CITY OF WHARTON
HOUSING COMMITTEE MEETING

Monday, March 27, 2023
5:30 PM

CITY HALL 120 EAST CANEY STREET
WHARTON, TEXAS 77488

NOTICE OF
CITY OF WHARTON
HOUSING COMMITTEE MEETING

Notice is hereby given that a Housing Committee Meeting will be held on Monday, March 27, 2023 at 5:30 PM at the Wharton City Hall, 120 East Caney Street, Wharton, Texas, at which time the following subjects will be discussed to-wit:

SEE ATTACHED AGENDA

Dated this 23rd day of March 2023.

By: Joseph R. Pace
Joseph R. Pace, City Manager

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Housing Committee Meeting is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board, at City Hall of said City or Town in Wharton, Texas, a place convenient and readily accessible to the general public at all times, and said Notice was posted on March 23, 2023, at 4:30 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

The Wharton City Hall is wheelchair accessible. Access to the building and special parking is available at the primary entrance. Persons with disabilities, who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at (979) 532-4811 Ext. 225 or by FAX (979) 532-0181 at least two (2) days prior to the meeting date. BRAILLE IS NOT AVAILABLE.

Dated this 23rd day of March 2023.

CITY OF WHARTON

By: Paula Favors
Paula Favors
City Secretary

A G E N D A
CITY OF WHARTON
Housing Committee Meeting
Monday, March 27, 2023
City Hall - 5:30 PM

Call to Order.

Roll Call.

Public Comments.

Review & Consider:

1. Minutes from the meeting held on May 23, 2022.
2. Preliminary Plat review for Wharton Lakes.

Adjournment.

City of Wharton
120 E. Caney Street
Wharton, TX 77488

HOUSING COMMITTEE

Meeting Date:	3/27/2023	Agenda Item:	Minutes from the meeting held on May 23, 2022.

Attached are a copy of the draft minutes from the meeting held May 23, 2022.

City Manager: Joseph R. Pace	Date: Thursday, March 23, 2023
Approval: Joseph R. Pace	
Mayor: Tim Barker	

MINUTES
OF
CITY OF WHARTON
HOUSING COMMITTEE MEETING
120 EAST CANEY STREET
WHARTON, TEXAS 77488
Monday, May 23, 2022 – 6:00 p.m.

City Manager, Joseph R Pace, declared a meeting of the City Council Housing Committee duly open for the transaction of business at 6:00 p.m.

Committee Members present were:	Councilmember, Terry Freese; Councilmember, Clifford Jackson and Councilmember, Russell Machann.
Committee Member absent was:	None.
City Council Member present was:	Councilmember, Don Mueller.
Staff members present were:	City Manager, Joseph R. Pace; Finance Director, Joan Andel; Assistant to the City Manager, Brandi Jimenez; Assistant City Manager, Paula Favors and Director of Planning and Development, Gwyneth Teves.
Staff member absent was:	None.
Visitors:	Wharton Chamber of Commerce Executive Director, Ron Sander; City Attorney, Paul Webb and Mr. Ken Schott, Waterstone Development Group.

Public Comments. There were no public comments.

The first item on the agenda was to review and consider the reading of the minutes from the meeting held May 24, 2021. Councilmember Russell Machann made a motion to approve the minutes as presented. Councilmember Terry Freese seconded the motion. All voted in favor.

The second item on the agenda was to review and consider Presentation on "Greenlight" Housing Development. Mr. Ken Schott, Waterstone Development Group, made a presentation to the Committee. After some discussion, no action was taken.

The third item on the agenda was adjournment.

The meeting adjourned at 6:55 p.m.

_____
Joseph R. Pace, City Manager

City of Wharton
120 E. Caney Street
Wharton, TX 77488

HOUSING COMMITTEE

Meeting Date:	3/27/2023	Agenda Item:	Preliminary Plat review for Wharton Lakes.

The Planning Commission met on Monday, March 6, 2023, to discuss the request from Mr. Ryan Moeckel with McKim & Creed to review the preliminary plat for the Wharton Lakes Subdivision.

Attached you will find recommendations from the Planning Commission.

Director of Planning & Development, Gwyn Teves, will be present to answer any questions.

City Manager: Joseph R. Pace	Date: Thursday, March 23, 2023
Approval: Joseph R. Pace	
Mayor: Tim Barker	

City of Wharton

120 E. Caney • Wharton, TX 77488
Phone (979) 532-2491 • Fax (979) 532-0181

MEMORANDUM

DATE: March 17, 2023

FROM: Mike Wootton, Planning Commission Chairperson

TO: Honorable Mayor and City Council

SUBJECT: Recommendation to Housing Committee for the Preliminary Plat review for Wharton Lakes

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The following items were discussed during the Monday, March 6, 2023, meeting:

1. Request from Ryan Moeckel with McKim & Creed to review the preliminary plat for the Wharton Lakes Subdivision.

The following recommendations are being made prior to the approval of the Preliminary Plat:

1. Conformity of the street naming. Most streets are proper names and the following streets are not consistent with the naming convention:
   a. Wharton Lakes Boulevard
   b. Sunrise Cove Lane
   c. Swan Lake Drive
   d. Lighthouse Lane

   Recommendations to the street names would be Toby, Krista, Paula, etc.

2. No legend provided for abbreviations. Most are universal, however, S.S.E. is not known, etc.

3. No widths are provided for the main Boulevard. Only described as “width varies”.

4. Reserves are shown, but no designations are made for usages.

5. Sadie Marie Road dead ends without a cul-de-sac or temporary cul-de-sac or must be labeled as shown in Section 5.01 Streets # 16 in the City of Wharton Subdivision Ordinance. (16. Partial or half-streets. Partial or half-streets may be provided where the planning commission feels that a street should be located on a property line. The following note shall be used in all [each] such dedication:
   "This _____-foot strip is dedicated as an easement for all utility purposes including storm and sanitary sewers and shall automatically become dedicated for street purposes when and insofar as a _____-foot strip adjacent to it is so dedicated and the required improvements as are installed.")

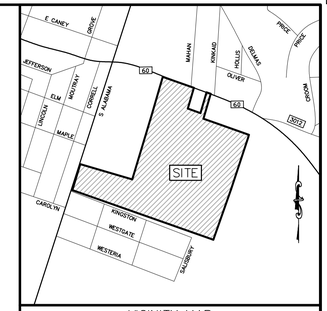
6. Per the Development Agreement Section 9.1 the final plats will not be recorded until an Annexation Petition is submitted.

7. Page 1 of the plat is labeled as sheet 2 of 2.

If you should have any questions, please contact me. Thank You.

LINE	BEARING	DISTANCE
L1	S 16°23'21" W	290.91'
L2	S 70°36'40" E	180.36'
L3	N 16°18'47" E	290.51'
L4	S 70°28'39" E	59.77'
L5	S 16°26'04" W	33.43'
L6	S 61°24'12" W	7.57'
L7	N 30°09'11" W	39.76'
L8	S 73°12'56" E	10.90'
L9	S 61°57'10" W	5.62'
L10	N 27°25'36" W	6.14'
L11	S 24°37'09" E	6.84'
L12	S 64°25'16" W	7.57'
L13	S 00°18'22" E	13.99'
L14	S 89°41'38" W	109.66'
L15	N 80°07'37" W	77.52'
L16	N 62°57'47" E	20.63'
L17	N 64°25'16" E	21.21'
L18	S 38°42'55" E	42.91'
L19	S 73°43'35" E	24.74'
L20	S 27°02'13" E	21.78'
L21	N 02°32'02" W	21.05'
L22	N 40°23'09" W	33.53'
L23	S 85°00'58" W	25.00'
L24	S 38°49'32" W	20.00'
L25	S 45°25'08" W	11.44'
L26	N 73°38'20" W	22.19'
L27	S 03°21'25" W	73.29'
L28	S 41°38'35" E	21.21'
L29	N 70°34'44" W	50.00'
L30	N 42°32'06" E	37.59'
L31	N 81°22'15" E	37.66'
L32	N 73°12'56" W	34.99'
L33	S 20°05'05" W	53.51'
L34	S 25°12'06" W	49.43'
L35	S 54°09'04" W	79.71'
L36	S 89°49'07" W	79.73'
L37	S 18°14'31" W	87.86'
L38	N 71°40'00" W	43.79'
L39	N 77°25'00" W	42.66'
L40	N 34°05'38" W	14.55'
L41	S 53°36'34" W	21.21'
L42	N 81°23'26" W	35.82'
L43	N 78°27'49" W	86.88'
L44	N 85°26'27" W	40.00'
L45	N 40°26'27" W	21.21'

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	90°00'00"	50.00'	78.54'	S 28°35'48" E	70.71'
C2	92°38'12"	200.00'	323.36'	S 63°06'10" W	289.28'
C3	17°05'26"	600.00'	178.97'	S 08°14'21" W	178.31'
C4	2°38'12"	2500.00'	115.05'	S 71°53'50" E	115.04'
C5	90°00'00"	50.00'	78.54'	N 25°34'44" W	70.71'
C6	90°00'00"	50.00'	78.54'	N 64°25'16" E	70.71'
C7	90°00'00"	50.00'	78.54'	N 64°25'16" E	70.71'
C8	90°00'00"	50.00'	78.54'	S 25°34'44" E	70.71'
C9	90°00'00"	275.00'	431.97'	S 64°25'16" W	388.91'
C10	19°43'38"	600.00'	206.58'	N 80°26'33" W	205.56'
C11	16°37'04"	600.00'	174.02'	N 81°59'50" W	173.41'
C12	6°26'19"	500.00'	56.19'	N 76°54'28" W	56.16'
C13	6°26'19"	500.00'	56.19'	N 76°54'28" W	56.16'
C14	93°07'09"	25.00'	40.63'	S 62°57'47" W	36.30'
C15	90°00'00"	25.00'	39.27'	S 28°35'48" E	35.36'
C16	21°02'22"	25.00'	9.18'	S 84°06'59" E	9.13'
C17	132°04'44"	50.00'	115.26'	S 28°35'48" E	91.38'
C18	21°02'22"	25.00'	9.18'	S 26°55'23" W	9.13'
C19	86°58'56"	25.00'	37.95'	S 27°05'16" E	34.41'
C20	26°11'42"	25.00'	11.43'	S 83°40'35" E	11.33'
C21	137°14'05"	50.00'	119.76'	S 28°09'24" E	93.12'
C22	21°02'22"	25.00'	9.18'	S 29°56'27" W	9.13'
C23	90°00'00"	25.00'	39.27'	S 25°34'44" E	35.36'
C24	90°00'00"	25.00'	39.27'	N 64°25'16" E	35.36'
C25	21°02'22"	25.00'	9.18'	N 08°54'05" E	9.13'
C26	134°09'25"	50.00'	117.07'	N 65°27'36" E	92.10'
C27	23°07'03"	25.00'	10.09'	S 59°01'13" E	10.02'
C28	21°02'22"	25.00'	9.18'	S 81°05'55" E	9.13'
C29	132°04'44"	50.00'	115.26'	S 25°34'44" E	91.38'
C30	21°02'22"	25.00'	9.18'	S 29°56'27" W	9.13'
C31	90°00'00"	25.00'	39.27'	S 25°34'44" E	35.36'
C32	89°31'02"	25.00'	39.06'	S 64°39'45" W	35.21'
C33	89°31'02"	300.00'	468.71'	S 64°39'45" W	422.47'
C34	19°43'38"	575.00'	197.98'	N 80°26'33" W	197.00'
C35	16°37'04"	630.00'	182.72'	N 81°59'50" W	182.08'
C36	11°45'09"	470.00'	96.41'	N 79°33'53" W	96.24'
C37	11°45'09"	300.00'	61.54'	N 79°33'53" W	61.43'
C38	14°07'42"	570.00'	140.55'	S 80°45'09" E	140.20'
C39	88°49'34"	25.00'	38.76'	N 47°46'12" E	34.99'
C40	13°25'39"	625.00'	146.47'	N 10°04'15" E	146.14'
C41	17°31'03"	225.00'	68.79'	N 25°32'35" E	68.52'
C42	43°34'19"	100.00'	76.05'	N 12°30'58" E	74.23'
C43	138°14'01"	50.00'	120.63'	N 59°50'49" E	93.43'
C44	43°34'19"	100.00'	76.05'	S 72°49'20" E	74.23'
C45	18°22'03"	225.00'	72.13'	S 85°25'28" E	71.82'
C46	87°21'22"	25.00'	38.12'	N 60°04'53" E	34.53'
C47	90°00'00"	25.00'	39.27'	N 28°35'48" W	35.36'
C48	48°11'23"	25.00'	21.03'	S 82°18'30" W	20.41'
C49	276°22'46"	50.00'	241.19'	N 16°24'12" E	66.67'
C50	48°11'23"	25.00'	21.03'	S 49°30'07" E	20.41'
C51	90°00'00"	25.00'	39.27'	N 61°24'12" E	35.36'
C52	86°52'51"	25.00'	37.91'	N 27°02'13" W	34.38'
C53	92°38'12"	175.00'	282.94'	S 63°06'10" W	253.12'
C54	89°07'17"	25.00'	38.89'	S 27°46'35" E	35.08'
C55	90°00'00"	25.00'	39.27'	N 64°25'16" E	35.36'
C56	90°00'00"	25.00'	39.27'	N 25°34'44" W	35.36'
C57	42°50'00"	25.00'	18.69'	S 88°00'16" W	18.26'
C58	265°40'01"	50.00'	231.84'	N 19°25'16" E	73.33'
C59	42°50'00"	25.00'	18.69'	S 49°09'44" E	18.26'
C60	90°00'00"	25.00'	39.27'	N 64°25'16" E	35.36'
C61	90°00'00"	25.00'	39.27'	N 25°34'44" W	35.36'
C62	1°45'29"	2525.00'	77.48'	S 71°27'29" E	77.47'
C63	94°16'36"	25.00'	41.14'	N 43°10'04" W	36.65'
C64	12°48'50"	575.00'	128.60'	N 10°22'39" E	128.33'
C65	90°54'52"	25.00'	39.67'	N 62°14'30" E	35.64'
C66	1°43'20"	2475.00'	74.39'	S 71°26'24" E	74.39'
C67	21°02'22"	25.00'	9.18'	S 60°03'33" E	9.13'
C68	135°59'27"	50.00'	118.67'	N 62°27'55" E	92.72'
C69	24°57'05"	25.00'	10.89'	N 06°56'43" E	10.80'
C70	90°00'00"	25.00'	39.27'	N 64°25'16" E	35.36'
C71	90°00'00"	25.00'	39.27'	S 25°34'44" E	35.36'
C72	90°00'00"	250.00'	392.70'	S 64°25'16" W	353.55'
C73	19°43'38"	625.00'	215.19'	N 80°26'33" W	214.13'



VICINITY MAP
(NTS)

PRELIMINARY PLAT

WHARTON LAKES

A SUBDIVISION OF A 55.4796 ACRE TRACT
IN THE RANDAL JONES 1/2 LEAGUE,
ABSTRACT NO. 36,
CITY OF WHARTON,
WHARTON COUNTY, TEXAS

