.42	2,649.64
2025	648.85	1,670.13	145.23	189.13	2,653.34
2026	687.02	1,632.82	141.98	192.91	2,654.74
2027	725.19	1,593.32	138.55	196.77	2,653.83
2028	763.36	1,551.62	134.92	200.70	2,650.61
2029	801.53	1,507.73	131.11	204.72	2,645.08
2030	839.69	1,461.64	127.10	208.81	2,637.25
2031	877.86	1,413.36	23.47	212.99	2,527.68
2032	954.20	1,362.88	-	217.25	2,534.33
2033	992.37	1,308.02	-	221.59	2,521.97
2034	1,068.70	1,250.95	-	226.02	2,545.68
2035	1,106.87	1,189.50	-	230.54	2,526.92
2036	1,183.21	1,125.86	-	235.16	2,544.22
2037	1,259.54	1,057.82	-	239.86	2,557.22
2038	1,297.71	985.40	-	244.66	2,527.77
2039	1,374.05	910.78	-	249.55	2,534.38
2040	1,488.55	831.77	-	254.54	2,574.86
2041	1,564.89	746.18	-	259.63	2,570.70
2042	1,641.22	656.20	-	264.82	2,562.25
2043	1,755.73	561.83	-	270.12	2,587.68
2044	1,832.06	460.88	-	275.52	2,568.46
2045	1,946.56	355.53	-	281.03	2,583.13
2046	2,061.07	243.61	-	286.65	2,591.33
2047	2,175.57	125.10	-	292.39	2,593.05
<b>Total</b>	<b>\$ 32,213.74</b>	<b>\$ 34,690.94</b>	<b>\$ 1,771.76</b>	<b>\$ 6,514.73</b>	<b>\$ 75,191.16</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

## Exhibit G-1

### Improvement Area #2 Assessment Roll

Parcel ID	Improvement Area		Outstanding Assessment	Annual Installment Due 1/31/19				
				Principal	Interest	Additional Interest	Administrative Expense	Total Annual Installment
New Lot 1	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 2	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 3	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 4	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 5	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 6	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 7	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 8	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 9	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 10	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 11	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 12	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 13	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 14	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 15	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 16	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 17	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 18	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 19	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 20	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 21	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 22	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
New Lot 23	IA #2	(a)	\$ 32,213.74	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
<b>Total</b>			<b>\$ 740,916.03</b>	<b>\$ 10,534.35</b>	<b>\$ 42,602.67</b>	<b>\$ 3,704.58</b>	<b>\$ 3,862.60</b>	<b>\$ 60,704.20</b>

(a) TO BE UPDATED WITH FINAL PLAT INFORMATION PRIOR TO APPROVING SAP

## Exhibit G-2

### Projected Improvement Area #2 Annual Installments

Installments Due 1/31	Improvement Area #2 Debt Service			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 10,534.35	\$ 42,602.67	\$ 3,704.58	\$ 3,862.60	\$ 60,704.20
2020	11,412.21	41,996.95	3,651.91	3,939.85	61,000.92
2021	11,412.21	41,340.74	3,594.85	4,018.64	60,366.45
2022	12,290.08	40,684.54	3,537.79	4,099.02	60,611.42
2023	13,167.94	39,977.86	3,476.34	4,181.00	60,803.13
2024	14,045.80	39,220.71	3,410.50	4,264.62	60,941.62
2025	14,923.66	38,413.07	3,340.27	4,349.91	61,026.91
2026	15,801.53	37,554.96	3,265.65	4,436.91	61,059.05
2027	16,679.39	36,646.37	3,186.64	4,525.65	61,038.05
2028	17,557.25	35,687.31	3,103.24	4,616.16	60,963.96
2029	18,435.11	34,677.77	3,015.46	4,708.48	60,836.82
2030	19,312.98	33,617.75	2,923.28	4,802.65	60,656.66
2031	20,190.84	32,507.25	539.89	4,898.70	58,136.68
2032	21,946.56	31,346.28	-	4,996.68	58,289.52
2033	22,824.43	30,084.35	-	5,096.61	58,005.39
2034	24,580.15	28,771.95	-	5,198.54	58,550.64
2035	25,458.02	27,358.59	-	5,302.52	58,119.12
2036	27,213.74	25,894.75	-	5,408.57	58,517.06
2037	28,969.47	24,329.96	-	5,516.74	58,816.16
2038	29,847.33	22,664.22	-	5,627.07	58,138.62
2039	31,603.05	20,948.00	-	5,739.61	58,290.66
2040	34,236.64	19,130.82	-	5,854.41	59,221.87
2041	35,992.37	17,162.21	-	5,971.49	59,126.07
2042	37,748.09	15,092.65	-	6,090.92	58,931.67
2043	40,381.68	12,922.14	-	6,212.74	59,516.56
2044	42,137.40	10,600.19	-	6,337.00	59,074.59
2045	44,770.99	8,177.29	-	6,463.74	59,412.02
2046	47,404.58	5,602.96	-	6,593.01	59,600.55
2047	50,038.17	2,877.19	-	6,724.87	59,640.23
<b>Total</b>	<b>\$ 740,916.03</b>	<b>\$ 797,891.51</b>	<b>\$ 40,750.38</b>	<b>\$ 149,838.71</b>	<b>\$ 1,729,396.63</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

## Exhibit G-3

### Projected Improvement Area #2 Annual Installments Per Lot

Installments Due 1/31	Improvement Area #2 Debt Service Per Lot			Administrative	
	Principal	Interest	Additional Interest	Expenses	Total Installment
2019	\$ 458.02	\$ 1,852.29	\$ 161.07	\$ 167.94	\$ 2,639.31
2020	496.18	1,825.95	158.78	171.30	2,652.21
2021	496.18	1,797.42	156.30	174.72	2,624.63
2022	534.35	1,768.89	153.82	178.22	2,635.28
2023	572.52	1,738.17	151.15	181.78	2,643.61
2024	610.69	1,705.25	148.28	185.42	2,649.64
2025	648.85	1,670.13	145.23	189.13	2,653.34
2026	687.02	1,632.82	141.98	192.91	2,654.74
2027	725.19	1,593.32	138.55	196.77	2,653.83
2028	763.36	1,551.62	134.92	200.70	2,650.61
2029	801.53	1,507.73	131.11	204.72	2,645.08
2030	839.69	1,461.64	127.10	208.81	2,637.25
2031	877.86	1,413.36	23.47	212.99	2,527.68
2032	954.20	1,362.88	-	217.25	2,534.33
2033	992.37	1,308.02	-	221.59	2,521.97
2034	1,068.70	1,250.95	-	226.02	2,545.68
2035	1,106.87	1,189.50	-	230.54	2,526.92
2036	1,183.21	1,125.86	-	235.16	2,544.22
2037	1,259.54	1,057.82	-	239.86	2,557.22
2038	1,297.71	985.40	-	244.66	2,527.77
2039	1,374.05	910.78	-	249.55	2,534.38
2040	1,488.55	831.77	-	254.54	2,574.86
2041	1,564.89	746.18	-	259.63	2,570.70
2042	1,641.22	656.20	-	264.82	2,562.25
2043	1,755.73	561.83	-	270.12	2,587.68
2044	1,832.06	460.88	-	275.52	2,568.46
2045	1,946.56	355.53	-	281.03	2,583.13
2046	2,061.07	243.61	-	286.65	2,591.33
2047	2,175.57	125.10	-	292.39	2,593.05
<b>Total</b>	<b>\$ 32,213.74</b>	<b>\$ 34,690.94</b>	<b>\$ 1,771.76</b>	<b>\$ 6,514.73</b>	<b>\$ 75,191.16</b>

*Note: The figures shown above are estimates only and subject to change in annual service plan updates. Changes in administrative expenses, interest earnings, or other available offsets could increase or decrease the amounts shown.*

**PRELIMINARY ESTIMATE, SUBJECT TO CHANGE**

**Exhibit H**

**Final Plat**

**EXHIBIT D**  
**TOWN OF HICKORY CREEK, TEXAS**  
**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN THAT a public hearing will be conducted by the Town Council of the Town of Hickory Creek, Texas on *June 19, 2018 at 6:30 p.m. at 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065*. The public hearing will be held to consider proposed assessments to be levied against the assessable property within the Hickory Creek Public Improvement No. 2 District (the "District") pursuant to the provisions of Chapter 372 of the Texas Local Government Code, as amended (the "Act").

The general nature of the proposed public improvements for the District (including Improvement Area # 2 (collectively, the "Authorized Improvements") may include: (a) the costs and expenses paid or incurred to establish the District; and (b) the design, acquisition, construction, and installation of public improvements consisting of public roadways, public water facilities, public sewer facilities, public storm water facilities, and public drainage facilities.. These Authorized Improvements shall promote the interests of the Town and confer a special benefit upon the Property.

The total costs of the PID Improvements, including the costs of creating the District and issuing the bonds, is approximately as follows: \$3,600,000 for Improvement Area # 1 and \$980,000.00 for Improvement Area # 2. The term of the assessments, to the extent payable on an annual basis, will be 30 years as reflected in the Preliminary Service and Assessment Plan available at the Hickory Creek Town Hall.

The boundaries of the District include approximately 111.424 acres generally located in the southeast quadrant of the intersection of Sycamore Bend Road and Turbeville Road, which property is generally the same as the property included in the Preliminary Plat for Steeplechase South Addition, Town of Hickory Creek, containing 108 single-family lots in Improvement Area #1 and 23 single-family lots in Improvement Area #2 and within the Town limits, as more particularly described by a metes and bounds description available for public inspection at 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065.

All written or oral objections on the proposed assessment within the District will be considered at the public hearing.

A copy of the 2018 Assessment Roll relating to the PID Improvements (the "2018 Assessment Roll"), which 2018 Assessment Roll includes the assessments to be levied against certain parcels in Improvement Area #2 of the District for the Improvement Area #2 Improvements, is available for public inspection at the office of the Town Secretary, 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065 .



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.17

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute a development agreement by and between the Town of Hickory Creek Texas and Centurion Acquisitions, LLC.



**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-10**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE A DEVELOPMENT AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND CENTURION ACQUISITIONS LLC. AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town Council has been presented with a proposed Hickory Farms Development Agreement (residential development) from Centurion Acquisitions, hereinafter the “Agreement”; and

**“WHEREAS**, upon full review and consideration of the Development Agreement, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Development Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29th day of May, 2018.

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Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

## **HICKORY FARMS DEVELOPMENT AGREEMENT**

This Hickory Farms Development Agreement (this “Agreement”) is entered into between the **TOWN OF HICKORY CREEK, TEXAS**, (the “Town”), and **CENTURION AMERICAN ACQUISITIONS, LLC**, a Texas limited liability company, (the “Developer”) to be effective when the purchase of the Property (as defined below) by the Developer is effective (the “Effective Date”).

### **SECTION 1** **RECITALS**

**WHEREAS**, certain terms used in these recitals are defined in Section 2; and

**WHEREAS**, the Developer and the Town are sometimes collectively referenced in this Agreement as (the “Parties,”) or, each individually, as (the “Party”); and

**WHEREAS**, the Town is a general-law municipality of the State of Texas located within Denton County (the “County”); and

**WHEREAS**, Ted Roy Brown, the Brown Family Revocable Living Trust, (the “Owner”) currently owns approximately 24 acres of real property which property is described by metes and bounds in **Exhibit A** and depicted on **Exhibit B** (“Property”) and located in the County; and

**WHEREAS**, the Property is under contract for sale to the Developer;

**WHEREAS**, the Property is contiguous to the Town and is located wholly within the extraterritorial jurisdiction (“ETJ”) of the Town and not within the ETJ or corporate limit of any other municipality; and

**WHEREAS**, the Developer intends to develop the Property as a residential development, which will consist of approximately 145 single-family homes; and

**WHEREAS**, the Developer and the Town desire to have the Property annexed into the Town’s corporate boundaries and provide the Town with greater regulatory powers and controls over the development of the Property as set forth in this Agreement; and

**WHEREAS**, the Developer, upon owning the Property, intends to file a voluntary petition for annexation of the Property into the corporate boundaries of the Town; and

**WHEREAS**, this Agreement shall be effective upon the passage of this Agreement and when the Property is purchased by the Developer; and before the annexation of the Property into the Town; and

**WHEREAS**, Lake Cities Municipal Utility Authority (“LCMUA”) holds the certificates of convenience and necessity (the “CCNs”) to provide retail water and sewer service to the Property; and

**WHEREAS**, the Developer plans to develop the Property as a residential development upon the execution of this Agreement and subsequent issuance of PID Bonds for the payment of certain costs for the construction and acquisition of certain public improvements and certain other associated costs to benefit the Property, and for the repayment to Developer for any costs advanced for the construction and acquisition of certain public improvements to benefit the Property as set forth in this Agreement; and

**WHEREAS**, the Developer desires and intends to design, construct and install and/or make financial contributions to certain on-site and/or off-site public improvements to serve the development of the Property (“Authorized Improvements”), which Authorized Improvements are generally identified in Exhibit C and will be the same as those described in the Service and Assessment Plan; and

**WHEREAS**, the Developer intends for the design, construction and installation of the Authorized Improvements to occur in a single phase and to dedicate such Authorized Improvements to the Town or LMCUA (with respect to water and sewer related Authorized Improvements), as applicable, for use and maintenance, subject to approval of the plans and inspection of the Authorized Improvements in accordance with this Agreement and the Town Regulations, as hereinafter defined, and contingent upon the partial or total financing of such Authorized Improvements; and

**WHEREAS**, the Developer and the Town estimate that the cost of the Authorized Improvements will be \$3,753,343.00 and is the maximum amount that will be financed and reimbursed to the Developer; and

**WHEREAS**, to accomplish the high quality development of the Property envisioned by the Parties and to provide financing for the Authorized Improvements, the Town has determined it is necessary for the Town to create a public improvement district (“PID”) pursuant to Chapter 372, Texas Local Government Code, as amended (“PID Act”); and

**WHEREAS**, in consideration of the Developer’s agreements contained herein, the Town shall exercise its powers under the PID Act, to provide alternative financing arrangements that will enable the Developer to do the following in accordance with the procedures and requirements of the PID Act and this Agreement: (a) fund or be reimbursed for a specified portion of the costs of the Authorized Improvements using the proceeds of PID Bonds or obtain reimbursement for the specified portion of the costs of the Authorized Improvements but not to exceed \$3,753,343.00, the source of which reimbursement will be installment payments from Assessments within the Property or the issuance of PID Bonds;

**WHEREAS**, the Town, subject to the consent and approval of the Town Council, and in accordance with the terms of this Agreement and all legal requirements, intends to: (i) adopt a Service and Assessment Plan; (ii) adopt an Assessment Ordinance (to pay for a specified portion of the estimated cost of the Authorized Improvements shown on Exhibit C and the costs associated with the administration of the PID and issuance of the PID Bonds; and (iii) issue PID Bonds for the purpose of financing a specified portion of the costs of the Authorized Improvements and related costs (including Administrative Expenses) and paying issuance costs and the cost of

funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund).; and

**WHEREAS**, the Town, in its sole legislative discretion, may issue PID Bonds to finance a specified portion of the costs of the Authorized Improvements and related costs (including Administrative Expenses) and paying issuance costs and the cost of funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund).; and

**WHEREAS**, prior to the sale of the first PID Bond issue: (a) the Town Council shall have approved and adopted the PID Resolution, a Service and Assessment Plan and an Assessment Ordinance (collectively, the “PID Documents”); (b) the Town shall have reviewed and approved the Home Buyer Disclosure Program; (c) owners of the Property constituting all of the acreage in the PID shall have executed a Landowner Agreement (as defined in Section 2, herein); and (d) the Developer shall have delivered a fully executed copy of the Landowner Agreement(s) to the Town; and

**WHEREAS**, Developer understands and acknowledges that the obligations undertaken under this Agreement are primarily for the benefit of the Property; and

**WHEREAS**, Developer understands and acknowledges that acceptance of this Agreement is not an exaction or a concession demanded by the Town but rather is an undertaking of Developer’s voluntary design to ensure consistency, quality, and adequate infrastructure that will benefit Developer’s development of the Property and the Property itself; and

**WHEREAS**, it is the intent of the Parties that the Property will be developed pursuant to an agreed upon concept plan (“Concept Plan”), which Concept Plan is attached hereto as **Exhibit D**, and the development standards set forth in certain proposed planned development zoning standards (“Development Standards”), which Development Standards are attached hereto as **Exhibit E**; and

**WHEREAS**, immediately following annexation of the Property, the Town intends to consider zoning the Property as a planned development district and the Parties acknowledge that the Property may be developed and used in accordance with this Agreement notwithstanding any zoning of the Property in conflict with this Agreement; and

**WHEREAS**, the Developer agrees to dedicate certain right-of-way to facilitate the construction of a portion of Ronald Reagan Avenue, and in light of these dedications, the Parties intend to waive roadway Impact Fees and to set roadway fees at \$\_\_\_\_\_ per lot, to be collected upon the issuance of a single-family residential lot’s building permit; and

**WHEREAS**, as the entire Property is within the Town’s ETJ on the Effective Date, the Parties have the authority to enter into this Agreement pursuant to Section 212.171 *et seq* of the Texas Local Government Code; and

**WHEREAS**, the Parties intend that this Agreement is a development agreement as provided for by state law in Section 212.171 *et seq* of the Texas Local Government Code;

**WHEREAS**, this Agreement shall constitute a “permit” under Chapter 245 of the Texas Local Government Code and as allowed pursuant to Section 212.172(g) of the Texas Local Government Code; and

**WHEREAS**, the Town recognizes the positive impact that the construction and installation of the Authorized Improvements for the PID will bring to the Town and will promote state and local economic development; to stimulate business and commercial activity in the municipality; for the development and diversification of the economy of the state; development and expansion of commerce in the state; and elimination of employment or underemployment in the state;

**WHEREAS**, the Town recognizes that financing of the Authorized Improvements confers a special benefit to the Property within the PID.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Parties agree as follows:

## **SECTION 2** **DEFINITIONS**

Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth:

Administrative Expenses shall include, without limitation, expenses incurred by the Town in the establishment, administration, and operation of the PID.

Agreement means this Hickory Farms Development Agreement.

Assessment means a special assessment levied by the Town within the PID pursuant to Chapter 372, Texas Local Government Code, pursuant to an Assessment Ordinance, to pay for a specific portion of the Budgeted Cost, which shall be Authorized Improvement Costs.

Assessment Fund means the interest bearing assessment fund account created by the Town for the PID to which the assessment revenues will be deposited once collected.

Assessment Ordinance means an ordinance adopted by the Town Council which levies assessments on the Property in accordance with the PID Act to pay for a specified portion of the costs of certain Authorized Improvements and interest thereon set forth in the Service and Assessment Plan as well as the costs associated with the issuance of the PID Bonds that provide a special benefit to the Property.

Assessment Roll means an Assessment Roll attached to the Service and Assessment Plan or any other Assessment Roll in an amendment or supplement to the Service and Assessment Plan or in an annual updated to the Service and Assessment Plan, showing the total amount of the Assessment against each parcel assessed under the Service and Assessment Plan related to the Authorized Improvements.

Authorized Improvements means water, sewer, drainage, and roadway infrastructure and facilities needed to serve and fully develop the Property and to be constructed by the Developer or by or on behalf of the Town, including but not limited to the improvements listed in **Exhibit C**.

Authorized Improvement Costs means the design, engineering, construction, and inspection costs of the Authorized Improvements.

Bond Ordinance means and refers to an ordinance adopted by the Town Council that authorizes and approves the issuance and sale of the PID Bonds by the Town.

Budgeted Cost with respect to any given Authorized Improvement means the estimated cost of such improvement as set forth in **Exhibit C**.

Construction Cost means the costs actually paid for on and off site Authorized Improvements related to engineering, design, permitting, construction, inspection, testing, and off-site improvements, third-party property/easement acquisitions; however, the cost of off-site improvements, third-party property/easement acquisitions shall be limited to the fair-market value of any property/easement acquired, plus any damages to the remainder, all as determined by a Licensed Appraiser selected by the Town, and Eminent Domain Fees.

Construction, Funding, and Acquisition Agreement mean that Hickory Farms Public Improvement District Construction, Funding, and Acquisition Agreement and any amendments thereto.

Developer means the entity, Centurion American Acquisitions, LLC, a Texas limited liability company and its successors and assigns, responsible for developing the Property in accordance with this Agreement.

Development means the new development on the Property that is the subject of this Agreement.

Effective Date means the effective date of this Agreement, which shall be the date upon which all parties have fully executed and delivered this Agreement and when the Property is purchased by the Developer.

Eminent Domain Fees shall have the meaning assigned in Section 13.7 hereof.

End Buyer means any Developer, developer homebuilder, tenant, user, or owner of a Fully Developed and Improved Lot.

Fully Developed and Improved Lot means any lot in the Property, regardless of proposed use, intended to be served by the Authorized Improvements and for which a final plat has been approved by the Town and recorded in the Real Property Records of Denton County, Texas.

HOA means the Hickory Farms Homeowner's Association.

Home Buyer Disclosure Program means the disclosure program, administered by the PID Administrator as set forth in a document in the form of **Exhibit F** that establishes a mechanism to disclose to each End Buyer the terms and conditions under which their lot is burdened by the PID.

