PORTER COUNTRY DEVELOPMENT AGREEMENT

THIS PORTER COUNTRY DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of May 17, 2022 (the "Effective Date") by and between the **CITY OF KYLE, TEXAS,** a home rule municipality located in Hays County, Texas (the "City") and **HILLSIDE TERRACE DEVELOPMENT, LLC**, a Texas limited liability company (the "Owner"). The City and Owner are hereinafter sometimes referred to as a "Party" and collectively as the "Parties."

RECITALS

A. Owner intends to develop and improve, in one or more phases, all or a portion of that certain tract or parcel of land consisting of approximately 259 acres of land, more or less, all of which is located within the municipal boundaries of the City, in Hays County, Texas, as more particularly described in Exhibit "A" attached hereto (the "Property") as a master-planned community, with up to 980 single family residential dwelling units, commercial development, and uses as provided in the zoning for the property pursuant to Ordinance No. 1204, and as may be amended ("Porter Country PUD"), and as generally shown on the Concept Plan (hereinafter defined) attached hereto as Exhibit "B" (the "Project").

B. The Owner has submitted to the City a petition for the creation of Porter Country Public Improvement District ("PID") on the Property (the "District") in order to construct the Authorized Improvements (hereinafter defined) to support the Project in a financially feasible manner in accordance with Chapter 372, Texas Local Government Code, as amended (the "Act"), and any applicable state law (the "PID Petition").

C. The City intends to create the PID in order to plan, finance, construct, acquire, operate and maintain the Authorized Improvements within the Project without imposing an undue burden on the City and its residents and taxpayers.

D. The Parties intend that water service to the Property will be provided by Goforth Special Utility District ("Goforth SUD"), and sewer service to the Property will be provided by Windy Hill Utility Company ("Windy Hill").

E. It is intended that special assessments will be levied on the Property within the PID ("Special Assessments") and PID Bonds (hereinafter defined) will be sold to finance the design, construction and installation of the Authorized Improvements. The Authorized Improvements will confer a special benefit to the Property within the PID.

F. The City intends to exercise its powers under the PID Act, to provide alternative financing arrangements that will enable the Owner to do the following in accordance with the procedures and requirements of the PID Act and this Agreement: (i) fund or be reimbursed for a specified portion of the costs of the Authorized Improvements using the proceeds of PID Bonds; or (ii) obtain reimbursement for the specified portion of the costs of the Authorized Improvements, the source of which reimbursement will be installment payments from Special Assessments within the Property.

G. The City, after due and careful consideration, has concluded that the development of the Property, as provided for herein, will further the growth of the City, provide public recreational spaces, increase the assessed valuation of the real estate situated within the City, foster increased economic activity within the City, upgrade public infrastructure within the City, and otherwise be in the best interests of the City by furthering the health, safety, morals and welfare of its residents and taxpayers.

H. This Agreement is entered pursuant to the laws of the State of Texas, the City Charter, and the City Code of Ordinances.

I. The Parties desire to establish certain restrictions and commitments to be imposed and made in connection with the development of the Property; to provide increased certainty to the City and Owner concerning development rights, entitlements, arrangements, and commitments, including the obligations and duties of the Owner and the City, for a period of years; and to identify planned land uses and permitted intensity of development of the Property as provided in this Agreement. The Parties acknowledge that they are proceeding in reliance upon the purposes, intent, effectiveness and enforceability of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I
DEFINITIONS; INCORPORATION OF RECITALS; TERM

1.1 Incorporation of Recitals. The representations, covenants and recitations set forth in the above recitals (the "Recitals") are material to this Agreement and are hereby found and agreed to be true and correct, and are incorporated into and made a part hereof as though they were fully set forth in this Article.

1.2 Definitions. Capitalized terms used in this Agreement shall have the meanings set forth in this section, unless otherwise defined, or unless the context clearly requires another definition.

"Act" means Chapter 372 of the Texas Local Government Code, as amended.

"Agreement" is defined in the preamble hereof and includes any subsequent written amendments or modifications made pursuant to Section 12.5 hereof.

"Applicable Rules" shall have the meaning set forth in Section 4.1 hereof.

"Appraisal" means the appraisal of the Property obtained in connection with issuance of the PID Bonds to determine whether there is sufficient value associated with the Property to meet the value to lien ratios set forth in the PID Finance Exhibits (hereinafter defined).

"Authorized Improvements" means the public improvements expressly authorized by the Act and to be constructed and funded in connection with the PID Bonds that will be more particularly described in the PID creation resolution, the PFA (hereinafter defined) and the SAP (hereinafter defined). A list of public improvements for the Project and their estimated costs are attached hereto as Exhibit "C", as may be updated in the SAP. The PID will fund no more than $41,000,000 in Authorized Improvements, including PID Bond issuance and financing costs. The amount may increase up to $60,000,000 with City Council approval due to cost increases in the Authorized Improvements.

"Bond Authorization Date" means the date that the City Council authorizes the issuance of the PID Bonds.

"City" means the City of Kyle, Texas, a home rule municipality located in Hays County, Texas.

"City Regulations" means the City's Charter, City's Code of Ordinances and the other regulations, standards, codes and ordinances of the City governing the platting or re-platting of land into subdivisions and development of said land in effect as of the Effective Date.

"Code of Ordinances" means the applicable code or ordinances adopted by the City which regulate development or subdivision of real property within the City in effect as of the Effective Date.

"Concept Plan" shall mean the conceptual site plan shown on Exhibit "B" attached hereto and made a part hereof.

"Effective Date" means the date on which this Agreement is entered into by both Parties, as provided above.

"Improvement Account of the Project Fund" means the construction fund account created under the Indenture of Trust, funded by the PID Bonds, and used to pay or reimburse for certain portions of the construction or acquisition of the Authorized Improvements.

"Indenture of Trust" means an Indenture of Trust between the City and trustee acceptable to City and Owner covering the PID Bonds, as the same may be amended from time to time.

"Owner" means Hillside Terrace Development, LLC, a Texas limited liability company, and includes any subsequent Owner, whether one or more and whether or not related to the Owner or otherwise a related party of the Owner or a partnership or other entity in which the Owner is a partner or participant, of all or any portion of the Property that specifically acquires by whole or partial assignment, by operation of law or otherwise, the rights and obligations of the Owner under this Agreement.

"Person" means any individual, partnership, association, firm, trust, estate, public or private corporation, or any other legal entity whatsoever.

"Party" or "Parties" means all or any of the City and the Owner, as applicable, and their respective successors and/or permitted assigns.

"PID" means the Porter Country Public Improvement District for the Property created under authority of the Act pursuant to a resolution adopted by the City Council of the City.

"PID Bonds" means special assessment revenue bonds authorized by the City to be issued, in one or more series, in accordance with the Act and the PFA (hereinafter defined).

"PID Finance Exhibits" means the financial analysis and assumptions about the Project in accordance with the SAP (herein defined), the proposed Special Assessments, and the PID Bonds described in Section 9.1. The information set forth in Section 9.1 may be revised by agreement of the Parties based on updated information received during the due diligence review of the Project, the proposed special assessments, and the proposed PID Bonds.

"PID Financing Agreement" or "PFA" means a PID Financing Agreement to be entered into between City and Owner to provide for the assessment, levying and collection of Special Assessments on the Property, the construction and maintenance of the Authorized Improvements, the issuance of the PID Bonds and other matters related thereto.

"PID Financing Documents" means the PFA and SAP, collectively.

"Porter Country PUD" means Ordinance No. _____ approved by the City Council on _____, 2022, as may be amended from time to time.

"Project" means the real estate development planned for the Property known as "Porter Country."

"Property" means the approximately 259-acre tract legally described on Exhibit "A" attached hereto and made a part hereof.

"Reimbursement Agreement" means a PID reimbursement agreement or similar agreement between the City and the Owner.

"SAP" means a Service and Assessment Plan to be entered into contemporaneously with the levy of all requisite Special Assessments on the Property in support of the PID Bonds in accordance with the PID Finance Exhibits and further subject to the PID Bond issuance requirements set forth under Section 9.1 attached hereto.

"Subdivision Ordinance" means Chapter 41 of the City's Code of Ordinances.

"Wastewater Improvements" means the sewer lines, facilities and infrastructure improvements needed to serve the Property and constituting the Project Facilities.

1.3 Term. The term of this agreement shall commence on the Effective Date and continue until the earlier to occur of: (i) the expiration of thirty (30) years from the Effective Date, or (ii) the date on which the City and the Owner discharge all of their obligations hereunder, including: (a) the Authorized Improvements have been completed and the City or Goforth SUD, as applicable, has accepted all of the Authorized Improvements, (b) all PID Bond proceeds have been expended for the construction of all of the Authorized Improvements, and (c) the Owner has been reimbursed for all completed and accepted Authorized Improvements.

ARTICLE II
CONCEPT PLAN; BENEFITS; SEQUENCE OF EVENTS; COOPERATION

2.1 Concept Plan. The Property is proposed for development as a mixed-use master planned community with up to 980 single family residential dwelling units, commercial development, and the uses as set forth in the Porter Country PUD, including parkland, open space and other public and private amenities as shown in the Concept Plan. Owner will subdivide and develop the Property and construct or cause to be constructed the Authorized Improvements, at the Owner's expense in accordance with this Agreement (subject to PID funding and reimbursements as provided in this Agreement), the plans and specifications approved by the City, good engineering practices, the Applicable Rules, as defined in Section 4.1 and the City Regulations. The Concept Plan illustrates the approved development concept for the Property but has not been engineered and does not represent the final design that will be approved through the final platting process. Any amendment to the Concept Plan approved by the City pursuant to the City's zoning or platting regulations, shall be considered an amendment to this Agreement and shall replace the attached Concept Plan and become part of this Agreement.

