

AGREEMENT ADDRESSING DEVELOPMENT STANDARDS AND WATER AND WASTEWATER SERVICE FOR THE LEANDER SPRINGS DEVELOPMENT

This Agreement Addressing Development Standards for the Leander Springs Development (the "Agreement") is made and entered into, effective as of the ____ day of _____, 2021, by and between the **City of Leander, Texas**, a Texas home rule municipal corporation (the "City"), and Leander Springs Holding, LLC, a _____ limited liability company (the "Developer"). The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

Section 1. Purpose; Consideration.

- (a) The Developer owns or has under contract that certain 77.9 acre tract located in Leander, Williamson County, Texas, being more particularly described in **Exhibit A** attached hereto and incorporated herein for all purposes (the "Property") and wishes to develop the Property for commercial, retail office space, ground floor retail, commercial linear retail, freestanding retail, vertical mixed use multi-family, a full-service hotel, and the Crystal Lagoon ("Development"). The Developer desires that the City be able to enforce the development standards set forth herein through its building permit, inspection, and certificate of occupancy processes by this agreement, given that House Bill 2439 adopted in the 86th Legislative Session limits the ability of cities to enforce certain development standards governing building materials by ordinance. Furthermore, entering into an agreement that defines the masonry materials required for the structures within the Development and construction of such structures using the masonry materials set forth herein is a condition of receiving economic development incentives set forth in the Chapter 380 Agreement for Leander Springs dated July 8, 2020 (the "380 Agreement"). In addition, as part of the Development the Developer intends to construct, maintain, and operate the Crystal Lagoon, which is a crystalline lagoon, no less than 4 acres in size, that is built and maintained using a patented technology with a minimum amount of additives and energy, as more particularly shown in the Planned Unit Development zoning ordinance applicable to the Property (the "PUD"). For the purposes of this Agreement, the Crystal Lagoon does not include the adjacent landscaping features, restaurants, and shops operated adjacent to the Crystal Lagoon. The Developer intends for well water to be the primary water source for the Crystal Lagoon, with City service as backup only, and the Crystal Lagoon is estimated to hold approximately 7 million gallons of water treated using a patented technology that is different from standard swimming pools. Given the non-standard nature of water and wastewater service for the Crystal Lagoon, the Developer and the City wish to address water and wastewater service for the Crystal Lagoon.
- (b) The Developer will benefit from the City enforcing the Development Standards as set forth herein because it will be more efficient and cost-effective for compliance to be monitored and enforced through the City's building permit and inspection processes and will help ensure that the Development is built out to the quality planned by the Developer. Furthermore, entering into this Agreement and constructing the structures in the Development in accordance with the Development Standards will satisfy one of the conditions for the Developer to receive economic development incentives under the 380 Agreement. The City will benefit from this Agreement by having assurance regarding certain development

standards for the Development, having certainty that such Development Standards may be enforced by the City, and preservation of property values within the City. Further, the Parties will benefit from addressing the water and wastewater service for the City to the Crystal Lagoon, so that the City can manage the capacity of the water system and the Developer can plan for maintaining water levels and treatment for the Crystal Lagoon.

- (c) The benefits to the Parties set forth in this Article 1, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

Section 2. Term; Termination.

- (a) The term of this Agreement shall be in full force and effect from the Effective Date hereof, subject to earlier termination as provided in this Agreement. Unless earlier terminated as provided in this Agreement: (1) Section 3 of this Agreement shall terminate upon the issuance of the final certificate of occupancy for the final structure in the Development; and (2) the remaining terms and conditions of this Agreement shall terminate when the Crystal Lagoon permanently ceases to operate, provided that Section 7 and Section 8 shall survive termination of this Agreement.
- (b) The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer defaults under the terms of this Agreement, subject to the notice and cure provisions in Section 10.

Section 3. Development Standards.

- (a) **Development Requirements.** At least ninety percent (90%) of the combined exterior surface area of all walls, including all stories of primary buildings / structures, shall consist of stone, brick, painted or tinted stucco, or similar material approved by the Director of Planning in his or her reasonable discretion. The definition of masonry shall include stone, brick or stucco and/or other similar material approved by the Director of Planning in his or her reasonable discretion. The surfaces of a structure constructed of glass are not included in exterior surfaces used to calculate the percentage of required masonry. Prior to the date hereof, the Director has approved split faced tinted (not painted) concrete masonry unit as a “similar material”.
- (b) **Building Permits.** The Developer acknowledges and agrees that compliance with Section 3(a) will be a condition of issuance of building permits and certificates of occupancy. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 3(a) above, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that do not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must be in compliance with this Agreement, as well as the Applicable Regulations, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this Agreement must accompany a building permit

application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.