222 LOTS 5 BLOCKS 6 RESERVES

~ OWNERS ~

WHARTON 55, LLC
5005 Riverway Drive
Houston, Texas 77056
PHONE: 281.731.1382

~ SURVEYOR ~

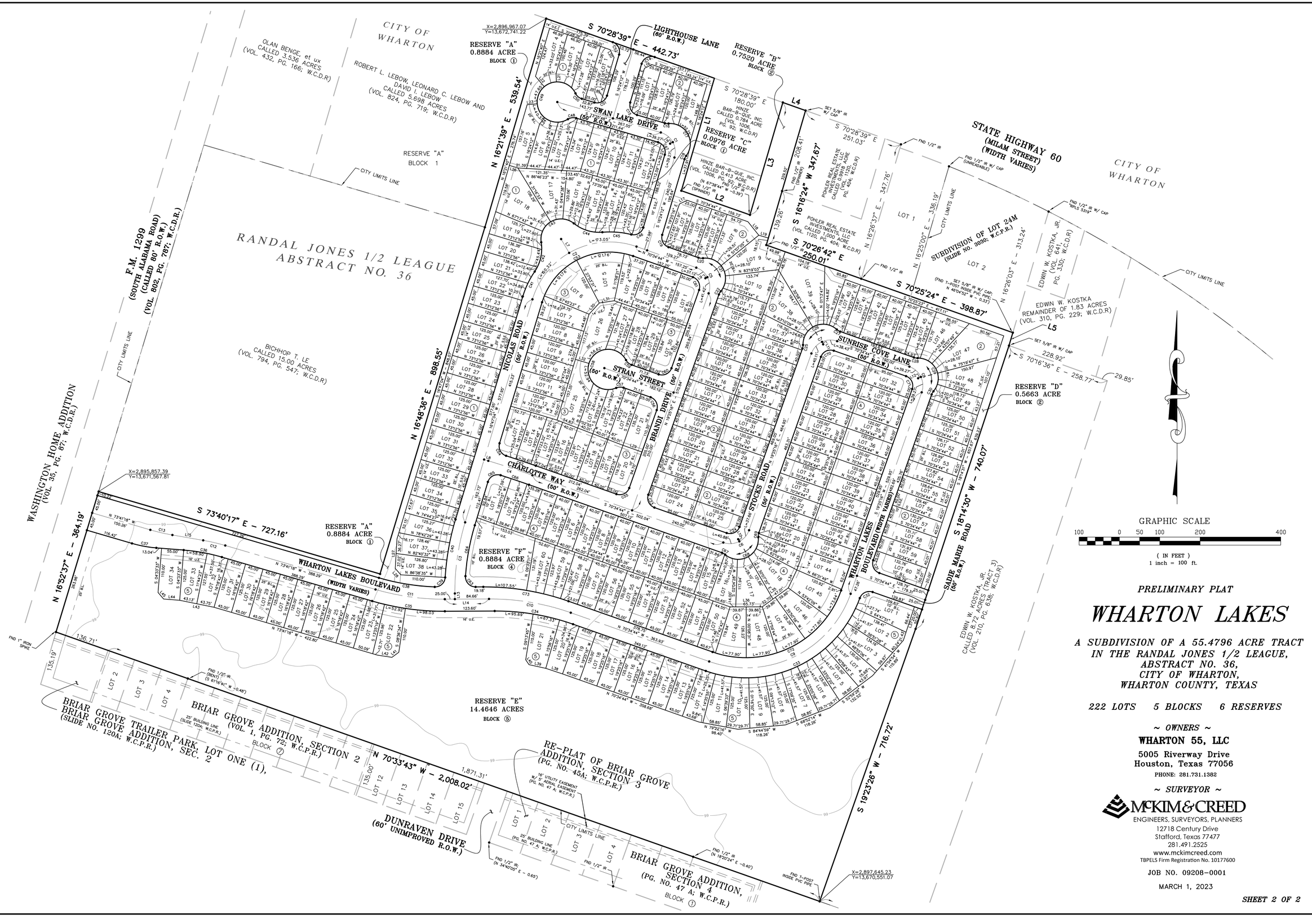
McKIM&CREED
ENGINEERS, SURVEYORS, PLANNERS
12718 Century Drive
Stafford, Texas 77477
281.491.2525
www.mckimcreed.com
TBPELS Firm Registration No. 10177600

JOB NO. 09208-0001

MARCH 1, 2023

I, ROBERT CHRIS KELLY, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THE ABOVE SUBDIVISION IS TRUE AND ACCURATE; WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND; THAT, EXCEPT AS SHOWN, ALL BOUNDARY CORNERS, ANGLE POINTS, POINTS OF CURVATURE AND OTHER POINTS OF REFERENCE HAVE BEEN MARKED WITH IRON RODS HAVING AN OUTSIDE DIAMETER OF FIVE-EIGHTHS (5/8) INCH AND A LENGTH OF THREE (3) FEET; AND THAT THE PLAT BOUNDARY CORNERS HAVE BEEN TIED TO THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE.

ROBERT CHRIS KELLY, R.P.L.S.
TEXAS REGISTRATION NO. 6833



PRELIMINARY PLAT

WHARTON LAKES

A SUBDIVISION OF A 55.4796 ACRE TRACT IN THE RANDAL JONES 1/2 LEAGUE, ABSTRACT NO. 36, CITY OF WHARTON, WHARTON COUNTY, TEXAS

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www.mckimcreed.com
TBPELS Firm Registration No. 10177600

JOB NO. 09208-0001

MARCH 1, 2023

SHEET 2 OF 2

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is entered into between the **CITY OF WHARTON, TEXAS** ("City") a political subdivision of the State of Texas, and **WHARTON 55, LLC.**, a Texas limited liability company ("Developer") to be effective as of the Effective Date.

RECITALS

WHEREAS, certain terms used in these Recitals are defined in Section 2; and

WHEREAS, the City is a Home Rule, council-manager form of city government of the State of Texas located within Wharton County ("County"); and

WHEREAS, Developer is purchasing the Property, which currently is located wholly within the extraterritorial jurisdiction of the City and not within the corporate limits or extraterritorial jurisdiction of any other municipality; and

WHEREAS, in accordance with the terms of this Agreement, upon Developer purchasing the Property and the City taking certain actions contemplated herein, Developer is willing to voluntarily petition for annexation of the Property into the corporate limits of the City and develop it within the corporate limits of the City and in full compliance to all City Regulations in effect at the time this Agreement is executed; and

WHEREAS, Developer plans to develop the Property, as a single family residential development (approximately 225 lots) pursuant to the General Plan; and

WHEREAS, Developer intends to design, construct, install, and/or make financial contributions to certain on-site and/or off-site Authorized Improvements to serve the development of the Property, which Authorized Improvements are generally identified in Exhibit B and will be further described in the Service and Assessment Plan; and

WHEREAS, Developer intends for the design and construction of the Authorized Improvements to occur in phases and to dedicate such Authorized Improvements to the City, for future use and maintenance upon the acceptance of the Authorized Improvements by the City; and

WHEREAS, Developer and the City estimate that the cost of the Authorized Improvements to be Ten Million Dollars ($10,000,000) and the amount of City reimbursement will be limited to the actual cost of the Authorized Improvements; and

WHEREAS, to accomplish the high-quality development of the Property envisioned by the Parties and to provide financing for the Authorized Improvements, the City has determined it is necessary for the City to create a public improvement district ("PID") pursuant to Chapter 372, Texas Local Government Code, as amended ("PID Act"), and to create a tax increment reinvestment zone ("TIRZ") in accordance with Chapter 311 of the Texas Tax Code, as amended ("TIF Act"); and

WHEREAS, in consideration of Developer's agreements and representations contained herein, the City intends to consider financing arrangements that will enable the Developer, in accordance with the PID Act, to: (a) fund a portion of the costs of the Authorized Improvements using the proceeds of PID Bonds issued by the City; and/or (b) obtain reimbursement for a portion of the cost of the Authorized Improvements from installment payments on Assessments on the Property and payments from the TIRZ; and

WHEREAS, the City, subject to the consent and approval of the City Council, and in accordance with the terms of this Agreement and all legal requirements, intends to: (a) create the PID and TIRZ; (b) enter into a Reimbursement Agreement with Developer; (c) adopt a Service and Assessment Plan; (d) adopt an Assessment Ordinance (to pay for a specified portion of the estimated cost of the Authorized Improvements and the costs associated with the administration of the PID and issuance of the PID Bonds); and (e) issue PID Bonds, in one or more series, for the purpose of financing a portion of the costs of the Authorized Improvements and related costs (including Administrative Expenses) and paying issuance costs and the cost of funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund) and (f) utilize monies generated through the TIRZ to pay a portion of the PID Assessments or otherwise reimburse Developer pursuant to the Reimbursement Agreement; and

WHEREAS, the City, in its sole legislative discretion, may issue PID Bonds periodically, in multiple series, to finance a portion of the costs of the Authorized Improvements and related costs (including Administrative Expenses) and to pay issuance costs and the cost of funding all reserves, accounts, and funds required by the applicable Bond Ordinance (including a capitalized interest account, a debt service reserve fund, and the project fund); and

WHEREAS, prior to Developer filing a petition for annexation of the Property into the corporate limits of the City: (a) the City Council shall have approved and adopted the PID Resolution; (b) the Parties shall have entered into the Reimbursement Agreement; (c) the City shall have created the TIRZ; and (d) the City shall have adopted a TIRZ Project and Finance Plan consistent with the terms of this Agreement; and

WHEREAS, the Parties agree that the Authorized Improvements are improvements that would qualify as projects under the TIF Act, as amended; and

WHEREAS, in consideration of Developer's agreements contained herein, the City intends to exercise its powers under the TIF Act to create a TIRZ and dedicate fifty percent (50%) of the City's ad valorem tax increment attributable to the TIRZ, based on the City's tax rate each year and as authorized by law, for a period of forty (40) years, or until all of the PID Bonds have been paid, whichever comes first. Monies collected in the TIRZ Fund shall be used to offset or pay a portion of any Assessments levied on assessed parcels within the Property for the costs of Authorized Improvements that qualify as TIRZ Projects under the TIF Act, or, in the event the City does not issue any PID Bonds, reimburse Developer; and

WHEREAS, the Parties intend that the Property will be developed pursuant to the General Plan attached hereto as Exhibit "C"; and

WHEREAS, the Parties intend that this Agreement is a development agreement as provided for by state law, including Section 212.171 et seq. of the Texas Local Government Code; and

WHEREAS, the City recognizes that the construction and installation of the Authorized Improvements will: (a) bring a positive impact to the City; (b) promote state and local economic development; (c) stimulate business and commercial activity in the municipality; (d) promote the development and diversification of the economy in the local area; (e) promote the development and expansion of commerce in the local area; and (f) eliminate some unemployment or underemployment in the local area; and

WHEREAS, Developer wishes the City to be the retail provider of water to customers located within the Property.

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

AGREEMENT

SECTION 1
RECITALS

The Recitals in this Agreement, cited above, are true and correct and establish the basis upon which the Parties enter into this Agreement and are incorporated for all purposes as part of this Agreement.

SECTION 2
DEFINITIONS

Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth:

Actual PID Bond Fee means the actual costs of the PID Bond Fee as calculated by the City's financial advisor, as described in Subsection 8.5.

Administrative Expenses means all third-party expenses incurred by the City in the establishment, administration, and operation of the PID.

Agreement means this Development Agreement.

Assessment means a special assessment levied by the City on property within the PID pursuant to Chapter 372, Texas Local Government Code, pursuant to an Assessment Ordinance, to pay for a specific portion of the Budgeted Cost, which shall be Authorized Improvement Costs.

Assessment Fund means the interest-bearing assessment fund account created by the City for the PID to which revenues from the Assessments will be deposited.

Assessment Ordinance means an ordinance adopted by the City Council which authorizes Assessments to be levied on the Property in accordance with the PID Act, the purpose of which shall be to pay for a specified portion of the costs of the Authorized Improvements and interest thereon as set forth in the Service and Assessment Plan, as well as the costs associated with the issuance of the PID Bonds.

Assessment Roll(s) means an Assessment Roll(s) attached to the Service and Assessment Plan or any other Assessment Roll in an amendment or supplement to the Service and Assessment Plan or in an annual update to the Service and Assessment Plan, which shows the total amount of the Assessment against each parcel assessed under the Service and Assessment Plan related to the Authorized Improvements.

Authorized Improvements means water, sewer, drainage, and roadway infrastructure and other facilities needed to serve and fully develop the Property and all other improvements authorized by the PID Act, which shall be constructed or caused to be constructed by the Developer by or on behalf of the City, including but not limited to the improvements listed in Exhibit B and the Service and Assessment Plan.

Authorized Improvement Costs means the design, engineering, construction, construction management, and inspection costs of the Authorized Improvements and all other costs authorized by the PID Act.

Bond Ordinance means an ordinance adopted by the City Council that authorizes and approves the issuance and sale of the PID Bonds by the City.

Budgeted Cost(s) with respect to any given Authorized Improvement means the estimated cost of such improvement as set forth in Exhibit B, or it may be amended from time to time.

Certification for Payment Form means a certificate which shall be submitted to the City no more frequently than monthly, with all paid invoices, bills, and receipts for work completed on any of the Authorized Improvements, in the form of Exhibit G attached hereto.

City means the City of Wharton, a Home Rule, council-manager form of government located in Wharton County, Texas.

City Administrator means the City Manager of the City of Wharton, Texas, or a person designated to act on behalf of that individual if the designation is in writing and signed by the current or acting City Manager.

City Code means the Code of Ordinances, City of Wharton, Texas, in effect as of the Effective Date.

City Council means the City Council of the City of Wharton, Texas.

City Regulations means the City Code as defined herein, the City's Subdivision Regulation, the City's engineering design standards, all International Code Council-sanctioned and National codes, as amended and as adopted by the City, including but not limited to the International Building, Construction, Electrical, Energy Conservation, Fire, Fuel Gas, Mechanical, Plumbing, Residential and similar standard codes, and other policies duly adopted by the City and in effect on the Effective Date of this Agreement.

Code means the Texas Local Government Code.

Cost Overruns means actual Authorized Improvement Costs that are more than the Budgeted Costs set forth in the Service and Assessment Plan, as described in Subsection 8.2.

Cost Underruns means actual Authorized Improvement Costs that are less than the Budgeted Costs set forth in the Service and Assessment Plan, as described in Subsection 8.3.

Design Standards means the standards for home construction within a single family home lot attached hereto as Exhibit "D".

Developer means Wharton 55, LLC, a Texas limited liability company, and its successors and assigns, responsible for developing all or any portion of the Property in accordance with this Agreement.

Development means the development on the Property in accordance with the terms hereof, which includes a master planned residential subdivision that will include approximately 220 single family lots. The Development includes the subdivision of the Property, the construction of off-site and on-site utility and road facilities to serve the Property.

Development Standards means those development standards applicable to the Property as agreed to by the Parties pursuant to this Agreement.

District means the Wharton Public Improvement District No. __.

Effective Date means the date on which the last of the Parties has executed this Agreement and Developer has advised the City that it has acquired the Property.

Eminent Domain Fees means those legal and other professional fees incurred by the City during eminent domain proceedings or litigation as described in Subsection 13.6.

End Buyer means any developer, developer homebuilder, homebuilder, homeowner, tenant, user, or owner of a Fully Developed and Improved Lot.

Estimated Build Out Value means the fair market value of a developed lot or parcel, including all improvements to be constructed thereon, as estimated at the time the applicable Assessments are levied.

Force Majeure means, and shall include without limitation, acts of God, strikes, lockouts, or other industrial disturbances, acts of a public enemy, acts or orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, pandemics, quarantine, viral outbreaks, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, or other acts, events, causes, or circumstances not within the reasonable control of the Party claiming such inability and that could not have been avoided by such Party with the exercise of good faith, due diligence, and reasonable care.

Fully Developed and Improved Lot means any lot in the Property, regardless of proposed use, intended to be served by the Authorized Improvements and for which a final plat has been approved by the City and recorded in the Real Property Records of Wharton County, Texas.

General Plan means the General Plan agreed to by the Parties and that is depicted in Exhibit C.

HOA means the homeowners association created for the Development encompassing the portion of the Property developed for single family residential purposes.

Home Buyer Disclosure Program means the disclosure program, administered by the PID Administrator, as set forth in a document in the form of Exhibit E, which establishes a mechanism to disclose to each End Buyer the terms and conditions under which that End Buyer's lot is burdened by the PID.

Impact Fees means those fees as defined in Chapter 395 of the Texas Local Government Code.

Improvement Account of the Project Fund means that account as defined or described in any Indenture.