Impact Fees means as defined in Chapter 395 of the Texas Local Government Code.

Indenture means a trust indenture by and between the Town and a trustee bank under which PID Bonds are secured and funds disbursed.

Landowner(s) means the Developer and additional owners of the Property.

Landowner Agreement means the agreement, as set forth in a document in the form of **Exhibit G** of an owner of the Property consenting to the form and terms of the PID Documents.

Mayor means the Mayor of the Town of Hickory Creek.

Notice means any notice required or contemplated by this Agreement (or otherwise given in connection with this Agreement).

PID means a public improvement district created by the Town for the benefit of the Property pursuant to Chapter 372, Texas Local Government Code, to be known as the Hickory Farms Public Improvement District.

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

PID Administrator means a company, entity, employee, or designee of the Town, who is experienced in public improvement districts and assessment administration and who shall have the responsibilities provided in the Service and Assessment Plan, or any other agreement or document approved by the Town, related to the duties and responsibilities for the administration of the PID.

PID Bonds means assessment revenue bonds issued by the Town and secured by Assessments on property within the PID.

PID Resolution means the resolution and improvement order adopted by the Council creating the PID pursuant to Section 372.010 of the PID Act and approving the advisability of the Authorized Improvements.

Property means the real property described by metes and bounds in **Exhibit A** and depicted on **Exhibit B**.

Public Infrastructure means all water, sewer, drainage and roadway infrastructure necessary to serve the full development of the Property.

Real Property Records of Denton County means the official land recordings of the Denton County Clerk's Office.

Service and Assessment Plan means the PID Service and Assessment Plan adopted by the Town Council, and amended annually, if needed, by the Town Council pursuant to the PID Act for the purpose of assessing allocated costs against property located within the boundaries of the PID having terms, provisions and findings approved by the Town, as required by this Agreement.



Town Administrator means the current or acting Town Administrator or Town Manager of the Town of Hickory Creek or a person designated to act on behalf of that individual if the designation is in writing and signed by the current or acting Town Administrator.

Town means the Town of Hickory Creek, a general law municipality located in Denton County, Texas.

Town Code means the Code of Ordinances, Town of Hickory Creek, Texas.

Town Council means the Town Council of the Town.

Town Regulations mean Town Code provisions, ordinances, design standards, uniform and international building and construction codes, and other policies duly adopted by the Town.

### **SECTION 3** **PUBLIC IMPROVEMENT DISTRICT**

3.1 Creation and Levy of Assessments. The Town shall use its best efforts to initiate and approve all necessary documents and ordinances required to effectuate this Agreement, to create the PID, to levy the Assessments, and to prepare and approve the Service and Assessment Plan providing for the levy of the Assessments on the Property within the PID. Promptly following preparation and approval of a preliminary Service and Assessment Plan acceptable to the Developer and the Town and subject to the Town Council making findings that the Authorized Improvements confer a special benefit on the Property, the Town Council shall consider an Assessment Ordinance. Concurrently with the Assessment Ordinance, the Town shall consider the approval and execution of the Construction, Funding, and Acquisition Agreement and a reimbursement agreement. The Developer shall develop the Property consistent with the terms of this Agreement. Nothing contained in this Agreement, however, shall be construed as creating a contractual obligation that controls, waives, or supplants the Town Council's legislative discretion or functions.

3.2 Acceptance of Assessments and Recordation of Covenants Running with the Land. Concurrently with the levy of the Assessments, the Developer shall approve and accept in writing the levy of the Assessment(s) on all land owned by the Developer and shall approve and accept in writing the Home Buyer Disclosure Program and shall cause to be recorded against the Property covenants running with the land that will bind any and all current and successor Developers and owners of the Property to: (i) pay the Assessments, with applicable interest and penalties thereon, as and when due and payable hereunder and that the purchasers of such land take their title subject to and expressly assume the terms and provisions of such assessments and the liens created thereby; and (ii) comply with the Home Buyer Disclosure Program.

### **SECTION 4** **AUTHORIZED IMPROVEMENTS**

4.1 Authorized Improvements. The Budgeted Costs, including the Authorized Improvements, are subject to change and shall be updated by the Town consistent with the Service

and Assessment Plan, as may be updated and amended, and the PID Act, and shall be included on each approved final plat(s) for the Property as each final plat for each phase of the Property is approved by the Town Council. The Developer shall include an updated **Exhibit C** with each final plat application which shall be submitted to the Town Council for consideration and approval concurrently with the submission of each final plat. Upon approval by the Town Council of an updated **Exhibit C**, this Agreement shall be deemed amended to include such approved updated **Exhibit C**. The Authorized Improvement Costs and the timetable for installation of the Authorized Improvements will be reviewed annually by the Parties in an annual update of the Service and Assessment Plan adopted and approved by the Town.

#### 4.2 Construction, Ownership, and Transfer of Authorized Improvements.

(a) Construction Plans. The Developer shall prepare, or cause to be prepared, plans and specifications for each of the Authorized Improvements and have them submitted to the Town for approval in accordance with this section. Construction and/or engineering plans may be submitted to the Town without a landscape plan and/or hardscape plan and the Town agrees not to require the submittal of a landscape plan and/or hardscape plan in conjunction with the submittal of construction or engineering plans. The Town shall have 30 business days from its receipt of first submittal of construction and/or engineering plans to approve or deny the plans or to provide comments back to the submitter of the plans. If any approved construction and/or engineering plans are amended or supplemented, the Town shall have 15 business days from its receipt of such amended or supplemented plans to approve or deny the plans or to provide comments back to the submitter of the plans. Any written Town approval or denial must be based on compliance with applicable Town Regulations. If the Town does not specifically approve or deny the submitted plans within the above-described time periods, the plans shall be deemed approved. If any provision in this paragraph conflicts with any other provision in this Agreement, this paragraph controls.

(b) Contract Award. The contracts for construction of Authorized Improvements shall be let in the name of the Developer. The Developer's engineers shall prepare, or cause the preparation of, and provide contract specifications and necessary related documents for the Authorized Improvements. The Developer shall administer all contracts. The Budgeted Costs, which are estimated on **Exhibit C**, shall be paid by the Developer or caused to be paid by the Developer, or the Developer's assignee, and reimbursed from the proceeds of the PID Bonds in accordance with the Indenture, or reimbursed by the collected Assessments levied pursuant to the terms of any reimbursement agreement. Until such Budgeted Costs are paid in full by the Town pursuant to the terms of the Construction, Funding, and Acquisition Agreement, any reimbursement agreement, or the Indenture, unpaid monies owed by the Town under the Construction, Funding, and Acquisition Agreement, any reimbursement agreement, or the Indenture shall bear interest as described therein.

(c) Construction Standards and Inspection. The Authorized Improvements and all other Public Infrastructure required for the development of the Property shall be constructed and inspected in accordance with applicable state law, Town Regulations and other development requirements, including those imposed by the Town and any other governing body or entity with jurisdiction over the Authorized Improvements. All applicable fees, including permit fees and inspection fees, shall be paid by Developer.

(d) Competitive Bidding. This Agreement and construction of the Authorized Improvements are anticipated to be exempt from competitive bidding pursuant to Texas Local Government Code Section 252.022(a)(9) and 252.022(a)(11) based upon current cost estimates. In the event that the actual costs for the Authorized Improvements do not meet the parameters for exemption from the competitive bid requirement, then either competitive bidding or alternative delivery methods may be utilized by the Town as allowed by law.

(e) Ownership. All of the Authorized Improvements shall be owned by the Town or LCMUA, where applicable upon acceptance of them by the Town or LCMUA. The Developer agrees to take any action reasonably required by the Town to transfer or otherwise dedicate or ensure the dedication of easements and facilities for the Authorized Improvements to the Town and the public.

#### 4.3 Operation and Maintenance.

(a) Upon inspection, approval, and acceptance of the utility Authorized Improvements or any portion thereof, LCMUA shall maintain and operate the accepted water and sewer infrastructure and provide water and sewer service to the Property.

(b) Upon inspection, approval, and acceptance of the roadway Authorized Improvements or any portion thereof, the Town shall maintain and operate the roadways and storm water infrastructure listed in Exhibit C or any accepted portion thereof.

(c) The HOA shall maintain and operate the open spaces, common areas, right-of-way irrigation systems, right-of-way landscaping, screening walls, and any other common improvements or appurtenances not maintained and operated by the Town, provided that all Authorized Improvements maintained by the HOA shall be public improvements.

4.4 Administration of Construction of Public Infrastructure. The Parties agree that the Developer will be responsible to construct the on-site and off-site storm, roadway, water and sewer infrastructure for the Property necessary to serve the Development and as listed in Exhibit C.

4.5 Water and Wastewater Service. LCMUA currently holds the CCNs for water and sewer service to the Property. The Property will be served by LCMUA.

4.6 Mandatory Homeowners Association. The Developer will create an HOA that shall be required to levy and collect from home owners annual fees in an amount calculated to maintain the open spaces, common areas, hike and bike trails located in common areas, portions of which will be open to the public, right-of-way irrigation systems, raised medians and other right-of-way landscaping, and screening walls within the PID. Common areas including but not limited to all landscaped entrances to the PID and right-of-way landscaping shall be maintained solely by the HOA. Maintenance of public rights-of-way by the HOA shall comply with Town Regulations and shall be subject to oversight by the Town. The Parties shall cooperate with each other to execute documents necessary to give the HOA permission to maintain and operate facilities on Town-owned property.

## **SECTION 5** **PAYMENT OF AUTHORIZED IMPROVEMENTS**

5.1 Assessment Fund. The Town shall establish the Assessment Fund. The Assessment Fund shall be maintained, administered and controlled (including signatory authority) by the Town and shall not be commingled with any other funds of the Town. The funds in the Assessment Fund shall be dedicated solely to the reimbursement of the allowable costs of Authorized Improvements in accordance with this Agreement, any reimbursement agreement, the Construction, Funding, & Acquisition Agreement, the Indenture, if PID Bonds are issued by the Town, and the PID Act. Funds from the Assessment Fund shall be disbursed in accordance with a reimbursement agreement, Construction, Funding, & Acquisition Agreements, the Indenture, if PID Bonds are issued by the Town, and the PID Act. In the event of any conflict between the terms of this Agreement and the terms of the Indenture relative to deposit and/or disbursement, the terms of the Indenture shall control.

5.2 Cost Overrun. If the total cost of an Authorized Improvement exceeds the total amount of the Budgeted Cost for that Authorized Improvement (the "Cost Overrun"), the Developer shall be solely responsible for the remainder of the costs of that Authorized Improvement, except as provided in Section 5.3 below.

5.3 Cost Underrun. Upon the final acceptance by Town of an Authorized Improvement and payment of all outstanding invoices for such Authorized Improvement, if the actual cost of such Authorized Improvement is less than the Budgeted Cost (a "Cost Underrun"), any remaining Budgeted Cost will be available to pay Cost Overruns on any other Authorized Improvement.

5.4 Remainder of Funds in Assessment Fund. If funds remain in the Assessment Fund after the completion of all Authorized Improvements and the payment of all Authorized Improvements Costs as provided for in the reimbursement agreement and/or the Indenture if PID Bonds are issued by the Town, then such funds shall thereafter be the exclusive property of the Town and shall be used by the Town as provided for in the Service and Assessment Plan and the Indenture if PID Bonds are issued by the Town, or any other use applicable to the Property as provided by law. In the event of any conflict between the terms of this Agreement and the terms of the Indenture relative to deposit and/or disbursement, the terms of the Indenture shall control.

5.5 Qualified Tax-Exempt Status. If in any calendar year (including 2018) the Town issues PID Bonds that would constitute a bank qualified debt issuance but for the issuance of the PID Bonds or other bonds supporting public improvements for non-Town owned development projects, including either bonds authorized by the PID Act, then the Developer shall pay to the Town a fee (the "PID Bond Fee") to compensate the Town for the interest savings the Town would have achieved had the debt issued by the Town been bank qualified provided that all other developers or owners benefitting from the Town issuing debt are similarly burdened with an obligation to compensate the Town. The Town shall calculate the PID Bond Fee for all series of Bonds and notify Developer of the total amount due at least ten (10) business days prior to pricing the first series of Bonds. The Developer agrees to pay the estimate of the PID Bond Fee to the Town on the later of (i) five (5) business days prior to pricing of any series of Bonds or other Town debt, or (ii) five (5) business days after receiving Notice from the Town of the estimated amount of PID Bond Fee due to the Town. The Town shall not be required to price or sell any series of Bonds until the Developer has paid the PID Bond Fee.

To the extent any developer(s) or owner(s) (including the Developer, as applicable) has (have) paid all or a part of a PID Bond Fee estimate for any particular calendar year, any such PID Bond Fee estimate paid subsequently by a developer or owner (including the Developer, as applicable) to the Town applicable to the same calendar year shall be reimbursed by the Town to the developer(s) or owner(s) (including the Developer, as applicable) as necessary so as to put all developers and owners so paying for the same calendar year in the required payment proportion as set forth above, said reimbursement to be made by the Town within ten (10) business days after its receipt of such subsequent payments of the estimated PID Bond Fee. The Town will deposit all payments of a PID Bond Fee estimate received from a developer or owner (including the Developer, as applicable) into a segregated account until such time as (1) the Town transfers the funds to a capital improvement project fund in conjunction with issuing Town debt; and/or (2) the Town refunds a portion of the PID Bond Fee estimate consistent with the pro rata formula above within 10 days of issuing Bonds. On or before January 15<sup>th</sup> of the following calendar year, the final PID Bond Fee shall be calculated. By January 31<sup>st</sup> of such year, any funds in excess of the final PID Bond Fee that remain in such segregated account on December 31<sup>st</sup> of the preceding calendar year shall be refunded to the developers or owners (including the Developer, as applicable) and any deficiencies in the estimated PID Bond Fee paid to the Town by any developer or owner (including the Developer, as applicable) shall be remitted to the Town by the respective developer or owner (including the Developer, as applicable).

## **SECTION 6** **PID FINANCING**

Town Bond Issuance. The Town intends to issue PID Bonds solely for the purposes of financing the costs of the Authorized Improvements and related costs (including Administrative Expenses) and paying issuance costs and the cost of funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund). The Town and the Developer have determined and hereby agree that the estimated maximum aggregate principal amount of Bonds will be \$5,000,000.00. The Town staff will, from time to time, submit to the Town Council agenda items to approve the issuance of PID Bonds by the Town in an amount up to, but not to exceed, the estimated maximum aggregate principal Bond amount of \$5,000,000.00. Notwithstanding the foregoing, the Town's obligation to approve the issuance of PID Bonds is subject to the Town's review and confirmation that the Assessments are reasonable relative to the market as determined by the Town Council. A third party bond issuer may not issue bonds based upon PID assessment levied for this Development without first obtaining the consent of the Town Council.

## **SECTION 7** **ANNEXATION AND POST-ANNEXATION MATTERS**

7.1 Annexation. This Agreement constitutes the consent of the Developer to the Town's full purpose annexation of the Property. The Developer shall submit a petition for voluntary annexation of the Property to the Town in compliance with Chapter 43 of the Texas Local Government Code, as amended, within thirty days of the Effective Date. The Developer agrees to execute and supply any and all instruments and/or other documentation necessary for the Town to annex the Property into the Town's corporate limits and the Parties agree that the

annexation of the Property shall occur after the Town issues PID bonds, and as soon as reasonably practicable after the execution of this Agreement, in accordance with statutory requirements.

7.2 Zoning of Property. While the Parties expressly acknowledge that the Property will be voluntarily annexed in accordance with Section 7.1 of this Agreement, the Parties agree that the Concept Plan, the Development Standards, and the applicable provisions of this Agreement memorialize the plan for development of the Property as provided for in Section 212.172 of the Texas Local Government Code. The Town shall consider zoning the Property consistent with the Development Standards, Concept Plan, and applicable provisions of this Agreement contemporaneously with annexation of the Property. Through this Agreement, the Developer expressly consents and agrees to the zoning of the Property consistent with and as contemplated by this Section. The Town will not require the Developer to submit a formal zoning application in order to proceed with zoning the Property as contemplated by this Section, but the Developer agrees to pay costs associated with the zoning notices and public hearings.

7.3 Full Compliance with Town Standards.

(a) When not in conflict with the terms and conditions of this Agreement, the development of the Property shall be subject to all applicable Town Regulations, including but not limited to the Town's subdivision regulations and engineering design standards. The Developer shall be subject to those fees and charges due and payable to the Town in connection with the development and construction of the Property, including but not limited to building permit fees and inspection fees.

(b) Development and use of the Property, including, without limitation, the construction, installation, maintenance, repair, and replacement of all buildings and all other improvements and facilities of any kind whatsoever on and within the Property, shall be in compliance with the Development Standards, the Concept Plan, both as attached in **Exhibit E** and **Exhibit D** and applicable Town Regulations. When not in conflict with the Development Standards and the Concept Plan, all buildings and improvements constructed within the Property shall comply with all Town building codes, and applications for building permits and construction plans shall be submitted to the Town for review and approval prior to the commencement of construction of such structures. The Town shall be solely responsible for issuing building permits and certificates of occupancy for all structures.

7.4 Hike and Bike Trail. The Developer shall construct or cause the construction of the hike and bike trail as depicted on **Exhibit D**. Construction of the hike and bike trail as depicted on **Exhibit D** shall be completed in a timely manner and in conjunction with the roadway infrastructure listed in **Exhibit C**

7.5 Phasing. The Parties acknowledge that the Property may be developed in phases. If deemed necessary, the Developer may submit a replat for all or any portions of the Property. Any replat shall be in general conformance with the Concept Plan and subject to Town approval.

7.6 Conflicts. In the event of any direct conflict between this Agreement and any other ordinance, rule, regulation, standard, policy, order, guideline, or other Town adopted or Town enforced requirement, whether existing on the Effective Date or hereinafter adopted, this Agreement, including its exhibits, as applicable, shall control.

7.7 Vested Rights. This Agreement shall constitute a “permit” (as defined in Chapter 245 of the Texas Local Government Code) that is deemed filed with the Town on the Effective Date.

## **SECTION 8** **EVENTS OF DEFAULT; REMEDIES**

8.1 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but in no event more than thirty (30) days (or any longer time period to the extent expressly stated in this Agreement as relates to a specific failure to perform) after written notice of the alleged failure has been given except as relates to a type of default for which a different time period is expressly set forth in this Agreement). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured. Notwithstanding the foregoing, however, a Party shall be in default of its obligation to make any payment required under this Agreement if such payment is not made within twenty (20) business days after it is due.

8.2 Remedies. If a Party is in default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, or actions for specific performance, mandamus, or injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE AGGRIEVED PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.

## **SECTION 9** **ASSIGNMENT; ENCUMBRANCE**

9.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The obligations, requirements, or covenants to develop the Property in this Agreement shall be able to be assigned to any affiliate or related entity of the Developer, or any lien holder on the Property, without the prior written consent of the Town. The obligations, requirements or covenants to the development of the Property shall not be assigned by Developer to a non-affiliate or non-related entity of the Developer without the prior written consent of the Town Administrator, which consent shall not be unreasonably withheld if the assignee demonstrates financial ability to perform. Any receivables due under this Agreement, any construction funding agreement, or any reimbursement agreement may be assigned by the Developer without the consent of, but upon written notice to the Town pursuant to Section 9.5 of this Agreement; however, notwithstanding the foregoing, no transfer of this Agreement, any reimbursement agreement or any rights of or receivables due the Developer under this Agreement or any other agreement relating to the District may be made by the Developer to any party or entity for the purpose of or relating to the issuance of bonds or other public securities without the express written consent of the Town, and neither the Developer nor any transferee may use this Agreement

or reimbursement agreement as security for the issuance of bonds or other public securities without the express written consent of the Town. An assignee shall be considered a "Party" for the purposes of this Agreement. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the Town approves the release in writing. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party's sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property.

9.2 Encumbrance by Developer and Assignees. The Developer and assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement for the benefit of (a) their respective lenders without the consent of, but with prompt written notice to, the Town, and (b) to any person or entity with the Town Administrator's prior written consent (which consent shall not be unreasonably withheld, conditioned, or delayed). If the Town Administrator fails to provide the Developer or assignee with a reasonable written objection to a collateral assignment request with thirty (30) days of receiving such request, then the collateral assignment shall be automatically deemed approved by the Town. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the Town has been given a copy of the documents creating the lender's interest, including Notice information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement and shall be given a reasonable time to do so in addition to the cure periods otherwise provided to the defaulting Party by this Agreement; and the Town agrees to accept a cure, not to be unreasonably withheld, offered by the lender as if offered by the defaulting Party. A lender is not a party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. Any purchaser from or successor owner through a lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured.

9.3 Assignees as Parties. An assignee authorized in accordance with this Agreement and for which notice of assignment has been provided in accordance with Section 9.5 of this Agreement shall be considered a "Party" for the purposes of this Agreement. With the exception of the end-user of a lot within the Property, any person or entity upon becoming an owner of land within the PID or upon obtaining an ownership interest in any part of the Property shall be deemed to be a "Developer" and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.