2.2 General Benefits. Owner has voluntarily elected to enter into and accept the benefits of this Agreement and will benefit from the reimbursements set forth herein. The City will benefit from this Agreement by virtue of construction of the Authorized Improvements and of expanding its public amenities

by Owner as herein provided. The Parties expressly confirm and agree that development of the Property will be best accomplished through this Agreement and will substantially advance the legitimate interests of the City. The City, by approval of this Agreement, further finds the execution and implementation of this Agreement is not inconsistent or in conflict with any of the policies, plans, or ordinances of the City.

2.3 Contemplated Sequence of Events. The sequence of events contemplated by this Agreement is as follows:

(a) Submittal of the PID Petition;

(b) Review and consideration of annexation and zoning for the Property, which shall be approved at the same City Council meeting as this Agreement and in reliance upon the terms of this Agreement;

(c) Approval of this Agreement by the City and the Owner;

(d) Review of the PID Petition and creation of the PID, subject to approval by City Council;

(e) Submittal and review of preliminary plats for the various phases of the Property; and

(f) The City and the Owner's negotiation and execution of various agreements and the City Council's consideration of resolutions and ordinances to effectuate the terms of this Agreement, including, but not limited to: the preparation and approval of the SAP, the levy of Special Assessments on Property within the PID, and the issuance, subject to the approval by City Council, of the PID Bonds.

2.4 Necessary and Appropriate Actions. The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the City's case, the adoption of such ordinances and resolutions), as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent, subject to the terms and conditions of this Agreement and subject to applicable processes, procedures, and findings that are required by state law, City ordinances, or the City Charter related to actions taken by the City Council.

ARTICLE III
OBLIGATIONS AND CONDITIONS

3.1 City's Obligations. The City will reasonably cooperate with the Owner and use its best efforts, in good faith, to:

(a) Complete the first round of City staff review within fourteen (14) days and subsequent rounds of City staff review within seven (7) days of submittals for approval of the concept plan, preliminary plat, final plat and construction plans for the Project using the City's alternative review process to allow for concurrent review, subject to the Owner timely submitting applications and responding to comments;

(b) Negotiate and enter into the PFA and a Reimbursement Agreement, if any, and approve the form of SAP prior to the issuance of the PID Bonds, provided that:

(1) The PFA and the SAP will specifically identify the Authorized

Improvements; and

(2) Owner can reasonably demonstrate that it has or will have adequate funding to timely construct or cause to be constructed the Authorized Improvements for the Project which will not be paid for or reimbursed by the PID Bonds; and

(c) Authorize issuance of the PID Bonds within three (3) months but no later than six (6) months after receiving a bond issuance request from the Owner (the "Bond Authorization Date") in accordance with the PID Bond issuance requirements set forth in Section 9.1 and the PID Finance Exhibits attached hereto, provided City is proceeding in good faith and Owner has provided all necessary documentation to effectuate the transaction; and

(1) An Appraisal of the Property has been prepared by a third party selected by the City prior to issuance of PID Bonds;

(2) The Parties have entered into the PFA and a Reimbursement Agreement, if applicable;

(3) Special Assessments in an amount adequate to finance the PID Bonds have been levied against the Property and the SAP has been adopted;

(4) Owner can reasonably demonstrate to the City and its financial advisors that, as of the time of the proposed bond sale that (i) all applicable tests necessary for issuance of the PID Bonds have been satisfied, and (ii) sufficient security for the PID Bonds based upon the existing market conditions at the time of such bond sale; and

(d) Subject to the conditions set forth in Section 3.1(b) and 3.1(c), work towards approval of the PFA, a Reimbursement Agreement, if any, the SAP, and issuance of the PID Bonds.

3.2 Owner's Obligations. The Owner shall:

(a) Use its best efforts, in good faith, to timely submit the concept plan, preliminary plats and construction plan applications, as may be required, to the City and respond to City comments, subject to the City timely commenting on such applications;

(b) Reasonably cooperate with the City and use its best efforts, in good faith, to (i) negotiate and enter into the PFA and a Reimbursement Agreement, if applicable, (ii) request the issuance of the PID Bonds, (iii) provide the City with information needed to evaluate the proposed Special Assessments and the issuance of PID Bonds, to develop and adopt the SAP, and to issue the PID Bonds;

(c) Develop the Property and construct all infrastructure required for built-on-the-lot single-family homes in compliance with the Applicable Rules and City Regulations, subject to this Agreement and the Porter Country PUD;

(d) Pay to the City such fees and charges for, or with respect to, the development of the Property, including, but not limited to, subdivision application fees and building permit fees with the Owner, its grantees, successors and assigns, agreeing that the City's fees and charges are currently provided for in the Applicable Rules and City Regulations which may be amended by the City from time to time;

(e) Pay to the City the reasonable costs and expenses incurred by the City for legal services in connection with the negotiation and implementation of this Agreement; and

(f) Agree that this Agreement does not waive the requirements of any Applicable Rules and City Regulations, except as specifically provided herein.

3.3 Conditions. Notwithstanding any other codes, resolutions, or ordinances of the City or any agreements related to the PID to the contrary, in the event any of the following events should occur: (i) the City identifies material flaws in the assumptions set forth in the PID Finance Exhibits, including but not limited to whether the proposed Special Assessments will impact the marketability of the Project; (ii) the Owner fails to give the City notice of its request to issue PID Bonds; (iii) the Appraisal does not demonstrate that Property meets the value to lien ratio set forth in this Agreement; or (iv) the City fails for any reason to authorize the issuance of the PID Bonds to finance the Authorized Improvements on or before the Bond Authorization Date in accordance with the PID Finance Exhibits, which date may be extended by mutual agreement of the Parties, the Parties shall confer to determine whether the issuance of PID Bonds is feasible based on the conditions set forth in Section 9.1. If the Parties elect not to proceed with the issuance of PID Bonds, then the Owner shall develop the Project in accordance with this Agreement and may be reimbursed for the costs of the Authorized Improvements pursuant to a Reimbursement Agreement.

3.4 Dissolution of PID. Contemporaneously with the creation of the PID, the Parties shall enter into an agreement for the dissolution of the PID (the "Dissolution Agreement") whereby the Owner agrees that, in the event Special Assessments have not been levied or PID Bonds have not been issued on or before three (3) years after the effective date of the Dissolution Agreement in accordance to the agreed upon terms set forth in the Dissolution Agreement, the City may dissolve the PID.

ARTICLE IV
DEVELOPMENT OF THE PROPERTY

4.1 Applicable Rules.

(a) The Property shall be developed in compliance with the Applicable Rules and the City Regulations, this Agreement and pursuant to the Porter Country PUD, the Concept Plan, as it may be amended from time to time, and good engineering practices.

(b) The City Development Rules that apply to the Property are the City ordinances, rules, and regulations governing subdivision, land use, site development, and building and utility construction. If there is any conflict between the Project Approvals and the City Development Rules, the Project Approvals shall prevail. If there is a conflict between this Agreement and the City Rules, this Agreement shall prevail.

(c) For the purpose of establishing development standards for the Property, the following definitions, shall apply:

(1) "Applicable Rules" means the City Rules, the City Charter, and other local, state, and federal laws and regulations that apply to the Property and the development thereof, as they exist on the Effective Date.

(2) "City Rules" means the City's ordinances, rules and regulations (including the City Development Rules).

(3) "Project Approvals" means all variances, waivers, and exceptions to the City Rules approved by the City, and all properly granted approvals required under the City Rules for the Project, including the Porter Country PUD, Concept Plan, plat approval, site

development plans, and building permits.

4.2 Phased Development. The Owner may develop the Project in one or more phases in accordance with the phasing plan approved by the City.

4.3 Zoning. The Property is currently zoned pursuant to the Porter Country PUD. The Owner agrees to develop the Property consistent with the Porter Country PUD, as may be amended pursuant to the process, notice, hearings, and procedures applicable to all other properties within the City.

4.4 Vested Rights. The City acknowledges that the Owner shall be deemed vested from the Effective Date of this Agreement to develop the Project in accordance with this Agreement, the Porter Country PUD, the City Regulations, and the Code of Ordinances to the extent and for such matters as vesting is applicable pursuant to Chapter 245 of the Texas Local Government Code. The Owner's vesting shall expire (1) on the fifth anniversary from the date a concept plan is filed with the City if no progress has been made towards completion of the Project; or (2) if this Agreement is terminated by reason of Owner's default beyond any applicable notice and cure periods (the "Vested Rights"). Progress toward completion of the Project shall be defined as set forth in Section 245.005(c), Texas Local Government Code. The Owner does not, by entering into this Agreement, waive any rights or obligations arising under Chapter 245 of the Texas Local Government Code. To the extent any criteria specified in this Agreement which are in conflict with any other current or future City Regulations, then this Agreement shall prevail unless otherwise agreed to by the Owner in writing. The Parties acknowledge and agree that this paragraph shall not apply to fees imposed in conjunction with development permits.

4.5 Owner's Rights to Continue Development. In consideration of Owner's agreements, the City agrees that it will not, during the term of this Agreement, impose or attempt to impose: (a) any moratorium on building or development within the Project or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting subdivision plats, site development permits or other necessary approvals, within the Project except for moratoria imposed pursuant to Texas Local Government Code Subchapter E, Section 212.131 et. seq. This Agreement on the part of the City will not apply to temporary moratoriums uniformly imposed throughout the City due to an emergency constituting an imminent threat to the public health or safety, provided that the temporary moratorium continues only during the duration of the emergency.