Indenture means a trust indenture by and between the City and a trustee bank under which the PID Bonds are secured and funds disbursed.

Landowner(s) means the Developer(s) and any additional owners of the Property.

Landowner Agreement means the agreement, as set forth in a document in the form of Exhibit F of an owner of the Property consenting to the form and terms of the PID Documents.

Notice means any notice required or contemplated by this Agreement (or otherwise given in connection with this Agreement).

Parties means, collectively, the Developer and the City; Party, individually, means either the Developer or the City.

Payment Certificate means the Certification for Payment Form, as generally set forth in Exhibit G, submitted by Developer to the City for approval of the reimbursement of Authorized Improvement Costs from PID Bond proceeds.

PID means a public improvement district created by the City for the benefit of the Property pursuant to Chapter 372, Texas Local Government Code, as amended; in this instance and for purposes of this Agreement, the PID means the Wharton Public Improvement District No. ___.

PID Act means Chapter 372, "Improvement Districts in Municipalities and Counties," Texas Local Government Code, as amended.

PID Administrator means a company, entity, employee, or designee of the City, who is experienced in public improvement districts and assessment administration and who shall have the responsibilities provided in the Service and Assessment Plan, or any other agreement or document approved by the City, related to the duties and responsibilities for the administration of the PID.

PID Bond Fee means that fee payable by the Developer to the City as defined in Section 8.5.

PID Bonds means those assessment revenue bonds issued by the City and secured by Assessments on property within the PID.

PID Documents means the City Council-approved and adopted (a) PID Resolution; (b) Service and Assessment Plan; and (c) Assessment Ordinance, as described in the Recitals to this Agreement.

PID Resolution means the resolution adopted by the Council creating the PID pursuant to Section 372.010 of the PID Act and approving the advisability of the Authorized Improvements.

Property means the real property described by metes and bounds in Exhibit A, consisting of approximately 55 acres.

Real Property Records of Wharton County means the official land recordings of the Wharton County Clerk's Office.

Reimbursement Agreement means an agreement between the City and Developer pursuant to which the Developer may construct all or any portion of the Authorized Improvements and the City will reimburse it with the proceeds of the City's PID Bonds, Assessments and/or TIRZ Revenue.

Service and Assessment Plan (or SAP) means the PID Service and Assessment Plan to be adopted by the City Council, and amended annually, if needed, by the City Council pursuant to the PID Act for the purpose of assessing allocated costs against property located within the boundaries of the PID to finance the Authorized Improvements and having terms, provisions and findings approved by the City, consistent with the terms of this Agreement.

Subdivision Ordinance means Appendix A of the City Code of Ordinances in effect as of the Effective Date.

TIF Act means the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, as amended.

TIRZ means a tax increment reinvestment zone created by the City and encompassing the Property pursuant to the TIF Act, to implement tax increment financing.

TIRZ Documents means (a) the TIRZ Project and Finance Plan; (b) the TIRZ Ordinance; (c) the Reimbursement Agreement; and (d) this Agreement.

TIRZ Fund(s) means the fund(s) set up by the City to receive the TIRZ monies in accordance with the TIRZ Documents and state law.

TIRZ Ordinance means each City ordinance adopted by the City Council establishing a TIRZ pursuant to Chapter 311, Texas Tax Code, as amended, and any subsequent ordinance(s) effectuating amendments thereto.

TIRZ Projects means those projects, the same as the Authorized Improvements, to be undertaken by the PID as well as the TIRZ, as well as any other projects provided in the TIRZ Project and Finance Plan.

TIRZ Project and Finance Plan means the project and finance plan for the TIRZ, approved by the City, as amended from time to time.

TIRZ Revenue means the portion of the City's ad valorem tax revenue pledged pursuant to the TIRZ Ordinance, the TIRZ Project and Finance Plan and the Reimbursement Agreement.

Wharton County means Wharton County, Texas

SECTION 3
PUBLIC IMPROVEMENT DISTRICT

3.1 Creation of PID and Developer's PID Petition. Within 90 days of the Effective Date, Developer will submit a petition to City in accordance with the PID Act. In addition, Developer's petition must include the following:

a) A description of the general nature of Developer's project and the estimated cost of the proposed PID-funded improvements.

b) Description of boundaries of the proposed assessment district consisting of (i) a legal description and survey sketch of the metes and bounds stamped/signed by a Texas professional licensed surveyor, and (ii) street address and/or other "commonly known" location description of the area to be included in the PID.

c) The proposed Service and Assessment Plan (SAP). The SAP will specify included or excluded classes of assessable property. The SAP will include the preliminary plan for the anticipated financing of the construction of the Authorized Improvements in the proposed PID (the "PID Financing Plan"). The PID Financing Plan shall include at a minimum:

i. Targeted gross bond amount;
ii. Estimated annual assessment revenue generated;
iii. Annual installment per unit;
iv. Estimated number of bond issuances;
v. Proposed maturity dates for PID bonds;
vi. Proposed timetable of the development; and
vii. Any other such supporting information related to the financial viability and success of the PID.

d) A copy of a Feasibility Report (as referenced in section 372.007 of the PID Act) demonstrating the economic feasibility of the project. The Feasibility Report shall the following information:
   i. Analysis of above describing the timing and amount of PID assessment revenue which will be generated based upon varying levels of assessments; and

e) A current tax roll for the Property with the signatures of the owners registering support of the petition next to the account for the owner's property on the tax rolls, or other evidence that the petitioner(s) are the current owner(s) of the Property located within the PID boundaries. Owner's signatures for PID petitions must be gathered not more than six months preceding submittal of the PID petition to City. Evidence that the petition's signatures meet the state law requirements, or the petition must be accompanied by a reasonable fee to cover the City's costs of the notary/signature verification.

The City shall use its good faith efforts to review Developer's petition. In the event City Council denies Developer's petition, then City or Developer may terminate this Agreement, whereupon the Parties will be relieved of their respective obligations herein. If the City Council approves Developer's petition, City will proceed with City Council's consideration of all necessary documents and ordinances required to create the PID, to enter into the Reimbursement Agreement, to levy the Assessments, and to prepare and approve a Service and Assessment Plan (and updates thereof) providing for the levy of the Assessments on the Property.

3.2 PID Administration. In addition to the items included in Paragraph 3.1, Developer's proposal as to whether the PID Administrator will be the City or a qualified, third-party private company with City oversight. City in its sole judgment will determine whether the City or a private company will serve as PID Administrator. The PID Administrator will:

i. Coordinate the annual development of the budget and update to the Service and Assessment Plan which will be submitted to the City Council for consideration in accordance with the Code and any other applicable Texas law.
ii. Provide for the calculation of the assessment and allocation to the respective parcels in the PID and shall provide for the billing of the assessments to the property owners or provide information to the County Tax Office. The PID Administrator and Developer will coordinate to ensure that the billing/assessment information provided to the tax office includes all pertinent properties.
iii. Prepare annual reports reflecting the expenditure of PID bond proceeds or the reimbursement of Developer expenditures, as appropriate.

iv. Prepare annual reports reflecting the imposition and collection of the assessments and the balances in the various accounts related to the PID to be provided to the City Council on a quarterly or other periodic basis as may be required by the City.

v. Prepare and provide any other reports or information required of the City or the project under the PID Act.

(a) Provision for the costs associated with the provision of the administrative services, whether the services are provided by third parties or the City, shall be included in any budget proposed by the Developer and may include but is not limited to allocation of interest on the assessment to the extent authorized under the PID Act.

(b) If the City agrees to the hiring of a qualified third party PID administrator to administer the PID, the costs for such administration shall be paid for with revenues generated within the PID.

(c) The City may request an audit by the City's Auditor at any time and/or an independent audit at any time if the City Auditor finds accounting or financial irregularities.

3.3 Issuance of PID Bonds.

(a) Subject to the terms and conditions set forth below, the City intends to authorize the issuance of PID Bonds in one or more series (each to coincide with the Developer's phased development of the Property) to construct, reimburse or acquire the Authorized Improvements benefitting the Property. The Authorized Improvements to be constructed and funded in connection with the PID Bonds are subject to the limitations of Section 372.003 of the PID Act and as more particularly detailed in Exhibit B, which may be amended from time to time upon approval of the City Administrator, and in the Service and Assessment Plan for the PID or any updates thereto approved by the City Council. The net proceeds from the sale of each series of PID Bonds (i.e., net of costs and expenses of issuance of each series of PID Bonds and amounts for debt service reserves and capitalized interest) will be used to pay for, reimburse and/or acquire the Authorized Improvements. Notwithstanding the foregoing, the issuance of PID Bonds is a discretionary action by the City Council and is further conditioned upon the adequacy of the bond security and the financial ability and obligation of the Developer to perform its obligations hereunder.

(b) Developer shall be obligated to complete all Authorized Improvements within each phase in the PID in accordance with the Reimbursement Agreement.

(c) The issuance of PID Bonds is subject to the sole discretion of the City Council and each series of PID Bonds shall be issued with the terms deemed appropriate by the City Council at the time of issuance. The following limitations and performance standards shall apply to a PID debt issue approved by the City:

Minimum appraised value to lien ratio	3: 1
Maximum years of capitalized interest for each bond issue	3

Maximum maturity for each series of bonds	30 years

The aggregate principal amount of bonds required to be issued shall not exceed an amount sufficient to fund: (i) the actual costs of the Authorized Improvements (ii) required reserves and capitalized interest during the period of construction and not more than 12 months after the completion of construction and in no event for a period greater than 3 years from the date of the initial delivery of the bonds and (iii) any costs of issuance. Provided, however that to the extent the law(s) which limit the period of capitalized interest to 12 months after completion of construction change, the foregoing limitation may be adjusted to reflect the law(s) in effect at the time of future bond issuances and applicable federal law pertaining to the issuance of tax-exempt bonds.

(d) The following financing criteria will apply to the City's issuance of PID bonds:

i. No General Obligation or Certificate of Obligation bonds will be utilized by the City to fund or support the PID improvements.

ii. The City shall not be liable for any debt associated with the creation of a PID and issuance of PID bond(s). The PID and PID assessments will be the sole source of funding for debt payments associated with PID formation and PID bond issuance.

iii. All subsequent PID bond issues, if any, will be subject to approval by the City Council. The City Council will consider evidence that (i) the value of the property within the PID and the City as a whole will be significantly increased by the projects financed with the PID bonds; (ii) no financial risk or burden will be imposed on the City; and (iii) development in phases will be self-sustaining and financially sound.

iv. Additional special assessments may be levied or special assessments may be adjusted in connection with subsequent bond issues if an agreed-upon maximum annual assessment rate is not exceeded and the special assessments are determined in accordance with the Service and Assessment Plan and the Code.

v. Special assessments will bear a direct proportionate relationship to the special benefit of the public improvements received. In no case will assessments be increased for any parcel unless (a) the property owner of the parcel consents to the increased assessment and (b) no bonds secured by such assessment have been levied.

vi. The City shall not be obligated to provide funds for any Authorized Improvements except from the proceeds from the PID bonds and PID assessments.

vii. Each PID bond indenture will contain language precluding the City from making any debt service payments for the PID bonds other than from available special assessment revenues.

viii. Developer will be responsible for payment of all the City's reasonable and customary costs and expenses, including the cost of any appraisal, subject to reimbursement from PID bonds or PID assessments, if any.

(e) The following conditions must be satisfied prior to the City's sale of PID Bonds:

(i) The Authorized Improvements for the phase of development must be completed, unless otherwise agreed by Developer and the City.

(ii) The maximum projected annual assessment for a parcel or lot within a phase shall not exceed the amount collected by an ad valorem tax rate of up to $1.25 per $100 valuation on the Estimated Build Out Value of each parcel; such rate limit for each phase, as determined at the time of the levy of the Assessments, applies on an individual assessed parcel basis, as will be set forth in more detail in the Service and Assessment Plan.

(iii) Developer must provide evidence reasonably acceptable to the City of an executed loan document and/or private equity in an amount sufficient to complete the Authorized Improvements for such phase.

(iv) No Event of Default by the Developer has occurred or no event has occurred which but for notice, the lapse of time or both, would constitute an Event of Default by the Developer pursuant to this Agreement;

(v) The PID Bonds being issued must be structured in a manner reasonably acceptable to the City and its financial advisor.

(vi) The City shall have agreed on the Authorized Improvements and the costs thereof to be included in the Service and Assessment Plan.

(f) In no event shall the City issue PID Bonds if the issuance of such PID Bonds is prohibited by Applicable Law.

3.4 Acceptance by Developer of Assessments and Recordation of Covenants Running with the Land. Concurrently with the levy of the Assessments on a phase, the Developer shall approve and accept in writing the levy of such Assessments on all land owned by the Developer within such phase, shall approve and accept in writing the Home Buyer Disclosure Program, and shall cause to be recorded against the Property covenants running with the land that will bind any and all current and successor developers and owners of the Property to: (a) pay the Assessments, with applicable interest and penalties thereon, as and when due and payable hereunder and that the purchasers of such land take their title subject to, and expressly assume, the terms and provisions of such assessments and the liens created thereby; and (b) comply with the Home Buyer Disclosure Program.

3.5 Liability and Indemnification.

(a) No City official or employee shall be personally responsible for any liability arising under or growing out of any approved PID. Any obligation or liability of the Developer whatsoever that may arise at any time under the approved PID or any obligation or liability which may be incurred by the Developer pursuant to any other instrument, transaction or undertaking because of the PID shall be satisfied out of the assets of the Developer or Assessments only and the City shall have no liability.

(b) All PID agreements shall include indemnification language as follows: **INDEMNIFICATION. DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY (AND THEIR ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES, AND AGENTS), 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 BROUGHT BY ANY THIRD PARTY AND RELATING TO DEVELOPER'S ACTIONS ON THE PROJECT, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY OR DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER'S NEGLIGENCE, MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY SUCH ACTS OR OMISSIONS OF DEVELOPER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF DEVELOPER, 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. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST CITY, RELATED TO OR ARISING OUT OF DEVELOPER'S 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 THEIR OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.**

IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY SHALL SURVIVE THE TERMINATION AND OR EXPIRATION OF THIS AGREEMENT AND SHALL ALWAYS BE BROADLY INTERPRETED TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY AND/OR THEIR OFFICERS, EMPLOYEES AND ELECTED OFFICIALS PERMITTED BY LAW.

SECTION 4
TIRZ

4.1 Tax Increment Reinvestment Zone. The City shall exercise its powers under the TIRZ Act and create a TIRZ coterminous with the boundaries of the PID. The City further intends to dedicate fifty percent (50%) of the City's ad valorem tax increment attributable to the TIRZ,

based on the City's tax rate each year and as authorized by law, for a period of thirty-five (35) years, or until the PID Bonds have been fully paid, whichever comes first. Monies collected in the TIRZ Fund from the incremental value of a single-family residential lot and the improvements thereon shall be used to offset or pay a portion of any Assessments levied on such benefited land within the Property for the costs of Authorized Improvements that qualify as projects under the TIF Act paid in accordance with the TIRZ Project and Finance Plan and Service and Assessment Plan. At such time as the Assessment levied on an individual single family residential lot has been paid in full, tax revenues from such lot or parcel shall no longer be used to pay any Assessments and all of such tax revenues shall be retained by the City. In the event the City does not issue any PID Bonds, monies in the TIRZ Fund shall be used to reimburse Developer pursuant to the terms of the Reimbursement Agreement.

SECTION 5
GENERAL PLAN AND PLATTING

5.1 Introduction. The Property is to be developed as a master-planned single-family residential community. The land uses within the Property shall be typical of a master-planned single-family residential development.