9.4 Third Party Beneficiaries. Subject to Section 9.1 of this Agreement, this Agreement only inures to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement,

9.5 Notice of Assignment. Subject to Section 9.1 of this Agreement, the following requirements shall apply in the event that the Developer sells, assigns, transfers, or otherwise conveys the Property or any part thereof and/or any of its rights or benefits under this Agreement:

- (a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the Town;
- (b) said notice must describe the extent to which any rights or benefits under this Agreement will be sold, assigned, transferred, or otherwise conveyed;
- (c) said notice must state the name, mailing address, telephone contact information, and, if known, email address, of the person(s) that will acquire any rights or benefits as a result of any such sale, assignment, transfer or other conveyance; and
- (d) the notice must be signed by a duly authorized person representing the Developer.

## **SECTION 10** **RECORDATION AND ESTOPPEL CERTIFICATES**

10.1 Binding Obligations. This Agreement and all amendments thereto and assignments hereof shall be recorded in the property records of Denton County, Texas. This Agreement binds and constitutes a covenant running with the Property and, upon the Effective Date, is binding upon the Developer and the Town, and forms a part of any other requirements for development within the Property. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property.

10.2 Estoppel Certificates. From time to time upon written request of the Developer or any future owner, and upon the payment to the Town of a \$100.00 fee plus all reasonable costs incurred by the Town in providing the certificate described in this section, the Town Administrator, or his/her designee will, in his official capacity and to his reasonable knowledge and belief, execute a written estoppel certificate identifying any obligations of an owner under this Agreement that are in default.

## **SECTION 11** **GENERAL PROVISIONS**

11.1 Term. The term of this Agreement shall be thirty (30) years after the Effective Date and shall automatically be extended by one fifteen (15) year term unless formal action is taken by either Party, in writing, not to extend the term.

11.2 Public Infrastructure, Generally. Except as otherwise expressly provided for in this Agreement, Developer shall provide all Public Infrastructure as specified in this Agreement, including streets, utilities, drainage, and all other required improvements, at no cost to the Town except as provided herein, and in accordance with Town Regulations, and as approved by the Town's engineer or his or her agent. Developer shall cause the installation of such improvements within all applicable time frames in accordance with the Town Regulations unless otherwise approved herein. Developer shall provide engineering studies, plan/profile sheets, and other construction documents at the time of platting as required by Town Regulations. Such plans shall be approved by the Town's engineer or his or her agent prior to approval of a Final Plat. Construction of any portion of the Public Infrastructure shall not be initiated until a pre-construction conference that includes a Town representative has been held regarding the proposed construction and Town has issued a written notice to proceed. No final plat may be recorded in the Real Property Records of Denton County, Texas until construction of all Public Infrastructure shown thereon shall have been constructed, and thereafter inspected, approved and accepted by the Town.

11.3 Maintenance Bond. For each construction contract for any part of the Public Infrastructure, Developer or Developer's contractor must execute a maintenance bond in accordance with applicable Town Regulations that guarantee the costs of any repairs which may become necessary to any part of the construction work performed in connection with the Public Infrastructure, arising from defective workmanship or materials used therein, for a full period of two (2) years from the date of final acceptance of the Public Infrastructure constructed under such contract..

11.4 Inspections, Acceptance of Public Infrastructure, and Developer's Remedy.

(a) Roadway and Storm Infrastructure. The Town shall have the right to inspect, at any time, the construction of all roadway and storm system improvements, and any Public Infrastructure necessary to support the proposed development within the Property, including water, sanitary sewer, drainage, streets, park facilities, electrical, and street lights and signs.

(b) Town Approval. The Town's inspections shall not release the Developer from its responsibility to construct, or ensure the construction of, adequate Authorized Improvements and Public Infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property. Notwithstanding any provision of this Agreement, it shall not be a breach or violation of this Agreement if the Town withholds building permits, certificates of occupancy, or Town utility services as to a phase of the Development until Developer has met its obligations to provide for required Public Infrastructure necessary to such phase according to the approved engineering plans and Town Regulations, and until such Public Infrastructure has been dedicated to and accepted by the Town. Acceptance by the Town shall not be unreasonably withheld.

(c) Dedication of the Town. From and after the inspection and acceptance by the Town of the Public Infrastructure and any other dedications required under this Agreement, such improvements and dedications shall be owned by the Town or LCMUA. Developer's sole remedy for nonperformance of this Agreement by the Town shall be to seek specific performance and cost reimbursements pursuant to the terms of this Agreement and any reimbursement agreement.

(d) Approval of Plats/Plans. Approval by the Town, the Town's Engineer or other Town employee or representative, LCMUA, or LCMUA's employee or representative, where applicable, of any plans, designs or specifications submitted by Developer pursuant to this Agreement, pursuant to Town Regulations, or LCMUA's regulations, where applicable, shall not constitute or be deemed to be a release of the responsibility and liability of Developer, his engineer, employees, officers or agents for the accuracy and competency of their design and specifications. Further, any such approvals shall not be deemed to be an assumption of such responsibility and liability by the Town or LCMUA, where applicable, for any defect in the design and specifications prepared by Developer or Developer's engineer, or engineer's officers, agents, servants or employees, it being the intent of the parties that approval by the Town's engineer or LCMUA's engineer, where applicable, signifies the Town's approval or LCMUA's approval, where applicable, on only the general design concept of the improvements to be constructed.

11.5 Insurance. Developer or its contractor(s) shall acquire and maintain, during the period of time when any of the Public Infrastructure is under construction (and until the full and final completion of the Public Infrastructure and acceptance thereof by the Town): (a) workers compensation insurance in the amount required by law; and (b) commercial general liability insurance including personal injury liability, premises operations liability, and contractual liability, covering, but not limited to, the liability assumed under any indemnification provisions of this Agreement, with limits of liability for bodily injury, death and property damage of not less than \$1,000,000.00. Such insurance shall also cover any and all claims which might arise out of the Public Infrastructure construction contracts, whether by Developer, a contractor, subcontractor, material man, or otherwise. Coverage must be on a "per occurrence" basis. All such insurance shall: (i) be issued by a carrier which is rated "A-1" or better by A.M. Best's Key Rating Guide and licensed to do business in the State of Texas; and (ii) name the Town as an additional insured and contain a waiver of subrogation endorsement in favor of the Town. Upon the execution of Public Infrastructure construction contracts, Developer shall provide to the Town certificates of insurance evidencing such insurance coverage together with the declaration of such policies, along with the endorsement naming the Town as an additional insured. Each such policy shall provide that, at least 30 days prior to the cancellation, non-renewal or modification of the same, the Town shall receive written notice of such cancellation, non-renewal or modification.

11.6 Indemnification and Hold Harmless. THE DEVELOPER (INCLUDING FOR PURPOSES HEREOF ANY SUCCESSOR THERETO OR ASSIGNEE THEREOF, INCLUDING, WITHOUT LIMITATION, A PURCHASER OF ANY PORTION OF THE PROPERTY), AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY THE TOWN FROM AND AGAINST ALL THIRD PARTY CLAIMS, SUITS, JUDGEMENTS, DAMAGES, AND DEMANDS (TOGETHER, "CLAIMS") AGAINST THE TOWN, INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS, ARISING OUT OF THE NEGLIGENCE OF THE DEVELOPER IN CONNECTION WITH THE DESIGN OR CONSTRUCTION OF ANY INFRASTRUCTURE, STRUCTURE, OR OTHER FACILITIES OR IMPROVEMENTS THAT ARE REQUIRED OR PERMITTED BY THE TOWN REGULATIONS OR ANY OTHER GOVERNING REGULATIONS AND THAT ARE DEDICATED OR OTHERWISE CONVEYED TO THE TOWN.

11.7 Eminent Domain. Developer agrees to use commercially reasonable efforts to obtain all third-party right(s)-of-way, consents, or easements, if any, required for the Public

Infrastructure. If, however, Developer is unable to obtain such third-party right(s)-of-way, consents, or easements within ninety (90) days of commencing efforts to obtain the needed easements and right of way, the Town agrees to take reasonable steps to secure same (subject to Town Council authorization after a finding of public necessity) through the use of the Town's power of eminent domain. Developer shall be responsible for funding all reasonable and necessary legal proceeding/litigation costs, attorney's fees and related expenses, and appraiser and expert witness fees (collectively, "Eminent Domain Fees") paid or incurred by the Town in the exercise of its eminent domain powers that for any reason are not funded by PID Assessments. Provided that the escrow fund remains appropriately funded in accordance with this Agreement, the Town will use all reasonable efforts to expedite such condemnation procedures so that the Public Infrastructure can be constructed as soon as reasonably practicable. If the Town's Eminent Domain Fees exceed the amount of funds escrowed in accordance with this paragraph, Developer shall deposit additional funds as requested by the Town into the escrow account within ten (10) days after written notice from the Town. Any unused escrow funds will be refunded to Developer with thirty (30) days after any condemnation award or settlement becomes final and non-appealable. Nothing in this subsection is intended to constitute a delegation of the police powers or governmental authority of the Town, and the Town reserves the right, at all times, to control its proceedings in eminent domain.

11.8 Roadway Fees. Developer agrees to dedicate certain right-of-way to facilitate the construction of a portion of Ronald Reagan Avenue. In light of these dedications, the Parties intend to waive roadway Impact Fees and to set roadway fees at \$\_\_\_\_\_ per lot, to be collected upon the issuance of a single-family residential lot's building permit.

11.9 Developer Acknowledges and Agrees. Developer acknowledges and agrees that the conveyances, dedications, easements and/or payment of money required by this agreement to be performed by Developer, in whole or in part, does/do not constitute a (a) Taking under the Texas or United States Constitution; (b) Nuisance; and/or; (c) Claim for damages and/or reimbursement against Town for a violation of any federal and/or state constitution, statute and/or case law and/or federal, state, and/or local ordinance, rule and/or regulation.

## **SECTION 12** **ADDITIONAL PROVISIONS**

12.1 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; and (c) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

12.2 Notices. Any notice, submittal, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when

personally delivered or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the Town: Town of Hickory, Texas  
Attn: Town Administrator  
1075 Ronald Reagan Avenue  
Hickory Creek, Texas 75065

With a copy to: Hayes, Berry, White & Vanzant, L.L.P.  
Attn: Lance Vanzant  
512 West Hickory, Suite 100  
Denton, Texas 76201

And a copy to: McCall, Parkhurst & Horton L.L.P  
Attn: Jeff Gulbas  
5717 N. Harwood Street, Suite 900  
Dallas, Texas 75201

To the Developer: Centurion American Acquisitions, LLC  
Attn: Mehrdad Moayed  
1800 Valley View Lane, Suite 300  
Farmers Branch, Texas 75234

And a copy to: Miklos Cinclair, PLLC  
Attn: Robert Miklos  
1800 Valley View Lane, Suite 360  
Farmers Branch, Texas 75234

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

12.3 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

12.4 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is necessary and required.

12.5 Authority and Enforceability. The Town represents and warrants that this Agreement has been approved by official action by the Town Council of the Town in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the Town has been duly authorized to do so. The Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that each individual

executing this Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

12.6 Severability. This Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

12.7 Applicable Law; Venue. This Agreement is entered into pursuant to, and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Denton County. Exclusive venue for any action related to, arising out of, or brought in connection with this Agreement shall be in the Denton County State District Court.

12.8 Non Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

12.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

12.10 Exhibits. The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

Exhibit A	Metes and Bounds Description
Exhibit B	Depiction of the Property
Exhibit C	Authorized Improvements with their Estimated Costs
Exhibit D	Concept Plan
Exhibit E	Development Standards
Exhibit F	Home Buyer Disclosure Program
Exhibit G	Landowner Agreement

12.11 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and are subject to the provisions of Section 10.2 hereof, and time shall be of the essence in such performance; however, in the event a Party is unable, due to force majeure, to perform its obligations under this

Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three (3) business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance, shall give Notice to all the Parties, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term “force majeure” shall include events or circumstances that are not within the reasonable control of the Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

12.12 Complete Agreement. This Agreement embodies the entire Agreement between the Parties and cannot be varied or terminated except as set forth in this Agreement, or by written agreement of the Town and Developer expressly amending the terms of this Agreement.

12.13 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

[SIGNATURES PAGES FOLLOW, REMAINDER OF THIS PAGE INTENTIONALLY LEFT  
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**EXECUTED BY THE PARTIES TO BE EFFECTIVE ON THE EFFECTIVE DATE:**

**TOWN OF HICKORY CREEK**

By: \_\_\_\_\_  
Name: Lynn Clark  
Title: Mayor  
Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: Kristi Rogers  
Title: Town Secretary  
Date: \_\_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_  
Name: Lance Vanzant  
Title: Town Attorney

STATE OF TEXAS                   §  
   §  
COUNTY OF DENTON           §

This instrument was acknowledged before me on the \_\_ day of \_\_\_\_\_, 2018 by Lynn Clark, the Mayor of the Town of Hickory Creek, Texas on behalf of said Town.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Name printed or typed

Commission Expires: \_\_\_\_\_



**DEVELOPER:**

Centurion American Acquisitions, LLC,  
a Texas limited liability company

By: Pars Investments, Inc.,  
a Texas corporation  
Its Manager

By: \_\_\_\_\_  
Name: Mehrdad Moayed  
Its: President

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Mehrdad Moayed, as President of Pars Investments, Inc., a Texas corporation, as Manager of  
Centurion American Acquisitions, LLC, a Texas limited liability company, on behalf of said  
limited liability company.

\_\_\_\_\_  
Notary Public, State of Texas

**Exhibit A**  
**METES AND BOUNDS DESCRIPTION**

EXHIBIT "A"  
DESCRIPTION  
24.277 ACRE TRACT

BEING a 24.277 acre tract of land situated in the H.H. SWISHER SURVEY, ABSTRACT NO. 1220, Denton County, Texas and being part of that certain tract of land described in a Gift Deed to Ronald Edwin Brown, Sherry Headrick, Rudy Brown, and Teddy Brown, recorded in Volume 4508, Page 703 of the Real Property Records of Denton County, Texas (RPRDCT), and being more particularly described as follows;

BEGINNING at a brass monument found for the Northwest corner of the Enclave of Hickory Creek, an addition to the Town of Hickory Creek, Denton County, Texas according to the plat thereof recorded in Document No. 2013-198, of the Plat Records of Denton County, Texas, also being in the south line of said Brown tract, also being the northeast corner of a called 3.2515 acre tract of land described to the Town of Hickory Creek, Texas in Special Warranty Deed recorded in Instrument Number 2011-119348, Official Records of Denton County, Texas, (ORDCT);

Thence South 89°48'16" West along the common line of said Brown tract and said 3.2515 acre tract, a distance of 653.24 feet to a brass monument found for the southwest corner of said Brown tract, also being an angle point in said 3.2515 acre tract and being in the east line of a called 37.4620 acre tract of land described to Alan Harvey Goldfield and Shirley Mae Goldfield in Special Warranty Deed recorded in Instrument Number 2013-58239, (ORDCT);

Thence North 01°14'49" West, with the common line of said Brown tract and said 37.4620 acre tract, passing at a distance of 29.88 feet, a 1/2-inch iron rod found for an angle point in said 3.2515 acre tract, continuing for a total distance of 433.98 feet to a brass disk found for an angle point;

Thence North 00°23'16" West, continuing with the common line of said Brown tract and said 37.4620 acre tract, a distance of 368.26 feet to a 5/8-inch iron rod found for the northwest corner of said Brown tract;

THENCE North 89°41'22" East, with the north line of said Brown tract, passing at a distance of 1296.28 feet a 1/2" iron rod found in the west right of way line of Ronald Reagan Avenue (a variable width Public Right-of-Way at this point), continuing in all a total of 1308.08 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" set for the northeast corner of said 24.277 acre tract;

THENCE South 01°57'32" East, a distance of 802.22 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" set for the southeast corner of said 24.277 acre tract, also being in the north line of said Enclave of Hickory Creek, also being in the north line of a 30 foot right-of-way dedicated by said Enclave of Hickory Creek plat;

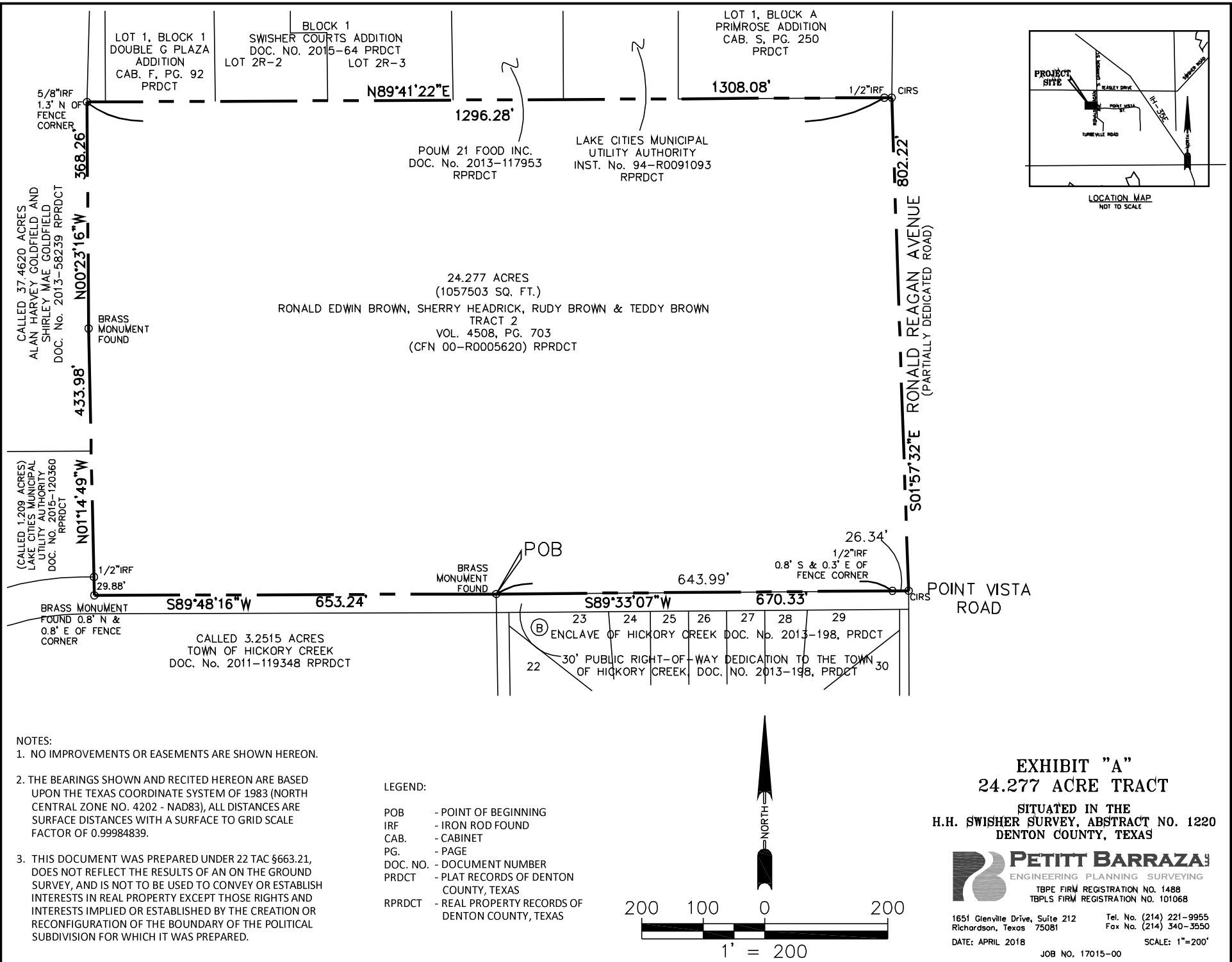
THENCE South 89°33'07" West, with the common line of said Brown tract and said Enclave of Hickory Creek, passing at a distance of 26.34 feet a 1/2-inch iron rod found, continuing in all a total distance of 670.33 feet to the POINT OF BEGINNING, and containing 24.277 acres of land, more or less.