- (c) **Applicable Regulations.** Except as modified by this Agreement, the Development and the Property will be developed in accordance with all applicable local, state, and federal regulations, including but not limited to the City’s ordinances and the zoning regulations applicable to the Property, including without limitation, the PUD, and such amendments to City ordinances and regulations that that may be applied to the Development and the Property under Chapter 245, Texas Local Government Code, and good engineering practices (the “**Applicable Regulations**”). If there is a conflict between the Applicable Regulations and the Development Standards, the Development Standards shall control. This Agreement does not constitute a permit under Chapter 245, Texas Local Government Code. Developer will design, construct and install all required water facilities, wastewater facilities, streets, drainage facilities and other amenities and improvements within and located outside of the Property to serve the Property (collectively the “**Subdivision Improvements**”) at Developer’s sole cost and expense, in compliance with this Agreement, the Applicable Regulations, and the plans and specifications approved by the City, and good engineering practices.

- (d) **Expedited Review Process.** The Developer is authorized to use the City’s Alternate Review Procedure, as that term is defined in the City’s subdivision and site development regulations, for review and processing of subdivision and site development applications.

Section 4. Crystal Lagoon Admission Prices. The Crystal Lagoon shall be open for use by the public, provided that the Crystal Lagoon may be closed to the public for special events and/or maintenance for up to 50 days each year; excepting, however, maintenance required by a casualty event that would require more than fifty (50) days or for capital repairs and maintenance which will exceed more than 50 days using commercially reasonable and diligent efforts. City of Leander residents shall receive a discount on general admission prices of forty percent (40%) of the costs available to the general public. For purposes of this Agreement, “open to the public” means that the use of the Crystal Lagoon shall not be restricted to one or more users; provided, however, the City acknowledges and agrees that Developer (or the owner or operator of the Crystal Lagoon) shall have the right to charge fees to users of the Crystal Lagoon based on rates established by the owner or operator of the Crystal Lagoon in its sole discretion.

Section 5. Water Service for the Crystal Lagoon.

- (a) **Primary Water Supply.** This Agreement shall govern the terms of water service from the City to the Crystal Lagoon. The primary source of water to fill and maintain levels in the Crystal Lagoon shall be one or more private wells to be constructed on the Property (the “Water Well”).
- (b) **Terms of Service from City System.** The City’s Water System shall serve as a backup water supply for the Crystal Lagoon and the City will provide retail water service to the Developer to maintain water levels in the Crystal Lagoon, secondary to the Water Wells, in accordance with the terms and conditions of this Agreement. The City’s Water System consists of the facilities owned and operated by Leander, including water transmission, distribution and delivery systems that provide water service to Leander’s retail customers

and wholesale customers, together with all extensions, expansions, improvements, enlargements, betterments and replacements to provide retail water service or wholesale water service to the City's customers.

- (1) **Meter; Application for Service.** Water service provided by the City of Leander for the Crystal Lagoon will be measured by a dedicated meter that measures the quantity of the water delivered by the City to the Crystal Lagoon only and does not include water service provided to any other part of the Development. The size of the water meter shall be determined by the City at the time of the permit application for the Crystal Lagoon and its appurtenances. The water meter will remain locked until such time that the Developer requests and is approved for service as provided in Section (5)(b)(2). The Developer shall apply for and pay the tap and impact fees required by the City's water utility ordinances. At the time of application for City service of retail water in accordance with Section 5(b)(2) below, the Developer shall pay and maintain at all times that there is an active account for the Crystal Lagoon a security deposit in the amount of \$15,000.00.
 - (2) **Requesting Service.** Retail water service shall only be provided by the City to the Crystal Lagoon if water from the Water Wells is not available, and in such event the Developer shall give the City seven (7) days' notice that the Developer requires water service for the Crystal Lagoon (the "Notice"). The Notice shall include the reason for the request, shall certify that service from the Water Well is not available, the type of service requested (Service Due to Evaporation Losses or Service to Fill the Crystal Lagoon), and an estimated amount of water needed. Within seven days of receiving the Notice or, with respect to Service to Fill the Crystal Lagoon, within seven days of receipt of the Deposit, the City shall initiate the provision of water service to the Crystal Lagoon subject to the terms and limitations of this Agreement. The City may provide service over a specified period of time or during certain times of the day to manage peak flow capacity of the Leander Water System.
 - (3) **Service Due to Evaporation Losses.** Notwithstanding anything contained herein to the contrary, service due to evaporation losses may be requested at any time during the year. Water service under this subsection shall not exceed 200,000 gpd per month, unless agreed otherwise by the City.
 - (4) **Service to Fill the Crystal Lagoon.** Service to fill the Crystal Lagoon may only be provided during the months of December, January, or February. A request for service that exceeds 200,000 gpd shall be considered a request for service to fill the Crystal Lagoon. As a condition of receiving service under this subsection, the Developer shall post a deposit with the City in an amount equal to the estimated water bill for the estimated amount of water needed set forth in the Notice (the "Deposit"). The City will bill against the Deposit, and in the event the amount owed for the actual water used for the Crystal Lagoon is less than the Deposit, the excess amount will be returned to the Developer. In the event that the amount owed for the actual water used is less than the Deposit, the Developer will pay the applicable amount owed within the time frame set forth in the water bill. The City Manager and the City Engineer may approve water service under this subsection at additional times on an emergency basis if there is sufficient water capacity available.
- (c) **Rates and Terms of Service.** Except as provided in this Agreement, all standard rates, fees, and charges and terms of service set forth in the City's Code of Ordinances, as