5.2 General Plan and Amendments. The City and Developer acknowledge that the attached General Plan is the preliminary plan for the development of the Property. The parties acknowledge and agree that the General Plan may be revised and refined by Developer, at its sole discretion, provided that in no case shall the General Plan be revised or refined to contradict any of the requirements of this Agreement or subsequently approved variances, and provided that no revision or refinement to the General Plan shall limit or otherwise affect any right or obligation of either the Developer or the City pursuant to this Agreement until such revision or refinement is approved by the City and the Developer. The City approves the General Plan in the form attached hereto, and finds it generally consistent with the applicable provisions of the Subdivision Ordinance. Developer agrees that any change in density allowed under Section 6.2 must be reflected in an amended General Plan that is subject to approval by the City, and any other material changes to the General Plan shall be provided to the City. In particular, the Developer may develop anywhere within the Property as long as such development complies with the provisions of the Subdivision Ordinance and Section 6.

5.3 Platting. Developer shall be required to plat any subdivision of the Property in accordance with this Section 5.3. The subdivision plat shall be subject to review and approval by the City Council in accordance with those requirements, procedures, fees and planning standards of the Subdivision Ordinance applicable to the Property, including the variances granted herein and other variances that the City may approve from time to time, and this Agreement. So long as the plat meets the applicable requirements of the Subdivision Ordinance, including the variances granted herein and other variances that the City may approve from time to time, and this Agreement (including any amendments or updated provisions of the Subdivision Ordinance specifically allowed herein), the City Council shall consider approval of the plat within thirty (30) days after Developer files the plat with the City. In the event of any conflict between the Subdivision Ordinance and this Agreement, this Agreement shall control.

SECTION 6
DESIGN AND CONSTRUCTION STANDARDS AND APPLICABLE ORDINANCES

6.1 Regulatory Standards; Development Quality; Fees.

(a) One of the primary purposes of this Agreement is to provide for quality development of the Property and foreseeability as to the regulatory requirements applicable to the development of the Property throughout the development process. Feasibility of the development of the Property is dependent upon a predictable regulatory environment and stability in the projected land uses.

(b) By the terms of this Agreement, the City and Developer hereby establish development and design rules and regulations which will ensure a quality, unified development, yet afford Developer predictability of regulatory requirements throughout the term of this Agreement. Accordingly, the General Plan and Design Guidelines established by this Agreement include density and land use regulations, homebuilding standards, a general land use plan, an open space and parks plan, subdivision regulations, and public improvement regulations. The City and Developer agree that any City ordinance heretofore or hereafter adopted (including any amendment to the Subdivision Ordinance), that addresses matters that are governed by this Agreement shall not be enforced by the City within the Property, except for the provisions of the Subdivision Ordinance specifically incorporated by this Agreement to the extent expressed in this Agreement, and that the provisions of this Agreement otherwise govern development of the Property. But this Agreement shall nonetheless be (i) subject to changes in editions to ICC building codes and building fee ordinances approved by the City Council from time to time; (ii) subject to any changes to any other City ordinances that are made by the City in compliance with any federal or state laws that are beyond the control of the City, and (iii) subject to the agreed upon variances reflected in Exhibit D.

(c) Developer shall be subject to certain fees and charges due and payable to the City in connection with the development and construction of the Property, including but not limited to platting request fees, and water and sewer tap fees which are in effect as of the Effective Date. However, Developer shall not be required to pay any impact fees or capital recovery fees.

6.2 Single Family Residential Density. The Parties agree that development of the Property of the Property shall be in accordance with the requirements of this Agreement, specifically including the Design Standards attached as Exhibit D, and the General Plan. The number of single-family, detached residential housing units within the Property shall not exceed two hundred fifty (250) units.

(a) Developer agrees to develop the Project solely for single-family detached Dwellings. No pre-fabricated housing, industrialized (modular), mobile, recreational vehicle lots, tiny house, shipping container, and/or manufactured home shall be allowed to be placed and/or developed on any parcel or lot with the Project, except as expressly provided herein, and except

for temporary sales and construction offices.

(b) Developer agrees to include by covenant, contract and/or deed restriction a prohibition on use of any lot or parcel located within the Project for mobile, recreational vehicle lots, tiny house, shipping container, and/or manufactured homes, except for temporary sales and construction offices.

6.3 Lot Size. The Parties agree that single-family residential lots located within the Property will have a minimum forty-foot (40 ft.) width requirement (except knuckles, cul-de-sac and irregularly shaped lots) and contain a minimum of Four Thousand Four Hundred (4,400 sq. ft.) square feet. The minimum width requirement will apply at the building setback line.

6.4 Building Setbacks. The Parties agree that setback requirements for single-family residential buildings shall be as follows:

(a) Minimum front yard setback shall be 25 feet from the front property line except, for cul-de-sacs and knuckles which shall be 20 feet, and except where abutting or adjacent to a major thoroughfare, in which event the minimum setback for the principal building shall be 35 feet. This shall also apply for accessory buildings.
(b) .Minimum interior side yard setback shall be five feet for the principal building. Accessory buildings shall be permitted to maintain a minimum of five feet setback from the property line to the accessory building line.
(c) Minimum exterior side yard setback shall not be less than 10 feet, except that where the lot is adjacent or abuts on a major thoroughfare, the building line shall not be less than 25 feet from the side property line.
(d) Minimum rear yard setback for the principal building shall be five feet from the rear property line. Accessory buildings shall be permitted to maintain a minimum of five feet setback from the rear property line. When the rear yard abuts any street, a minimum of 10 feet shall be required from the rear property line to the building line of the principal buildings and accessory buildings. If the rear public right-of-way is a major thoroughfare, a minimum 25-foot setback from the rear property line to the building line shall be required.
(e) Principal buildings and accessory buildings shall not be allowed to encroach upon public or private utility easements even if such buildings are portable.

6.5 Water/Wastewater/Drainage Services and Roads.

(a) Developer will make provisions for public water distribution, wastewater collection and treatment, drainage services and public roads for the Property through public infrastructure to be provided by the City ("System").

(b) Construction of the System shall be designed by engineers retained by Developer. Plans for the System shall be subject to review and approval by the City. City shall inspect the construction of the System constructed by Developer. Developer shall use its good faith efforts to advise the City when substantial completion of a phase of the System is nearing, in order to assist the City in scheduling any final inspection by the City.

(c) Any contractor retained by Developer to construct the System must be bonded in accordance with the requirements of the City.

(d) Developer shall not be required by the City to oversize any portion of the System that is constructed to serve the Property to serve any areas outside of the Property; provided; however, the City and Developer may agree to oversizing such additional facilities if the City shall provide contemporaneous payment of all costs of such oversizing to the effect that Developer shall neither incur nor pay any costs related to the oversizing.

(e) All water and sanitary sewer lines must be placed within the public right-of-way, general utility easements, or non-exclusive water and/or sewer easements granted to the City, as found on the recorded plat approved by the City or by separate recorded instruments approved by the City.

(f) Upon inspection, approval, and acceptance of the System or any portion thereof, the City shall maintain and operate the accepted public infrastructure and timely provide retail water and sewer service to the Property.

(g) City agrees to timely make water supply and wastewater treatment capacity available so as not to interrupt Developer's development of the Property and/or home construction activities within the Property. Upon request of the City, Developer shall give the City its projection of future home sales for the next three (3) years in order to assist the City in its planning.

6.6 Private Improvements/City Inspections.

(a) Houses, buildings and other private improvements within the Property shall be constructed in accordance with the City Code and related ordinances that are applicable to such construction.

(b) Construction of houses and buildings within the Property will be permitted by the City in accordance with the City's adopted editions of the ICC building codes and City building fee ordinances at the time permit applications are submitted to the City. All structures will be inspected by the City's building code inspector (or a third-party inspector hired by the City) in accordance with City Building Code and ordinances at the time the permit applications are submitted to the City.

6.7 HOA. All single-family residential homes located within the Property shall be required to be within the jurisdiction of the HOA, which shall (i) collect mandatory fees, (ii) provide for the enforcement of deed restrictions encompassing such portion of the Property, and (iii) maintain the open space.

6.8 Open Space, Trees, Landscaping, Recreational Facilities and Walking Trails.

(a) Developer hereby agrees to dedicate to the HOA, at Developer's discretion, fee simple interest or easements encompassing no less than ten (10) acres of public parkland or private

open space acres of land generally accessible to the public which acreage includes land in drainage/detention areas and areas left open because it is in the floodplain or wetlands.

(b) The City agrees that so long as Developer dedicates the ten (10) acres of parklands, open space, as described in subsection (a) immediately above, Developer is deemed and shall be found to be in full compliance with any parkland or open space requirements, whether now in effect or to be adopted from time to time in the future, regarding a developer's provision of park, open space and recreational facilities and, moreover, Developer shall not be required to dedicate any additional parklands, open space or recreational facilities to the City or make any monetary payments to the City relating to parklands, open space or recreational facilities. As part of the beforesaid facilities, the Developer may, but shall not be required to, provide any walking or bike trails within the Property.

(c) Development of the Property shall not be subject to any requirement of the City regarding providing the City with any survey of trees within the Property or minimum number of or size of trees within a lot or parcel.

6.9 City Approvals. The City shall consider approval of all plats, plans and specifications submitted by the Developer that conforms to the terms of this Agreement, the variances shown on Exhibit D, or other variances that the City may approve from time to time.

6.10 Impact Fees. The City agrees to waive any current or future Impact Fees and/or capital recovery charges with respect to the Property.

6.11 Liability of End-Buyer. End-Buyers shall have no liability for the failure of Developer to comply with the terms of this Agreement and shall only be liable for their own failure to comply with the recorded declaration of restrictive covenants (if applicable), land use restrictions applicable to the use of their tract or lot, and any applicable ordinances.

SECTION 7
AUTHORIZED IMPROVEMENTS

7.1 Authorized Improvements. Budgeted Costs, including those estimated expenses related to the Authorized Improvements, are subject to change and shall be updated by the City consistent with the Service and Assessment Plan, as may be updated and amended, and the PID Act. Developer shall include an updated Exhibit C with each final plat application, which shall be submitted to the City Council for consideration and approval concurrently with the submission of each final plat. Upon approval by the City Council of an updated Exhibit C, this Agreement shall be deemed amended to include such approved updated Exhibit C. The Authorized Improvement Costs and the timetable for installation of the Authorized Improvements will be reviewed by the Parties in an annual update of the Service and Assessment Plan adopted and approved by the City.

7.2 Construction, Ownership, and Transfer of Authorized Improvements.

(a) Construction Plans. Developer shall prepare, or cause to be prepared, plans and specifications for each of the Authorized Improvements and have them submitted to the City for

approval in accordance with this section. The City shall have forty-five (45) days from its receipt of first submittal of complete construction and/or engineering plans and corresponding fees to approve or deny the plans or to provide comments back to the submitter of the plans. If any approved construction and/or engineering plans are amended or supplemented, the City shall have thirty (30) business days from its receipt of such amended or supplemented plans to approve or deny the plans or to provide comments back to the submitter of the plans. Any written City approval or denial must be based on compliance with applicable City Regulations and this Agreement. If any provision in this paragraph conflicts with any other provision in this Agreement, this paragraph controls.

(b) Contract Award. The contracts for construction of Authorized Improvements shall be let in the name of the Developer. Developer's engineers shall prepare, or cause to be prepared, contract specifications and necessary related documents for the Authorized Improvements. The Developer shall administer all contracts. The Budgeted Costs, which are estimated on Exhibit C, as realized, shall be paid from the Improvement Account of the Project Fund, paid or caused to be paid by the Developer, or the Developer's assignee, and shall be reimbursed from the proceeds of the PID Bonds in accordance with the Indenture, or reimbursed by the collected Assessments levied pursuant to the terms of any reimbursement agreement. Until such Budgeted Costs, as realized, are paid in full by the City pursuant to the terms of this Agreement, the Indenture, or any reimbursement agreement, then unpaid monies owed by the City under the Reimbursement Agreement or the Indenture shall bear interest as described therein.

(c) Construction Standards and Inspection. The Authorized Improvements required for the full development of the Property shall be constructed and inspected in accordance with applicable state law, the City Regulations, the Development Standards, and other development requirements, including those imposed by the City and any other governing body or entity with jurisdiction over the Authorized Improvements. All applicable fees, including permit fees and inspection fees, shall be paid by the Developer.

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

(e) Ownership. All of the Authorized Improvements shall be owned by the City upon acceptance of them by the City. Developer agrees to take any action reasonably required by the City to transfer or otherwise dedicate or ensure the dedication of easements and facilities for the Authorized Improvements to the City and the public. Developer shall also transfer any plans, specifications or details of the Authorized Improvements not already in the possession of the City.

7.3 Operation and Maintenance.

(a) Upon inspection, approval, and acceptance of the Authorized Improvements or any portion thereof, the City, at its sole cost, shall maintain and operate the Authorized Improvements or any accepted portion thereof.

(b) The HOA shall maintain and operate the open spaces, common areas, right-of-way irrigation systems, detention areas, right-of-way landscaping, screening walls, and any other common improvements or appurtenances in the benefited residential portions of the Property not maintained and operated by the City.

7.4 Water and Wastewater Service. Retail water and wastewater service shall be provided by the City under the same terms as other similarly located property in the City.

SECTION 8
PAYMENT OF AUTHORIZED IMPROVEMENTS AND DEVELOPMENT CHARGES

8.1 Improvement Account of the Project Fund. Coincident with the issuance of any PID Bonds, the City shall establish the Improvement Account of the Project Fund in accordance with the applicable Indenture. Any Improvement Account of the Project Fund shall be maintained as provided in the Indenture and shall not be comingled with any other funds of the City. Any Improvement Account of the Project Fund shall be administered and controlled (including signatory authority) by the City, or the trustee bank for the PID Bonds, and funds in the Improvement Account of the Project Fund shall be deposited and disbursed in accordance with the terms of the Indenture. In the event of any conflict between the terms of this Agreement and the terms of the Indenture relative to deposit and/or disbursement, the terms of the Indenture shall control.

8.2 Cost Overrun. If the total cost of an Authorized Improvement (or segment or section thereof) exceeds the total amount of the Budgeted Cost for that Authorized Improvement (or segment or section thereof) (a "Cost Overrun"), the Developer shall be solely responsible for payment of the remainder of the costs of that Authorized Improvement (or segment or section thereof), except as provided in Section 8.3 below.

8.3 Cost Underrun. If, upon the completion of construction of an Authorized Improvement (or segment or section thereof) and payment or reimbursement for such Authorized Improvement, there are Cost Underruns, any remaining Budgeted Cost(s) may be available to pay Cost Overruns on any other Authorized Improvement funded with the same PID bond with the approval of the City Council and provided that all Authorized Improvements are set forth in the Service and Assessment Plan. The elimination of a category of Authorized Improvements in the Service and Assessment Plan will require an amendment to the SAP. If, upon completion of the Authorized Improvements in any improvement category, any funds remain in such category, those funds may be used to reimburse a Developer for any qualifying costs of the Authorized Improvements that have not been paid.

8.4 Remainder of Funds in the Improvement Account of the Project Fund. If funds remain in the Improvement Account of the Project Fund after the completion of all Authorized Improvements and the payment of all Authorized Improvement Costs as provided for in the

Indenture, then such funds shall be used by the City to reimburse Developer for any portion of the Authorized Improvement Costs paid by Developer, or any other use applicable to the Property as provided by law. In the event of any conflict between the terms of this Agreement and the terms of the Indenture relative to deposit and/or disbursement, the terms of the Indenture shall control.