NOTES:

1. THE BEARINGS SHOWN AND RECITED HEREON ARE BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983 (NORTH CENTRAL ZONE NO. 4202 - NAD83), ALL DISTANCES ARE SURFACE DISTANCES WITH A SURFACE TO GRID SCALE FACTOR OF 0.99984839.
2. THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

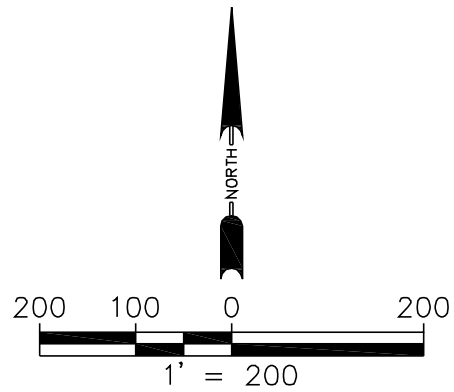
**Exhibit B**  
**DEPICTION OF THE PROPERTY**

\\Petittserver12\data\2017\1701500\PID Exhibit.dwg, 4/5/2018 2:20:31 PM, PDF Complete.pc3



- NOTES:
1. NO IMPROVEMENTS OR EASEMENTS ARE SHOWN HEREON.
  2. THE BEARINGS SHOWN AND RECITED HEREON ARE BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983 (NORTH CENTRAL ZONE NO. 4202 - NAD83), ALL DISTANCES ARE SURFACE DISTANCES WITH A SURFACE TO GRID SCALE FACTOR OF 0.99984839.
  3. THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

- LEGEND:
- POB - POINT OF BEGINNING
  - IRF - IRON ROD FOUND
  - CAB. - CABINET
  - PG. - PAGE
  - DOC. NO. - DOCUMENT NUMBER
  - PRDCT - PLAT RECORDS OF DENTON COUNTY, TEXAS
  - RPRDCT - REAL PROPERTY RECORDS OF DENTON COUNTY, TEXAS



**EXHIBIT "A"**  
**24.277 ACRE TRACT**  
**SITUATED IN THE**  
**H.H. SWISHER SURVEY, ABSTRACT NO. 1220**  
**DENTON COUNTY, TEXAS**

**PETITT BARRAZA**  
ENGINEERING PLANNING SURVEYING  
TBPE FIRM REGISTRATION NO. 1488  
TBPLS FIRM REGISTRATION NO. 101068

1651 Glenville Drive, Suite 212  
Richardson, Texas 75081  
DATE: APRIL 2018

Tel. No. (214) 221-9955  
Fax No. (214) 340-3550  
SCALE: 1"=200'  
JOB NO. 17015-00

F:\2017\1701500\SURVEY\1701500 PID Exhibit.dwg  
Feb 10, 2018 - 10:41am

**Exhibit C**  
**AUTHORIZED IMPROVEMENTS AND ESTIMATED COSTS**

**THIS ESTIMATE HAS BEEN COMPLETED ON LIMITED INFORMATION AND SHOULD BE USED FOR PROJECT EVALUATION. PRIOR TO MAKING FINANCIAL COMMITMENTS BASED ON THIS ESTIMATE, THESE NUMBERS SHOULD BE VERIFIED BY PETITT BARRAZA LLC.**

PROJECT NAME:	Hickory Creek 24	ACREAGE:	24	NO. OF LOTS:	130
ON-SITE FACILITIES:	Full Development	CREATED:	12/13/2017	BY:	CDH
DISTRICT:	NA	REVISED:	12/14/2017	CHECKED:	AB
JOB NUMBER:	17015-00		1/8/2017	ROADWAY LF:	4,200
UTIL. PROVIDER:	Hickory Creek			FILE NAME:	Concept Plan 7

**SUMMARY**

**BY ACRE**

**BY LOT**

**BY CATEGORY**

A. SITE PREPARATION	\$	21,788	\$	4,022	\$	522,905
B. RETAINING WALLS	\$	10,833	\$	2,000	\$	260,000
C. WATER DISTRIBUTION SYSTEM	\$	19,408	\$	3,583	\$	465,800
D. SANITARY SEWER SYSTEM	\$	12,506	\$	2,309	\$	300,152
E. STORM SEWER SYSTEM	\$	20,551	\$	3,794	\$	493,221
F. ROADWAY IMPROVEMENTS	\$	27,399	\$	5,058	\$	657,569
G. FRANCHISE UTILITIES & STREET LIGHTING	\$	5,479	\$	1,012	\$	131,500
H. LANDSCAPE , IRRIGATION & SCREENING WALL	\$	9,375	\$	1,731	\$	225,000
I. PROFESSIONAL & MISCELLANEOUS FEES	\$	14,833	\$	2,738	\$	355,982
<b>TOTAL CONSTRUCTION COSTS</b>	<b>\$</b>	<b>142,172</b>	<b>\$</b>	<b>26,247</b>	<b>\$</b>	<b>3,412,130</b>
CONTINGENCIES 10%	\$	14,217	\$	2,625	\$	341,213
<b>TOTAL CONSTRUCTION COSTS WITH CONTINGENCIES</b>	<b>\$</b>	<b>156,389</b>	<b>\$</b>	<b>28,872</b>	<b>\$</b>	<b>3,753,343</b>

NOTES:

1. DEVELOPMENT COST DOES NOT INCLUDE: CITY/DISTRICT/COUNTY FEES, BONDS, & PERMITS, ROCK EXCAVATION, OR COMMON AREA AMENITIES.
2. PROFESSIONAL FEES DO NOT INCLUDE: LAND ENTITLEMENTS, FEASIBILITY, BOUNDARY SURVEY, TOPOGRAPHIC SURVEY, FLOOD STUDIES, GEOTECHNICAL, ENVIRONMENTAL, WETLANDS, SWPPP ADMINISTRATION, OR TRAFFIC STUDIES.
3. THE FOLLOWING ITEMS ARE ALSO NOT INCLUDED IN THIS OPC: TREE MITIGATION, POTENTIAL FUTURE WATER LINE EASEMENT ALONG THE NE CORNER FOR LCMUA, A 20' DRAINAGE EASEMENT ALONG THE EAST PROPERTY LINE OF BILL'S TRACT, A DRAINAGE EASEMENT FOR THE STORM RUNOFF DISCHARGE ALONG THE NORTH PROPERTY LINE. WE ARE ASSUMING WE CAN DISCHARGE STORM RUNOFF TO RONALD REGAN BOULEVARD AND TO THE WEST PROPERTY.

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
<b>A. SITE PREPARATION</b>				
CLEARING & GRUBBING (1/4 Area Heavily Treed)	ACRE	24	\$ 2,000.00	\$ 48,000
CONSTRUCTION ENTRANCE	EA	1	\$ 2,000.00	\$ 2,000
SILT FENCE	LF	4,200	\$ 1.60	\$ 6,720
TREE MITIGATION	LS	1	\$ 50,000.00	\$ 50,000
UNCLASSIFIED EXCAVATION OF STREET R.O.W. & LOTS	CY	116,160	\$ 2.50	\$ 290,400
LOT GRADING (ROUGH)	LOT	130	\$ 200.00	\$ 26,000
MOISTURE CONDITIONING LOTS 6' BELOW FINAL GRADE	LOT	130	\$ -	\$ -
WRAP LOTS w/ 6 MIL PLASTIC SHEETING	LOT	130	\$ 500.00	\$ 65,000
LOT GRADING (FINAL)	LOT	130	\$ 180.00	\$ 23,400
SEED DISTURBED AREAS	ACRE	18	\$ 650.00	\$ 11,385

**SUB - TOTAL**

**\$ 522,905**

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JOB NUMBER:	17015-00		1/8/2017	ROADWAY LF:	4,200
UTIL. PROVIDER:	Hickory Creek			FILE NAME:	Concept Plan 7

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
<b>B. RETAINING WALLS</b>				
RETAINING WALL	LF	4,000	\$ 65.00	\$ 260,000
<b>SUB - TOTAL</b>				<b>\$ 260,000</b>

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
<b>C. WATER DISTRIBUTION SYSTEM</b>				
CONNECT TO EXIST. WATER LINE (Remove Plug & Connect)	EA	2	\$ 1,000.00	\$ 2,000
8" P.V.C. WATERLINE	LF	4,200	\$ 24.00	\$ 100,800
8" GATE VALVE & BOX	EA	10	\$ 1,350.00	\$ 13,500
LCMUA 16" WATER LINE	LF	500	\$ 50.00	\$ 25,000
LCMUA 32" ENCASMENT PIPE	LF	500	\$ 300.00	\$ 150,000
FIRE HYDRANT ASSEMBLY (INCLUDING 6" GATE VALVE)	EA	14	\$ 4,600.00	\$ 64,400
1" SINGLE WATER SERVICE	EA	130	\$ 600.00	\$ 78,000
4" CONDUIT (SCHEDULE 40) AT INTERSECTIONS	LF	800	\$ 16.00	\$ 12,800
TRENCH SAFETY	LF	4,200	\$ 0.50	\$ 2,100
TESTING (EXCLUDING GEOTECH)	LF	4,200	\$ 1.00	\$ 4,200
2" FLUSH VALVE	EA	2	\$ 2,500.00	\$ 5,000
2" IRRIGATION WATER SERVICE (To Green Space)	EA	4	\$ 2,000.00	\$ 8,000
<b>SUB - TOTAL</b>				<b>\$ 465,800</b>

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
<b>D. SANITARY SEWER SYSTEM</b>				
CONNECT TO EXIST. MANHOLE	EA	1	\$ 2,300.00	\$ 2,300
ADJUST EXIST. MANHOLE RIM	EA	1	\$ 1,600.00	\$ 1,600
8" P.V.C. PIPE (SDR 35: 0' to 11.5' Depth)	LF	5,000	\$ 25.00	\$ 125,000
4' DIAMETER MANHOLE W/RAIN PANS	EA	14	\$ 3,000.00	\$ 41,400
5' DIAMETER MANHOLE W/RAIN PANS	EA	3	\$ 5,200.00	\$ 14,352
4" SINGLE SEWER SERVICE	EA	130	\$ 700.00	\$ 91,000
WATER CROSSING PER TCEQ REQUIREMENTS	EA	8	\$ 1,000.00	\$ 8,000
TESTING (EXCLUDING GEOTECH)	LF	5,000	\$ 1.50	\$ 7,500
ADDITIONAL TESTING AFTER DRY UTIL INSTALL	LF	5,000	\$ 1.00	\$ 5,000
TRENCH SAFETY	LF	5,000	\$ 0.80	\$ 4,000
<b>SUB - TOTAL</b>				<b>\$ 300,152</b>



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JOB NUMBER:	17015-00		1/8/2017	ROADWAY LF:	4,200
UTIL. PROVIDER:	Hickory Creek			FILE NAME:	Concept Plan 7

<i>DESCRIPTION</i>	<i>UNIT</i>	<i>APPROXIMATE QUANTITY</i>	<i>UNIT PRICE</i>	<i>TOTAL AMOUNT</i>
<b>E. STORM DRAINAGE SYSTEM</b>				
21" R.C.P.	LF	180	\$ 60.00	\$ 10,800
24" R.C.P.	LF	262	\$ 68.00	\$ 17,816
30" R.C.P.	LF	1,300	\$ 85.00	\$ 110,500
36" R.C.P.	LF	750	\$ 115.00	\$ 86,250
42" R.C.P.	LF	400	\$ 150.00	\$ 60,000
48" R.C.P.	LF	30	\$ 160.00	\$ 4,800
60" R.C.P.	LF	100	\$ 225.00	\$ 22,500
15' INLET	EA	22	\$ 4,650.00	\$ 102,300
12" - 18" DIA. MIN. ROCK RIP-RAP	SY	75	\$ 90.00	\$ 6,750
24" HEADWALL	EA	2	\$ 1,700.00	\$ 3,400
30" HEADWALL	EA	1	\$ 3,200.00	\$ 3,200
42" HEADWALL	EA	1	\$ 5,400.00	\$ 5,400
60" HEADWALL	EA	1	\$ 7,000.00	\$ 7,000
DRAINAGE STRUCTURE	EA	2	\$ 20,000.00	\$ 40,000
STORM DRAIN TV INSPECTION	LF	3,022	\$ 1.50	\$ 4,533
TRENCH SAFETY	LF	3,022	\$ 1.00	\$ 3,022
INLET PROTECTION	EA	22	\$ 225.00	\$ 4,950

**SUB - TOTAL** **\$ 493,221**

<i>DESCRIPTION</i>	<i>UNIT</i>	<i>APPROXIMATE QUANTITY</i>	<i>UNIT PRICE</i>	<i>TOTAL AMOUNT</i>
<b>F. ROADWAY IMPROVEMENTS</b>				
CONNECT TO EX. PAVEMENT	EA	2	\$ 350.00	\$ 700
SAWCUT & REMOVE EX. CURB & GUTTER	LF	62	\$ 25.00	\$ 1,550
6" LIME STABILIZED SUBGRADE PREPARATION	SY	14,467	\$ 3.25	\$ 47,017
LIME FOR SUBGRADE PREPARATION (36LBS/SY)	TON	270	\$ 160.00	\$ 43,200
31' B-B CONC. PAVEMENT (6-INCH, 3,600 PSI)	SY	13,533	\$ 36.00	\$ 487,202
BARRIER FREE RAMPS	EA	8	\$ 1,650.00	\$ 13,200
8' TRAIL	SY	1,200	\$ 30.00	\$ 36,000
4' WIDE CURLEX EROSION CONTROL MATTING	LF	8,400	\$ 0.75	\$ 6,300
COMBO STREET NAME & STOP SIGN	EA	8	\$ 2,800.00	\$ 22,400

**SUB - TOTAL** **\$ 657,569**

**Exhibit D**  
**CONCEPT PLAN**



**Exhibit E**  
**DEVELOPMENT STANDARDS**

## **Exhibit E**

### **DEVELOPMENT STANDARDS**

#### **1.0 General Regulations**

- 1.1 A property owners association shall be established and shall be the owner and responsible for the maintenance of all open space areas.
- 1.2 All single-family detached and attached residences may be front-entry and have garage access from a dedicated public street and shall be subject to setbacks outlined in section 2.0 Area Regulations of these Standards.

#### **2.0 Area Regulations**

- 2.1 General Area Regulations. Single-family residential lots must comply with the following area standards:

Lot Size:	Five thousand (5,000) square feet
Front Yard:	Twenty feet (20')
Side Yard:	Five feet (5')
Corner Side Yard:	Fifteen feet (15')
Rear Yard:	Ten feet (10')
Lot Width:	Fifty feet (50') at building line; thirty feet (30') at property line
Lot Depth:	One hundred five feet (105')

- 2.2 The density for the Hickory Farms development shall be a maximum of 5.8 single-family units per acre.

#### **3.0 Parking Regulations**

- 3.1 Residential. For residential uses, a minimum of two (2) enclosed off-street parking spaces located behind the front building line shall be provided for each dwelling unit.

#### **4.0 Landscape & Irrigation Regulations**

- 4.1 Except as otherwise provided herein, the landscape and irrigation requirements for all uses shall conform to any landscaping regulations described in the Town of Hickory Creek Zoning Ordinance, as of the Amendment Effective Date.

- 4.2 For single-family lots, and prior to any occupancy of the dwelling, a minimum of two (2) trees with a minimum caliper of three inches (3"), measured at a point six inches (6") above ground level shall be required for all lots and shall be located in the front yard on all lots.

- 4.3 Tree species shall comply with any landscaping regulations described in the Town of Hickory Creek Zoning Ordinance, as of the Amendment Effective Date, and the following:

- Tree
  - Caddo Maple

- Golden Raintree
- Other Shrubs
  - Knockout Rose
  - Purple Pixie Loropetalum
  - Golden Dot Euonymus
  - Red Yucca
  - Smoke Tree
  - Butterfly Bush
  - Coral Drift Rose
  - Pink Skull Cap
- Ground Cover
  - Little Bluestem
  - Weeping Love Grass
  - Mexican Feather Grass

## **5.0 Open Space Regulations**

5.1 Open Space Requirements. No less than four percent (4%) of the Property must be set aside as dedicated open space, as general depicted on the Concept Plan.

## **6.0 Screening and Fencing Regulations**

6.1 Residential Screening. For any portion of a single-family subdivision adjacent to an arterial street, a minimum three feet (3') landscape strip and a minimum six-foot (6') solid masonry wall shall be provided to screen the residential lots from the arterial street. The landscaping shall be irrigated, installed on the street side of the wall and located to cover fifty (50) percent of the landscaped area when matured.

6.2 Residential Fencing. Fencing for all other residential lots shall be a minimum of six feet (6') and maximum of eight feet (8'), board-on-board, pre-stained spruce or better fence with steel posts mounted on the inside so as not to be visible from street. All lots adjacent to any greenbelt area, open space, or park shall require a standard height of five feet (5') ornamental metal fencing. Gates in residential fencing to public spaced shall be prohibited.

## **7.0 Right of Way and Streets**

7.1 Right-of-way shown on the southwest corner of the Concept Plan attached as Exhibit D shall be abandoned to the developer.

7.2 All streets within the development shall be a minimum of six (6) inches thick of concrete using 3600-psi reinforced concrete and shall be in accordance with the Town of Hickory Creek Subdivision Ordinance, as of the Amendment Effective Date

## **8.0 Tree Mitigation**

8.1 The Hickory Farms development shall not be subject to any tree mitigation requirements of the Town of Hickory Creek.

### **9.0 Homeowner's Association (HOA):**

- a) An HOA shall be established to maintain open space, landscaping and screening, and other commonly owned facilities.
- b) The Developer is responsible for drafting the HOA documents pertaining to the HOA's responsibilities to maintain these areas and include notification to homeowners within the Property.
- c) Prior to approval of a Final Plat, a document establishing the HOA shall be submitted to the Town for review and approved by the Town for conformance with all requirements and other applicable ordinances.

**Exhibit F**  
**HOME BUYER DISCLOSURE PROGRAM**

The Administrator (as defined in the Service and Assessment Plan) for the Hickory Farms Public Improvement District (the “PID”) shall facilitate notice to prospective homebuyers in accordance the following notices. Administrator shall monitor the enforcement of the following minimum requirements:

1. Record notice of the PID in the appropriate land records for the property.
2. Require builders to include notice of the PID in addendum to contract on brightly colored paper.
3. Collect a copy of the addendum signed by each buyer from builders and provide to the Town.
4. Require signage indicating that the property for sale is located in a special assessment district and require that such signage be located in conspicuous places in all model homes.
5. Prepare and provide to builders an overview of the PID for those builders to include in each sales packets.
6. Notify builders who estimate monthly ownership costs of the requirement that they must include special taxes in estimated property taxes.
7. Notify settlement companies through the builders that they are required to include special taxes on HUD 1 forms and include in total estimated taxes for the purpose of setting up tax escrows.
8. Include notice of the PID in the homeowner association documents in conspicuous bold font.
9. The Town will include announcements of the PID on the Town’s web site.
10. The disclosure program shall be monitored by the Developer and Administrator.



**Exhibit G**  
**LANDOWNER AGREEMENT**

## LANDOWNER AGREEMENT

This **LANDOWNER AGREEMENT** (the “Agreement”), is entered into as of \_\_\_\_\_, among the Town of Hickory Creek, Texas (the “Town”), a general law municipality of the State of Texas (the “State”), and \_\_\_\_\_, a Texas \_\_\_\_\_ (the “Landowner”).

### **RECITALS:**

**WHEREAS**, Landowner owns the Assessed Parcels described by a metes and bounds description attached as **Exhibit I** to this Agreement and which is incorporated herein for all purposes, comprising all of the non-exempt, privately-owned land described in **Exhibit I** (the “Landowner Parcel”) which is coterminous with the Hickory Farms Public Improvement District (the “District”) in the Town; and

**WHEREAS**, the Town Council has adopted an assessment ordinance for the Authorized Improvements (including all exhibits and attachments thereto, the “Assessment Ordinance”) and the Service and Assessment Plan included as an **Exhibit A** to the Assessment Ordinance (the “Service and Assessment Plan”) and which is incorporated herein for all purposes, and has levied an assessment on each Assessed Parcel in the District (as identified in the Service and Assessment Plan) that will be pledged for the payment of certain infrastructure improvements and to pay the costs of constructing the Authorized Improvements that will benefit the Assessed Property (as defined in the Service and Assessment Plan); and

**WHEREAS**, the Covenants, Conditions and Restrictions attached to this Agreement as **Exhibit II** and which are incorporated herein for all purposes, include the statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended (the “PID Act”), to the purchaser.

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the Town and the Landowner hereby contract, covenant and agree as follows:

### **DEFINITIONS; APPROVAL OF AGREEMENTS**

Definitions. Capitalized terms used but not defined herein (including each exhibit hereto) shall have the meanings ascribed to them in the Service and Assessment Plan.

Affirmation of Recitals. The findings set forth in the Recitals of this Agreement are hereby incorporated as the official findings of the Town Council.

### **I. AGREEMENTS OF LANDOWNER**

A. Affirmation and Acceptance of Agreements and Findings of Benefit. Landowner hereby ratifies, confirms, accepts, agrees to, and approves:

(i) the creation and boundaries of the District, and the boundaries of the Landowner's Parcel which are coterminous with the District, all as shown on **Exhibit I**, and the location and development of the Authorized Improvements on the Landowner Parcel and on the property within the District;

(ii) the determinations and findings as to the benefits by the Town Council in the Service and Assessment Plan and the Assessment Ordinance;

(iii) the Assessment Ordinance and the Service and Assessment Plan.

B. Acceptance and Approval of Assessments and Lien on Property. Landowner consents to, agrees to, acknowledges and accepts the following:

(i) each Assessment levied by the PID on the Landowner's Parcel within the District, as shown on the assessment roll attached as Appendix \_\_ to the Service and Assessment Plan (the "Assessment Roll");

(ii) the Authorized Improvements specially benefit the District, and the Landowner's Parcel, in an amount in excess of the Assessment levied on the Landowner's Parcel within the District, as such Assessment is shown on the Assessment Roll;

(iii) each Assessment is final, conclusive and binding upon Landowner and any subsequent owner of the Landowner's Parcel, regardless of whether such landowner may be required to prepay a portion of, or the entirety of, such Assessment upon the occurrence of a mandatory prepayment event as provided in the Service and Assessment Plan;

(iv) the obligation to pay the Assessment levied on the Landowner's Parcel owned by it when due and in the amount required by and stated in the Service and Assessment Plan and the Assessment Ordinance;

(v) each Assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Landowner's Parcel, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Landowner's Parcel regardless of whether such owner is named;

(vi) the Assessment lien on the Landowner's Parcel is a lien and covenant that runs with the land and is effective from the date of the Assessment Ordinance and continues until the Assessment is paid and may be enforced by the governing body of the Town in the same manner that an ad valorem tax lien against real property may be enforced by the Town;

(vii) delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) the owner of a Landowner's Parcel may pay at any time the entire Assessment, with interest that has accrued on the Assessment, on any parcel in the Landowner's Parcel;

(ix) the Annual Installments of the Assessments (as defined in the Service and Assessment Plan and Assessment Roll) may be adjusted, decreased and extended; and, the assessed parties shall be obligated to pay their respective revised amounts of the annual installments, when due, and without the necessity of further action, assessments or reassessments by the Town, the same as though they were expressly set forth herein; and

(x) Landowner has received, or hereby waives, all notices required to be provided to it under Texas law, including the PID Act, prior to the Effective Date (defined herein).