4.6 Parkland. Approximately 70.6 acres shall be dedicated as parkland and open space as more particularly depicted in Exhibit "D" ("Parkland and Open Space"). Provided the Owner utilizes or dedicates such Parkland and Open Space acreage substantially in accordance with Exhibit "D", Developer shall be deemed to have satisfied all applicable parkland dedication or improvement requirements or payment of fees required in lieu thereof, of any kind whatsoever. Owner shall design, construct and install the public amenities listed and referenced in Exhibit "D", as more particularly referenced and described hereinafter ("Public Amenities"). Owner shall convey the approximately 70.6 acres by deed to the City upon City's approval of the final plat for the portion of the Property in which the applicable Parkland and Open Space is contained. All Parkland and Open Space conveyed to the City and all Public Amenities described in Exhibit "D" will be maintained and operated by the Association, as the term is defined in Section 10.1, commencing upon the conveyance of the applicable Parkland and Open Space or acceptance of the first Public Amenities by the City (as applicable) and continuing for as long as the Parkland and Open Space is used as parkland. Parkland and Open Space shall be dedicated at the time of final plat approval for the portion of the Property in which the Parkland and Open Space is contained. The Public Amenities listed and described in Exhibit "D" will be constructed within the Project in phases concurrently with development of each phase (and as further set forth in Exhibit "D" attached hereto) in which the applicable Public Amenities are located; provided, Owner shall provide to or for the benefit of City, as security for the performance of such obligation, a payment and performance bond for the benefit of the City (or any

combination thereof) in an amount not less than 110% of the then-projected cost of any such unconstructed Public Amenities for a phase prior to any final plat filing for a particular phase. Owner shall have the right to draw down on the security posted as construction of the Public Amenities progresses. All Public Amenities described in Exhibit "D" and all Parkland and Open Space conveyed to the City will be Authorized Improvements maintained and operated by the Association, and the Owner and/or the Association and the City will enter into a maintenance and operation agreement substantially in the form attached hereto as Exhibit "E" concurrently with the conveyance of the Parkland and Open Space or Public Amenities, as applicable.

4.7 Project Entrances. Owner shall construct a primary entry at FM 2001 with improvements that include, but not limited to, an entry monument constructed from durable materials, such as concrete, metal, and masonry with lighting, landscaping, an entry park, a landscaped median, and street trees. Owner shall construct a secondary entry at Hillside Terrace that is cohesive with the primary entry with improvements that include, but not limited to, an entry monument constructed from durable materials, such as concrete, metal, and masonry with lighting and landscaping. The frontage along Hillside Terrace and FM 2001 shall include a fence constructed from masonry or concrete (including fencecrete) along the rear of residential lots abutting the rights-of-way, trees, and other landscaping. The entryway improvements, lighting, and landscape improvements set forth in this Section 4.8 may be included as Authorized Improvements.

4.8 Vybe Trail Extension. On or before three (3) days prior to the closing of PID Bonds issued for Improvement Area #2 of the Project, Owner shall deposit or cause to be deposited the sum of four hundred thousand dollars ($400,000.00) with a third party title company selected by the Parties (the "Escrow Agent") to be held in escrow (the "Vybe Trail Extension Escrow") and used for the payment of a portion of the costs related to the construction of a portion of the Violet Crown Trail extending from the southern boundary of the Property to Windy Hill Road and substantially consistent with the highlighted segment of the Violet Crown Trail as depicted on the Citywide Trails Master Plan attached hereto as Exhibit "F" (the "Vybe Trail Extension"). The City shall be responsible for obtaining all funding approvals necessary for the additional costs of the Vybe Trail Extension as well as obtaining all easements and rights of way necessary for the construction of the Vybe Trail Extension. If the City has obtained all funding approvals, easements, and rights of way necessary for the construction of the Vybe Trail Extension on or before the Owner's commencement of construction of the portion of the Vybe Trail on the Property which connects to the Vybe Trail Extension, the Vybe Trail Extension Escrow funds will be released to the City for use of the construction of the Vybe Trail Extension pursuant to a separate escrow agreement between the City, the Owner, and the Escrow Agent. The Owner agrees to manage construction of the Vybe Trail Extension during construction of the portion of the Vybe Trail which connects to the Property. The Owner shall not be required to provide payment, performance, or maintenance bonds related to the Vybe Trail Extension. Upon completion of the Vybe Trail Extension, the Owner shall not be required to maintain or cause to be maintained the Vybe Trail Extension and shall have no ongoing responsibilities with respect to the Vybe Trail Extension. In the event the City has not obtained all funding approvals, easements, and rights of way necessary for the construction of the Vybe Trail Extension on or before the Owner's commencement of construction of the portion of the Vybe Trail on the Property which connects to the Vybe Trail Extension, the Vybe Trail Extension Escrow shall be returned to the Owner, and such four hundred thousand dollar ($400,000.00) funding contribution shall be deemed forfeited by the City.

ARTICLE V
PID TRUE UP

5.1 PID True Up.

(a) The following definitions shall be used in this Article V:

(1) "Maximum Special Assessment" means, for each lot classification identified in the Service and Assessment Plan ("SAP"), an Special Assessment equal to an amount that produces an average annual installment (inclusive of principal, interest, and administrative expenses) resulting in the Maximum Equivalent Tax Rate. The Maximum Special Assessment shall only be calculated upon (i) for a parcel being created by a subdivision plat, at the time of the filing of a subdivision plat, and (ii) for parcels whose Special Assessments are securing a series of PID Bonds, at the time such PID Bonds are issued.

(2) "Maximum Equivalent Tax Rate" means, for each lot classification identified in the SAP, a maximum overlapping tax rate equivalent, including all taxing entities, of $3.05 per $100 of estimated buildout value, but in no case less than a PID Special Assessment tax rate equivalent of $0.47 per $100 of estimated buildout value. The estimated buildout value for a lot classification shall be determined by the PID administrator using information provided by the Owner and confirmed by the City Council by considering such factors as density, lot size, proximity to amenities, view premiums, location, market conditions, historical sales, builder contracts, discussions with homebuilders, reports from third party consultants, information provided by the Owner, or any other information that may help determine buildout value.

(b) Mandatory Reduction in Special Assessments if Maximum Special Assessment Exceeded.

(1) Maximum Special Assessment Exceeded at Plat. If the subdivision of any assessed property by a recorded subdivision plat causes the Special Assessment per lot to exceed the Maximum Special Assessment, then prior to the City approving the plat, the Owner must partially prepay the Special Assessment for each property that exceeds the Maximum Special Assessment in an amount sufficient to reduce the Special Assessment to the Maximum Special Assessment.

(2) Maximum Special Assessment Exceeded at PID Bond Issuance. At the time PID Bonds are issued, if the Special Assessment per Lot for any lot classification identified in the SAP exceeds the Maximum Special Assessment, then prior to the issuance of PID Bonds, the Special Assessment on the parcel shall be reduced until the Special Assessment equals the Maximum Special Assessment.

ARTICLE VI
PROJECT ENGINEER AND PROJECT FACILITIES

6.1 Project Engineer. The Owner has selected Brown and Gay Engineers as the project engineer for the Authorized Improvements, as herein defined (the "Project Engineer"). The Project Engineer will prepare the design, construction plans and specifications, and supporting documentation for the development of the Property. The Project Engineer will work and coordinate with the City Engineer to obtain the review and approval by Owner, the City Engineer and the Director of Development Services of such design, plans and specifications and supporting documentation. The Owner may, from time to time and at any time, replace the Project Engineer in the Owner's sole and absolute discretion. In the event Owner elects to replace the Project Engineer, the Owner will provide written notice to the City of the replacement engineer.

6.2 Project Facilities. The Project Facilities collectively consist of the Authorized Improvements and the Wastewater Improvements.

ARTICLE VII

PLAN REVIEW/APPROVAL AND BIDDING OF PROJECT FACILITIES

7.1 Plan Review and Approval. The City and the Owner shall cooperate in good faith and in a diligent manner to provide the Project Engineer with all information required to prepare a complete set of plans and specifications for each of the Project Facilities (the "Plans"). The Owner elects and agrees that the Concept Plan, preliminary plans, construction plans, and final plat for the Project shall be reviewed under City's alternative review process to allow for concurrent review. The City and the Owner shall work together in good faith to prepare and finalize the final plats and Plans, to maximize value, and to ensure the construction costs for all of the Project Facilities are commercially reasonable. Upon receipt of draft final plats and Plans from the Owner or Project Engineer, the Owner shall submit such final plats and Plans to the City. The Owner shall also provide to the City a cost estimate of the cost to construct the Project Facilities based on the Plans provided ("Cost Estimate") and an estimated construction schedule based on such Plans. The City and Owner agree to work diligently with one another to finalize the Plans and keep the costs commercially reasonable. The City shall have fourteen (14) days from its receipt of first submittal of the final plats and Plans to approve or deny the final plats and Plans or to provide comments back to the submitter of the final plats and Plans. If any approved construction and/or engineering final plats and Plans are amended or supplemented, the City shall have seven (7) days from its receipt of such amended or supplemented final plats and Plans to approve or deny the final plats and Plans or to provide comments back to the submitter of the final plats and Plans. Any written City approval or denial must be based on compliance with applicable City Regulations. If the City does not specifically approve or deny the submitted Plans within the above-described time periods, the City shall be promptly notified; if, after five (5) business days from the date of receipt of such notification the City has not specifically approved or denied the submitted Plans or provided comments back to the submitter, or if the Parties have not agreed to additional time for the City to respond, the Plans shall be deemed approved. After Owner receives any comments to the Plans, the Owner shall revise the Plans accordingly to address such comments and value engineering. The foregoing process shall repeat until the Plans are approved by the Owner and the City. The City agrees not to unreasonably withhold its approval of the final plats or Plans. Upon approval of the Plans, the City and the Owner shall sign, date and exchange an index of drawings identifying such approved Plans. Once the Plans are approved by the City and the Owner, the Plans shall not be modified or amended without the prior written consent of both the City and the Owner, which both Parties agree to give reasonably; provided that such changes do not result in a material increase in cost. Following approval of the Plans, the Owner shall, at the Owner's cost and expense and in compliance with all applicable codes, laws, regulations and ordinances, cause the construction of the Project Facilities in accordance with the Plans. The City shall cooperate with the Owner in connection with obtaining the necessary permits for the Project Facilities. If any provision in this paragraph conflicts with any other provision in this Agreement, this paragraph controls.