8.5 Qualified Tax-Exempt Status. If in any calendar year the City issues debt that would constitute a bank-qualified debt issuance but for the issuance of the PID Bonds or other bonds supporting public improvements for non-City owned development projects, including either bonds authorized by the PID Act, then the Developer shall pay to the City a fee (the "PID Bond Fee") to compensate the City for the interest savings the City would have achieved had the debt issued by the City been bank-qualified; provided, however, that all other developers or owners directly benefitting from the City issuing debt are similarly burdened with an obligation to compensate the City. The City shall calculate the PID Bond Fee for all series of PID Bonds and notify the Developer of the total amount due at least ten (10) business days prior to pricing the first series of PID Bonds. The Developer agrees to pay the estimate of the PID Bond Fee to the City on the later of (a) ten (10) business days prior to pricing of any series of PID Bonds or other City debt, or (b) ten (10) business days after receiving Notice from the City of the estimated amount of the PID Bond Fee due to the City. The City shall not be required to price or sell any series of PID Bonds until the Developer has paid the PID Bond Fee. Upon the City's approval of the PID Bonds, the City's financial advisor shall calculate the actual costs of the PID Bond Fee (the "Actual PID Bond Fee"). The City will, within ten (10) business days, notify the Developer of the Actual PID Bond Fee. In the event the Actual PID Bond Fee is less than the estimated PID Bond Fee, the City will refund to the Developer the difference between the Actual PID Bond Fee and the estimated PID Bond Fee within ten (10) business days of the date of the City's notice to the Developer of the Actual PID Bond Fee. If the Actual PID Bond Fee is more than the estimated PID Bond Fee, the Developer will pay to the City the difference between the Actual PID Bond Fee and the estimated PID Bond Fee within ten (10) business days of the date of the City's notice to the Developer of the Actual PID Bond Fee.

If a developer or owner (including Developer, as applicable) has paid all or part of a PID Bond Fee estimate for any particular calendar year to the City, and a subsequent developer or owner (including Developer) pays a PID Bond Fee to the City applicable to the same calendar year, each such later developer or owner (including Developer) shall be reimbursed by the City as necessary so as to place all developers and owners who have paid the fee for the same calendar year in the required payment proportion. Said reimbursement(s) shall be made by the City within ten (10) business days after the City's receipt of the estimated PID Bond Fee payment(s) unless otherwise agreed to by the Parties, including, as applicable, other developers or owners. The City will deposit all payments of a PID Bond Fee estimate received from a developer or owner (including the Developer) into a segregated account until such time as (1) the City transfers the funds to a capital improvement project fund in conjunction with issuing City debt; and/or (2) the City refunds a portion of the PID Bond Fee estimate consistent with the pro rata formula above within ten (10) business days of issuing Bonds or agreement is made as to a different payment date. On or before January 15th of the following calendar year, the final PID Bond Fee shall be calculated. By January 31st of such year, any funds in excess of the final PID Bond Fee that remain in such segregated account on December 31st of the preceding calendar year shall be refunded to the developers or owners (including Developer) and any deficiencies in the estimated PID Bond

Fee paid to the City by any developer or owner (including Developer) shall be remitted to the City by the respective developer or owner (including Developer). Said payments shall be made within ten (10) business days after January 31st of that year unless otherwise agreed to by the Parties, including, as applicable, other developers or owners.

8.6 Payment Process for Authorized Improvements.

(a) The City shall authorize reimbursement of the Authorized Improvement Costs from PID Bond proceeds. Developer shall submit for approval to the City a Certification for Payment Form (no more frequently than monthly, and no less frequently than monthly if requested by the City) for Authorized Improvement Costs, including a completed segment, section, or portion of an Authorized Improvement. The Certification for Payment Form is set forth in Exhibit G, and may be modified by the Indenture or, if applicable, a reimbursement agreement. The City shall review the sufficiency of each Certification for Payment Form submission (each, a "Payment Certificate") to ensure compliance with this Agreement, compliance with City Regulations, and compliance with the SAP. The City shall review each Payment Certificate within ten (10) business days of receipt thereof and upon approval, certify the Payment Certificate pursuant to the provisions of the Indenture or, if applicable, a reimbursement agreement, and payment shall be made to Developer pursuant to the terms of the Indenture or, if applicable, a reimbursement agreement provided that funds are available under the Indenture or such reimbursement agreement. If a Payment Certificate is approved only in part, the City shall specify the extent to which the Payment Certificate is approved and payment for such partially approved Payment Certificate shall be made to Developer pursuant to the terms of the Indenture or, if applicable, a reimbursement agreement, provided that funds are available under the Indenture or reimbursement agreement.

(b) If the City requires additional documentation, or timely disapproves or questions the correctness or authenticity of the Payment Certificate, the City shall deliver a detailed notice to the Developer within ten (10) business days of receipt thereof; payment with respect to the disputed portion(s) of the Payment Certificate shall not be made until the Developer and the City have jointly settled such dispute or additional information has been provided to the City's reasonable satisfaction.

SECTION 9
DEVELOPMENT STANDARDS

9.1 Annexation of Land into City.

(a) Developer shall submit a petition to the City for voluntary annexation of the Property into the corporate limits of the City (the "Annexation Petition") within one year after the following events have occurred: (a) the City Council has approved and adopted the PID Resolutions; (b) the Parties have entered into the Reimbursement Agreement; (c) the City has created the TIRZ; and (d) the City has adopted a TIRZ Project and Finance Plan consistent with the terms of this Agreement. Provided (a) through (d) have occurred, a final plat for all or any part of the Property will not be recorded until Developer submits the Annexation Petition to the City. Developer and the City shall cooperate to prepare a municipal services agreement acceptable to the Parties.

(b) Voluntary Petition. Except as provided in Paragraph 9.1(a) above, the Parties agree that this Agreement constitutes a voluntary petition by Owner to the City for annexation of the Property for full purposes under the provisions of Subchapter C-3 of Chapter 43 of the Code which shall be submitted to the City subject to the terms in Paragraph 9.1 above. Following Developer's submission of its petition for annexation, City may exercise its right to annex the Property or any portion thereof (the "Annexation Area") in its sole discretion upon default of this Agreement by the Owner, subject to the provisions of Sections 10 of this Agreement, or at the end of the term of this Agreement. The Parties further agree that this Agreement does not obligate the City to annex the entire Property for limited or full purposes at any time.

(c) Non-revocable. Subject to 9.1 (a) above, Developer agrees that this voluntary petition and consent to annexation of the Property may not be revoked and is intended to be and shall be binding upon the Developer. Developer further agrees that the City has the authority to annex the Property under Chapter 212 of the Code independently of Chapter 43 of the Code and that such authority may be exercised regardless of the procedural requirement of Chapter 43 of the Code.

(d) Annexation Procedure. To the extent authorized by state and local laws, the Parties agree that the City is only obligated to perform those tasks set forth in Subchapter C-3 of Chapter 43 of the Code that are required when annexing property under that subchapter. Subject to 9.1 (a) above, Developer agrees that the Developer shall not oppose any action taken by the City to annex the Annexation Area under and in accordance with this Agreement and Subchapter C-3 of Chapter 43 of the Code after satisfaction of the applicable conditions set forth in Section 9.1 (a) above.

(e) Binding Agreement. All covenants, agreements and terms contained herein obligating Developer shall run with the land and shall hereafter bind their successors and assigns and all future owners of properties located within the Property contained therein; provided, however, the provisions of this Agreement shall not be binding on or create any encumbrance to title as to any end-buyer of a fully developed and improved lot within the Property; provided, however, the Developer's non-revocable petition for annexation as set forth in Section 9 herein shall remain binding upon all such end-buyers.

(f) Deed Text. If not already annexed, the following language shall be included in each deed or lease of any real property located within the Property, or by separate document that is recorded, which is executed after the Effective Date of this Agreement:

> "This (conveyance or lease, as applicable) is made and accepted subject to that certain voluntary petition for annexation, provided in Section 9 of the Development Agreement, executed on ____, 2022, and recorded in the deed records of Wharton County under Wharton County Document No. [ ] which permits the City of Wharton to annex the herein described property upon the terms and conditions set forth therein. Acceptance of this conveyance or lease, as applicable, shall evidence your consent and agreement to such annexation by the City and may be relied upon by the City as a beneficiary of your consent and agreement.

Further, this (conveyance or lease, as applicable) is made and accepted subject to the development rules, regulations and ordinances of the City of Wharton applicable to properties in the City's extraterritorial jurisdiction as described in the Development Agreement. Acceptance of this conveyance or lease, as applicable, shall evidence consent and agreement to such developmental standards, rules and regulations which may be relied upon by the City as a beneficiary of your consent and agreement."

9.2 Full Compliance with City Standards.

(a) When not in conflict with the terms and conditions of this Agreement, including the Development Standards, the development of the Property shall be subject to all applicable City Code, including but not limited to the City's subdivision regulations and engineering design standards in effect on the Effective Date. Developer shall be subject to those fees and charges due and payable to the City in connection with the development and construction of the Property, including but not limited to platting request fees, building permit fees, inspection fees, Impact Fees, and water and sewer tap fees, as detailed in this Agreement and in effect on the Effective Date.

(b) Development and use of the Property, including, without limitation, the construction, installation, maintenance, repair, and replacement of all buildings, improvements, and facilities of any kind whatsoever on and within the Property, shall comply with the SAP, General Plan, Development Standards and applicable City Code. The City acknowledges and agrees that the General Plan may be revised and refined by Developer as Developer continues its investigation of and planning for the Property, provided that in no case shall the General Plan be revised or refined to contradict any of the requirements of this Agreement. When not in conflict with the General Plan and the Development Standards, all buildings, improvements, and facilities constructed on and within the Property shall comply with the City Regulations, and applications for building permits and construction plans shall be submitted to the City for review and approval prior to the commencement of construction of such structures and at the time required by the City Regulations. The City, or its authorized designated representative, shall be solely responsible for issuing building permits and certificates of occupancy for all structures.

9.3 Master Planned Community. Developer may develop the subdivision within the Property in phases, the subdivision must be developed as a master planned community consisting primarily of residential development. The land uses within the Property shall be typical of a residential development with single-family, commercial, and designated open space. Developer represents and warrants and covenants to the City that the Property will be developed with the following features and provisions:

(a) Developer shall provide entry monumentation with community signage and landscaping off of FM 1299;

(b) Landscaping, park & recreation facilities, detention ponds, pedestrian trails, entry features, shall be owned and maintained by HOA;

(c) Community park, playground, and usable open spaces, which shall be

owned and maintained by HOA;

(d) Sidewalks and/or walking trails shall be adjacent to certain streets, detention ponds, and other common usable common open spaces as per the Developer's sidewalk plan, attached hereto.

(e) HOA will be responsible for the utility bill related to street lighting within the subdivision.

(f) Utilities. Interior utilities, including electric, phone, and cable, will be underground; provided, however, certain major transmission and perimeter electric, perimeter phone, and perimeter cable utilities may be overhead. The Developer shall be responsible for coordination and installation of electric distribution, phone and telecommunication services per the design prepared by the respective utility providers.

(g) Enforcement of Deed Restrictions. HOA or Developer will publish and enforce deed restrictions and architectural guidelines for home construction and manage all common spaces, streetscape, screening walls, aesthetic elements of detention ponds, and, if and to the extent not maintained by the City, community trails and recreation/park areas, subject to City Attorney review for form. The Developer shall cause the HOA deed restrictions to contain a provision that, if the City does not operate and maintain any of the common-area spaces/open areas, such as detention ponds, tree trimming in common spaces or over roadways, the HOA shall maintain such areas, and, if the HOA fails to operate and maintain such areas, the City has the option, but not the obligation, to assume the maintenance, and, should the City assume the maintenance, the City will have the right to impose and collect a fee on the HOA, or upon each lot, to recover the City's costs.

(h) Screening Wall. To the extent lots are adjacent to FM1299, a screening wall of at least six feet in height will be erected along FM 1299 comprised of one or more of the following: decorative masonry materials that shall include traditional or faux brick, brick columns with an enhanced wood fence in between the columns, Fencecrete (or comparable precast concrete product), decorative stone (real or faux), decorative metals, trees and irrigated landscaping. High visibility open areas along collector streets and other open space shall also include landscaping, trees, and other streetscape elements. Earthen detention ponds, to the extent practical, shall be designed with a maximum slope of 3:1 to create usable open space or as wet ponds. The foregoing maximum slope ratio shall not apply to concrete detention ponds.

(i) Real Estate Products. The Developer may develop multiple single-family residential products, provided all lots shall conform with the minimum lot size requirements in Paragraph 6.4.

(j) Single-Family Residential Access Points. Developer agrees to provide a boulevard entrance at FM 1299.

(k) Major Thoroughfare: The City and Developer agree that no Major Thoroughfares exist or are planned through the Property.

(l) Proposed Collector. The City and Developer agree that no proposed collectors exist or are planned through the Property.

(m) Traffic Impact Study. Developer acknowledges that the Project upon its completion may result in additional traffic volume. Developer agrees to abide by TXDOT policy for obtaining a Traffic Impact Study and provide for appropriate modifications, if any, as determined by TXDOT in association with a driveway permit to connect to SH 60. The City agrees to waive any Traffic Impact Study requirements or improvements relating to connection to Fm 1299.

(n) Wharton Independent School District. Developer agrees to meet with Wharton ISD regarding the Project to obtain their feedback on possible school facility improvement that may be needed to accommodate the anticipated increase in school enrollment arising from the Project.

(o) Setbacks. The applicable lot size, set back and coverage requirements applicable to development of the Property are set forth in the Section 6 herein.

(p) Signage. Developer shall comply with City Code signage regulations.

(q) Streets. All streets shall be concrete paving with curb and gutter. Local streets shall have a minimum width of 28' measured from back of curb to back of curb.

(r) General Plan. The City and the Developer acknowledge that the attached General Plan in Exhibit C is the preliminary plan for the development of the Property. The Parties acknowledge and agree that the General Plan will be revised and refined by the Developer as the Developer continues its investigation and planning for the Property and prepares a feasible and detailed plan for development of the Property. In no case shall the General Plan be revised or refined, without adhering to the subdivision platting requirements of the City Code. No revision or refinement to the General Plan shall limit or otherwise affect any right or obligation of either the Developer or the City pursuant to this Agreement until such revision or refinement is approved by the City and Developer.

(s) Phasing. The Parties acknowledge and agree that the Property will be developed in phases. If deemed necessary, Developer may submit a replat for all or any portions of the Property. Any replat shall generally conform to the General Plan and be subject to City approval in accordance with the City Regulations.

9.4 Conflicts. In the event of any direct conflict between this Agreement and any City Regulations or other ordinance, rule, regulation, standard, policy, order, guideline, or other City-adopted or City-enforced requirement, whether existing on the Effective Date or hereinafter adopted, this Agreement, including its exhibits, as applicable, shall control.

9.5 Vested Rights. Developer has the vested authority to develop the Property in accordance with this Agreement and the applicable and existing City Regulations as of the

Effective Date. Developer shall be deemed vested from the Effective Date throughout the term of this Agreement for the City Regulations. This Agreement shall constitute the first application in a series of applications and as a "permit" for purposes of vesting as contemplated in Chapter 245 of the Texas Local Government Code solely with respect to the terms of this Agreement. To the extent any of the City Regulations are in conflict with any current or future City codes, ordinances or requirements, the existing and applicable City Regulations shall prevail.

SECTION 10
OBLIGATIONS; EVENTS OF DEFAULT; REMEDIES

10.1 Obligations of the Developer. Notwithstanding any other provisions herein, a Developer's rights and obligations hereunder shall apply only to that portion of the Property it owns or is developing and to the portion of the Authorized Improvements benefitting such portion of the Property. Any breach by a Developer shall grant to the City (and any non-breaching Developer) remedies only against the breaching Developer and the City's remedies shall only apply to the breaching Developer and all of the Property it is developing.

10.2 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform, the nature of which is reasonably detailed, has been given in writing; however, that Party shall be given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but, unless otherwise stated in this Agreement or agreed to in writing by the Parties, in no event more than thirty (30) days after written notice of the alleged failure has been received). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party in receipt of the notice begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured.

10.3 Remedies. If a Party is in default, any non-defaulting Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity against such breaching Party (but not any other Party), including, but not limited to, an action under the Uniform Declaratory Judgment Act, or actions for specific performance, mandamus, or injunctive relief.