amended from time to time, shall apply. In the event of a conflict between the City's ordinances and this Agreement this Agreement shall control.

- (d) **Limitations of Service.** The City shall have no obligation to provide the retail water service to the Crystal Lagoon in excess of the amounts set forth herein or any time that the Developer is in default under this Agreement, after the expiration of notice and an opportunity to cure.
- (e) **Curtailed Service.** The Developer understands and agrees that the City may curtail service to the Crystal Lagoon completely in the event of a maintenance operation, an emergency for a reasonable period necessary to complete such maintenance operations or repairs to respond to an emergency, or in the event of an enactment of drought contingency plans.

Section 6. Wastewater Service for the Crystal Lagoon. Before the first building permit for any structure on the Property is issued, the Developer shall provide the City with a full and accurate description of the chemicals and other substances used by the Developer to treat the water in the Crystal Lagoon. If there are any chemicals or substances that do not meet the requirements of Article 13.04, Sewer Use Regulations, City of Leander Code of Ordinances, as amended from time to time, or applicable local, state, and federal regulations governing discharge of wastewater into wastewater treatment plants (the “**Environmental Regulations**”), then Developer shall develop and obtain approval from the City of a plan for treatment of any discharge from the Crystal Lagoon. Such plan must be submitted and approved by the City before any building permits for the Development may be issued. The Developer shall notify the City prior to changing any treatment processes for the Crystal Lagoon, shall provide the City with a full and accurate description of the chemicals and substances used to treat the Crystal Lagoon, and obtain the City's approval before implementing the new treatment processes. The Developer will allow the City access to the Crystal Lagoon during regular business hours to test the chemical makeup of the Crystal Lagoon. Any discharge from the Crystal Lagoon into the City's wastewater system or into the Brushy Creek shall meet all applicable local, state, and federal regulations, including by not limited to Article 13.04, Sewer Use Regulations, City of Leander Code of Ordinances, as amended from time to time and the any treatment plan required to be approved by the City under this Section.

Section 7. Effect of Agreement. Developer agrees that the provision of water service for the Crystal Lagoon under the terms of this Agreement satisfies the City's obligation to provide water service to customers within its water service area. The terms of this Agreement governing retail water and wastewater service do not apply to retail water or wastewater services to any part of the Development other than the Crystal Lagoon. Retail water and wastewater services shall be provided to the other parts of the Development in accordance with the applicable City regulations, ordinances, and policies. Furthermore, the City's limitation of water or wastewater service for the Crystal Lagoon pursuant to this Agreement, except in the event of default under this Agreement by the City, shall not constitute a Force Majeure event under the 380 Agreement and shall not excuse the Developer from meeting the Threshold or Ongoing Grant Criteria set forth and defined in the 380 Agreement, including but not limited to the requirement that the Crystal Lagoon be continuously operated subject to temporary closures as authorized by Sections III.A.1.a and III.B.1.b of the 380 Agreement.

Section 8. INDEMNIFICATION. DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, THE CITY AND ITS ELECTED OFFICIALS,

EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE (EXCLUDING, HOWEVER, PUNITIVE, SPECIAL AND/OR CONSEQUENTIAL DAMAGES) BROUGHT BY ANY THIRD PARTY AND RELATING TO DEVELOPER'S USE OF THE WELL WATER TO SUPPLY WATER TO THE CRYSTAL LAGOON OR THE DISCHARGE OF WATER FROM THE CRYSTAL LAGOON INTO THE CITY'S WASTEWATER SYSTEM OR THE BRUSHY CREEK, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE OR DEPLETION OF THIRD PARTIES' WELLS, MADE UPON THE CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER'S USE OF WELL WATER TO SUPPLY WATER TO THE CRYSTAL LAGOON OR THE DISCHARGE OF WATER FROM THE CRYSTAL LAGOON INTO THE CITY'S WASTEWATER SYSTEM OR THE BRUSHY CREEK, INCLUDING ANY SUCH ACTS OR OMISSIONS OF DEVELOPER OR DEVELOPER'S TENANT, LESSEE, CONTRACTOR, OR OPERATOR OF THE CRYSTAL LAGOON, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF DEVELOPER OR DEVELOPER'S TENANT, LESSEE, CONTRACTOR, OR OPERATOR OF THE CRYSTAL LAGOON, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY, INCLUDING WITHOUT LIMITATION, MEMBERS OF THE PUBLIC. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY, RELATED TO OR ARISING OUT OF DEVELOPER OR DEVELOPER'S TENANT', LESSEE, CONTRACTOR, OR OPERATOR OF THE CRYSTAL LAGOON ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT DEVELOPER'S COST TO THE EXTENT REQUIRED UNDER THE INDEMNITY IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL INCLUDE CONSEQUENCES FROM THE CITY'S OWN NEGLIGENCE BUT SHALL NOT BE AN INDEMNITY EXTENDED BY DEVELOPER TO INDEMNIFY, PROTECT AND HOLD HARMLESS CITY FROM THE CONSEQUENCES OF THE CITY'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL APPLY ONLY, TO THE EXTENT OF ANY COMPARATIVE NEGLIGENCE STATUTES AND FINDINGS, WHEN THE NEGLIGENT ACT OF CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND IT

SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF CITY IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. DEVELOPER FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF CITY AND IN THE NAME OF CITY ANY CLAIM OR LITIGATION BROUGHT AGAINST CITY (AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES), IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.

IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY AND THE DEVELOPER SHALL SURVIVE THE TERMINATION AND OR EXPIRATION OF THIS AGREEMENT SUBJECT TO APPLICABLE STATUTES OF LIMITATION AND SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND / OR THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND ELECTED OFFICIALS PERMITTED BY LAW.

Section 9. Assignment of Commitments and Obligations; Covenant Running with the Land.

This Agreement shall constitute a covenant that runs with the Property and is binding on future owners of the Property, and a copy of this Agreement shall be recorded in the Official Public Records of Williamson County, Texas. The Developer and the City acknowledge and agree that this Agreement is binding upon the City and the Developer and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 10. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party of notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable legal remedy not inconsistent with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy. In addition to the other remedies set forth herein, the City may withhold approval of a building permit application or a certificate of occupancy for a structure that does not comply with Section 3. In addition to other remedies set forth herein and reasons for discontinuance of service set forth in the Applicable Regulations, the City may discontinue service to the Crystal Lagoon if the Developer is in default of Section 5 or 6 under this Agreement.

Section 11. Reservation of Rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, and neither party waives any legal right or defense available under law or in equity.

Section 12. Attorneys Fees. In the event of action pursued in court to enforce rights under this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable

attorneys' fees, incurred in connection with such action.

Section 13. Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

Section 14. 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; epidemic; 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; or other causes not reasonably within the control of the party claiming such inability.
- (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 ten (10) 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.

Section 15. Notices. Any notice to be given hereunder by any party to another party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Leander
Attn: City Manager
P.O. Box 319
Leander, Texas 78641
Williamson County

with copy to:

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

Any notice mailed to the Developer shall be addressed:

Leander Springs LLC
Attn: Andrey Derevianko
8705 Shoal Creek Blvd, Suite 213
Austin, Texas 78757

With a copy to:

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

Section 16. Waiver of Alternative Benefits. The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement, Developer hereby waives any and all claims or causes of action against the City Developer may have for or with respect to any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement.

Section 17. Severability. Should any court declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

Section 18. Agreement and Amendment. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

Section 19. No Joint Venture. The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

Section 20. No Third Party Beneficiaries. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

Section 21. Effective Date. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

Section 22. Recordation. This Agreement or a memorandum of Agreement acceptable to the City and Developer shall be recorded in the Official Public Records of Williamson County, Texas.

Section 23. Texas Law Governs. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie exclusively in Williamson County, Texas.

Section 24. 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, the Developer represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (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.

Section 25. Iran, Sudan and Foreign Terrorist Organizations. 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, Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

Section 26. Time is of the Essence. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

Section 27. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A – Property Description

EXECUTED in multiple originals this the ____ day of _____, 20__.

CITY:
City of Leander, Texas
a Texas home-rule municipal corporation

Attest:

By: _____
Name: Dara Crabtree
Title: City Secretary

By: _____
Name: Troy Hill
Title: Mayor

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on this ____ day of _____, 20__, by _____, Mayor of the City of Leander, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

DEVELOPER:

By: _____
Name:
Title:

THE STATE OF TEXAS §
COUNTY OF _____ §

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

(SEAL)

Notary Public, State of Texas

EXHIBIT “A”

Description of Property