C. Mandatory Prepayment of Assessments. Landowner agrees and acknowledges that Landowner or subsequent landowners may have an obligation to prepay an Assessment upon the occurrence of a mandatory prepayment event, at the sole discretion of the Town and as provided in the Service and Assessment Plan, as amended or updated.

D. Notice of Assessments. Landowner further agrees as follows:

(i) the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be terms, conditions and provisions running with the Landowner's Parcel and shall be recorded (the contents of which shall be consistent with the Assessment Ordinance and the Service and Assessment Plan as reasonably determined by the Town), in the records of the County Clerk of Denton County, as a lien and encumbrance against such Landowner's Parcel, and Landowner hereby authorizes the Town to so record such documents against the Landowner's Parcel owned by Landowner;

(ii) reference to the Covenants, Conditions and Restrictions attached hereto as **Exhibit II** shall be included on all recordable subdivision plats and such plats shall be recorded in the real property records of Denton County, Texas;

(iii) in the event of any subdivision, sale, transfer or other conveyance by the Landowner of the right, title or interest of the Landowner in the Landowner's Parcel or any part thereof, the Landowner's Parcel, or any such part thereof, shall continue to be bound by all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions and any purchaser, transferee or other subsequent owner shall take such Landowner's Parcel subject to all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions; and

(iv) Landowner shall comply with, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the Town) any party who purchases any Landowner's Parcel owned by Landowner, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead" designations under State law, to comply with, the Homebuyer Education Program described on **Exhibit III** to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if, and when, (i) a final certificate of occupancy for a residential unit on such Lot is issued by the Town, and (ii) there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling residences to individual home buyers (a "Builder") but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder.

Notwithstanding the provisions of this Section, upon the Landowner's request and the Town's consent, in the Town's sole and absolute discretion, the Covenants, Conditions and Restrictions may be included with other written restrictions running with the land on property within the District, provided they contain all the material provisions and provide the same material notice to prospective property owners as does the document attached as **Exhibit II**.

## **II. OWNERSHIP AND CONSTRUCTION OF AUTHORIZED IMPROVEMENTS**

A. **Ownership and Transfer of Authorized Improvements.** Landowner acknowledges that all of the Authorized Improvements and the land (or easements, as applicable) needed therefor shall be owned by the Town as constructed and/or conveyed to the Town and Landowner will execute such conveyances and/or dedications of public rights of way and easements as may be reasonably required to evidence such ownership, as generally described on the current plats of the property within the District.

B. **Grant of Easement and License, Construction of Authorized Improvements.**

(i) Any subsequent owner of the Landowner's Parcel shall, upon the request of the Town or Developer, grant and convey to the Town or Developer and its contractors, materialmen and workmen a temporary license and/or easement, as appropriate, to construct the Authorized Improvements on the property within the District, to stage on the property within the District construction trailers, building materials and equipment to be used in connection with such construction of the Authorized Improvements and for passage and use over and across parts of the property within the District as shall be reasonably necessary during the construction of the Authorized Improvements. Any subsequent owner of the Landowner's Parcel may require that each contractor constructing the Authorized Improvements cause such owner of the Landowner's Parcel to be indemnified and/or

named as an additional insured under liability insurance reasonably acceptable to such owner of the Landowner's Parcel. The right to use and enjoy any easement and license provided above shall continue until the construction of the Authorized Improvements is complete; provided, however, any such license or easement shall automatically terminate upon the recording of the final plat for the Landowner's Parcel in the real property records of Denton County, Texas.

(ii) Landowner hereby agrees that any right or condition imposed by the Improvement Agreement, or other agreement, with respect to the Assessment has been satisfied, and that Landowner shall not have any rights or remedies against the Town under the Improvement Agreement, or under any law or principles of equity concerning the Assessments, with respect to the formation of the District, approval of the Service and Assessment Plan and the Town's levy and collection of the Assessments.

### **III. COVENANTS AND WARRANTIES; MISCELLANEOUS**

A. Special Covenants and Warranties of Landowner.

Landowner represents and warrants to the Town as follows:

(i) Landowner is duly organized, validly existing and, as applicable, in good standing under the laws of the state of its organization and has the full right, power and authority to enter into this Agreement, and to perform all the obligations required to be performed by Landowner hereunder.

(ii) This Agreement has been duly and validly executed and delivered by, and on behalf of, Landowner and, assuming the due authorization, execution and delivery thereof by and on behalf of the Town and the Landowner, constitutes a valid, binding and enforceable obligation of such party enforceable in accordance with its terms. This representation and warranty is qualified to the extent the enforceability of this Agreement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws of general application affecting the rights of creditors in general.

(iii) Neither the execution and delivery hereof, nor the taking of any actions contemplated hereby, will conflict with or result in a breach of any of the provisions of, or constitute a default, event of default or event creating a right of acceleration, termination or cancellation of any obligation under, any instrument, note, mortgage, contract, judgment, order, award, decree or other agreement or restriction to which Landowner is a party, or by which Landowner or Landowner's Parcel is otherwise bound.

(iv) Landowner is, subject to all matters of record in the Denton County, Texas Real Property Records, the sole owner of the Landowner's Parcel.

(v) The Landowner's Parcel owned by Landowner is not subject to, or encumbered by, any covenant, lien, encumbrance or agreement which would prohibit (i) the creation of the District, (ii) the levy of the Assessments, or (iii) the construction of the Authorized Improvements on those portions of the property within the District which are to be owned by the Town, as generally described on the current plats of the property within the District (or, if subject to any such prohibition, the approval or consent of all necessary parties thereto has been obtained).

(vi) Landowner covenants and agrees to execute any and all documents necessary, appropriate or incidental to the purposes of this Agreement, as long as such documents are consistent with this Agreement and do not create additional liability of any type to, or reduce the rights of, such Landowner by virtue of execution thereof.

B. Waiver of Claims Concerning Authorized Improvements. The Landowner, with full knowledge of the provisions, and the rights thereof pursuant to such provisions, of applicable law, waives any claims against the Town and its successors, assigns and agents, pertaining to the installation of the Authorized Improvements.

C. Notices.

Any notice or other communication to be given to the Town or Landowner under this Agreement shall be given by delivering the same in writing to:

To the Town:                   Town of Hickory Creek, Texas  
Attn: Town Administrator  
1075. Ronald Reagan Avenue  
Hickory Creek, Texas 75065

With a copy to:               Hayes, Berry, White & Vanzant, L.L.P.  
Attn: Lance Vanzant  
512 West Hickory, Suite 100  
Denton, Texas 76201

And a copy to:               McCall, Parkhurst & Horton L.L.P  
Attn: Jeff Gulbas  
5717 N. Harwood Street, Suite 900  
Dallas, Texas 75201

To the Developer:           \_\_\_\_\_  
Attn: Mehrdad Moayed  
1800 Valley View Lane, Suite 300  
Farmers Branch, Texas 75234  
1800 Valley View Lane, Suite 300  
Farmers Branch, Texas 75234

With a copy to: Miklos Cinclair, PLLC  
Attn: Robert Miklos  
1800 Valley View Lane, Suite 360  
Farmers Branch, Texas 75234

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the recipient as the address set forth herein.

Each recipient may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this provision shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for, or actually received by, the addressee.

D. Parties in Interest.

This Agreement is made solely for the benefit of the Town and the Landowner and is not assignable, except, in the case of Landowner, in connection with the sale or disposition of all or substantially all of the parcels which constitute the Landowner's Parcel. However, the parties expressly agree and acknowledge that the Town, the Landowner, each current owner of any parcel which constitutes the Landowner's Parcel, and the holders of or trustee for any bonds secured by PID Assessment revenues of the Town or any part thereof to finance the costs of the Authorized Improvements, are express beneficiaries of this Agreement and shall be entitled to pursue any and all remedies at law or in equity to enforce the obligations of the parties hereto. This Agreement shall be recorded in the real property records of Denton County, Texas.

E. Amendments.

This Agreement may be amended only by written instrument executed by the Town and the Landowner. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the property within the District and recorded in the Real Property Records of Denton County, Texas.

F. Effective Date.

This Agreement shall become and be effective (the "Effective Date") upon the date of final execution by the latter of the Town and the Landowner and shall be valid and enforceable on said date and thereafter.

G. Estoppels.



Within 10 days after written request from a party hereto, the other party shall provide a written certification, indicating whether this Agreement remains in effect as to the Landowner's Parcel, and whether any party is then in default hereunder.

H. Termination.

This Agreement shall terminate and be of no further force and effect as to the Landowner's Parcel upon payment in full of the Assessment(s) against such Landowner's Parcel.

[Signature pages to follow]

EXECUTED by the Town and Landowner on the respective dates stated below.

Date: \_\_\_\_\_

**TOWN OF HICKORY CREEK, TEXAS**

By: \_\_\_\_\_  
Mayor

[Signature Page Landowner Agreement]

**LANDOWNER**

**CENTURION ACQUISITIONS**

\_\_\_\_\_  
a Texas \_\_\_\_\_,

By: \_\_\_\_\_  
\_\_\_\_\_,  
its manager

**STATE OF TEXAS**       )  
                                  )  
**COUNTY OF** \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ in his capacity as Manager of \_\_\_\_\_, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Manager of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_

[Signature Page Landowner Agreement]

**LANDOWNER AGREEMENT - EXHIBIT I**

**METES AND BOUNDS DESCRIPTION OF LANDOWNER'S PARCEL**

## LANDOWNER AGREEMENT - EXHIBIT II

### DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (as it may be amended from time to time, this "Declaration") is made as of \_\_\_\_\_ by \_\_\_\_\_ a Texas \_\_\_\_\_ (the "Landowner").

#### RECITALS:

- A. The Landowner holds record title to that portion of the real property located in Denton County, Texas, which is described in the attached **Exhibit I** (the "Landowner's Parcel").
- B. The Town Council of the Town of Hickory Creek (the "Town Council") upon a petition requesting the establishment of a public improvement district covering the property within the District to be known as the Hickory Farms Public Improvement District (the "District") by the then current owners of 100% of the appraised value of the taxable real property and 100% of the area of all taxable real property within the area requested to be included in the District created such District, in accordance with the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act").
- C. The Town Council has adopted an assessment ordinance to levy assessments for certain public improvements (including all exhibits and attachments thereto, the "Assessment Ordinance") and the Service and Assessment Plan included as an exhibit to the Assessment Ordinance (as amended from time to time, the "Service and Assessment Plan"), and has levied the assessments (as amended from time to time, the "Assessments") on property in the District.
- D. The statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended, to the purchaser, is incorporated into these Covenants, Conditions and Restrictions.

#### DECLARATIONS:

NOW, THEREFORE, the Landowner hereby declares that the Landowner's Parcel is and shall be subject to, and hereby imposes on the Landowner's Parcel, the following covenants, conditions and restrictions:

##### 1. Acceptance and Approval of Assessments and Lien on Property:

- (a) Landowner accepts each Assessment levied on the Landowner's Parcel owned by such Landowner.
- (b) The Assessment (including any reassessment, the expense of collection, and reasonable attorney's fees, if incurred) is (a) a first and prior lien (the "Assessment Lien") against the property assessed, superior to all other liens or claims except for

liens or claims for state, county, school district or municipality ad valorem property taxes whether now or hereafter payable, and (b) a personal liability of and charge against the owners of the property to the extent of their ownership regardless of whether the owners are named. The Assessment Lien is effective from the date of the Assessment Ordinance until the Assessments are paid and may be enforced by the Town in the same manner as an ad valorem property tax levied against real property that may be enforced by the Town. The owner of any assessed property may pay, at any time, the entire Assessment levied against any such property. Foreclosure of an ad valorem property tax lien on property within the District will not extinguish the Assessment or any unpaid but not yet due annual installments of the Assessment, and will not accelerate the due date for any unpaid and not yet due annual installments of the Assessment.

It is the clear intention of all parties to these Declarations of Covenants, Conditions and Restrictions, that the Assessments, including any annual installments of the Assessments (as such annual installments may be adjusted, decreased or extended), are covenants that run with the Landowner's Parcel and specifically binds the Landowner, its successors and assigns.

In the event of delinquency in the payment of any annual installment of the Assessment, the Town is empowered to order institution of an action in district court to foreclose the related Assessment Lien, to enforce personal liability against the owner of the real property for the Assessment, or both. In such action the real property subject to the delinquent Assessment may be sold at judicial foreclosure sale for the amount of such delinquent property taxes and Assessment, plus penalties, interest and costs of collection.

**2. Landowner or any subsequent owner of the Landowner's Parcel waives:**

- (a) any and all defects, irregularities, illegalities or deficiencies in the proceedings establishing the District and levying and collecting the Assessments or the annual installments of the Assessments;
- (b) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the levy of Assessments by the Town Council concerning the Assessments;
- (c) any and all defects, irregularities, illegalities or deficiencies in, or in the adoption of, the Assessment Ordinance by the Town Council;
- (d) any and all actions and defenses against the adoption or amendment of the Service and Assessment Plan, the Town's finding of a 'special benefit' pursuant to the PID Act and the Service and Assessment Plan, and the levy of the Assessments; and
- (e) any right to object to the legality of any of the Assessments or the Service and Assessment Plan or to any of the previous proceedings connected therewith which occurred prior to, or upon, the Town Council's levy of the Assessments.

3. **Amendments:** This Declaration may be terminated or amended only by a document duly executed and acknowledged by the then-current owner(s) of the Landowner's Parcel and the Town. No such termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the parties by whom approval is required as set forth above and recorded in the real Property Records of Denton County, Texas.
4. **Third Party Beneficiary:** The Town is a third party beneficiary to this Declaration and may enforce the terms hereof.
5. **Notice to Subsequent Purchasers:** Upon the sale of a dwelling unit within the District, the purchaser of such property shall be provided a written notice that reads substantially similar to the following:

**TEXAS PROPERTY CODE SECTION 5.014**

**NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE TOWN OF HICKORY CREEK, DENTON COUNTY, TEXAS CONCERNING THE PROPERTY AT [Street Address]**

As the purchaser of this parcel of real property, you are obligated to pay an assessment to the Town of Hickory Creek, Texas, for improvement projects undertaken by a public improvement district under Chapter 372 of the Texas Local Government Code, as amended. The assessment may be due in periodic installments.

The amount of the assessment against your property may be paid in full at any time together with interest to the date of payment. If you do not pay the assessment in full, it will be due and payable in annual installments (including interest and collection costs). More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the Town of Hickory Creek, 1075. Ronald Reagan Avenue, Hickory Creek, Texas 75065

Your failure to pay the assessment or the annual installments could result in a lien and in the foreclosure of your property.

Signature of Purchaser(s) \_\_\_\_\_

Date: \_\_\_\_\_

The seller shall deliver this notice to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

EXECUTED by the undersigned on the date set forth below to be effective as of the date first above written.

**LANDOWNER**

\_\_\_\_\_  
a Texas \_\_\_\_\_,

By: \_\_\_\_\_  
\_\_\_\_\_,  
its manager

**STATE OF TEXAS**       )  
                                  )  
**COUNTY OF** \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ in his capacity as \_\_\_\_\_ of \_\_\_\_\_, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_



## **LANDOWNER AGREEMENT - EXHIBIT III**

### **HOMEBUYER EDUCATION PROGRAM**

As used in this **Exhibit III**, the recorded Notice of the Authorization and Establishment of the Hickory Farms Public Improvement District and the Covenants, Conditions and Restrictions in **Exhibit II** of this Agreement are referred to as the “Recorded Notices.”

1. Any Landowner who is a Builder shall attach the Recorded Notices and the final Assessment Roll for such Assessed Parcel (or if the Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30 year payment for such Assessed Parcel) as an addendum to any residential homebuyer’s contract.
2. Any Landowner who is a Builder shall provide evidence of compliance with 1 above, signed by such residential homebuyer, to the Town.
3. Any Landowner who is a Builder shall prominently display signage in its model homes, if any, substantially in the form of the Recorded Notices.
4. If prepared and provided by the Town, any Landowner who is a Builder shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.
5. Any Landowner who is a Builder shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.18

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute a professional services agreement by and between the Town of Hickory Creek, Texas and Centurion Acquisitions LLC.

**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-11**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND CENTURION ACQUISITIONS, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town Council has been presented with a proposed Professional Services Agreement related to cost recovery for administrative services provided by the Town and its consultants under Chapter 372 of the Texas Local Government Code, hereinafter the “Agreement”; and

**“WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29th day of May, 2018.

\_\_\_\_\_  
Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

## **PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (this "Agreement"), effective as of the 29<sup>th</sup> day of May, 2018, (the "Effective Date"), is made and entered into by and between The Town of Hickory Creek a Texas Type-A General Law municipality operating under sec. 5.001 of the Local Government Code and Centurion Acquisitions ("Owner"), related to the project Hickory Creek Farms, here in collectively referred to as ("Party" or "Parties").

**WHEREAS**, on May 29, 2018, the Town of Hickory Creek Town Council entered into an agreement with the Developer; and

**WHEREAS**, the Parties have determined that the financing of a portion of the costs of the Public Improvements necessary for the development of the Property, can be achieved by means of Chapter 372, Texas Local Government Code, as amended, entitled the Public Improvement District Assessment Act ("PID Act"); and

**WHEREAS**, the Owner desires to develop the Property and has made petition to the Town for a Public Improvement District (PID) under the PID Act; and

**WHEREAS**, the Parties hereto recognize that the Town will continue to incur expenses through the entire PID review process until final completion of the development including but not limited to: professional services, legal publications, notices, reproduction of materials, public hearing expenses, recording of documents, engineering fees, attorney fees, special consultant fees, and fees for administrative time of Town staff; and

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **PAYMENT FOR PROFESSIONAL SERVICES.** THE OWNER SHALL PAY TO THE TOWN TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$25,000.00) for professional services necessary to conduct the review and creation of the PID request within ten (10) days of receipt of invoice by the Town:

- (a) Town agrees to hold all Owner' s contributions in a separate fund maintained by the Town which may only be used for costs related to the PID.
- (b) The Town will keep accounting of all charges for Professional Services incurred for the PID and any unused contributions shall be returned to the Owner in the same proportion they were contributed.
- (c) Owner agrees that in the event the funds for professional services balance falls below TWO THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$2,500.00), then Owner shall remit an additional amount of not less THAN TEN THOUSAND DOLLARS AND NO CENTS (\$10,000.00)

- (d) In the event the balance for professional fees is exhausted, upon notice, Owner shall pay the balance owed in full within fifteen (15) days in addition to the remittance of the additional funds as provided above.
- (e) Failure of Owner to meet its obligations above may result in the suspension or revocation of any active development permits.

2. Termination. This Agreement shall terminate upon the completion of the PID as determined by the Town.

3. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated herein.

4. Amendment. This Agreement may only be amended, altered or revoked by written instrument approved by the Hickory Creek Town Council.

5. Successors and Assigns. Neither Town nor Owner may assign or transfer their interest in the Agreement without prior written consent of the other Party.

6. Notice. Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States Mail, Certified, with Return Receipt Requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing:

Town of Hickory Creek  
John Smith, Town Administrator  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065

Owner:

Name (printed): \_\_\_\_\_

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

7. Interpretation. Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against either party.

8. Applicable Law. This Agreement is made and shall be construed in accordance with the laws of the State of Texas and venue shall lie in Denton County, Texas.

9. Severability. In the event any portion or provision of this Agreement is illegal, invalid, or unenforceable under present or future law, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

10. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

**TOWN OF HICKORY CREEK, TEXAS**

By \_\_\_\_\_  
Lynn Clark, Mayor

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Attest:

\_\_\_\_\_  
Town Secretary, Kristi Rogers

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**APPROVED AS TO FORM**

\_\_\_\_\_  
Town Attorney, \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

**OWNER**

\_\_\_\_\_, Owner

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.19

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and P3Works, LLC for Hickory Creek Public Improvement District No. 3.



**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-12**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND P3WORKS, LLC FOR HICKORY CREEK PUBLIC IMPROVEMENT DISTRICT NO. 3, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town Council has been presented with a proposed Agreement related to Hickory Creek Public Improvement District No. 3, provided by P3Works, LLC, hereinafter the “Agreement”; and

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29th day of May, 2018.