SECTION 11
ASSIGNMENT; ENCUMBRANCE

11.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties. The obligations, requirements, or covenants to develop the Property in this Agreement shall be able to be assigned, without the prior written consent of the City, to (a) any person or entity that is or will become an owner of any portion of the Property (an "Owner"); (b) any affiliate or related entity of a Developer; or (c) any lienholder on the Property. Any receivables due under this Agreement or any reimbursement agreement may be assigned by a Developer without the consent of, but upon written notice to, the City pursuant to Section 11.5 of this Agreement. An assignee shall be considered an Owner for the purposes of this Agreement. Each assignment shall be in writing executed by the Developer and the assignee and shall obligate

the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. No assignment by a Developer shall release the Developer from any liability that resulted from an act or omission by the Developer that occurred prior to the effective date of the assignment, unless the City approves the release in writing. Notice to the City of any assignment by a Developer shall conform to Section 11.5, below.

11.2 Encumbrance by Developers and Assignees. A Developer and its assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement (a) for the benefit of their respective lenders without the consent of, but with prompt written notice to, the City, (b) to any Owner, (c) any affiliate or related entity to a Developer or (d) to any other person or entity with the City Council's prior written consent. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the lender's interest, including Notice information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement and shall be given a reasonable time to do so in addition to the cure periods otherwise provided to the defaulting Party by this Agreement; and the City agrees to accept a cure, not to be unreasonably withheld, offered by the lender as if offered by the defaulting Party. A lender is not a party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. Any purchaser from or successor owner through a lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured.

11.3 Assignees as Parties. An assignee authorized in accordance with this Agreement and for which notice of assignment has been provided in accordance with Section 11.5 of this Agreement shall be considered a "Party" for the purposes of this Agreement. With the exception of an End Buyer, any person or entity, upon becoming an owner of land within the PID or upon obtaining an ownership interest in any part of the Property, shall be deemed to be a "Developer" and have all of the obligations of a Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

11.4 Third-Party Beneficiaries. Subject to Section 11.1 of this Agreement, this Agreement inures only to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

11.5 Notice of Assignment. Subject to Section 11.1 of this Agreement, the following requirements shall apply in the event that a Developer sells, assigns, transfers, or otherwise conveys the Property or any part thereof and/or any of its rights or benefits under this Agreement:

(a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the City;

(b) said notice must describe the extent to which any rights or benefits under this Agreement will be sold, assigned, transferred, or otherwise conveyed;

(c) said notice must state the name, mailing address, telephone contact information, and, if known, email address, of the person(s) that will acquire any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance; and

(d) the notice must be signed by a duly authorized person representing the Developer.

SECTION 12
RECORDATION AND ESTOPPEL CERTIFICATES

12.1 Binding Obligations. After the Property is acquired by the Developer, this Agreement, including all amendments and assignments, or a Memorandum of Agreement signed by both parties, shall be recorded in the Official Public Records of Wharton County, Texas within sixty (60) days of the Effective Date at Developer's expense. This Agreement binds and constitutes a covenant running with the Property and, upon the Effective Date, is binding upon the Developer and the City, and forms a part of any other requirements for development within the Property. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property.

12.2 Estoppel Certificates. From time to time upon written request of a Developer or any future owner, and upon payment to the City of a $100.00 fee, the City Manager, or his/her designee will, in his official capacity and to his reasonable knowledge and belief, execute a written estoppel certificate in a form to be determined solely by the City identifying any obligations of an owner under this Agreement that is in default.

SECTION 13
PROVISION OF PUBLUC INFRASTRUCTURE

13.1 Public Infrastructure, Generally. Except as otherwise expressly provided for in this Agreement, Developer shall provide all public infrastructure as specified in this Agreement, including streets, utilities, drainage, and all other required improvements, at no cost to the City except as provided herein, and in accordance with the City Regulations and the Development Standards, and as approved by the City's engineer or his or her agent. The Developer shall cause the installation of all public infrastructure within all applicable time frames in accordance with the City Regulations unless otherwise approved herein. The Developer shall provide engineering studies, plan/profile sheets, and other construction documents at the time of platting as required by the City Regulations. The City's engineer or his or her agent must approve such plans before a final plat may be considered for approval. Construction of any portion of the public infrastructure shall not be initiated until a pre-construction conference that includes a City representative has been held regarding the proposed construction and the City has issued a written notice to proceed, which notice to proceed shall not be unreasonably withheld or delayed. No certificate of occupancy

shall be issued until construction of all public infrastructure shown thereon shall have been constructed, and thereafter inspected, approved, and accepted by the City.

13.2 Maintenance Bond. Developer or Developer's contractor must execute a maintenance bond meeting the requirements of the City's Subdivision Regulations that guarantees payment of the costs of any repairs which may become necessary to any part of the construction work performed in connection with the public infrastructure, arising from defective workmanship or materials used therein, for a full period of one (1) year from the date of final acceptance of such public infrastructure constructed under such contract. The Maintenance Bond, which may be the bond furnished by the contractor under the contract between developer and contractor, will be in place until the date of final completion and acceptance by the City of the public infrastructure from and after the date of construction approval by the City Engineer until the final approval and acceptance by the City Engineer and the City. This provision will apply to each construction contract for any part of the public infrastructure.

13.3 Inspections, Acceptance of Public Infrastructure; Developer's Remedy.

(a) Inspections, Generally. The City shall have the right to inspect, at any time, the construction of all public infrastructure necessary to support the proposed Development, including water, sanitary sewer, drainage, streets, electrical, streetlights, and signs.

(b) City Approval. The City's inspections and related approvals shall not release Developer from its responsibility to adequately construct, or ensure the adequate construction of, the Authorized Improvements and public infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property.

(c) Dedication and City Ownership of the Public Infrastructure. From and after the City's inspection and acceptance of the public infrastructure and any other dedications required under this Agreement, such public infrastructure, improvements, and dedications shall be owned, operated and maintained by the City, at its sole cost.

(d) Approval of Plats/Plans. Approval by the City, the City's Engineer, or other City employee or representative of any plans, designs, or specifications submitted by a Developer to the City pursuant to this Agreement, including the Development Standards, or pursuant to the City Regulations shall not constitute or be deemed to be a release of the responsibility and liability of the Developer or its engineers, employees, officers, and/or agents for the adequacy, accuracy, and competency of their design and specifications. Further, any such approvals shall not be deemed to be an assumption of such responsibility and liability by the City for any defect in the design and specifications prepared by the Developer or the Developer's engineers, or any engineer's officers, agents, servants or employees, it being the intent of the Parties that approval by the City's engineer signifies the City's approval on only the general design concept of the improvements to be constructed.

13.4 Insurance. Developer or its contractor(s) shall acquire and maintain, during the period of time when any of the public infrastructure is under construction (and until the public infrastructure has been fully and finally completed and accepted by the City): (a) workers

compensation insurance, if applicable, in the amount required by law; and (b) commercial general liability insurance, including personal injury liability, premises operations liability, and contractual liability, covering, but not limited to, the liability assumed under any indemnification provisions of this Agreement, with limits of liability for bodily injury, death and property damage of not less than One Million Dollars ($1,000,000.00). Such insurance shall also cover any and all claims that might arise out of the public infrastructure construction contracts, whether by the Developer, a contractor, subcontractor, material man, or otherwise. Coverage must be on a "per occurrence" basis. All such insurance shall: (i) be issued by a carrier that is rated "A-1" or better by AM. Best's Key Rating Guide and is licensed to do business in the State of Texas; and (ii) name the City as an additional insured and contain a waiver of subrogation endorsement in favor of the City. Upon the execution of public infrastructure construction contracts, the Developer shall promptly provide to the City certificates of insurance evidencing such insurance coverage together with the declaration of such policies, along with the endorsement naming the City as an additional insured. Each such policy shall provide that, at least 30 days prior to the cancellation, non-renewal, or modification of the policy, the City shall receive written notice of such cancellation, non-renewal, or modification.

13.5 Indemnification and Hold Harmless. DEVELOPER (INCLUDING ANY SUCCESSOR OR ASSIGNEE THEREOF, INCLUDING, WITHOUT LIMITATION, A PURCHASER OF ANY PORTION OF THE PROPERTY) AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY THE CITY FROM AND AGAINST ALL THIRD-PARTY CLAIMS, SUITS, JUDGMENTS, DAMAGES, AND DEMANDS (TOGETHER, "CLAIMS") AGAINST THE CITY, INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS, ARISING OUT OF THE NEGLIGENCE OF THE DEVELOPER IN CONNECTION WITH THE DESIGN OR CONSTRUCTION OF ANY INFRASTRUCTURE, STRUCTURE, OR OTHER FACILITIES OR IMPROVEMENTS THAT ARE REQUIRED OR PERMITTED BY THE CITY REGULATIONS OR ANY OTHER GOVERNING REGULATIONS AND THAT ARE DEDICATED OR OTHERWISE CONVEYED TO THE CITY.

13.6 Eminent Domain. The Developer agrees to use commercially reasonable efforts to obtain all third-party right(s)-of-way, consents, or easements, if any, required for the public infrastructure. If, however, the Developer is unable to obtain such third-party right(s)-of-way, consents, or easements within ninety (90) days of commencing efforts to obtain same, the City may at its option, take all reasonable steps necessary and within its lawful authority to secure same through the use of the City's power of eminent domain. Should the City engage in eminent domain proceedings, the Developer shall be responsible for funding and paying all reasonable and necessary legal proceeding/litigation costs, attorney's fees, and related expenses, and appraiser, consultant, and expert witness fees, and related expenses (collectively, "Eminent Domain Fees"), paid or incurred by the City in the exercise of its eminent domain powers that for any reason are not funded by Assessments; however, it is expressly acknowledged and agreed to by the Parties that the City shall not pay any amount of money that makes up or constitutes the Eminent Domain Fees or that is related to the acquisition of property for the development of the Property by means of eminent domain proceedings or litigation. Nothing in this subsection is intended to constitute a delegation of the police powers or governmental authority of the City, and the City reserves the right, at all times, to control its proceedings in eminent domain and whether to engage in same.

13.7 Construction of Model Homes/Show Homes. Notwithstanding that the public infrastructure has not been accepted by the City for maintenance, the City shall issue residential building permits for up to five (5) model/show homes in a phase of the development prior to completion of the applicable public infrastructure.

SECTION 14
ADDITIONAL PROVISIONS

14.1 Term. The term of this Agreement shall be for a period until all obligations by the Parties have been fully performed. Notwithstanding the preceding, in the event Developer does not purchase the Property by December 31, 2022, this Agreement shall terminate, be void ab initio, and none of the Parties shall have any further rights or obligations hereunder.

(a) Notwithstanding any provision of this Agreement, City may terminate the Agreement if, thirty (30) days after written notice, (i) Developer fails to submit a timely petition for voluntary annexation as stipulated in Section 9, or (ii) Developer files for bankruptcy.

14.2 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; and (c) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

14.3 Notices. Any notice, submittal, payment or instrument required or permitted by this Agreement to be given or delivered to any Party shall be deemed to have been received when personally delivered or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City: City of Wharton, Texas
Attn: Joseph R. Pace, City Manager
120 E. Caney St.
Wharton, Texas 77488

With a copy to: City of Wharton
Attn: City Attorney
120 E. Caney St.
Wharton, Texas 77488

To Developer: Wharton 55, LLC
Attn: Brian Jarrard
5005 Riverway, Suite 210
Houston, Texas 77056
brian@jarrdev.com

With a copy to: John G. Cannon
Coats Rose, P.C.
9 Greenway Plaza, Suite 1000
Houston, Texas 77046
jcannon@coatsrose.com

Any Party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other Party.

14.4 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

14.5 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is necessary and required.

14.6 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by official action of the City Council in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been and is duly authorized to do so. Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that each individual executing this Agreement on behalf of the Developer has been and is duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

14.7 Severability. This Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the Parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

14.8 Applicable Law; Venue. This Agreement is entered into pursuant to, and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Wharton County. Exclusive venue for any action related to, arising out of, or brought in connection with this Agreement shall be in the Wharton County State District Court.

14.9 Non-Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the

Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except in writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

14.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

14.11 Exhibits. The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

Exhibit A	Metes-and-Bounds Description of the Property
Exhibit B	Authorized Improvements and Estimated Costs
Exhibit C	General Plan
Exhibit D	Design Guidelines and Variances
Exhibit E	Home Buyer Disclosure Program
Exhibit F	Landowner Agreement (including attached Exhibits I, II, and III)
Exhibit G	Certification for Payment Form

14.12 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, in the event a Party is unable, due to Force Majeure, to perform its obligations under this Agreement, then the obligations affected by the Force Majeure shall be temporarily suspended. Within thirty (30) days after the occurrence of a Force Majeure, the Party claiming the right to temporarily suspend its performance shall give Notice to all Parties, including a detailed explanation of the Force Majeure and a description of the action that will be taken to remedy the Force Majeure and resume full performance at the earliest possible time.

14.13 Complete Agreement. This Agreement embodies the entire Agreement between the Parties and cannot be varied or terminated except as set forth in this Agreement, or by written agreement of the City and the Developer expressly amending the terms of this Agreement.

14.14 Consideration. This Agreement is executed by the Parties without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

14.15 Anti-Boycott Verifications. Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, 'boycott Israel' means 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 specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action

made for ordinary business purposes. The Developer understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

14.16 Iran, Sudan and Foreign Terrorist Organizations. Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website: https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf,.texas.gov/purchasing/docs/iran-list.pdf, or https://comptroller.texas.gov/purchasing/docs/fto-list.pdf. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

14.17 Fossil Fuels Boycott Verification. As required by 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, Developer hereby verifies that Developer, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott energy companies, and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code, as amended.

14.18 Firearms Discrimination Verification. As required by Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, Developer hereby verifies that Developer, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19), as amended.

14.19 Annexation Disclosure. Developer expressly acknowledges that Developer is not required to enter into this Agreement and that annexation proceedings are subject to Developer's consent, as owner of the Property, his consensual annexation is authorized and governed by Subchapter C-3 of Chapter 43 of the Texas Local Government Code. Under Subchaper C-3, the City must conduct one (1) public hearing, provide notice of this public hearing between ten (10) and twenty (20) days prior to the hearing, and negotiate a service plan with Owner. The annexation ordinance may be adopted at the conclusion of the public hearing. In accordance with Section 212.172(i) of the Texas Local Government Code, immunity from suit for the purpose of

adjudicating a claim for breach of this Agreement is waived. The Parties acknowledge that this section complies with Section 212.172(b-1) of the Texas Local Government Code.

[SIGNATURE PAGES FOLLOW, AND THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

EXECUTED BY THE PARTIES TO BE EFFECTIVE ON THE EFFECTIVE DATE:

CITY OF WHARTON, TEXAS

By: _____
Name: Tim Barker
Title: Mayor
Date: 11·15·22

ATTEST:

By: _____
Name: Paula Favors
Title: City Secretary
Date: 11/15/2022

APPROVED AS TO FORM

_____
Name: Paul Webb, P.C.
Title: City Attorney

STATE OF TEXAS §
§
COUNTY OF WHARTON §

This instrument was acknowledged before me on the 15th day of November, 2022 by Tim Barker, the Mayor of the City of Wharton, Texas, on behalf of said City.

(SEAL)

GWYNETH TEVES NOTARY PUBLIC STATE OF TEXAS NOTARY ID 126327745-6 01/27/2025

_____
Notary Public, State of Texas

DEVELOPER:

WHARTON 55, LLC
a Texas limited liability company

By: _____
Name: Jim Maddox
Its: Manager
Date: 15 Nov 22

STATE OF TEXAS §
§
COUNTY OF Wharton §

This instrument was acknowledged before me on the 15 day of November, 2022 by Jim Maddox, Manager, of Wharton 55, LLC, a Texas limited liability company, on behalf of such company.