7.2 Project Facilities Costs Expenses and Reimbursement. All costs and expenses for designing, bidding, constructing and installing the Project Facilities shall initially be paid by the Owner. The Owner shall be eligible for reimbursement of the Project Facilities as set forth in this Agreement.

7.3 Competitive Bidding. This Agreement and construction of the Authorized Improvements are anticipated to be exempt from competitive bidding pursuant to Sections 252.022(a)(9) and 252.022(a)(11) of the Texas Local Government Code based upon current cost estimates. However, in the event that the actual costs for the Authorized Improvements do not meet the parameters for exemption from the competitive bid requirement, then alternative delivery methods may be used by the City as allowed by law.

7.4 Project Facilities Constructed on City Land or the Property. If the Project Facilities are on land owned by the City, the City shall grant to the Owner a temporary easement to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Project Facilities in a form acceptable to both Parties. If the Project Facilities are on land owned by the Owner, the

Owner shall execute and deliver to the City such access, maintenance and operation easements as the City may reasonably require in recordable form, and the Owner shall grant to the City a permanent access, maintenance and operation easement to enter upon such land for purposes related to inspection, maintenance and operation of the Project Facilities in a form acceptable to the City. The grant of the permanent easement shall not relieve the Owner of any obligation to grant the City, Goforth SUD, Windy Hill, or other entity, as applicable, title to property and/or easements related to the Project Facilities as required by this Agreement or as should in the City's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of such Project Facilities. The provisions for inspection and acceptance of such Project Facilities otherwise provided herein shall apply.

ARTICLE VIII
CONSTRUCTION OF PROJECT FACILITIES; PAYMENT

8.1 Construction of the Project Facilities. Owner shall design, construct, install and obtain City acceptance and Goforth SUD acceptance, as applicable, of the Authorized Improvements in accordance with the terms and conditions of this Agreement. Owner shall design, construct, install and obtain Windy Hill acceptance of the Wastewater Improvements in accordance with the terms and conditions of this Agreement.

8.2 Payment, Performance and Maintenance Bonds. The City shall require the Owner to provide performance and payment bonds (in a form reasonably acceptable to the City) at the time of final plat approval to assure that the Authorized Improvements are constructed as proposed. The Owner shall provide, or cause to be provided, a two (2) year maintenance bond upon acceptance of applicable Authorized Improvements by the City.

8.3 City Acceptance.

(a) Within thirty (30) days after the City's final inspection and correction of punch list items of the Authorized Improvements (or applicable segment thereof), the Owner shall convey to the City (if requested by the City and by an instrument acceptable to the City), and the City will accept the applicable Authorized Improvements as follows:

(1) The Owner shall provide the City Engineer with a set of as-built drawings, for permanent record.

(2) The Owner or Owner's Contractor shall provide the City Manager or designee with a two-year maintenance bond for the Authorized Improvements conveyed to the City (as applicable).

(b) Upon the completion of construction of the applicable Authorized Improvements by the Owner, and final acceptance thereof by the City, the applicable Authorized Improvements will be owned, operated, and maintained by the City, and no other conveyance documents will be required to effectuate this transfer (other than easements that are not conveyed by plat).

8.4 Project Costs.

(a) The cost of the Project Facilities (the "Project Costs") will include all costs and expenses paid or incurred by the Owner in connection with the design and construction of the Project Facilities including, but not limited to, costs and expenses for:

(1) feasibility, design, engineering, environmental, consulting, survey, and

legal;

(2) soils and materials testing;

(3) obtaining governmental and regulatory approvals;

(4) construction management (4%), construction, and inspections; and

(5) amounts reimbursed by the Owner to the City for third party costs paid or incurred by the City in connection with the design and construction of the Project Facilities (including, but not limited to, inspection, engineering, and legal fees).

(b) Project Costs shall be reviewed by the City Engineer for reasonableness and necessity, and written comments, if any, shall be provided to the Owner within thirty (30) days after the Project Costs, including documentation, are delivered to the City Engineer. If any Project Costs are rejected by the City Engineer as unreasonable or unnecessary, a detailed written justification for the rejection shall be provided to the Owner. The portion of the approved Project Costs shall be paid or reimbursed to the Owner while payment with respect to the disputed portion(s) of the Project Costs shall not be made until the Owner and the City have jointly settled such dispute or additional information has been provided to the City's reasonable satisfaction.

8.5 City's Option to Complete Project Facilities.

(a) In the event the Owner fails to complete and obtain City acceptance of the Project Facilities to be dedicated to the City after any applicable notice and cure periods, the City will have the right, but not the obligation, to complete the Project Facilities and to draw on any fiscal security guaranteeing the completion of the Project Facilities.

(b) In the event the City elects to complete the Project Facilities, the Owner agrees that all of the Owner's right, title, and interest in the plans and specifications, designs, easements, real and personal property, and improvements acquired, produced or installed in aid of or necessary for completing such Project Facilities by the Owner or its engineers or contractors before such default shall become the property of the City and, in such event, the Owner will provide all necessary documentation to the City within five (5) business days of the City's request. To ensure that the City has all necessary rights to the plans and specifications for the Project Facilities and any other engineering services of the Project Engineer, Owner hereby assigns all its rights, title, and interest in the professional services agreements between the Owner and the Project Engineer necessary for completion of the Project Facilities. The Owner agrees that the City will have the right to use such plans and specifications to complete the Project Facilities.

ARTICLE IX
PID BOND ISSUANCE REQUIREMENTS

9.1 PID Bond Issuance Requirements. The Parties acknowledge the City's "Public Improvement District Policy" as of the Effective Date and agree that as consideration for the Owner's development of the Project, the City's issuance of PID Bonds and the PID Financing Documents shall be subject to the following requirements, which may differ from the policy:

(a) PID Bond Operations. The aggregate principal amount of PID Bonds to be issued shall not exceed $60,000,000, which shall be used to fund: (i) the actual costs of the Authorized

Improvements, (ii) to the extent permitted by law, required reserves, additional interest, and capitalized interest during the period of construction and not more than twelve (12) months after the completion of construction of all Authorized Improvements covered by the PID Bond issue in question and in no event for a period greater than thirty-six (36) months from the date of the initial delivery of the PID Bonds, (iii) a PID reserve fund and administrative fund, and (iv) any costs of issuance for the PID Bonds; provided, however, that to the extent the law(s) which limit the period of capitalized interest to twelve (12) months after completion of construction change, the foregoing limitation may, with the agreement of the Parties, be adjusted to reflect the law(s) in effect at the time of future PID Bond issuances.

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

(c) Financing Amount. The Owner intends to request the issuance of the PID Bonds subject to the condition that the maximum cost of Authorized Improvements to be funded plus issuance and other financing costs shall not exceed $41,000,000. The amount may increase up to $60,000,000 with City Council approval due to cost increases in the Authorized Improvements.

(d) Value to Lien Ratio. The minimum value to lien ratio based on the anticipated final lot values as provided in an Appraisal at the issuance date of each series of PID Bonds shall be at least 2.0 to 1 overall, as set forth in the Indenture of Trust.

(e) Maximum PID Administrative Expenses. The administrative expenses related to the PID, as set forth in the SAP, shall not increase by more than two percent (2%) on an annual basis.

(f) Maximum Annual Installment Increase. Annual installments of the Special Assessments, as set forth in the SAP, shall be permitted to increase by up to two percent (2%) on an annual basis.

(g) City PID Fee. A fee in an amount equal to ten percent (10%) of the net proceeds of the PID bonds (the "City PID Fee") shall be paid, or caused to be paid, by Owner three (3) days prior to closing of each series of PID Bonds. The City PID Fee received by the City shall be deposited into the City's general fund and used by the City solely at its discretion for any lawful purposes.

ARTICLE X
PROPERTY OWNERS ASSOCIATION

10.1 Property Owners Association. Owner will create a Property Owners Association ("Association"), and shall establish bylaws, rules, regulations, and restrictive covenants (collectively, the "Association Regulations") to assure the Association performs and accomplishes the duties and purposes required to be performed and accomplished by the Association pursuant to this Agreement. The owner of each lot in the subdivision shall be required to be a member of the Association, and unpaid dues or assessments shall be and constitute a lien on the lot for which they are assessed. The Association Regulations will establish periodic Association dues and assessments, to be charged and paid by the lot owners in the Project, that are and will be sufficient to maintain (a) the drainage easements and improvements within the Property that are dedicated to the City but not maintained and operated by the City (the "Drainage"); (b) any part or portion of the Property that is dedicated to the Association (the "Dedicated Property"); and (c) maintenance and operation of the Parkland and Open Space and Public Amenities identified in Exhibit "D" in accordance with Section 4.6 above. The Association Regulations will require the periodic dues and assessments to be increased from time to time as necessary to provide the funds required for the maintenance of the Drainage, Dedicated Property, Parkland and Open Space, and Public Amenities, and to provide funds required for the management and operation of the Association.