\_\_\_\_\_  
Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

---

Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

## **AGREEMENT FOR PUBLIC IMPROVEMENT DISTRICT ADMINISTRATION SERVICES**

This Agreement for Public Improvement District Administration Services ("Agreement") is entered into this 29th day of May, 2018, by and between P3Works, LLC ("P3Works"), and the Town of Hickory Creek, Texas ("Town").

### **RECITALS**

WHEREAS, the Town may consider authorizing the creation of Hickory Farms Public Improvement District No. 3 ("PID No. 3" or "District") to finance the costs of certain public improvements for the benefit of property within the District; and

WHEREAS, the Town may consider issuing bonds to fund certain improvements in the PID as authorized by the Public Improvement District Assessment Act, Texas Local Government Code, Chapter 372, as amended; and

WHEREAS, the Town requires specialized services related to the revision and updating of the Service and Assessment Plan ("Service and Assessment Plan"), bond issuance, and the administration of the District, as more fully set forth in this Agreement; and

WHEREAS, P3Works has the expertise to properly establish and administer the District and ensure compliance with Texas Local Government Code Chapter 372; and

WHEREAS, the Town desires to retain P3Works to provide District administration services;

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for good and valuable consideration, P3Works and the Town agree as follows:

### **ARTICLE I**

#### **TERM OF AGREEMENT**

1.0 The Agreement shall be effective as of its approval by all parties, and shall be for a period of three (3) years and shall automatically continue on a year to year basis until terminated pursuant to Article V of this Agreement.

### **ARTICLE II**

#### **SERVICES TO BE PROVIDED BY P3WORKS**

2.0 The scope and timing of services to be performed by P3Works are set forth in Exhibit A, which is attached hereto and incorporated into this Agreement by this reference.

2.1 P3Works agrees that its services pursuant to this Agreement shall at all times be subject to the control and supervision of the Town and that nothing in this Agreement shall constitute an assignment of any right or obligation of the Town under any applicable contract, agreement, or law. P3Works shall not represent to any property owner or any other person that it or any of its employees are acting as the Town or employees of the Town.

2.2 No substantial changes in the scope of services shall be made without the prior written approval of P3Works and the Town.

2.3 P3Works shall supply all tools and means necessary to perform the services and production of the work product described in Exhibit A.

### **ARTICLE III**

#### **PAYMENT TERMS AND CONDITIONS**

3.0 In consideration for the services to be performed by P3Works, the Town agrees to pay P3Works the fees for all services and related costs and expenses set forth in Exhibit A, beginning the first day of the month following the execution of this Agreement. Beginning on February 1, 2019, and each February 1 thereafter, the fees shall increase by 2%.

3.1 Monthly invoices shall be submitted to the Town for work completed. Town agrees to pay the amount due to P3Works upon receipt of each invoice.

3.2 Copies of all invoices to P3Works for expenses, materials, or services provided to P3Works will accompany the invoice to the Town. P3Works will pass any third-party cost through to the Town without markup and will not incur any expense in excess of \$200 without written consent of the Town.

3.3 The only source of payment for P3Works' fees and services shall be the District or funds advanced by the developer. The Town general fund shall never be used to pay for any expenses relating to P3Works' administration of the District. In the event there is insufficient District funds in a given year to pay P3Works' fees and expenses, P3Works agrees to defer the fees and expenses until such time as there are sufficient District funds or funds advanced by the developer.

### **ARTICLE IV**

#### **TERMINATION OF THIS AGREEMENT**

4.0 Notwithstanding any other provisions of this Agreement, either party may terminate this Agreement at any time by giving sixty (60) days written notice to the other party without penalty and without limitation of its right to seek damages. Town shall pay P3Works, within 30 days of such termination, all of P3Works' fees and expenses actually accrued or incurred to and including the date of termination, including any amount incurred or accrued in connection with work in progress.

## ARTICLE V

### GENERAL PROVISIONS

5.0 This Agreement supersedes any and all agreements, including the Original PID Administration Agreement, either oral or written, between the parties hereto with respect to rendering of services by P3Works for the Town and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party of this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

5.1 This Agreement shall be administered and interpreted under the laws of the State of Texas. This Agreement shall not be construed for or against any party by reason of who drafted the provisions set forth herein. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall remain in full force and effect.

5.2 Neither this Agreement or any duties or obligations under this Agreement may be assigned by P3Works without the prior written consent of the Town.

5.3 The waiver by either party of a breach or violation of any provision of this Agreement will not operate as or be construed to be a waiver of any subsequent breach thereof.

5.4 All records, reports, and other documents prepared by P3Works for the purposes of providing the services described in this Agreement shall be property of the Town. All such documents shall be made available to the Town during the course of performance of this Agreement. Any reports, studies, photographs, negatives, or other documents or drawings prepared by P3Works in the performance of its obligations under this Agreement shall be the exclusive property of the Town and all such materials shall be remitted to the Town by P3Works upon completion, termination, or cancellation of this Agreement.

5.5 The Town acknowledges P3Works' ownership of its software, programs, inventions, know-how, trade secrets, confidential knowledge, source code, or other proprietary information relating to products, processes, services, software, formulas, developmental or experimental work, business plans, financial information, or other subject matter ("Confidential Information") pertaining to the business of P3Works. This Agreement shall not in any way give rise to any requirement or obligation for P3Works to disclose or release any Confidential Information.

5.6 The headings and article titles of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part hereof.

5.7 Should either party commence any legal action or proceeding against the other based upon this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees and costs.

5.8 All notices, requests, demands, and other communications which are required to be given under this agreement shall be in writing and shall be deemed to have been duly given upon the delivery by registered or certified mail, return receipt requested, postage prepaid thereon, as follows:

To P3Works:

Mary V. Petty  
Managing Partner  
P3Works, LLC  
350 Rufe Snow Drive  
Suite 200  
Keller, Texas 76248

To Town:

John Smith  
Town Administrator  
Town of Hickory Creek  
1075 Ronald Regan Avenue  
Hickory Creek, TX 75065

5.9 The parties hereby warrant that the persons executing this Agreement are authorized to execute this Agreement and are authorized to obligate the respective parties to perform this Agreement. A facsimile signature on this Agreement shall be treated for all purposes as an original signature.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2018:

P3Works, LLC

BY: \_\_\_\_\_  
Mary V. Petty  
Managing Partner

Town of Hickory Creek

BY: \_\_\_\_\_  
Lynn C. Clark, Mayor

**EXHIBIT A**  
**SERVICES TO BE PROVIDED**

**PID FORMATION, SERVICE AND ASSESSMENT PLAN PREPARATION, AND BOND ISSUANCE SUPPORT SERVICES**

*Billed at P3Works' prevailing hourly rates, which are currently as follows:*

<i><b>Title</b></i>	<i><b>Hourly Rate</b></i>
<i>Managing Partner</i>	<i>\$250</i>
<i>Vice President</i>	<i>\$185</i>
<i>Senior Associate</i>	<i>\$160</i>
<i>Associate</i>	<i>\$135</i>
<i>Administrative</i>	<i>\$75</i>

*\*P3Works' hourly rates may be adjusted from time to time to reflect increased costs of labor and/or adding/reclassifying titles. Travel will be billed at the hourly rates.*

**District Due Diligence and Preparation of PID Plan of Finance**

1. P3Works will review project information and prepare a plan of finance for the proposed transaction, including
2. Assessed value schedules, value to lien analysis, and overall structuring to achieve Town goals and objectives
3. Identify areas of risk and solutions to mitigate the risks,
4. Bond sizing and bond phasing by improvement area,
5. Sources and uses of funds by improvement area,
6. Debt service schedules, and;
7. Assessment allocation and associated estimated annual installment by lot type for each improvement area.

**Preparation of Service and Assessment Plan**

1. P3Works will prepare a complete and final Service and Assessment Plan to be adopted by Town Council and included in the Official Statement for the Bonds based on the Plan of Finance.
2. P3Works will present the Service and Assessment Plan to Town Council and request approval of Assessment Roll.

**Bond Issuance Support**

1. P3Works will ensure bond documents, including the PID financing agreement, bond indenture, and official statement are all consistent with the Service and Assessment Plan.
2. P3Works will provide ad-hoc analysis as requested by the underwriter in preparation of the preliminary official statement.

**Participation in Presentations to Town Council or other Public Forums**

1. P3Works will prepare and present information as requested to the Town Council or any other public forum.

## **BASIC DISTRICT ADMINISTRATION SERVICES**

*If no bonds are sold:*

*Monthly Fee = \$1,500 beginning the first of the month following execution of this Agreement for the first improvement area; and \$1,000 per month for each improvement area thereafter. (Proration will occur for any partial month if not begun on the 1<sup>st</sup> day of the month.)*

*If bonds are sold:*

*Monthly Fee amounts will be \$2,500 for the first improvement area beginning the first month following the issuance of bonds; and \$1,250 per month for each improvement area thereafter.*

*See Section below related to “Consulting Services Relating to Future Improvement Areas and related Bond Issuance” for hourly fees if bonds are contemplated.*

### Prepare Annual Service and Assessment Plan Update

1. If possible, obtain updated construction cost estimates (or actual costs for completed facilities) for District improvements, and update service and assessment plan text and tables.
2. Update service and assessment plan text and tables as necessary to account for any changes in development plan or land uses.
3. Update annual District assessment roll.
4. Identify parcel subdivisions, conveyance to owner’s associations, changes in land use, and any other information relevant to the levy of special assessments.
5. Review maps of tax parcels to compile/audit list of parcels that are within the District for the upcoming bond year. Classify each parcel pursuant to the approved service and assessment plan.
6. Identify and parcels dedicated to any property types classified as exempt by the service and assessment plan.
7. Update District database with newly subdivided parcels and property type classifications.
8. Calculate annual special assessment for each parcel. Verify the sum of annual installments for all parcels in the District is sufficient to meet the annual debt service requirement, administration expenses, and any provisions for delinquency or prepayment reserves.
9. Calculate other funds available, such as reserve fund income, capitalized interest, and interest income. Reduce annual assessment based on findings according to approved service and assessment plan.
10. Present preliminary annual assessment roll to Town. Upon approval by Town, submit final annual assessment roll to County Tax Collector.

### Administration of Bond Funds (if bonds are sold)

1. Review and reconcile the account statements for the funds maintained by the trustee. Ensure annual special assessment calculation is compliant with Indenture as it relates to each fund.
2. Provide annual summary of all District accounts maintained by Trustee at the time the annual service and assessment plan update is performed.

### Provide Public Information Request Support

1. If requested, P3Works will respond to any calls and or emails relating to the District. P3Works will only provide technical answers relating to the annual assessments or the District generally. P3Works will not provide any commentary on Town policy relating to PIDs.



2. If the Town receives a notice from a property owner alleging an error in the calculation of any matters related to the annual assessment roll for the District, P3Works will review and provide a written response to the Town. If a calculation error occurred, P3Works will take corrective action as required to correct the error.

#### Delinquency Management

1. After the end of the annual assessment installment collection period, P3Works will prepare a delinquent special assessment report, which details which parcels are delinquent and the amount of delinquency.
2. P3Works will advise the Town what action must be taken relating to delinquent parcels, if any, to remain in compliance with the District bond documents.

#### **DISTRICT ADMINISTRATION SETUP SERVICES (Required for any existing PID not created by P3Works.)**

*\$7,500 One Time Lump Sum Fee*

1. Prepare District Administration Manual
2. P3Works will review the full bond transcript and identify all requirements of the Town relating to District administration and/or disclosure requirements.
3. Prepare written summary of all Town administration and disclosure requirements.
4. Prepare calendar of all relevant dates and deadlines for District administration and disclosure requirements.
5. Meet with County Assessor's office to establish procedure for obtaining parcel information for assessment roll.
6. Meet with County Tax Office to establish procedure to include District assessment roll on property tax bill.
7. Meet with Town representatives to finalize policies and procedures relating to District Administration.

#### **ADDITIONAL DISTRICT ADMINISTRATION SERVICES**

*Billed at P3Works' prevailing hourly rates, which are currently as follows:*

<i><b>Title</b></i>	<i><b>Hourly Rate</b></i>
<i>Managing Partner</i>	<i>\$250</i>
<i>Vice President</i>	<i>\$185</i>
<i>Senior Associate</i>	<i>\$160</i>
<i>Associate</i>	<i>\$135</i>
<i>Administrative</i>	<i>\$75</i>

*\*P3Works' hourly rates may be adjusted from time to time to reflect increased costs of labor and/or adding/reclassifying titles. Travel will be billed at the hourly rates.*

#### Continuing Disclosure Services

1. P3Works will prepare the form of the annual report as required by the continuing disclosure agreements and work with the Town and the Developer to complete.

2. P3Works will request from developer the reports due pursuant to the developer disclosure agreement and disseminate these reports pursuant to the disclosure agreement.
3. Upon notification by any responsible party or if P3Works independently becomes aware of such knowledge, P3Works will prepare notices of material events covering the events enumerated in the disclosure agreements.
4. P3Works will coordinate with the Trustee to disseminate the annual reports, quarterly reports from the developer, and notice of significant events to the Municipal Securities Rulemaking Board (MSRB) and any other parties required in the continuing disclosure agreement.

#### Developer Payment Request Administration

1. P3Works will review all developer payment requests to ensure the request complies with the PID Financing Agreement, the District service and assessment plan, and any other relevant provisions contained in the District documents.
2. P3Works will audit the developer payment request to ensure there is proper backup documentation and that the accounting is accurate.
3. P3Works will coordinate with the Town's designated representative to ensure the improvements were built to the standards of the accepting governing body.
4. P3Works will ensure improvements to be dedicated are free and clear of all liens and encumbrances.

#### Consulting Services Relating to Future Improvement Areas and related Bond Issuance (to be paid from Developer funds advanced to Town)

1. P3Works will update the Service and Assessment Plan to comply with Bond documents.
2. P3Works will prepare an updated Assessment Roll including the future Improvement Area
3. P3Works will coordinate with Town's bond counsel, financial advisor, and the bond underwriter to ensure the Bonds and all related documents are in compliance with State Law.
4. P3Works will prepare any additional reports or analyses as needed to successfully issue the Bonds.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.20

Consider and act on an Interlocal Agreement by, between, and among Town of Hickory Creek, LCUMA and Harbor Grove Water Supply Corporation for fire protection service.

STATE OF TEXAS           §     INTERLOCAL AGREEMENT BY, BETWEEN, AND AMONG  
                                  §             TOWN OF HICKORY CREEK, LCMUA, AND HARBOR  
COUNTY OF           §             GROVE WATER SUPPLY CORPORATION FOR  
DENTON                                     FIRE PROTECTION SERVICE

This Interlocal Agreement for Fire Protection Service (“Agreement”) is made by and between the Town of Hickory Creek, Texas (“Town”), Lake Cities Municipal Utility Authority (“LCMUA”), and Harbor Grove Water Supply Corporation (“Harbor Grove WSC”), acting by and through their respective authorized officers.

### RECITALS

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, allows local governmental entities to contract with each other to perform governmental functions or services; and

WHEREAS, the Town, a general law municipality organized under the laws of the State of Texas, desires to improve its ISO rating for fire prevention and fire suppression capabilities for the benefit of its citizens; and

WHEREAS, LCMUA, a governmental entity created under Section 59, Art. XVI of the Texas Constitution, holds the certificate of convenience and necessity to provide water service in the territorial boundaries of the Town, with the exception of the Harbor Grove neighborhood which receives water service from the Harbor Grove WSC; and

WHEREAS, Harbor Grove WSC sources its water from a well system and, during drought periods, may not have sufficient water supply or adequate pressure to provide fire protection to the Harbor Grove neighborhood; and

WHEREAS, Town desires to improve the water supply resources for fire protection in the Harbor Grove neighborhood, and has proposed LCMUA provide water supply for fire protection purposes; and

WHEREAS, Harbor Grove WSC does not have any objection to LCMUA providing water supply for fire protection purposes within its CCN territory; and

WHEREAS, Town desires to partner with LCMUA to place the necessary water infrastructure and facilities for fire protection within certain rights-of-way in the Harbor Grove neighborhood; and

WHEREAS, LCMUA agrees to partner with Town by providing engineering services and labor for construction and installation of the infrastructure and facilities necessary to provide water supply for fire protection purposes to the Harbor Grove neighborhood, provided: (1) Town pay the actual cost for materials, including pipes and facility equipment; (2) Town causes and pays all the associated costs for repair or replacement of the right-of-way damaged or removed in connection with LCMUA’s installation of the necessary facilities to provide water supply for fire

protection services to the Harbor Grove neighborhood; and (3) Harbor Grove WSC acknowledges and agrees to LCMUA's placement of water facilities for fire protection services within the area covered by Harbor Grove WSC's CCN; and

WHEREAS, in light of budgetary constraints, the Town proposes providing water infrastructure for fire protection within the Harbor Grove neighborhood in phases, with the first two phases including fire protection infrastructure along the two rights of way depicted in Exhibits A and B to this Agreement; and

WHEREAS, the parties desire to enter into an Interlocal Agreement for the purposes of providing fire protection service to the Harbor Grove neighborhood, and intend for this Agreement to cover the proposed phases set forth in Exhibits A and B, as well as all future phases; and

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged on the terms and conditions hereinafter set forth, the parties agree as follows:

## ARTICLE I TERM

This Agreement shall be effective on the date of execution hereof by the Town, LCMUA, and Harbor Grove WSC, and shall continue until the parties have satisfied all of their respective obligations, unless sooner terminated as provided herein.

## ARTICLE II FIRE PROTECTION INFRASTRUCTURE AND FACILITIES

### 2.1 Right of Way and Permissions.

2.1.1 Town owns, manages and controls the right-of-way in the Harbor Grove neighborhood, and agrees that LCMUA may use the right-of-way to construct, install, maintain, and replace pipes, facilities, and other infrastructure necessary to provide fire protection services to the Harbor Grove neighborhood.

2.1.2 Harbor Grove WSC acknowledges and agrees that LCMUA may place and maintain water infrastructure and facilities for fire protection within the area covered by Harbor Grove WSC's Certificate of Convenience and Necessity ("CCN"). Harbor Grove WSC understands the Town and LCMUA may conduct the project to provide fire protection services to the Harbor Grove neighborhood in phases. Harbor Grove WSC intends that its permission and agreement to allow LCMUA to place water infrastructure and facilities for fire protection within the area covered by Harbor Grove WSC's CCN to cover all phases of the project.

## 2.2 Engineering and Procurement.

2.2.1 LCMUA agrees to design and engineer the water infrastructure and facilities for fire protection services in, under, and along the two rights-of-way identified in Exhibits A and B, respectively known as Phase 1 and Phase 2 of the Project. LCMUA shall obtain for the materials (including embedment and sand), pipes, fire hydrants, meters and other equipment necessary for completion of Phase 1 and Phase 2 of the project.

2.2.2 Town agrees for all phases of the project to pay the actual cost for the materials (including embedment and sand), pipes, fire hydrants, meters and other equipment (including temporary fencing and portable toilets) for the placement of infrastructure and facilities necessary to provide water supply for fire protection purposes (hereinafter referred to collectively as “Materials”). The Town anticipates that the water infrastructure and facilities for fire protection services by LCMUA will occur in phases, as funding becomes available and appropriated by Town Council.

2.2.2.1 For Phases 1 and 2 of the project, the parties estimate the cost for Materials is \$150,000; if the Materials for Phases 1 and 2 of the project exceed \$150,000, Town may elect to proceed with Phase 1 of the project, or appropriate the additional funds necessary to complete both Phases 1 and 2.

2.2.2.2 The parties contemplate that LCMUA will obtain the Materials and rental equipment necessary for the project. LCMUA will invoice Town for the cost of Materials, and Town agrees to pay the invoice within 30 days of receipt. Town must notify LCMUA within 10 days of receipt of the invoice should Town dispute any amount or charge on LCMUA’s invoice; in the event the dispute cannot be resolved by the payment due date, Town agrees to timely pay all undisputed amounts.

2.2.3 Town agrees at its own cost and expense to procure the materials and perform any necessary repairs or replacement of the right-of-way in Harbor Grove following installation and construction of the water infrastructure and facilities for fire protection services by LCMUA.

## 2.3 Construction.

2.3.1 LCMUA agrees to provide the labor and to use its equipment for installation and construction of the water infrastructure and facilities for Phases 1 and 2 of the project for fire protection services. LCMUA will install and construct the water infrastructure and facilities in accordance with LCMUA’s engineer’s designs and plans. The parties contemplate that LCMUA will complete installation and construction of the phase(s) of the project for which the Town has appropriated materials within one (1) year.

2.3.2 Town understands and agrees that LCMUA will install and construct the water infrastructure and facilities, but is not responsible for any repair or replacement of the right-of-way. Town agrees at its own expense and cost to provide for repair and/or replacement of the right-of-way following LCMUA’s installation and construction of the water infrastructure and facilities for fire protection services in Harbor Grove.

2.3.3 Harbor Grove WSC agrees to grant LCMUA and Town a temporary construction easement (materials storage) as set forth in both Exhibits A and B. This easement shall permit LCMUA, Town, and its employees and contractors access and use of the property identified in both Exhibits A and B (materials storage) for storage of materials during the period of installation and construction of the water infrastructure and facilities for fire protection services, as well as for right-of-way repair and/or replacement. Harbor Grove WSC agrees that the parties may place security fencing temporarily over and on the construction easement.