(SEAL)

GWYNETH TEVES
NOTARY PUBLIC
STATE OF TEXAS
NOTARY ID 12632745-6
01/27/2025

_____
Notary Public, State of Texas

Exhibit A

The Metes and Bounds Description of the Property

Tract 1:

51.6733 acres of land in the Randal Jones 1/2 League, Abstract No. 36, Partially in the City of Wharton, Wharton County, Texas

A FIELD NOTE DESCRIPTION of a 51.6733 acre tract of land in the Randal Jones 1/2 League, Abstract No. 36, partially in the City of Wharton, Wharton County, Texas; said 51.6733 acre tract being that same called 51.4217 acre tract of land conveyed to Gordon Franklin, Trustee, as recorded in Volume 249, Page 233, of the Wharton County Deed Records; said tract being more particularly described by metes-and-bounds as follows with the bearings being based on Texas State Plane Coordinate System, South Central Zone (NAD83) per GPS Observations using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a 1-inch iron spike found in the southeast right-of-way line of F.M. 1299 (South Alabama Road) (called 80 feet wide), as recorded in Volume 802, Page 787 of the Wharton County Deed Records for the north corner of Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2, according to the map or plat recorded in Slide No. 120A of the Wharton County Plat Records and for a west corner of this tract;

THENCE, North 16° 52' 37" East - 364.19 feet (called North 20° 14' 18" East - 364.10 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southeast right-of-way line of said South Alabama Road to a 1/2-inch iron rod found for the west corner of a called 15.00 acre tract of land conveyed to Bichhop T. Le, as recorded in Volume 794, Page 547 of the Wharton County Deed Records and for a north corner of this tract;

THENCE, South 73° 40' 17" East - 727.16 feet (called South 70° 16' East – 727.10 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southwest line of said 15.00 acre tract to a 5/8-inch iron rod with cap found for the south corner of said 15.00 acre tract and for an interior corner of this tract;

THENCE, North 16° 48' 36" East - 898.55 feet (called North 20° 14' 17" East – 898.64 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southeast line of said 15.00 acre tract to a 1/2-inch iron rod found for the east corner of said 15.00 acre tract, for the south corner of a called 5.698 acre tract of land conveyed to Robert L. Lebow, Leonard C. Lebow and David I. Lebow, as recorded in Volume 824, Page 719 of the Wharton County Deed Records, and for an angle point of this tract;

THENCE, North 16° 21' 39" East - 188.68 feet (called North 19° 44' East – 188.72 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southeast line of said 5.698 acre tract to a bent 5/8-inch iron rod found for the west corner of a called 5.00 acre tract of land conveyed to Gordon Franklin, Trustee, as recorded in Volume 1201, Page 830 of the Wharton County Deed Records and as described in Volume 519, Page 542 of the Wharton County Deed

Records and for a north corner of this tract; from which a bent 1/2-inch iron rod found in the southwest right-of-way line of State Highway 60 (Milam Street) (width varies - 100 feet wide at this point) for the east corner of said 5.698 acre tract and for the north corner of said 5.00 acre tract bears North 16° 21' 39" East – 350.86 feet (called North 19° 49' 30" East – 350 feet per Volume 519, Page 542 of the Wharton County Deed Records);

THENCE, South 70° 30' 11" East - 623.01 feet (called South 67° 05' 30" East – 623.00 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 67° 05' 15" East – 623.19 feet per Volume 519, Page 542 of the Wharton County Deed Records) with the southwest line said 5.00 acre tract to a 1/2-inch iron rod found for the south corner of said 5.00 acre tract and for an interior corner of this tract;

THENCE, North 16° 18' 47" East (called North 19° 49' 30" East per Volume 249, Page 233 of the Wharton County Deed Records) with southeast line of said 5.00 acre tract, at a distance of 60.09 feet pass a point for the south corner of a called 0.413 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records, and continuing with the southeast line of said 0.413 acre tract and with the southeast line of a called 0.784 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records for a total distance of 350.60 feet (called 350.00 feet per Volume 249, Page 233 of the Wharton County Deed Records) to a 1/2-inch iron rod found in the southwest right-of-way line of said State Highway 60 for the east corner of said 0.784 acre tract and for a north corner of this tract; from which a 1/2-inch iron rod found for the north corner of said 0.784 acre tract bears North 70° 28' 39" West – 180.00 feet;

THENCE, South 70° 28' 39" East – 59.77 feet (called South 66° 50' 27" East – 59.77 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the southwest right-of-way line of said State Highway 60 to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the north corner of a called 0.9918 acre tract of land conveyed to Pohler Real Estate Investments, LLC, as recorded in Volume 1120, Page 404 of the Wharton County Deed Records and for an east corner of this tract; from which a 1/2-inch iron rod found for the east corner of a 1.000 acre tract of land conveyed to Pohler Real Estate Investments, LLC, as recorded in Volume 1120, Page 404 of the Wharton County Deed Records bears South 70° 28' 39" East – 251.03 feet;

THENCE, South 16° 16' 24" West (called South 19° 49' 30" West per Volume 249, Page 233 of the Wharton County Deed Records) with the northwest line of said 0.9918 acre tract, at a distance of 208.41 feet pass a 1/2-inch iron rod spinner found for the west corner of said 0.9918 acre tract and for the north corner of said 1.000 acre tract and continuing with the northwest line of said 1.000 acre tract for a total distance of 347.67 feet (called 347.55 feet per Volume 249, Page 233 of the Wharton County Deed Records) to a 1/2-inch iron rod found for the west corner of said 1.000 acre tract and for an interior corner of this tract;

THENCE, South 70° 26' 42" East - 250.01 feet (called South 67° 09' 08" East – 249.82 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 67° 05' 15" East – 250.00 feet per Volume 1120, Page 404 of the Wharton County Deed Records) with the southwest line of said 1.000 acre tract to a 1/2-inch iron rod found for the south corner of said 1.000 acre tract, for the west corner of Lot 1, Subdivision of Lot 24M, according to the map or plat

recorded in Slide No. 3030 of of the Wharton County Plat Records, and for an angle point of this tract; from which a 1/2-inch iron rod found in the southwest right-of-way line of said State Highway 60 (width varies at this point) bears North 16° 26' 37" East – 347.76 feet (called North 19° 49' 30" East – 347.55 feet per Volume 1120, Page 404 of the Wharton County Deed Records);

THENCE, South 70° 25' 24" East - 398.87 feet (called South 67° 01' 08" East – 398.87 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 70° 26' 03" East – 398.92 feet per Slide No. 3030 of the Wharton County Plat Records) with the southwest line of said Subdivision of Lot 24M to a 5/8-inch iron rod with cap stamped "McKim & Creed" set in the northwest line of a called 1.83 acre tract of land conveyed to Edwin W. Kostka, as recorded in Volume 310, Page 229 of the Wharton County Deed Records for the south corner of Lot 2 of said Subdivision of Lot 24M and for an east corner of this tract; from which a 1/2-inch iron rod with cap stamped "RPLS 5319" found in the southwest right-of-way line of said State Highway 60 for the east corner of said Lot 2 bears North 16° 26' 03" East – 313.24 feet (called North 16° 26' 39" East – 312.97 feet per Slide No. 3030 of the Wharton County Plat Records); also from which a t-post inside pvc pipe bears North 46° 04' 52" West – 0.33 feet;

THENCE, South 16° 26' 03" West - 33.43 feet (called South 20° 08' 12" West – 33.43 feet per Volume 249, Page 233 of the Wharton County Deed Records) with the northwest line of said 1.83 tract to a 5/8-inch iron rod with cap stamped "McKim & Creed" set for the west corner of said 1.83 tract, for the north corner of a called 8.72 acre tract of land (Tract 3) conveyed to Edwin W. Kostka, Jr., as recorded in Volume 210, Page 638 of the Wharton County Deed Records and for an angle point of this tract; from which a 1-1/2-inch iron pipe found for the south corner of said 1.83 acre tract bears South 70° 16' 36" East – 228.92 feet (called South 66° 59' East – 228.33 feet per Volume 310, Page 229 of the Wharton County Deed Records); also from which a 1/2-inch iron rod found for the east corner of said 8.72 acre tract bears South 70° 16' 36" East – 258.77 feet (called South 66° 59' East – 258.33 feet per Volume 210, Page 638 of the Wharton County Deed Records);

THENCE, South 18° 14' 30" West - 740.07 feet (called South 22° 46' 36" West – 739.79 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 21° 39' 08" West – 737.78 feet per Volume 210, Page 638 of the Wharton County Deed Records) with the northwest line of said 8.72 acre tract to a t-post inside pvc pipe found for an angle point of said 8.72 acre tract and for an angle point of this tract;

THENCE, South 19° 23' 26" West - 716.72 feet (called South 21° 36' 12" West – 716.75 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called South 22° 53' West – 716.75 feet per Volume 210, Page 638 of the Wharton County Deed Records) with the northwest line of said 8.72 acre tract to a t-post inside pvc pipe found in the northeast line of Block 1, Briar Grove Addition, Section 4, according to the map or plat recorded in Page 47A of the Wharton County Plat Records (previously platted as Briar Grove Addition Section 3, according to the map or plat recorded in Slide No. 38A of the Wharton County Plat Records, revoked per Volume 558, Page 166 of the Wharton County Deed Records) for the west corner of said 8.72 acre tract and for the south corner of this tract;

THENCE, North 70° 33' 43" West (called North 67° 09' 26" West per Volume 249, Page 233 of the Wharton County Deed Records) with the northeast line for said Briar Grove Addition, Section 4, with the northeast line of Re-plat of Briar Grove Addition, Section. 3, according to the map or plat recorded in Page No. 45A of the Wharton County Plat Records, and with the northeast line of Briar Grove Addition, Section 2, according to the map or plat recorded in Volume 1, Page 72 of the Wharton County Plat Records, at a distance of 1,871.31 feet pass a 1/2-inch iron rod found for the north corner of Lot 2 of said Briar Grove Addition, Section 2, and for the east corner of said Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2 and continuing with the northeast line of said Briar Grove Trailer Park, Lot One (1), Briar Grove Addition, Sec. 2, for a total distance of 2008.02 feet (called 2,008.10 feet per Volume 249, Page 233 of the Wharton County Deed Records) to the POINT OF BEGINNING and containing 51.6733 acres of land.

Tract 2:

3.8067 acres of land in the Randal Jones 1/2 League, Abstract No. 36, City of Wharton, Wharton County, Texas

A FIELD NOTE DESCRIPTION of a 3.8067 acre tract of land in the Randal Jones 1/2 League, Abstract No. 36, City of Wharton, Wharton County, Texas; said 3.8067 acre tract being the remainder of a 5.00 acre tract of land conveyed to Gordon Franklin, Trustee, as recorded in Volume 1201, Page 830 of the Wharton County Deed Records and as described in Volume 519, Page 542 of the Wharton County Deed Records; said tract being more particularly described by metes-and-bounds as follows with the bearings being based on Texas State Plane Coordinate System, South Central Zone (NAD83) per GPS Observations using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a 1/2-inch iron rod found in the southwest right-of-way line of State Highway 60 (Milam Street) (width varies - 100 feet wide at this point) for the east corner of a called 5.698 acre tract of land conveyed to Robert L. Lebow, Leonard C. Lebow, and David I. Lebow, as recorded in Volume 824, Page 719 of the Wharton County Deed Records, for the north corner of said 5.00 acre tract, and for the north corner of this tract;

THENCE, South 70° 28' 39" East - 442.73 feet with the southwest right-of-way line of said State Highway 60 to a 1/2-inch iron rod found for the north corner of a called 0.784 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records and for an east corner of this tract; from which a 1/2-inch iron rod found for the east corner of said 0.784 acre tract and for a north corner of a called 51.4217 acre tract of land conveyed to Gordon Franklin Trustee, as recorded in Volume 249, Page 233 of the Wharton County Deed Records bears South 70° 28' 39" East – 180.00 feet;

THENCE, South 16° 23' 20" West - 290.91 feet with the northwest line of said 0.784 acre tract and with the northwest line of a called 0.413 acre tract of land conveyed to Hinze Bar-B-Que, Inc., as recorded in Volume 1006, Page 92 of the Wharton County Deed Records to a 1/2-inch iron rod spinner found for the west corner of a said 0.413 acre tract and for an interior corner of this tract;

THENCE, South 70° 36' 40" East - 180.36 feet (called South 67° 05' 15" East - 180.00 feet per Volume 1006, Page 92 of the Wharton County Deed Records) with the southwest line of said 0.413 acre tract to a point in the southeast line of said 5.00 acre tract and in a northwest line of a said 51.4217 acre tract for the south corner of said 0.413 acre tract and for an east corner of this tract; from which a 1/2-inch iron rod found bears North 67° 38' 34" West – 0.39 feet;

THENCE, South 16° 18' 47" West - 60.09 feet with the southeast line of said 5.00 acre tract and with the northwest line of said 51.4217 acre tract to a 1/2-inch iron rod found for the south corner of said 5.00 acre tract, for an interior corner of said 51.4217 acre tract of land and for a south corner of this tract;

THENCE, North 70° 30' 11" West - 623.01 feet (called North 67° 05' 30" West – 623.00 feet per Volume 249, Page 233 of the Wharton County Deed Records) (called North 67° 05' 15" West – 623.19 feet per Volume 519, Page 542 of the Wharton County Deed Records) with the southwest line of said 5.00 acre tract and with a northeast line of said 51.4217 acre tract to a bent 5/8-inch iron rod found in the southeast line of said 5.968 acre tract for a north corner of said 51.4217 acre tract, for the west corner of said 5.00 acre tract, and for the west corner of this tract; from which a 1/2-inch iron rod found for the south corner of said 5.968 acre tract bears South 16° 21' 39" West – 188.68 feet (called South 19° 44' West – 188.72 feet per Volume 249, Page 233 of the Wharton County Deed Records);

THENCE, North 16° 21' 39" East - 350.86 feet (called North 19° 49' 30" East – 350 feet per Volume 519, Page 542 of the Wharton County Deed Records) with the southeast line of said 5.698 acre tract and with the northwest line of said 5.00 acre tract to the POINT OF BEGINNING and containing 3.8067 acres of land.

Exhibit B

Authorized Improvements and Estimated Costs

Water	$916,260.00	
Sanitary Sewer	$1,008,084.00	
Storm Sewer	$1,026,622.80	
Paving	$1,920,000.00	
Detention & Fill	$1,025,006.40	
Parks and Landscaping	$720,000.00	
Subtotal Hard Costs	$6,615,973.20	
Soft Costs		
Survey & Engineering	$1,190,875.18	18%
Contingency/Escalation	$992,395.98	15%
Land	$500,000.00	
Financing/Administrative	$700,000.00	
Subtotal Soft Costs	$3,383,271.16	
Total Authorized Improvements	$9,999,244.36	

Costs are estimates and final costs of the Public Improvements shall be as set forth in the applicable Service and Assessment Plan. The Service and Assessment Plan will also include costs of issuance for the PID Bonds.

Exhibit C
General Plan

Exhibit D

Design Guidelines and Variances

The Property will be developed in accordance with the Design Standards as set forth in Section 6 and Section 9 of this Agreement.

Exhibit E
Home Buyer Disclosure Program

The Administrator (as defined in the Service and Assessment Plan) for the Wharton Public Improvement District No. ___ (the "PID") shall facilitate notice to prospective homebuyers in accordance the following notices. The Administrator shall monitor the enforcement of the following minimum requirements:

1. Record notice of the PID in the appropriate land records for the Property.
2. Require builders to include notice of the PID in an addendum to the contract on brightly colored paper.
3. Require signage indicating that the property for sale is located in a special assessment district and require that such signage be located in conspicuous places in all model homes.
4. Prepare and provide to builders an overview of the PID for those builders to include in each sales packet.
5. Notify builders who estimate monthly ownership costs of the requirement that they must include special taxes in estimated property taxes.
6. Notify settlement companies through the builders that they are required to include special taxes on HUD I forms and include in total estimated taxes for the purpose of setting up tax escrows.
7. Include notice of the PID in the homeowner association documents inconspicuous bold font.
8. The City will include announcements of the PID on the City's web site.
9. The disclosure program shall be monitored by the Developer and the Administrator.