ARTICLE XI
AUTHORITY; COVENANTS; PROPERTY RIGHTS

11.1 Powers.

(a) The City hereby represents and warrants to the Owner that the City has full constitutional and lawful right, power and authority, under currently applicable law, to execute and deliver and perform the terms and obligations of this Agreement, subject to the terms and conditions of this Agreement and subject to applicable processes, procedures, and findings that are required by state law, City ordinances, or the City Charter related to actions taken by the City Council, and all of the foregoing have been authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, is enforceable in accordance with its terms and provisions, and does not require the consent of any other governmental authority.

(b) The Owner hereby represents and warrants to the City that the Owner has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing have been or will be duly and validly authorized and approved by all necessary actions of the Owner. Concurrently with the Owner's execution of this Agreement, the Owner has delivered to the City copies of the resolutions or other corporate actions authorizing the execution of this Agreement and evidencing the authority of the persons signing this Agreement on behalf of the Owner to do so. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the Owner, and is enforceable in accordance with its terms and provisions.

11.2 Authorized Parties. Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreements, any request, demand, approval, notice or consent of the City or the Owner is required, or the City or the Owner is required to agree or to take some action at the request of the other, such request, demand, approval, notice or consent, or agreement shall be given for the City, unless otherwise provided herein or inconsistent with applicable law, the City Charter, or City Regulations, by the City Manager and for the Owner by any officer of the Owner so authorized (and, in any event, the officers executing this Agreement are so authorized); and any party shall be authorized to act on any such request, demand, approval, notice or consent, or agreement.

ARTICLE XII
GENERAL PROVISIONS

12.1 Time of the Essence. Time is of the essence in all things pertaining to the performance of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

12.2 Default; Remedies.

(a) A Party shall be deemed in default under this Agreement if such Party fails to materially perform, observe or comply with any of its covenants, agreements or obligations hereunder or breaches or violates any of its representations contained in this Agreement, subject to the notice and cure provisions in this Section 12.2.

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

satisfaction of the complaining party within thirty (30) days of the receipt of such notice, and the Party shall be given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than thirty (30) days after written notice of the alleged failure has been given). Upon a default of this Agreement for which cure has not commenced as provided above, the non-defaulting Party, in any court of competent jurisdiction, by an action or proceeding at law or in equity, may seek relief, including but not limited to the specific performance of the covenants and agreements herein contained, mandamus, and injunctive relief. Except as otherwise set forth herein, no action taken by a Party pursuant to the provisions of this Section or pursuant to the provisions of any other Section of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any Party at law or in equity. Each of the Parties shall have the affirmative obligation to mitigate its damages in the event of a default by the other Party.

12.3 Force Majeure.

(a) The term "Force Majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances: acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; wars; revolts; terrorism; sabotage and threats of sabotage or terrorism; epidemic; pandemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; transportation disasters, whether by ocean, rail, land or air; or other causes that (i) are not reasonably within the control of the party claiming such inability, or (ii) could not be avoided, by the party who suffers it, by the exercise of commercially reasonable efforts.

(b) If, by reason of Force Majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such Force Majeure to the other party within thirty (30) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the Force Majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.

(c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

12.4 Liability of the Owner, its successors and assignees. Any obligation or liability of the Owner whatsoever that may arise at any time under this Agreement or any obligation or liability which may be incurred by the Owner pursuant to any other instrument, transaction or undertaking contemplated hereby shall be satisfied, if at all, out of the assets of the Owner and any fiscal surety posted with the City related to the Porter Country Subdivision only, except as required by the PFA or any other agreements the Owner enters related to the PID or the Porter Country Subdivision. No obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the property of any of partners, officers, employees, shareholders or agents of the Owner, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise, except as required by the PFA or any other agreements the Owner enters related to the PID or the Porter Country Subdivision.

12.5 Personal Liability of Public Officials. To the extent permitted by State law, no public official or employee shall be personally responsible for any liability arising under or growing out of this

Agreement.

12.6 Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed by registered or certified mail, return receipt requested, or personally delivered to an officer of the receiving party at the following addresses:

If to the City:

City of Kyle
Attn: City Manager
100 W. Center Street
Kyle, Texas 78640

with a copy to:

The Knight Law Firm, LLP
Attn: Paige H. Saenz
223 West Anderson Lane, Suite A-105
Austin, Texas 78752

If to the Owner:

Hillside Terrace Development, LLC
Attn.: Garrett Martin, President
2100 Northland Drive
Austin, Texas 78756

with a copy to:

Winstead PC
Attn: Ross Martin
2728 N. Harwood, Suite 500
Dallas, Texas 75201

Each Party may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this Section shall be deemed to be given when deposited with the United States Postal Service, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by, an authorized officer of the City or the Owner, as the case may be.

12.7 Amendments and Waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is approved by the City Council and the Owner. No course of dealing on the part of the City or the Owner nor any failure or delay by the City or the Owner with respect to exercising any right, power or privilege pursuant to this Agreement shall operate as a waiver thereof, except as otherwise provided in this Section.

12.8 Invalidity. In the event that any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provisions of this Agreement, and, to that end, all provisions, covenants, agreements or portions of this Agreement are declared to be severable.

12.9 Beneficiaries. This Agreement shall bind and inure to the benefit of the Parties and their successors and permitted assigns.

12.10 Successors and Assigns.

(a) Except as expressly provided in this Section, neither party to this Agreement shall have the right to convey, transfer, assign, mortgage, pledge or otherwise encumber all or any part of its right, title and interest under this Agreement to any party without the prior written consent of the other party to this Agreement, which consent shall not be unreasonably withheld, conditioned, delayed or denied.

(b) Owner may, from time to time, effectuate a transfer of the obligations, rights, requirements, or covenants to develop the Property under this Agreement, in whole or in part, without the consent of City to: (i) any affiliate or related entity of the Owner; or (ii) any lienholder on the Property. The obligations, rights, requirements, or covenants to develop the Property under this Agreement shall not be assigned by the Owner to a non-affiliate or non-related entity of the Owner without the prior written consent of the City Council, which consent shall not be unreasonably withheld, conditioned, delayed, or denied; provided such party agrees in writing to assume all of Owner's duties, obligations, and liabilities so assigned hereunder, and provided further that any such assignment shall not become effective until the City receives notice of the assignment and a copy of the assignment instrument. Any receivables due under this Agreement, the PFA, or any Reimbursement Agreement may be assigned by the Owner without the consent of, but upon written notice to, the City within ten (10) days of such assignment pursuant to this Agreement.

(c) Owner may pledge, assign, collaterally assign, or grant a lien or security interest in, or otherwise encumber any of its right, title and interest under this Agreement, in whole or in part, (i) without the consent of the City, to any third party lender of the Project (each, a "Lender"), or (ii) to any person or entity with the City Council's prior written consent (which consent shall not be unreasonably withheld, conditioned, or delayed) as security for the performance of Owner's obligations; and in relation thereto, the City will execute reasonable acknowledgements of this Agreement as may be requested by such Lender or third party, including confirmation whether this Agreement is valid and in full force and effect, whether either party is in default of any duty or obligation under this Agreement, and agreeing to provide notice and opportunity to cure to such Lender and the City agrees to accept a cure, not to be unreasonably withheld, offered by the Lender as if offered by the defaulting Party. 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. 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.

(d) Any attempted transfer of a portion of the Property or of any right or beneficial interest under this Agreement shall not be effective with respect to such interest unless the instrument purporting to carry out such transfer expressly states that the right or beneficial interest subject to the transfer is deemed a transfer to the proposed party.

(e) Notwithstanding anything to the contrary, this Agreement shall not be binding upon any purchaser of a platted lot or reserve in the Project.

12.11 Exhibits, Titles of Articles, Sections and Subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the Parties and shall not be construed to have any effect or meaning as to the agreement between the Parties hereto. Any reference herein to a section or subsection shall be considered

a reference to such section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

12.12 Applicable Law. This Agreement is a contract made under, and shall be construed in accordance with and governed by, the laws of the United States of America and the State of Texas, and any actions concerning this Agreement shall be brought in either the Texas State District Courts of Hays County, Texas or the United States District Court for the Western District of Texas.

12.13 Entire Agreement. This Agreement represents the final agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. There are no unwritten oral agreements between the Parties.

12.14 No Waiver of City Standards. Except as may be specifically provided in this Agreement, the City does not waive or grant any exemption to the Property or the Owner with respect to City Regulations.

12.15 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the Parties, the Parties agree that such approval or consent shall not be unreasonably withheld, conditioned or delayed. Approvals and consents shall be effective without regard to whether given before or after the time required for giving such approvals or consents.

12.16 Counterparts. This 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 agreement.

12.17 Interpretation. This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

12.18 Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application thereof to any person or circumstance, shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall not be affected thereby.

12.19 Binding Obligations. This Agreement shall be binding upon the Parties and their successors and assigns permitted by this Agreement and upon the Property; provided, however, this Agreement, if recorded, shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property except for land use and development regulations that apply to specific lots. For purposes of this Agreement, the Parties agree (i) that the term "end-buyer" means any owner, developer, tenant, user, or occupant, and (ii) that the term "fully developed and improved lot" means any lot, regardless of proposed use, for which a final plat has been approved by the governmental authority having jurisdiction and for which all planned and approved improvements have been constructed and accepted to the extent that a building permit may be obtained for such lot.