## 2.4 Maintenance.

2.4.1 After completion of the installation and construction, LCMUA shall maintain the water infrastructure and facilities for fire protection services in the Harbor Grove neighborhood.

2.4.2 Town shall continue to be responsible for the maintenance of the right-of-way in the Harbor Grove neighborhood.

## ARTICLE III TERMINATION

3.1 Termination Events. This Agreement shall terminate upon any one of the following:

- (a) by written agreement of all the parties;
- (b) by either Town or LCMUA in the event the other party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof; or
- (c) by any of the parties, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

3.2 In the event of an early termination, Town shall nevertheless be responsible for payment of the costs incurred by LCMUA for the materials, pipes, facility equipment, and any rental equipment necessary for the construction and installation of the necessary fire protection water facilities up to the date of termination.

3.3 Harbor Grove WSC agrees that its consent and acceptance of LCMUA water infrastructure and facilities for fire protection services within Harbor Grove WSC's CCN shall survive the termination of this Agreement.

ARTICLE IV  
MISCELLANEOUS

4.1 Successors and Assigns. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement may not be assigned without the express written consent of the parties hereto.

4.2 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage pre-paid, certified mail, return receipt requested, addressed to the party at the address set forth with the signature of the party.

4.3 Entire Agreement. This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

4.5 Governing Law. The Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Denton County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

4.6 Amendment. This Agreement may only be amended by the mutual written agreement of the parties.

4.7 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

4.8 Each party warrants and agrees that the person signing on behalf of the party is an authorized representative with full authority to bind the party to the terms and conditions of this Agreement, and has the necessary authority to execute this Agreement on behalf of the undersigned party.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2018.



LAKE CITIES MUNICIPAL UTILITY AUTHORITY

By: MAF  
Mike Fairfield, General Manager

TOWN OF HICKORY CREEK, TEXAS

By: \_\_\_\_\_  
Lynn Clark, Mayor

Attest: \_\_\_\_\_  
Kristi K. Rogers, City Secretary

HARBOR GROVE WATER SUPPLY CORPORATION

By: \_\_\_\_\_  
Rick Fengler, President

**EXHIBIT A**  
Harbor Grove Neighborhood  
Fire Protection Plan  
Phase 1



**EXHIBIT B**  
Harbor Grove Neighborhood  
Fire Protection Plan  
Phase 2





- NOTES:**
1. NO CONNECTION(S) BETWEEN LCMUA 12" WATERLINE AND EXISTING HARBOR GROVE WATER SYSTEM 4" WATERLINE.
  2. ANY SERVICE LINES DAMAGED BY CONSTRUCTION TO BE REPLACED BY LCMUA IN ACCORDANCE WITH ATTACHED HARBOR GROVE WATER SERVICE DETAIL(S)
  3. MINIMUM 48-HOUR NOTIFICATION TO HARBOR GROVE WATER SYSTEM PRIOR TO MOBILIZATION OR STORAGE OF MATERIALS AS SHOWN.

- LEGEND**
- HARBOR GROVE WATER SYSTEM WATERLINE
  - 12" LCMUA WATERLINE PROPOSED
  - T EX. HARBOR GROVE WS METER
  - T EX. HARBOR GROVE WS VALVES
  - T PROPOSED LCMUA VALVES
  - HF PROPOSED LCMUA FIRE HYDRANT

Harbor Grove 12" WL Part A	
Description	Quantity
12" PVC Pipe	1,257 LF
12" Connection	2 ea
12" Gate Valve	7 ea
12" Valve box and cover	4 ea
Fire Hydrant	2 ea
6" PVC pipe (FH)	40 LF
6" Gate Valve (FH)	2 ea
6" Adjustable Valve Box (FH)	2 ea
6" 90 deg Bend (FH)	2 ea
12"x6" Tee (FH)	2 ea
12"x12" Tee	2 ea
12" Plug	2 ea
Finder Wire	1,433 LF
bedding sand	240 cy
Comp. Thrust Bkls (Tee, 45 deg Bend, Plug)	1.5 cy
Pavement Repair	453 SY
Flexbase	151 CY
6' Chainlink Fence Rental	700 LF



**!! CAUTION !!**  
UNDERGROUND UTILITIES  
EXIST IN THIS AREA  
CONTACT 1-800-DIGTESS

REVISIONS	DATE

**Belchiff & Associates, Inc.**  
Municipal Engineering and Program Management  
Phone: 817.482.2776  
Fax: 817.482.2776  
10000 Hwy 111, Suite 1000  
Dallas, TX 75243

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**LAKE CITIES MUNICIPAL  
UTILITY AUTHORITY  
HARBOR GROVE 12" WL  
CONCEPT A**

DATE: 14 Feb 2018  
SCALE: 1"=100'  
PROJECT:  
DRAWN BY: HK  
APPROV. BY: MJA



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.21

Consider and act on an ordinance of the Town Council of Hickory Creek, Texas, amending the Town's Code of Ordinances, Chapter 12: Traffic and Vehicles; Article 12.02 Speed, by adding a new section 12.02.008; Designating a School Zone and providing for speed limits during school hours in the 1000 block of Ronald Reagan Avenue and the 800 block of Point Vista.

**TOWN OF HICKORY CREEK  
ORDINANCE NUMBER 2018-05-795**

**AN ORDINANCE OF THE TOWN COUNCIL OF HICKORY CREEK, TEXAS, AMENDING THE TOWN'S CODE OF ORDINANCES, CHAPTER 12: TRAFFIC AND VEHICLES; ARTICLE 12.02 SPEED, BY ADDING A NEW SECTION 12.02.008; DESIGNATING A SCHOOL ZONE AND PROVIDING FOR SPEED LIMITS DURING SCHOOL HOURS IN THE 1000 BLOCK OF RONALD REAGAN AND THE 800 BLOCK OF POINT VISTA; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

**WHEREAS**, the Town has jurisdiction over the enforcement of traffic laws and regulations within its corporate limits;

**WHEREAS**, the Town is empowered to alter prima facie speed limits on certain public roadways within its corporate limits pursuant to Section 545.356 of the Texas Transportation Code;

**WHEREAS**, the Town is charged with the responsibility to regulate the safe travel of vehicles on all streets, highways and roadways within the Town limits to protect the health and safety of the citizens and other persons using such streets, highways and roadways;

**WHEREAS**, the Police Chief of the Town of Hickory Creek has determined that traffic safety on the affected streets will be enhanced by the adoption of this Ordinance; and

**WHEREAS**, the Town Council does hereby determine that it is in the best interest and safety of the citizens to direct the duly authorized personnel of the Town to post school zone signs and lights at certain locations within the Town in accordance with the provisions of the Texas Department of Transportation's Manual on Uniform Traffic Control Devices.

**WHEREAS**, the Town Council deems it necessary for the safe, orderly, and healthful development of the Town and in the best interest of the Town of Hickory Creek, Texas.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS:**

**SECTION 1  
INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

## **SECTION 2**

### **FINDINGS**

After due deliberations the Town Council has concluded that the adoption of this Ordinance is in the best interests of the Town of Hickory Creek, Texas, and of the public health, safety and welfare.

## **SECTION 3**

### **AMENDMENT**

3.01 That the Code of Ordinances of the Town of Hickory Creek, Texas, Chapter 12: Traffic and Vehicles, Article 12.02 Speed, is hereby amended by adding a new section 12.02.008 entitled School zones, which shall read as follows:

#### **“Sec. 12.02.008 School Zones”**

(a) The following areas, streets or portions thereof shall be designated special speed zones and it shall be unlawful for any person to drive any vehicle thereon at a speed greater than twenty (20) miles per hour during the designated times.

(1) The 1000 block of Ronald Reagan, between the hours of 7:30 a.m. and 8:30 a.m. and between the hours of 2:30 p.m. and 4:00 p.m. on school days.

(2) The 800 block of Point Vista, between the hours of 7:30 a.m. and 8:30 a.m. and between the hours of 2:30 p.m. and 4:00 p.m. on school days.

(b) Speed limit signs, school zone signs and lights in conformity with the manual and specifications for uniform traffic control devices as adopted by the Texas Department of Transportation shall be and hereby are directed to be erected at the appropriate locations as determined by the Chief of Police.”

3.02 All other articles, chapters, sections, subsections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

## **SECTION 4**

### **CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.



**SECTION 5**  
**SAVINGS CLAUSE**

All rights and remedies of the Town of Hickory Creek, Texas are expressly saved as to any all violations of the provisions the Town's Code of Ordinances or of any other ordinance affecting speed limits, which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

**SECTION 6**  
**SEVERABILITY**

The provisions of this Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the Town shall promptly promulgate new revised provisions in compliance with the authority's decision or enactment.

**SECTION 7**  
**ENGROSSMENT AND ENROLLMENT**

The Town Secretary is hereby directed to engross and enroll this Ordinance by copying the exact Caption and Effective Date clause in the minutes of the Town Council and by filing this Ordinance in the Ordinance records of the Town.

**SECTION 8**  
**EFFECTIVE DATE**

This Ordinance shall become effective from and after its date of passage in accordance with law.

**AND IT IS SO ORDAINED**

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas, this 29th day of May 29, 2018.

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Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi K. Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.22

Consider and act on a request from the City of Lake Dallas to increase Hickory Creek's contribution for the Lake Cities 4th of July Celebration.



212 Main Street · Lake Dallas, Texas 75065 · (940) 497-2226 · (940) 497-4485 Fax  
[www.lakedallas.com](http://www.lakedallas.com) · [lakedallas@lakedallas.com](mailto:lakedallas@lakedallas.com)

April 30, 2018

John Smith  
Town of Hickory Creek  
1075 Ronald Regan Avenue  
Hickory Creek, TX 75065

John,

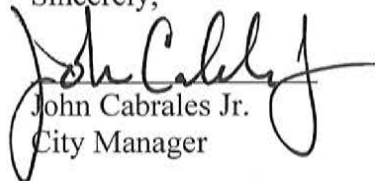
The planning has begun again for the Lake Cities 4<sup>th</sup> of July Celebration. This year we are on track for an even bigger and better celebration and are anticipating record crowds. This is a Lake Cities event and City of Lake Dallas is asking for the Town of Hickory Creek's support again in 2018. It is only through the contributions of the Lake Cities, and business sponsors, that we are able to host such an event and fireworks show so I thank you very much!

I would like for you to consider increasing your support this year to \$7,000. For the last five years, the Town of Hickory Creek has contributed \$4,000 towards the event. You have also helped keep our public safety overtime cost down by allowing some of your police officers to help with the event. The celebration has continued to grow, and entertainment and equipment rentals costs have continued to increase each year. In fact, our event budget has gone from \$46,233 for 2017 to an estimated \$48,652 for 2018. This does not take into account the in-kind costs to the City of Lake Dallas for personnel, including non-public safety staff members who are required to plan and work the event. We also raised \$4,750 in sponsorships last year and are on track to raise \$6,000 from sponsors this year.

2017 Celebration Expenses:	\$46,233	2018 Celebration Expenses (estimate):	\$48,652
City of Lake Dallas:	\$27,291	City of Lake Dallas (estimate):	\$28,460
Town of Hickory Creek:	\$ 4,000	Town of Hickory Creek:	\$ 7,000
Sponsors:	\$ 4,750	Sponsors (estimate):	\$ 6,000

As you can see, your town's help is greatly needed. Together, we can continue to make the Lake Cities 4<sup>th</sup> of July Celebration something special for all of our residents, and others from around the Metroplex who come to see what the Lake Cities are all about! Thanks again for your support this year.

Sincerely,

  
John Cabrales Jr.  
City Manager



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.23

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an agreement by and between the Town of Hickory Creek, Texas and Lexipol.

**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-13**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AGREEMENT BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND LEXIPOL, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town Council has been presented with a proposed Agreement related to law enforcement resource materials provided by Lexipol, hereinafter the “Agreement”; and

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29th day of May, 2018.

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Lynn C. Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas



## AGREEMENT FOR USE OF SUBSCRIPTION MATERIAL

**Agency's Name:** Hickory Creek Police Department  
**Agency's Address:** Town of Hickory Creek  
1075 Ronald Reagan Avenue  
Hickory Creek, TX 75065-0453  
**Attention:** Chief Carey Dunn

**Lexipol's Address:** 16755 Von Karman Avenue, Suite 250  
Irvine CA 92606-4918  
**Attention:** Brenda Jackson

**Effective Date:** \_\_\_\_\_  
*(to be completed by Lexipol upon receipt of signed Agreement)*

The Agreement for Use of Subscription Material is between Lexipol, LLC, a Delaware limited liability company ("**Lexipol**"), and the Agency identified above. The Agreement consists of (a) this cover sheet; (b) **Exhibit A** (Subscriptions Being Purchased and Subscription Fees) attached to this cover sheet (consisting of 1 page), and (c) **Exhibit B** (General Terms and Conditions) attached to this cover sheet (consisting of 5 pages). Capitalized terms that are used in Exhibit A and not defined therein shall have the respective meanings given to them in Exhibit B.

### AGENCY

Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

### LEXIPOL, LLC

Signature: \_\_\_\_\_  
Print Name: Van Holland  
Title: Chief Financial Officer  
Date Signed: \_\_\_\_\_



**EXHIBIT A**

**SUBSCRIPTIONS BEING PURCHASED AND SUBSCRIPTION FEES**

Agency is purchasing the following:

PRODUCT	TERM	PRICE
<b>Annual Subscription</b>		
Law Enforcement Policy Manual & Daily Training Bulletins	Annual	\$5,368
Supplemental Manual(s) - Law Enforcement Trial	One Year Free	\$0
<b>Subtotal Annual Recurring Subscription</b>		<b>\$5,368</b>
<b>Prorated Subscription June, July, Aug, Sept</b>	4 Months	<b>\$1,779</b>
<b>Invoiced at Execution</b>		<b>\$1,779</b>
<b>Total Amount to be Invoiced Starting October 1, 2018</b>	Year One	<b>\$5,368</b>

Sworn 10

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Pricing is based on

☐ Law Enforcement - No. of Authorized Sworn Officers \_\_10\_\_

## EXHIBIT B

### GENERAL TERMS AND CONDITIONS

1. **Definitions.** For purposes of this Agreement, each of the following terms will have the meaning indicated in this Section:

1.1 **Agency's Account.** "**Agency's Account**" means the account by which Agency accesses the Subscription Materials.

1.2 **Agreement.** "**Agreement**" means (a) the cover sheet to which these General Terms and Conditions are attached, (b) Exhibit A (Subscriptions Being Purchased and Subscription Fees) attached to that cover sheet, and (c) these General Terms and Conditions.

1.3 **Initial Term/Contract Year.** "**Initial Term**" means the twelve-month period commencing on the Effective Date and "**Contract Year**" means each twelve-month period commencing on each anniversary of the Effective Date, except as may otherwise be modified by Section 2.1 Term below.

1.4 **Derivative Work.** "**Derivative Work**" means a work that is based on the Subscription Material or any portion thereof, such as a revision, modification, abridgement, condensation, expansion, or any other form in which the Subscription Material or any portion thereof may be recast, transformed, or adapted. For purposes of this Agreement, a Derivative Work also includes any compilation that incorporates any portion of the Subscription Material. Further, "**Derivative Work**" includes any work considered a "derivative work" under United States copyright law.

1.5 **Effective Date.** "**Effective Date**" means the date specified on the cover sheet to which these General Terms and Conditions are attached.

1.6 **Subscription Materials.** "**Subscription Materials**" means the policy manuals, supplemental policy publications, daily training bulletins and other materials provided by Lexipol to Agency from time to time during the term of this Agreement under the subscriptions purchased by Agency as specified in Exhibit A.

## 2. **Term and Termination.**

2.1 **Term.** This Agreement is effective upon the execution and delivery of this Agreement by both Lexipol and Agency, and shall continue in effect until the expiration of the Initial Term; provided, however, that the term of this Agreement will automatically be extended for successive one-year periods thereafter (each a Contract Year), unless either party gives written notice to the other party to the contrary not less than thirty (30) days prior to the expiration of the Initial Term or the then current Contract Year, as the case may be. Notwithstanding the foregoing, however, this Agreement will be subject to termination as provided in Section 2.2 below.

2.2 **Termination.** This Agreement may be terminated by either party, effective immediately, (a) in the event that the other party fails to discharge any obligation or remedy any default under this Agreement for a period of more than thirty (30) calendar days after it has been given written notice of such failure or default; or (b) in the event that the other party makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to the bankruptcy laws of any applicable jurisdiction.

2.3 **Effect of Expiration or Termination.** Upon the expiration or termination of this Agreement, all of the rights granted to Agency by this Agreement to the subscriptions identified on Exhibit

A shall automatically terminate. The termination or expiration of this Agreement shall not, however, relieve either party from any obligation or liability that has accrued under this Agreement prior to the date of such termination or expiration. The right to terminate this Agreement pursuant to Section 2.2 above shall be in addition to, and not in lieu of, any other remedy, legal or equitable, to which the terminating party shall be entitled at law or in equity. The provisions of Sections 1 (Definitions), 4 (Copyright; Derivative Works; Lexipol's Ownership), 5 (Right to Use; Limitations on Use of Subscription Material and Derivative Works), 7 (Privacy Policy), 8 (Policy Adoption), 9 (Disclaimer of Liability), 10 (Limitation of Liability), 13 (Miscellaneous), and this Section 2.3 shall survive the expiration or termination of this Agreement for any reason whatsoever.

### **3. Subscription Fees, Etc.**

**3.1 Subscription Fee/Invoicing.** Lexipol will invoice Agency at the commencement of the Subscription Service (Initial Term) and thirty (30) days prior to the date for each Contract Year (refer to 2.1 above). Agency will pay to Lexipol the subscription fee specified on Exhibit A within thirty (30) days following Agency's receipt of the invoice for such subscription and renewal fees. All invoices will be sent to Agency at the address for Agency specified on the cover sheet to which these General Terms and Conditions are attached. All payments will be made to Lexipol at the address for Lexipol specified on the cover sheet to which these General Terms and Conditions are attached. Lexipol reserves the right to increase pricing for subsequent Contract Years.

**3.2 Taxes; Past Due Amounts.** All amounts required to be paid under this Agreement, unless otherwise stated on Exhibit A, are exclusive of all taxes and similar fees now in force or enacted in the future imposed on the subscriptions purchased by Agency under this Agreement and/or delivery by Lexipol to Agency of Subscription Material, all of which Agency will be responsible for and will pay in full, except for taxes based on Lexipol's net income. In the event any amount owed by Agency is not paid when due, and such failure is not cured within ten (10) days after written notice thereof from Lexipol, then in addition to any other amount due, Agency shall pay a late payment charge on the overdue amount at a rate equal to the lower of (a) one percent (1%) per month, or (b) the highest rate permitted by applicable law.

**4. Copyright; Derivative Works; Lexipol's Ownership.** Agency acknowledges and agrees that the Subscription Material is a proprietary product of Lexipol, protected under U.S. copyright law, and that Lexipol reserves all rights not expressly granted in this Agreement. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants Agency the right to prepare Derivative Works, except as limited by the terms of this agreement; provided, however, that Agency acknowledges and agrees that Lexipol will be the sole owner of all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto, and Agency hereby assigns and transfers to Lexipol all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto. Agency will not remove from any copies of the Subscription Material provided by Lexipol to Agency any copyright notice or other proprietary notice of Lexipol appearing thereon, and shall include such copyright and other notices at the appropriate place on each copy of the Subscription Material and each copy of any Derivative Work made by or for Agency, in any form.

### **5. Right to Use; Limitations on Use of Subscription Material and Derivative Works.**

Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants to Agency a perpetual, personal, fully paid-up, right to use, except as limited by the terms of this agreement the Subscription Material and any Derivative Works prepared by or for Agency, solely for the Agency's internal purposes. Agency will not use, copy, republish, lend, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means or medium, electronic or mechanical, or by any information storage and retrieval system, any Subscription Material or any Derivative Work prepared by or for Agency other than as expressly authorized by the immediately preceding sentence. Without limiting

the generality of the foregoing, Agency will not import, upload, or otherwise make available any Subscription Material or any Derivative Work prepared by or for Agency into or onto any third party knowledge, document, or other content management system or service without Lexipol's prior written consent. The foregoing does not, however, prohibit or restrict Agency from providing Subscription Material or Derivative Works prepared by or for Agency pursuant to an order from a court or other governmental agency or other legal process, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, nor does it prohibit or restrict Agency from displaying the adopted/approved final policy document on a publicly accessible website for official Agency purposes, so long as Agency includes the appropriate copyright and other proprietary notices on such final policy document as required by Section 4 above.

**6. Account Security.** Agency is solely responsible for maintaining the confidentiality of Agency's user name(s) and password(s) and the security of Agency's Account. Agency will not permit access to Agency's Account, or use of Agency's user name(s) and/or password(s) by any person or entity other than authorized Agency personnel. Agency will immediately notify Lexipol in writing if Agency becomes aware that any person or entity other than authorized Agency personnel has used Agency's Account or Agency's user name(s) and/or password(s).