12.20 Anti-Boycott Verification. To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Owner represents that neither Owner nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Owner (i) boycotts Israel or (ii) will boycott Israel through the

term of this Agreement. The terms "boycotts Israel" and "boycott Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

12.21 Verification under Chapter 2252, Texas Government Code. To the extent this Agreement constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Owner represents that Owner nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Owner is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

12.22 No Discrimination Against Fossil-Fuel Companies. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code, as amended, the Owner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (b) does business with a company described by (a) above.

12.23 No Discrimination Against Firearm Entities and Firearm Trade Associations. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code, as amended, the Owner hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, (a) 'discriminate against a firearm entity or firearm trade association' means, with respect to the firearm entity or firearm trade association, to: (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association; and (b) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (A) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (B) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. As used in the foregoing verification, (a) 'firearm entity' means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (i.e., weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (i.e., devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in

conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (i.e., a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (as defined by Section 250.001, Texas Local Government Code); and (b) 'firearm trade association' means a person, corporation, unincorporated association, federation, business league, or business organization that: (i) is not organized or operated for profit (and none of the net earnings of which insures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

12.24 Exhibits. The following Exhibits to this Agreement are incorporated herein by reference for all purposes:

Exhibit A	Description of Property
Exhibit B	Concept Plan
Exhibit C	Authorized Improvements
Exhibit D	Parkland and Public Amenities
Exhibit E	Form of Maintenance and Operations Agreement
Exhibit F	Vybe Trail Extension

[Signature pages follow]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY:

CITY OF KYLE, TEXAS,
a home rule municipality

By: _____
Travis Mitchell, Mayor

ATTEST:

_____
Jennifer Holm, City Secretary

CITY OF KYLE TEXAS

OWNER:

HILLSIDE TERRACE DEVELOPMENT, LLC,
a Texas limited liability company

By: _____
Name: Garrett Martin
Title: Manager

EXHIBIT "A"

Description of Property

A 259.02 acres (11,282,708 square feet), tract of land, lying within the Jessie B. Eaves Survey, Abstract 166 and the W.A. Moore Survey, Abstract 331, Hays County, Texas, and being all of a called 163.935 acre tract, conveyed to Hillside Terrace Development, LLC in Document No. 21020969, Official Public Records of Hays County, Texas, all of a called 82.951 acre tract, conveyed to RIO OSO Holdings LLC in Document No. 18028156, Official Public Records of Hays County, Texas and a portion of called 35.04 acre tract, conveyed to GJG Development II LLC in Document No. 19024067, Official Public Records of Hays County, Texas, described as follows:

BEGINNING at a 5/8" iron rod with aluminum "PRO TECH ENG" cap found at the southeastern corner of said 163.935 acre tract, the northeastern corner of a called 2.80 acre tract, conveyed to James Mikeska & Traci Horne-Mikeska in Volume 1738, Page 731, Official Public Records of Hays County, Texas, and being on the western right-of-way line of F.M. 2001 (right-of-way varies), for the southeastern corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, with the southern line of said 163.935 acre tract and the northern line of said 2.80 acre tract, S88°25'07"W, a distance of 858.81 feet to a 1/2" iron pipe found, for the northwestern corner of said 2.80 acre tract and the northeastern corner of Windy Hill Subdivision 24 AC, a subdivision, recorded in Document No. 17040372, Official Public Records of Hays County, Texas;

THENCE, with the southern line of said 163.935 acre tract and the northern line of said Windy Hill Subdivision 24 AC, S88°22'00"W, a distance of 1223.10 feet to a 3/4" iron pipe found, for the northwestern corner of said Windy Hill Subdivision 24 AC and the northeastern corner of Shadow Creek Phase 3, Section 4, a subdivision, recorded in Volume 13, Page 336, Plat Records Hays County, Texas;

THENCE, with the southern line of said 163.935 acre tract, the northern line of said Shadow Creek Phase 3, Section 4 and the north line of Shadow Creek Phase 9, Section 2, a subdivision, recorded in Document No. 17029868, Plat Records Hays County, Texas, S88°25'56"W, a distance of 1993.62 feet to a 1/2" iron rod with cap stamped "ATWELL LLC" set;

THENCE, with the southern line of said 163.935 acre tract and the northern line of said Shadow Creek Phase 9, Section 2, the following three (3) courses and distances;

1. S88°24'30"W, a distance of 445.39 feet to a 6" wood fence post found;
2. S89°20'38"W, a distance of 873.39 feet to a 1/2" iron rod found;
3. S87°32'32"W, a distance of 556.41 feet to a pk nail in concrete found;

THENCE, with the southern line of said 163.935 acre tract, the northern line of said Shadow Creek Phase 9, Section 2, the northern line of Shadow Creek Phase 12, Section 1, a subdivision, recorded in Volume 19, Page 60, Plat Records Hays County, Texas and the northern line of a called 49.465 acre tract, conveyed to John Galloway Sr. & John Galloway Jr. in Volume 496, Page 791, Official Public Records of Hays County, Texas, S87°20'19"W, a distance of 442.82 feet to a 4" steel post found, for the southwestern corner of said 163.935 acre tract and the southeastern corner of a the remainder of a called 10.009 acre tract, conveyed to Mayra Garcia and Matias Garcia in Volume 3572, Page 398, Official Public Records of Hays County, Texas, for the southwestern corner of the herein described tract;

THENCE, with the western line of said 163.935 acre tract, the eastern line of said remainder of a called 10.009 acre tract, the eastern line of a called 10.01 acre tract, conveyed to Apostolic Christian Tabernacle of Austin in Volume 3333, Page 674, Official Public Records of Hays County, Texas, and the eastern line of a called 36.02 acre tract, conveyed to Salvador Villegas in Volume 3252, Page 665, Official Public Records of Hays County, Texas, N01°49'27"W, a distance of 1483.67 feet to a 4" steel post found, for an ell corner of said 163.935 acre tract, the northeastern corner of said 36.02 acre tract and being on the southern line of a called 68.96 acre tract, conveyed to TFLP Investments Limited Partnership in Volume 3118, Page 335, Official Public Records of Hays County, Texas;

THENCE, with a northern line of said 163.935 acre tract and the southern line of said 68.96 acre tract, N88°22'22"E, a distance of 1502.07 feet to a 1/2" iron rod found for an ell corner of said 163.935 acre tract and the southeastern corner of said 68.96 acre tract;

THENCE, with a western line of said 163.935 acre tract and the eastern line of said 68.96 acre tract, N02°00'11"W, a distance of 1007.83 feet to a 1/2" iron rod with plastic cap found for the northeastern corner of said 68.96 acre tract and the southeastern corner of Country Ridge Subdivision, a subdivision recorded in Volume 3, Page 274 Plat Records of Hays County, Texas;

THENCE, with a western line of said 163.935 acre tract and the eastern line of said Country Ridge Subdivision, N01°37'27"W, a distance of 1945.78 feet to a 1/2" iron rod found for the northeastern corner of said Country Ridge Subdivision and being on the southern right-of-way line of Hillside Terrace (right-of-way varies);

THENCE, with a western line of said 163.935 acre tract and the southern right-of-way line of Hillside Terrace, N01°37'27"W, a distance of 14.88 feet to a 1/2" iron rod with cap stamped "ATWELL LLC" set for the northwestern corner of said 163.935 acre tract and of the herein described tract;

THENCE, with a northern line of said 163.935 acre tract and the southern right-of-way line of Hillside Terrace, N88°01'45"E, a distance of 1410.61 feet to a 1/2" iron rod found for the northeastern corner of said 163.935 acre tract, the northwest corner of a 8.00 acre tract, conveyed to Nancy H. Johnson and described in a called 8.00 acre tract to Chase Baromeo Jr. and Barbara A. Castleberry in Volume 881, Page 259 Deed Records of Hays County, Texas and for the northeastern corner of the herein described tract;

THENCE, with an eastern line of said 163.935 acre tract and the western line of said 8.00 acre tract, S04°59'16"E, a distance of 685.20 feet to a point for an ell corner of said 163.935 acre tract, the southwest corner of a said 8.00 acre tract, and being on the northern line of a called 36.341 acre conveyed to Todd Burek in Document No. 19009802, Official Public Records of Hays County, Texas, from which a 1/2" iron rod found bears N01°15'44"E, a distance of 2.07 feet;

THENCE, over and across said 36.341 acre tract and said 35.04 acre tract, the following eight (8) courses and distances:

1. S 01° 57' 33" E, a distance of 43.81 feet to a 1/2" iron rod with unreadable cap found;
2. S 20° 51' 38" W, a distance of 126.91 feet to a 1/2" iron rod found;
3. S 25° 03' 48" W, a distance of 279.88 feet to a 1/2" iron rod found;
4. S 17° 00' 26" W, a distance of 49.76 feet to a 1/2" iron rod with J.E. Garron cap found;
5. S 06° 28' 28" W, a distance of 77.28 feet to a 1/2" iron rod found;
6. S 01° 01' 23" E, a distance of 800.38 feet to a 1/2" iron rod with J.E. Garron cap found;
7. S 88° 38' 46" W, a distance of 9.99 feet to a 1/2" iron rod with J.E. Garron cap found;
8. S 00° 58' 08" E, a distance of 129.20 feet to a 1/2" iron rod with J.E. Garron cap found on a northern line of said 163.935 acre tract and also being a southern line of said 35.04 acre tract;

THENCE, with a northern line of said 163.935 acre tract and also being the southern line of said 35.04 acre tract, N 88° 55' 55" E, a distance of 73.88 feet to a PK nail with washer stamped "PROTECH" found for an ell corner of said 163.935 acre tract and the northwestern corner of the remainder of a called 91.92 acre tract, conveyed to Tony Greaves and Carol C. Greaves in Volume 1167, Page 445, Official Public Records of Hays County, Texas;

THENCE, with a eastern line of said 163.935 acre tract and also being the western line of said 91.92 acre tract, S10°01'04"W, a distance of 1388.58 feet to a 1/2" iron rod with broken cap found for the northwestern corner of said 82.951 acre tract and also being the southwestern corner of the remainder of said 91.92 acre tract;

THENCE, with the northern line of said 82.951 acre tract, the southern line of said remainder of 91.92 acre tract and also the southern boundary line of the remainder of a called 45.13 acre tract and of the remainder of a called 60.58 acre tract both conveyed to Tony Greaves and Carol C. Greaves in Volume 1167, Page 445, Official Public Records of Hays County, Texas, N88°27'53"E, a distance of 3878.65 feet to a 1/2" iron rod with a 4540 cap found for the northeastern corner of said 82.951 acre tract, the southeastern corner of said remainder of the 60.58 acre tract and also being on the western right-of-way line of F.M. 2001;

THENCE, with the eastern line of said 82.951 acre tract and also being the western right-of-way line of F.M. 2001, the following two (2) courses and distances:

1. S01°20'27"E, a distance of 856.10 feet to a concrete monument found on the arc of a curve to the left;
2. Along the arc of said curve to the left, a distance of 54.09 feet, having a radius of 756.20 feet, a delta angle of 4°05'54" and a chord bearing of S03°29'29"E, a distance of 54.08 feet to a 5/8" iron rod with aluminum "PRO TECH ENG" cap found on the arc of a curve to the left, for the southeastern corner of said 82.951 acre tract and the northern southeastern corner of said 163.935 acre tract;

THENCE, with the eastern line of said 163.935 acre tract and the western right-of-way line of F.M. 2001, along the arc of said curve to the left, a distance of 37.01 feet, having a radius of 756.20 feet, a delta angle of 2°48'14" and a chord bearing of S06°20'21"E, a distance of 37.00 feet to the **POINT OF BEGINNING.**

Containing 259.02 acres or 11,282,708 square feet, more or less.

EXHIBIT "B"

Concept Plan

EXHIBIT "C"

Authorized Improvements

Description	Total Costs[a]	Private Improvements	Improvement Area #1[g]	Improvement Area #2	Improvement Area #3
Roadway[b]	$ 8,150,173	$ -	$ 3,657,704	$ 1,953,859	$ 2,538,610
Water[c]	3,536,376	-	1,403,861	900,069	1,232,445
Wastewater[d]	3,011,281	3,011,281	-	-	-
Drainage & Ponds[e]	5,520,157	-	2,290,715	1,706,927	1,522,515
Parks and Landscaping[e]	2,091,016	-	713,674	548,138	829,204
Subtotal	$ 22,309,003	$ 3,011,281	$ 8,065,955	$ 5,108,994	$ 6,122,774
Contingency (7.0%)[d]	1,561,630	210,790	564,617	357,630	428,594
Construction Management (4.0%)[d]	892,360	120,451	322,638	204,360	244,911
Engineering and Soft Costs[e]	4,461,801	602,256	1,613,191	1,021,799	1,224,555
Developer District Formation Costs	650,000	-	250,000	200,000	200,000
Total Improvements	**$ 29,874,794**	**$ 3,944,778**	**$ 10,816,401**	**$ 6,892,782**	**$ 8,220,834**
Bond Issuance Costs					
Capitalized Interest	$ 2,812,950	$	1,125,450	$ 973,500	$ 714,000
Reserve Fund	$ 2,687,955	$	1,027,273	$ 851,469	$ 809,214
Underwriter Discount	$ 950,700	$	375,150	$ 292,050	$ 283,500
Cost of Issuance (6.0%)	$ 1,901,400	$	750,300	$ 584,100	$ 567,000
First Year Collection Costs	$ 70,000	$	30,000	$ 20,000	$ 20,000
Total Bond Issue Costs	**$ 8,423,005**	**$ -**	**$ 3,308,173**	**$ 2,721,119**	**$ 2,393,714**
Total Authorized Improvements	**$ 38,297,799**	**$ 3,944,778**	**$ 14,124,574**	**$ 9,613,900**	**$ 10,614,547**

Footnotes

[a] Porter Country Combined Budget. **Amounts represent estimates only and are subject to change.**

[b] Includes streets, earthwork, clearing, erosion control, demolition, staking and entry improvements. Assumes 20% of earthwork, clearing and grubbing costs apply to PID improvements.

[c] Water service provided by Goforth SUD. Assumes improvements will be eligible for PID financing.

[d] Wastewater services provided by Windy Hill Utility Company. Assumes improvements are not eligible for PID financing.

[e] Assumes parks, landscaping and pond improvements will be maintained by the HOA.

[g] Includes pre-development costs.

Exhibit C_Authorized Improvements

EXHIBIT "D"

Parkland and Public Amenities

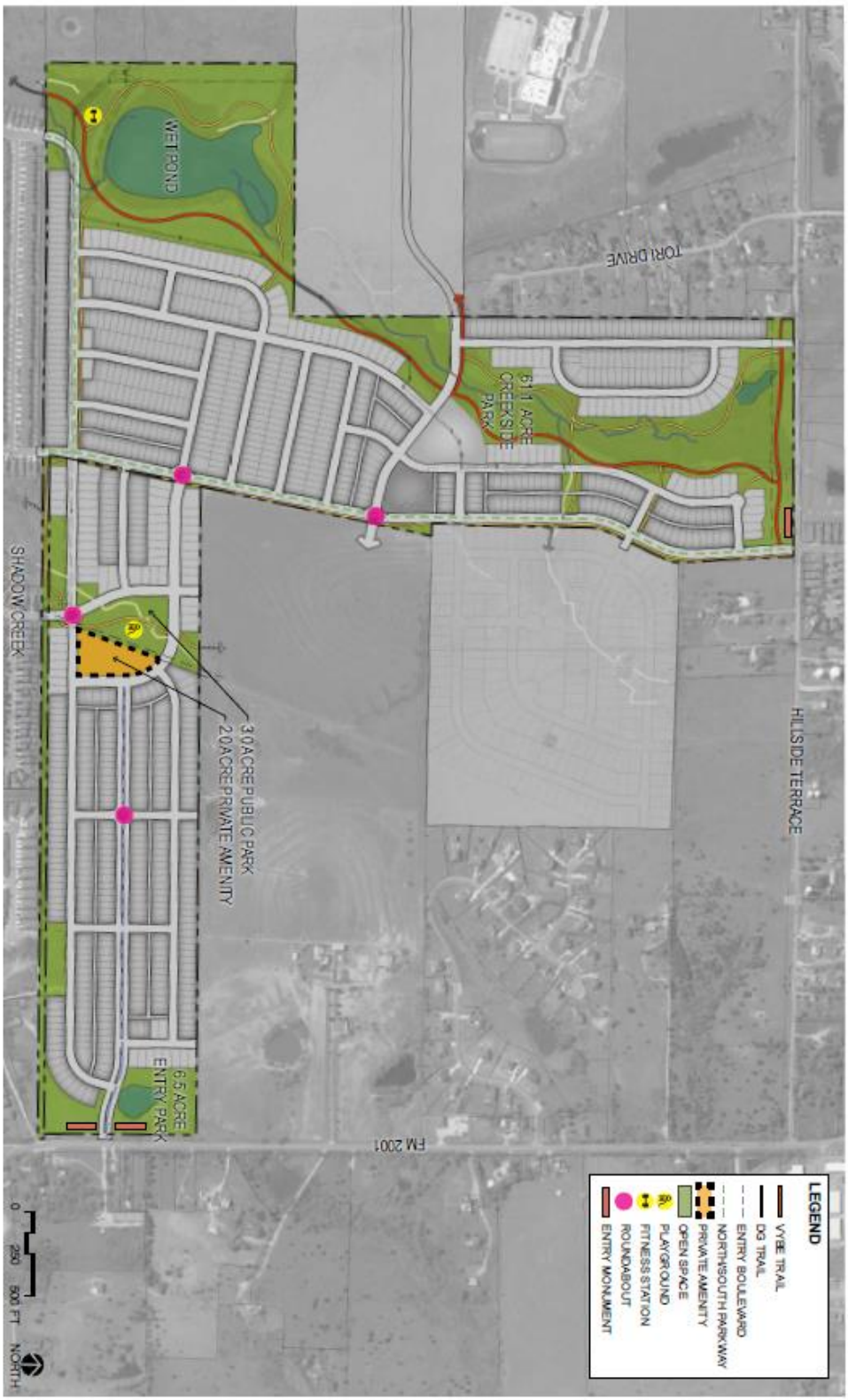

EXHIBIT "E"

Form of Maintenance and Operations Agreement
[attached]

MAINTENANCE AND OPERATIONS AGREEMENT

This Maintenance and Operations Agreement (the "Agreement") is entered into by the City of Kyle, a Texas home rule municipal corporation and political subdivision of the State of Texas situated in Hays County, Texas (the "City"), and _____, a _____ ("Licensee"), effective as of the _____, 20___ (the "Effective Date"), upon the terms and conditions set forth below.

I. DEFINED TERMS

A. "***Development Agreement***" means the Porter Country Development Agreement dated effective _____.

B. "***District***" means the "Porter Country Public Improvement District", as described in the SAP, which property therein is being developed as a master planned community in the City.

C. "***Public Improvements***" means a portion of the "Authorized Improvements," as described in the SAP, comprising only the following:

- Detention/Water Quality Pond
- Parks and Landscaping

D. "***Service and Assessment Plan***" means the Porter Country Public Improvement District Service and Assessment Plan ("SAP") dated effective _____, as updated and amended from time to time.