**7. Privacy Policy.** Lexipol will hold all information Agency provides in confidence unless required to provide information in accordance with an order from a court or other governmental agency or other legal process such as a Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request. Lexipol will use commercially reasonable efforts to ensure the security of information provided by Agency. Lexipol's system also uses Secure Socket Layer (SSL) Protocol for browsers supported by Lexipol application(s). SSL encrypts information as it travels between the Agency and Lexipol. However, Agency acknowledges and agrees that Internet data transmission is not always 100% secure and Lexipol does not warrant or guaranty that information Agency transmits utilizing the Lexipol system or online platform is 100% secure.

Agency acknowledges that Lexipol may provide view-only access and summary information (including but not limited to, status of number of policies developed or in development, percentage of staff reviews of developed policies, and percentage of DTBs taken) to the Agency's affiliated Risk Management Authority, Insurance Pool or Group, or Sponsoring Association, if they are actively funding their member Agencies' Subscription Fees.

**8. Policy Adoption.** Agency hereby acknowledges and agrees that any and all policies and Daily Training Bulletins (DTBs) included in the Subscription Material provided by Lexipol have been individually reviewed, customized and adopted by Agency for use by Agency. Agency further acknowledges and agrees that neither Lexipol nor any of its agents, employees or representatives shall be considered "policy makers" in any legal or other sense and that the chief executive of Agency will, for all purposes, be considered the "policy maker" with regard to each and every such policy and DTB.

**9. Disclaimer of Liability.** Agency acknowledges and agrees that Lexipol its officers, agents, managers, and employees will have no liability to Agency or any other person or entity arising from or related to the Subscription Materials, or any act or omission by Agency or its personnel pursuant to, or in reliance on, any of the Subscription Materials.

**10. Limitation of Liability.** Lexipol's cumulative liability to Agency and any other person or entity for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement or the use of any Subscription Materials shall not exceed the subscription fees actually paid to Lexipol for the use of the Subscription Materials under this Agreement during the twelve-month period immediately prior to the assertion of such claim, demand or action. In no event shall Lexipol be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits, even if Lexipol has been advised of the possibility of such damages. The limitations set forth in this Section shall apply

whether Agency's claim is based on breach of contract, tort, strict liability, product liability or any other theory or cause of action.

**11. Non-Transferability.** The subscriptions and rights to use the Subscription Material granted by this Agreement are personal to Agency and Agency shall not assign or otherwise transfer the same to any other person or entity.

**12. Confidentiality.** From time to time during the term of this Agreement, a party may be required to disclose information to the other party that is marked "confidential" or the like, or that is of such a type that the confidentiality thereof is reasonably apparent ("Confidential Information"). The receiving party will: (a) limit disclosure of any Confidential Information of the other party to the receiving party's directors, officers, employees, agents and other representatives (collectively "Representatives") who have a need to know such Confidential Information in connection with the business relationship between the parties to which this Agreement relates, and only for that purpose; (b) advise its Representatives of the confidential nature of the Confidential Information and of the obligations set forth in this Agreement and require such Representatives to keep the Confidential Information confidential and to use it only as permitted by this Agreement; (c) keep all Confidential Information confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information received by it to any third party (except as otherwise provided for herein). Notwithstanding the foregoing, however, a party may disclose Confidential Information of the other party pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, or similar method, provided that the party proposing to make any such disclosure will promptly notify, to the extent practicable, the other party in writing of such demand for disclosure so that the other party may, at its sole expense, seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Each party shall be responsible for any breach of this Section by any of such party's Representatives.

### **Miscellaneous.**

**13.1 Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.

**13.2 Entire Agreement.** This Agreement embodies the entire agreement and understanding of the parties hereto and hereby expressly supersedes any and all prior written and oral agreements and understandings with respect to the subject matter hereof, including without limitation any and all agreements and understandings pertaining to the use of the Subscription Materials by Agency. No representation, promise, inducement, or statement of intention has been made by any party hereto that is not embodied in this Agreement. Terms and conditions set forth in any purchase order, or any other form or document of Agency, which are inconsistent with, or in addition to, the terms and conditions set forth in this Agreement, are hereby objected to and rejected in their entirety, regardless of when received, without further action or notification by Lexipol, and shall not be considered binding on Lexipol unless specifically agreed to in writing by it.

**13.3 Headings.** The captions and other headings contained in this Agreement are for convenience only and shall not be considered a part of or affect the construction and interpretation of any provision of this Agreement.

**13.4 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

**13.5 Amendment.** No amendment, modification, or supplement to this Agreement shall be binding unless it is in writing and signed by the party sought to be bound thereby.

**13.6 Attorneys' Fees.** If any action is brought by either party to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorneys' fees and expenses of litigation.

**13.7 General Interpretation.** The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person or entity.

**13.8 Notices.** Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given by personal delivery, by certified mail, postage prepaid, or by recognized overnight delivery service to the appropriate party at the address of such party stated on the cover sheet to which these General Terms and Conditions are attached, or such other address as such party may indicate by a notice delivered to the other party in accordance with the terms of this Section. Alternatively, electronic mail or facsimile notice is acceptable when acknowledged by the receiving party.

**13.9 Invalidity of Provisions.** Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Further, if a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable, then the parties agree that the court should endeavor to give effect to the parties' intention as reflected in such provision to the maximum extent possible.

**13.10 Waiver.** Lexipol's failure to exercise, or delay in exercising, any right or remedy under any provision of this Agreement shall not constitute a waiver of such right or remedy.

End of General Terms and Conditions



Custom Proposal for

# Town of Hickory Creek Police Department

Expires on: June 30, 2018

Prepared By Brenda Jackson  
Phone (210) 610-5085  
Email [bjackson@lexipol.com](mailto:bjackson@lexipol.com)

Contact Name Carey Dunn  
Account Name Town of Hickory Creek Police Department  
Phone (940) 279-7052





Email

carey.dunn@hickorycreek-tx.gov

## EXECUTIVE SUMMARY

Public safety agencies today face challenges of keeping personnel safe, reducing liability and maintaining a positive reputation. Add to that the dynamically changing legislative landscape and evolving best practices, and even the most progressive, forward-thinking agencies can struggle to keep up.

That is why Lexipol is pleased to present Town of Hickory Creek Police Department with a proposal for a customized policy management, update and training solution.

Our program is designed to save you time and money while protecting your personnel. Our team of public safety lawyers and policy experts continually monitor national and Texas-specific policy changes. We then use these updates to help provide the content and training your department needs to minimize risk and effectively serve your community.

## AGENCY GOALS

Town of Hickory Creek Police Department is looking for a way to access comprehensive policies to limit agency risk and enhance personnel safety. By using Lexipol, you will achieve peace of mind knowing your policies are up-to-date and legally defensible. The incorporated policy training component reinforces your staff's understanding of policies and provides individual training acknowledgement.

Once you have high-quality policies in place, you want to be sure your personnel use them. The Lexipol program offers online access to your agency's policies through a web-based platform and mobile app. This flexibility allows your personnel to easily reference policies and complete training in the field. Using Lexipol's program will provide Town of Hickory Creek Police Department with:

- Policies that reflect up-to-date industry standards and best practices
- Content specific to the laws and practices of Texas
- Daily scenario-based training that reinforces your agency's policies
- Timely updates in response to new legislation and case law

## THE LEXIPOL ADVANTAGE

Lexipol was founded by public safety experts who saw a need for legally defensible policy content that was continually monitored and updated based on legislative changes. Since the company launch in 2003, Lexipol has grown to represent more than 3,000 public safety agencies across the United States.

Lexipol is the only company with public safety professionals, attorneys and subject matter experts working together to provide essential policies and policy management tools, from continuous updates to mobile access to daily training. Our legal and content development teams follow a rigorous multi-step process to evaluate content for new policies and policy updates, reviewing thousands of pieces of legislation each year.

Agencies that use our policy service have clear, effective policy manuals that reflect the true values and philosophy of their agency. Proven benefits of using the Lexipol system include reduced risk and cost associated with litigation, reduced time spent developing and maintaining policy, and an increased ability to focus resources on other agency priorities. We look forward to working with Town of Hickory Creek Police Department to realize these same benefits.

## PROJECT SUMMARY

Product Description	One Time Fees	Subscriptions	Total
Law Enforcement Onboarding Services	0	0	0
Annual Law Enforcement Policy Manual & Daily Training Bulletins	0	5,368	5,368
Annual Law Enforcement Supplemental Manual(s)	0	889	0

<b>Year 1 Subscription</b>	\$6,257
<b>One Time Fees</b>	\$0
<b>Sub-Total</b>	\$6,257
<b>Discount</b>	(\$889)



## **SPECIAL TERMS**

This proposal includes a free trial year of SPS.

The proposal can be prorated for 4 months which will make the first invoice \$1789. The full year subscription will begin on October 1st 2018.

## **SCOPE OF SERVICES**

Below is a summary of the policy management solution outlined within this proposal:

### **Policy Manual**

Legally defensible, up-to-date policies are the foundation for consistent, safe public safety operations and are key to lowering liability and risk. Lexipol's comprehensive policy manual covers all aspects of your agency's operations.

- More than 155 policies researched and written by public safety attorneys and subject matter experts
- Policies based on State and federal laws and regulations as well as nationwide best practices
- Content customized to reflect your agency's terminology and structure

### **Daily Training Bulletins (DTBs)**

Even the best policy manual lacks effectiveness if it's not backed by training. Lexipol's Daily Training Bulletins are designed to help your personnel learn and apply your agency's policy content through 2-minute training exercises.

- Scenario-based training ties policy to real-world applications
- Understanding and retention of policy content is improved via a singular focus on one distinct aspect of the policy
- Each Daily Training Bulletin concludes with a question that confirms the user understood the training objective
- Daily Training Bulletins can be completed via computers or from smartphones, tablets or other mobile devices
- Reports show completion of Daily Training Bulletins by agency member and topic

### **Policy Updates**

Lexipol's legal and content development teams continuously review state and federal laws and regulations, court decisions and evolving best practices. When needed, we create new and updated policies and provide them to your agency, making it simple and efficient to keep your policy content up to date.

- Updates delivered to you through Lexipol's web-based content delivery platform
- Changes presented in side-by-side comparison against existing policy so you can easily identify modifications/improvements
- Your agency can accept, reject or customize each update

### **Web-Based Delivery Platform and Mobile App (Knowledge Management System)**

Lexipol's online content delivery platform, called KMS, provides secure storage and easy access to all your policy and training content, and our KMS mobile app facilitates staff use of policies and training completion.

- Ability to edit and customize content to reflect your agency's mission and philosophy
- Efficient distribution of policies, updates and training to staff
- Archival and easy retrieval of all versions of your agency's policy manual
- Mobile app provides in-the-field access to policy and training materials

### **Reports**

Lexipol's Knowledge Management System provides intuitive reporting capabilities and easy-to-read reports that enhance command staff meetings and strategic planning.

- Track and report when your personnel have acknowledged policies and policy updates
- Produce reports showing completion of Daily Training Bulletins
- Sort reports by agency member, topic and other subgroups (e.g., shift, assignment)
- Reduce the time your supervisors spend verifying policy acknowledgement and training completion

### **Supplemental Publication Service**

Lexipol's Supplemental Publication Service (SPS) streamlines the storage of your agency's content, giving you one place to access procedures, guidelines, general orders, training guides or secondary policy manuals.

- Electronically links department-specific procedural or supplemental content to your policy manual
- Provides electronic issuance and tracking for your agency's procedural or supplemental content



- Allows you to create Daily Training Bulletins against your procedural content
- Designed for standard operating guidelines, procedures, general orders or field guides

### **Onboarding Services**

With Lexipol, you won't have to embark on your policy manual project on your own. Your subscription includes onboarding services to start your project quickly and expert support to meet your timeline.

- Project Management Planning includes a web-based kick-off meeting to create a realistic agency work plan and project timetable for your project and introduce you to Lexipol's three-prong objective standard to evaluate content
- Existing Content Cross-Reference Review compares your current policy manual Table of Contents to the Lexipol Table of Contents, identifies agency-specific policies essential to maintain continuity in operations, and provides individualized instruction on how to use the cross-reference data
- Knowledge Management System (KMS) Orientation reviews key features of Lexipol's content delivery platform, including effective policy editing and data entry in KMS, linking content, creating new policies, using Lexipol's Style Guide to attain a polished end product, publishing content and tracking acknowledgements
- Direct Collaboration Assistance provides eight hours of individualized web-based sessions (to be scheduled within first 30 days of subscription service) to give your agency administrator initial training to progress successfully and independently with the work plan
- Dedicated Account Management representatives provide continual support via phone and email



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.24

Consider and act on the Town of Hickory Creek council chambers rental policy.

# **TOWN OF HICKORY CREEK COUNCIL CHAMBERS RENTAL POLICY**

The Town of Hickory Creek Council Chambers are primarily used for the Town Council and Board Meetings. It is intended that the council chambers be used to the fullest extent for these primary purposes and then made available to nonprofit, educational, civic and community groups and area businesses in Hickory Creek.

## **Policies and Procedures:**

1. Requests for use of the town council chambers should be completed in writing utilizing the “Application for use of Council Chambers.” Reservations may not be made more than six months in advance or less than 14 days of the date requested.
2. **USE OF THE TOWN COUNCIL CHAMBERS BY THE TOWN COUNCIL AND BOARD MEETINGS SHALL TAKE PRECEDENCE OVER SUCH OTHER USES, EVEN IF AN ACTIVITY HAS BEEN SCHEDULED. THE PERSON/ORGANIZATION WHO MADE THE REQUEST SHALL BE NOTIFIED AS SOON AS POSSIBLE SO OTHER ARRANGEMENTS CAN BE MADE. THE TOWN IS NOT RESPONSIBLE FOR COSTS ASSOCIATED WITH RESCHEDULING DUE TO A TOWN COUNCIL OR BOARD MEETING THAT CONFLICTS WITH ANY CONFIRMED RESERVATION.**
3. No video, audio, computer, or projection equipment is available for use.
4. No individuals shall be permitted in the non-public areas of the building, or the areas restricted to Town Council and Board Members.
5. The Town Council Chambers are not available for purely social functions (i.e., birthday, showers, receptions, or similar celebrations).
6. Town Council Chambers are not available for use on Town holidays and days on which Council and Board meetings are scheduled. The room may be used Monday – Thursday based on availability. Scheduled events shall not exceed four consecutive hours and must conclude no later than 9 PM.
7. The use of all alcohol and tobacco products is prohibited.
8. Set-up and arrangement of furniture, as well as clearing of the room following a meeting, is the responsibility of the reserving person/organization. No physical changes are allowed except for rearrangement of furniture and must be accomplished within the time period for which the room is reserved.
9. Reserving person/organization must provide all supplies needed. Office supplies and copy services will not be provided.

10. The Town shall reserve the right to deny the use of the Town Council Chambers to any organization, group, or individual who willfully misuses, abuses, or damages it.
11. Meetings scheduled during working hours shall not be allowed to be conducted in a manner, which is disruptive to or interferes with the work of Town employees.
12. The use of the Council Chambers does not constitute Town endorsement of the viewpoints expressed by the participants of the meeting or program. No advertisement or announcement implying such endorsement shall be permitted.
13. The reserving person/organization shall not admit to the Council Chambers a larger number of persons than are permitted by the fire code.
14. Indemnification. Applicant shall indemnify, save, and hold harmless the Town, its officers, employees, agents, licensees, and invitees (“ Indemnitees ”) against any and all liability, damages, losses, claims, demands, and actions of any nature, due to personal injury (including, without limitation, workers' compensation and death claims), or property loss or damage of any kind (“ Claims ”) which arises or is claimed to arise out of or is in any manner connected with the use of the Town property or the presence on the Town property of the Applicant, its contractors, agents, invitees, guests, volunteers, and patrons of the Event for which the Applicant plans to use the Town facilities, except as to Claims which arise out or are related to Town’s negligence or intentional acts or omissions. The undersigned warrants that he/she has the authority to bind the Applicant to this indemnification provision.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.25

Discussion regarding a bass fishing tournament for veterans

No supporting documentation.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.26

Discussion regarding a program for academy sponsorship for police recruits.

No supporting documentation.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.27

Consider and act on a resolution authorizing the Mayor of the Town of Hickory Creek, Texas to execute an amendment to the Cornelius Center Investors, LP development and assesment agreements by and between the Town of Hickory Creek, Texas and Cornelius Center Investors, LP.



**TOWN OF HICKORY CREEK, TEXAS  
RESOLUTION NO. 2018-0529-14**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, HEREBY AUTHORIZING THE MAYOR OF THE TOWN OF HICKORY CREEK, TEXAS, TO EXECUTE AN AMENDMENT TO THE CORNELIUS CENTER INVESTORS, LP DEVELOPMENT AND ASSESSMENT AGREEMENTS BY AND BETWEEN THE TOWN OF HICKORY CREEK, TEXAS AND CORNELIUS CENTER INVESTORS, LP, AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Hickory Creek (the “Town”), Texas is a Type A General Law Municipality located in Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

**WHEREAS**, the Town herein makes findings that it is in the public’s interest, specifically the goal of fostering new commercial development within the Town, which will increase the Town’s ad valorem and sales tax base; and

**WHEREAS**, this proposed Amendment to the below referenced Agreements is conditioned upon the approval of an Agreement with Loubel, Inc., or a permitted assignee, which references benchmarks for such increases in the Town’s ad valorem and sales tax base and/or other economic benefits; and

**WHEREAS**, upon full review and consideration of the Amendment to the Cornelius Center Investors, LP Development and Assessment Agreements, and all matters attendant and related thereto, the Town Council is of the opinion that the terms and conditions thereof should be approved, and that the Mayor shall be authorized to execute it on behalf of the Town of Hickory Creek.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Hickory Creek, Texas:

**Section 1:** That the Mayor of the Town of Hickory Creek, Texas, is hereby authorized to execute on behalf of the Town of Hickory Creek, Texas, the Agreement attached hereto as Exhibit A.

**Section 2:** This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** by the Town Council of the Town of Hickory Creek, Texas this 29th day of May, 2018.

\_\_\_\_\_  
Lynn Clark, Mayor  
Town of Hickory Creek, Texas

ATTEST:

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Kristi Rogers, Town Secretary  
Town of Hickory Creek, Texas

APPROVED AS TO FORM:

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Lance Vanzant, Town Attorney  
Town of Hickory Creek, Texas

## **AMENDMENT TO DEVELOPMENT AND ASSESSMENT AGREEMENTS**

This Amendment to Development and Assessment Agreements is entered into by and between the Town of Hickory Creek, Texas ("Town") and Cornelius Center Investors, LP ("Cornelius") upon the following premise, terms, conditions, covenants and agreements.

1. Premise. Cornelius owns approximately 10 acres at the southwest corner of Turbeville Road and IH-35 in Hickory Creek, Texas (the "Adams Cliff Development"). On or about May 27, 2016, Town and Cornelius executed that one certain Developer Participation Agreement dated May 27, 2016 (the "Assessment Agreement"). On or about December 20, 2016, Town and Cornelius executed that one certain Development Agreement (the "Development Agreement"). The Assessment Agreement and Developer Participation Agreement require Cornelius, inter alia, to pay to Town the sum of \$192,300.00, as more fully set forth therein. By this Amendment, the parties agree that such obligation may be discharged via credit against purchase price in Cornelius' sale of a lot within the Adams Cliff Development to Loubel, Inc. (d/b/a Angelina's Restaurant).
2. Discharge of Payment Obligation Via Credit Against Purchase Price. Town hereby agrees that the \$192,300.00 payment obligation of Cornelius under the Assessment Agreement and Development Agreement shall be fully discharged and released by Cornelius providing to Loubel, Inc. (or permitted assignee) a credit against Loubel, Inc.'s purchase of a lot within the Adams Cliff Development. Such discharge and release shall be effective upon the closing of such sale to Loubel, Inc. (or permitted assignee).
3. No Other Modification. Except as necessary to give full effect to this Amendment, the Assessment Agreement and the Development Agreement shall remain as written.

Executed to be Effective upon the latter of signature dates, below.

### **Cornelius Center Investors, LP**

a Texas limited partnership

By: Cornelius Center Management Company  
General Partner  
Cornelius Center Investors, L. P.  
P.O. Box 967  
Lake Dallas, Texas 75065

By: \_\_\_\_\_  
John E. Malloy, President

### **Town of Hickory Creek**

By: \_\_\_\_\_  
Lynn C. Clark, Mayor



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.28

Consider and act on appointment of Mayor Pro Tem.

No supporting documentation.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.29

Appointments of council liaisons for the various boards.

No supporting documentation.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.30

Consider and act on an appointments to the Code of Ethics Board.

Mayor Lynn Clark would like reappoint Bob Smith.

Councilmember Richard DuPree would like to reappoint Mary Jean Fields.

Councilmember Paul Kenney would like to reappoint Drew Pickard.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. D.31

Discussion regarding current road and sidewalk projects.

No supporting documentation.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. E.1

Municipal Court Employee





## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. E.2

Discussion regarding potential economic development agreement related to property located at 1851 Turbeville Road.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. E.3

Discussion regarding the purchase of approximately 7.41 acre tract or tracts of land.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. F.1

Discussion and possible action regarding matters discussed in executive session.



## Town of Hickory Creek COUNCIL MEMORANDUM

Date: 05/29/2018

From: Kristi Rogers - Town Secretary

Subject: Agenda Item No. G.1

Adjournment