II. PURPOSE OF LICENSE AGREEMENT

A. The City grants to Licensee permission to operate and maintain the Public Improvements. The City makes this grant solely to the extent of its right, title and interest in the Public Improvements, without any express or implied warranties.

B. Licensee agrees that all maintenance and operations permitted by this Agreement with respect to the Public Improvements shall be done in compliance with all applicable County, State and/or federal laws, ordinances, regulations, and policies now existing or later adopted, and applicable City regulations.

III. ANNUAL FEE

No annual fee shall be due to the City in connection with this Agreement, and the City will not compensate Licensee for the maintenance and operation of the Public Improvements.

IV. CITY'S RIGHT TO PUBLIC IMPROVEMENTS

This Agreement is expressly subject and subordinate to the present and future right of the City to use the Public Improvements for the benefit of the public.

V. INSURANCE

A. Licensee shall, at its sole expense, provide a commercial general liability insurance policy, written by a company reasonably acceptable to the City and licensed to do business in Texas, with a combined single limit of not less than $600,000.00, which coverage may be provided in the form of a rider and/or endorsement to a previously existing insurance policy. The City may require the Licensee to increase the combined single limit of such coverage from time to time in the reasonable discretion of the City. Such insurance coverage shall specifically name the City as an additional insured. The insurance shall cover all perils arising from the activities of Licensee, its officers, employees, agents, or contractors, relative to this Agreement. Licensee may satisfy the insurance requirement herein by blanket policies covering property in addition to the Public Improvements. Licensee shall be responsible for any deductibles stated in the policy. A certificate of insurance evidencing such coverage shall be delivered to the Kyle City Manager on or before the Licensee's use or occupancy of the Public Improvements.

B. Licensee shall not cause any insurance to be canceled nor permit any insurance to lapse and shall provide the City where possible thirty (30) days written notice as evidenced by a return receipt of registered or certified mail of any anticipated cancellation, reduction, restriction, or other limitation thereafter established under such policy of insurance.

VI. INDEMNIFICATION

Licensee shall indemnify, defend, and hold harmless the City and its officers, agents, and employees against all claims, suits, demands, judgments, damage, costs, losses, expenses, including reasonable attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises from or is in any manner caused by Licensee's maintenance of the Public Improvements under this Agreement. This indemnification provision, however, shall not apply to any claims, suits, demands, judgments, damage, costs, losses, expenses, or other liability for personal injury, death, or damage to any person or property (i) for which the City shall have been compensated by insurance provided under Paragraph V, above, (ii) arising out of any acts or omissions by the City under Paragraph IV, above, or (iii) arising solely from the negligence or willful acts or omissions of the City; provided that for the purposes of the foregoing, the City's entering into this Agreement shall not be deemed to be a "negligent or willful act."

VII. CONDITIONS

A. Licensee's Responsibilities. Licensee will be responsible for any and all damage to the Public Improvements unless such damage is as a result of acts or omissions by the City.

B. Maintenance. Licensee shall maintain the Public Improvements in good repair, working order, and good condition, and in compliance with this Agreement and the Development Agreement, as applicable. The City may require Licensee to take action to maintain the Public Improvements in compliance with this Agreement, including, but not limited to, the removal of dead or dying vegetation placed by Licensee within the park and open space, and rebuilding and reconstructing the Public Improvements, save and except that removal or repairs due to normal wear and tear shall be completed within thirty (30) days (or such longer reasonable period of time if thirty (30) days is not reasonable as long as such additional time does not exceed ninety (90) days from the date of the notice) following receipt of a written request from the City.

C. Operation. Licensee shall operate the Public Improvements in accordance with applicable State and federal regulations for the operation of the facilities comprising the Public Improvements.

D. Removal or Modification. No Public Improvements may be modified or removed without the prior written consent of the City.

E. Default. In the event that Licensee fails to maintain the Public Improvements as provided in this Agreement and the Development Agreement, or otherwise comply with the terms or conditions as set forth herein, the City shall give Licensee written notice thereof, by registered or certified mail, return receipt requested, to the address set forth below. Licensee shall have thirty (30) days from the date of receipt of such notice to take action to remedy the failure complained of, and if Licensee does not satisfactorily remedy the same within the thirty (30) day period (provided that the City shall allow such additional time as may be reasonably necessary for Licensee to cure any failure as long as Licensee commences such cure within the thirty (30) day period provided and diligently pursues such cure thereafter and as long as such additional time does not exceed ninety (90) days from the date of the notice) the City may pursue its remedies under Paragraph XI below.

City Address:

City of Kyle
Attention: City Manager
_____
Kyle, Texas _____

Licensee Address:

_____
Attn: _____
_____
_____

VIII. COMMENCEMENT

This Agreement shall begin on the Effective Date and continue thereafter for as long as the Public Improvements are maintained and operated by the Licensee.

IX. TERMINATION

Notwithstanding any other term, provision, or condition of this Agreement and the Development Agreement, subject only to prior written notification to Licensee, this Agreement is revocable by the City if Licensee fails to comply with the terms and conditions of this Agreement beyond applicable notice and cure periods, including but not limited to the insurance requirements specified herein. The City agrees that, if the City terminates this Agreement, the City will operate and maintain the Public Improvements in the manner contemplated by the Development Agreement with reimbursement of City's costs to operate and maintain the Public Improvements by Licensee. The City may further terminate and revoke this Agreement if:

A. The Public Improvements, or a portion of them, constitute a danger to the public which the City deems not to be remediable by alteration or maintenance of such Public Improvements; or

B. Maintenance or alteration necessary to alleviate a danger to the public has not been made after the notice and cure periods provided herein have lapsed.

X. FUNDING MAINTENANCE OBLIGATION

Licensee will establish periodic homeowner's association dues and assessments, to be charged and paid by the lot owners within the property under the jurisdiction of Licensee pursuant to such bylaws, rules, regulations, and restrictive covenants established by Licensee (collectively, "Association Regulations"), in order to maintain and operate the Public Improvements as provided in this Agreement. The Association Regulations will require the periodic dues and assessments to be increased from time to time as necessary to provide the funds required for the maintenance and operation of the Public Improvements, and to provide funds required for the management and operation of Licensee.

XI. REMEDIES

The City will be entitled to judicially enforce Licensee's obligations under this Agreement pursuant to the Association Regulations. Licensee also agrees that, in the event of any default on its part under this Agreement, the City shall have available to it equitable remedies including, without limitation, the right to obtain a writ of mandamus or an injunction, or seek specific performance against Licensee to enforce Licensee's obligations under this Agreement.

XII. EMINENT DOMAIN

If any portion of the Public Improvements is taken by eminent domain by a governmental authority other than the City, this Agreement shall terminate as to the affected portion of the Public Improvements so condemned.

XIII. INTERPRETATION

This Agreement shall, in the event of any dispute over its intent, meaning, or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

XIV. APPLICATION OF LAW

This Agreement shall be governed by the laws of the State of Texas. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.

XV. SPECIFIC PERFORMANCE

If either party materially breaches the terms of this License Agreement, such material breach shall be an event of default. In that event, the non-defaulting party to this License Agreement may pursue the remedy of specific performance.

XVI. VENUE

Venue for all lawsuits concerning this Agreement will be in Hays County, Texas.

XVII. COVENANT RUNNING WITH LAND; WAIVER OF DEFAULT

This Agreement and all of the covenants herein shall run with the Public Improvements; therefore, the conditions set forth herein shall inure to and bind each party's successors and assigns. Either party may waive any default of the other at any time by written instrument, without affecting or impairing any right arising from any subsequent or other default.

XVIII. AMENDMENT

This License Agreement may be amended only by an instrument in writing signed and approved by both parties.

XIX. ASSIGNMENT

Licensee shall not assign or transfer its interest in this Agreement without the written consent of the City.

XX. POWER AND AUTHORITY

A. The City hereby represents and warrants to Licensee that the City has full constitutional and lawful right, power, and authority, under currently applicable law, to execute and deliver and perform the terms and obligations of this Agreement, subject to the terms and conditions of this Agreement and subject to applicable processes, procedures, and findings that are required by state law, City ordinances, or the City Charter related to actions taken by the City Council, and all of the foregoing have been authorized and approved by all necessary City proceedings, findings, and actions. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of the City, is enforceable in accordance with its terms and provisions, and does not require the consent of any other governmental authority.

B. Licensee hereby represents and warrants to the City that Licensee has full lawful right, power, and authority to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing have been or will be duly and validly authorized and approved by all necessary actions of Licensee. Concurrently with Licensee's execution of this Agreement, Licensee has delivered to the City copies of the resolutions or other corporate actions authorizing the execution of this Agreement and evidencing the authority of the persons signing this Agreement on behalf of Licensee to do so. Accordingly, this Agreement constitutes the legal, valid, and binding obligation of Licensee, and is enforceable in accordance with its terms and provisions.

* * *

[SIGNATURE PAGE FOLLOWS]

TERMS AND CONDITIONS ACCEPTED, this the ___ day of _____, 20___.

LICENSOR:
City of Kyle

By: _____
Name: _____
Title: Mayor

LICENSEE:

_____

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on this the ____ day of _____, 20__, by _____, Mayor, City of Kyle, Texas, on behalf of the City.

_____
Notary Public - State of Texas

THE STATE OF TEXAS §
§
COUNTY OF HAYS §

This instrument was acknowledged before me on this the ____ day of _____, 20__, by _____, of _____, a _____, on behalf of said _____.

_____
Notary Public - State of Texas

AFTER RECORDING RETURN TO:
City of Kyle
Attn: City Secretary
_____
Kyle, Texas _____

EXHIBIT "F"

Vybe Trail Extension