Exhibit F
Landowner Agreement (including attached Exhibits I, II, and III)

LANDOWNER AGREEMENT

This LANDOWNER AGREEMENT (the "'Agreement") is entered into by the City of Wharton (the "City"), a Type-A general law municipality of the State of Texas (the "State"), and _____, a Texas _____ (the "Landowner").

RECITALS:

WHEREAS, Landowner owns the Assessed Parcels described by a metes-and-bounds description attached as Exhibit I to this Agreement, which is incorporated herein for all purposes, and which Assessed Parcels comprise all of the non-exempt, privately-owned land described in Exhibit I (the "Landowner Parcel"), which is within the Wharton Public Improvement District No. ___ (the "District") in the City; and

WHEREAS, the City Council has adopted an assessment ordinance for the Authorized Improvements (including all exhibits and attachments thereto, the "Assessment Ordinance") and the Service and Assessment Plan, which is included as Exhibit A to the Assessment Ordinance (the "Service and Assessment Plan") and which is incorporated herein for all purposes, and, further, the City Council has levied an assessment on each Assessed Parcel in the District (as identified in the Service and Assessment Plan) that will be pledged to pay for certain infrastructure improvements and to pay the costs of constructing the Authorized Improvements that will benefit the Assessed Property (as defined in the Service and Assessment Plan); and

WHEREAS, the Covenants, Conditions and Restrictions attached to this Agreement as Exhibit II, which is incorporated herein for all purposes, include the statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided to the purchaser by the seller of residential property located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended (the "PID Act").

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits hereinafter set forth, the City and Landowner hereby contract, covenant, and agree as follows:

DEFINITIONS; AFFIRMATION OF RECITALS

Definitions. Capitalized terms used but not defined herein (including each exhibit hereto) shall have the meanings ascribed to them in the Service and Assessment Plan.

Affirmation of Recitals. The findings set forth in the Recitals of this Agreement are hereby incorporated as the official findings of the City Council.

I.
AGREEMENTS OF LANDOWNER

A. Affirmation and Acceptance of Agreements and Findings of Benefit. Landowner hereby ratifies, confirms, accepts, agrees to, and approves:

(i) the creation and boundaries of the District, and the boundaries of the Landowner's Parcel which are located within the District, all as shown on Exhibit I, and the location and development of the Authorized Improvements on the Landowner Parcel and on the property within the District;

(ii) the determinations and findings as to the benefits by the City Council in the Service and Assessment Plan and the Assessment Ordinance; and

(iii) the Assessment Ordinance and the Service and Assessment Plan.

B. Acceptance and Approval of Assessments and Lien on Property. Landowner consents to, agrees to, acknowledges, and accepts the following:

(i) each Assessment levied by the PID on the Landowner's Parcel within the District, as shown on the assessment roll attached as Appendix _ to the Service and Assessment Plan (the "Assessment Roll");

(ii) the Authorized Improvements specially benefit the District, and the Landowner's Parcel, in an amount in excess of the Assessment levied on the Landowner's Parcel within the District, as such Assessment is shown on the Assessment Roll;

(iii) each Assessment is final, conclusive and binding upon Landowner and any subsequent owner of the Landowner's Parcel, regardless of whether such landowner may be required to prepay a portion of, or the entirety of, such Assessment upon the occurrence of a mandatory prepayment event as provided in the Service and Assessment Plan;

(iv) the obligation to pay the Assessment levied on the Landowner's Parcel owned by a landowner when due and in the amount required by and stated in the Service and Assessment Plan and the Assessment Ordinance;

(v) each Assessment or reassessment, with interest, the expense of collection, and reasonable attorney's fees, if incurred, is a first and prior lien against the Landowner's Parcel, superior to all other liens and monetary claims except liens or monetary claims for state, county, school district, or municipal ad valorem taxes, and is a personal liability of and charge against the owner of the Landowner's Parcel regardless of whether such owner is named;

(vi) the Assessment lien on the Landowner's Parcel is a lien and covenant that runs with the land and is effective from the date of the Assessment Ordinance and continues

until the Assessment is paid and may be enforced by the governing body of the City in the same manner that an ad valorem tax lien against real property may be enforced by the City;

(vii) delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act;

(viii) the owner of a Landowner's Parcel may pay at any time the entire Assessment, with interest that has accrued on the Assessment, on any parcel in the Landowner's Parcel;

(ix) the Annual Installments of the Assessments (as defined in the Service and Assessment Plan and Assessment Roll) may be adjusted, decreased and extended; and, the assessed parties shall be obligated to pay their respective revised amounts of the annual installments, when due, and without the necessity of further action, assessments or reassessments by the City, the same as though they were expressly set forth herein; and

(x) Landowner has received, or hereby waives, all notices required to be provided to it under Texas law, including the PID Act, prior to the Effective Date (defined herein).

C. Mandatory Prepayment of Assessments. Landowner agrees and acknowledges that Landowner or subsequent landowners may have an obligation to prepay an Assessment upon the occurrence of a mandatory prepayment event, at the sole discretion of the City and as provided in the Service and Assessment Plan, as amended or updated.

D. Notice of Assessments. Landowner further agrees as follows:

(i) the Covenants, Conditions and Restrictions attached hereto as Exhibit II shall be terms, conditions and provisions running with the Landowner's Parcel and shall be recorded (the contents of which shall be consistent with the Assessment Ordinance and the Service and Assessment Plan as reasonably determined by the City) in the records of the County Clerk of Wharton County, as a lien and encumbrance against such Landowner's Parcel, and Landowner hereby authorizes the City to so record such documents against the Landowner's Parcel owned by Landowner;

(ii) reference to the Covenants, Conditions and Restrictions attached hereto as Exhibit II shall be included on all recordable subdivision plats and such plats shall be recorded in the real property records of Wharton County, Texas;

(iii) in the event of any subdivision, sale, transfer or other conveyance by Landowner of the right, title or interest of Landowner in the Landowner's Parcel or any part thereof, the Landowner's Parcel, or any such part thereof, shall continue to be bound by all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions and any purchaser, transferee or other subsequent owner shall take such Landowner's Parcel subject to all of the terms, conditions and provisions of such Covenants, Conditions and Restrictions; and

(iv) Landowner shall comply with, and shall contractually obligate (and promptly provide written evidence of such contractual provisions to the City) any party who purchases any Landowner's Parcel owned by Landowner, or any portion thereof, for the purpose of constructing residential properties that are eligible for "homestead" designations under State law, to comply with, the Homebuyer Education Program described on Exhibit III to this Agreement. Such compliance obligation shall terminate as to each Lot (as defined in the Service and Assessment Plan) if, and when, (i) a final certificate of occupancy for a residential unit on such Lot is issued by the City, and (ii) there is a sale of a Lot to an individual homebuyer, it being the intent of the undersigned that the Homebuyer Education Program shall apply only to a commercial builder who is in the business of constructing and/or selling residences to individual home buyers (a "Builder") but not to subsequent sales of such residence and Lot by an individual home buyer after the initial sale by a Builder.

Notwithstanding the provisions of this Section, upon Landowner's request and the City's consent, in the City's sole and absolute discretion, the Covenants, Conditions and Restrictions may be included with other written restrictions running with the land on property within the District, provided they contain all the material provisions and provide the same material notice to prospective property owners as does the document attached as Exhibit II

II.
OWNERSHIP AND CONSTRUCTION OF AUTHORIZED IMPROVEMENTS

A. Ownership and Transfer of Authorized Improvements. Landowner acknowledges that all of the Authorized Improvements and the land (or easements, as applicable) needed therefor shall be owned by the City as constructed and/or conveyed to the City and Landowner will execute such conveyances and/or dedications of public rights of way and easements as may be reasonably required to evidence such ownership, as generally described on the current plats of the property within the District.

B. Grant of Easement and License, Construction of Authorized Improvements.

(i) Any subsequent owner of the Landowner's Parcel shall, upon the request of the City or Developer, grant and convey to the City or Developer and its contractors, materialmen and workmen a temporary license and/or easement, as appropriate, to construct the Authorized Improvements on the property within the District, to stage on the property within the District construction trailers, building materials and equipment to be used in connection with such construction of the Authorized Improvements, and to provide for passage and use over and across parts of the property within the District as shall be reasonably necessary during the construction of the Authorized Improvements. Any subsequent owner of the Landowner's Parcel may require that each contractor constructing the Authorized Improvements cause such owner of the Landowner's Parcel to be indemnified and/or named as an additional insured under liability insurance reasonably acceptable to such owner of the Landowner's Parcel. The right to use and enjoy any easement and license provided above shall continue until the construction of the

Authorized Improvements is complete; provided, however, any such license or easement shall automatically terminate upon the recording of the final plat for the Landowner's Parcel in the real property records of Wharton County, Texas.

(ii) Landowner hereby agrees that any right or condition imposed by the Improvement Agreement, or other agreement, with respect to the Assessment has been satisfied, and that Landowner shall not have any rights or remedies against the City under the Improvement Agreement, or under any law or principles of equity concerning the Assessments, with respect to the formation of the District, approval of the Service and Assessment Plan, and/or the City's levy and collection of the Assessments.

III.
COVENANTS AND WARRANTIES; MISCELLANEOUS

A. Special Covenants and Warranties of Landowner.

Landowner represents and warrants to the City as follows:

(i) Landowner is duly organized, validly existing and, as applicable, in good standing under the laws of the state of its organization and has the full right, power and authority to enter into this Agreement, and to perform all the obligations required to be performed by Landowner hereunder.

(ii) This Agreement has been duly and validly executed and delivered by, and on behalf of, Landowner and, assuming the due authorization, execution and delivery thereof by and on behalf of the City and Landowner, constitutes a valid, binding and enforceable obligation of such party enforceable in accordance with its terms. This representation and warranty is qualified to the extent the enforceability of this Agreement may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws of general application affecting the rights of creditors in general.

(iii) `Neither the execution and delivery hereof, nor the taking of any actions contemplated hereby, will conflict with or result in a breach of any of the provisions of, or constitute a default, event of default or event creating a right of acceleration, termination or cancellation of any obligation under, any instrument, note, mortgage, contract, judgment, order, award, decree or other agreement or restriction to which Landowner is a party, or by which Landowner or the Landowner's Parcel is otherwise bound.

(iv) Landowner is, subject to all matters of record in the Wharton County, Texas Real Property Records, the sole owner of the Landowner's Parcel.

(v) The Landowner's Parcel owned by Landowner is not subject to, or encumbered by, any covenant, lien, encumbrance or agreement which would prohibit (i) the creation of the District, (ii) the levy of the Assessments, or (iii) the construction of the Authorized Improvements on those portions of the property within the District which are to be owned by the City, as generally described on the current plats of the property within

the District (or, if subject to any such prohibition, the approval or consent of all necessary parties thereto has been obtained).

(vi) Landowner covenants and agrees to execute any and all documents necessary, appropriate or incidental to the purposes of this Agreement, as long as such documents are consistent with this Agreement and do not create additional liability of any type to, or reduce the rights of, such Landowner by virtue of execution thereof.

B. Waiver of Claims Concerning Authorized Improvements. Landowner, with full knowledge of the provisions, and the rights thereof pursuant to such provisions, of applicable law, waives any claims against the City and its successors, assigns and agents, pertaining to the installation of the Authorized Improvements.

C. Notices.

Any notice or other communication to be given to the City or Landowner under this Agreement shall be given by delivering the same in writing to:

To the City: City of Wharton
Attn: City Manager
120 E. Caney St.
Wharton, Texas 77488

To the Developer: _____
_____
_____
_____

With a copy to: _____
_____
_____
_____

Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the recipient at the address set forth herein.

Each recipient may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this provision shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged or otherwise validly confirmed, and any communication so delivered in person shall be deemed to be given when receipted for, or actually received by, the addressee.

D. Parties in Interest.

This Agreement is made solely for the benefit of the City and Landowner and is not assignable, except, in the case of Landowner, in connection with the sale or disposition of all or substantially all of the parcels which constitute the Landowner's Parcel. However, the Parties expressly agree and acknowledge that the City, Landowner, each current owner of any parcel which constitutes the Landowner's Parcel, and the holders of or trustee for any bonds secured by PIO Assessment revenues of the City or any part thereof to finance the costs of the Authorized Improvements, are express beneficiaries of this Agreement and shall be entitled to pursue any and all remedies at law or in equity to enforce the obligations of the Parties hereto. This Agreement shall be recorded in the real property records of Wharton County, Texas.

E. Amendments.

This Agreement may be amended only by written instrument executed by the City and Landowner. No termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the then-current owners of the property within the District and recorded in the Real Property Records of Wharton County, Texas.

F. Effective Date.

This Agreement shall become and be effective upon the date of final execution by the latter of the City and Landowner (the "Effective Date") and shall be valid and enforceable on said date and thereafter.

G. Estoppels.

Within 10 days after written request from a Party, the other Party shall provide a written certification, indicating whether this Agreement remains in effect as to the Landowner's Parcel, and whether any party is then in default hereunder.

H. Termination.

This Agreement shall terminate and be of no further force and effect as to the Landowner's Parcel upon payment in full of the Assessment(s) against such Landowner's Parcel.

[Signature pages to follow]

EXECUTED by the City and Landowner on the respective dates stated below.

Date: 11·15·22

CITY OF WHARTON, TEXAS

By: Tim Barker
Tim Barker, Mayor

STATE OF TEXAS §
§
COUNTY OF Wharton §

This instrument was acknowledged before me on the 15th day of November, 2022, by Tim Barker, Mayor of the City of Wharton, Texas on behalf of said City.

Gwyneth Teves
Notary Public, State of Texas

(SEAL)

Name printed or typed: Gwyneth Teves

Commission Expires: 1·27·2025

[Signature Page Landowner Agreement]

LANDOWNER

Date: 15 NOV 22

DEVELOPER:

WHARTON 55 LLC

By: Jm Maddox
Name: Jim MADDOX
Its: MANAGER
Date: 15 NOV 22

STATE OF TEXAS §
§
COUNTY OF Wharton §

This instrument was acknowledged before me on the 15 day of November, 2022 by Jim Maddox, Manager, of Wharton 55 LLC, on behalf of such —.

(SEAL)

GWYNETH TEVES NOTARY PUBLIC STATE OF TEXAS NOTARY ID 12632745-6 01/27/2025

Gwyneth Teves
Notary Public, State of Texas

[Signature Page Landowner Agreement]

LANDOWNER AGREEMENT - EXHIBIT I

METES AND BOUNDS DESCRIPTION OF LANDOWNER'S PROPERTY

LANDOWNER AGREEMENT - EXHIBIT II

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (as it may be amended from time to time, this "Declaration") is made as of _____ by _____, a Texas _____ (the "Landowner").

RECITALS:

A. Landowner holds record title to that portion of the real property located in Wharton County, Texas, which is described in the attached Exhibit I (the "Landowner's Parcel").

B. The City Council of the City of Wharton, Texas (the "City Council"), upon a petition requesting the establishment of a public improvement district covering the property within the District to be known as the Wharton Public Improvement District No. ___ (the "District"), submitted by the then current owners of 100% of the appraised value of the taxable real property and 100% of the area of all taxable real property within the area requested to be included in the District created such District, in accordance with the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the "PID Act").

C. The City Council has adopted an assessment ordinance to levy assessments for certain public improvements (including all exhibits and attachments thereto, the "Assessment Ordinance") and the Service and Assessment Plan included as an exhibit to the Assessment Ordinance (as amended from time to time, the "Service and Assessment Plan"), and has levied the assessments (as amended from time to time, the "Assessments") on property in the District.

D. The statutory notification required by Texas Property Code, Section 5.014, as amended, to be provided to the purchaser by the seller of residential property that is located in a public improvement district established under Chapter 372 of the Texas Local Government Code, as amended is incorporated into these Covenants, Conditions and Restrictions.

DECLARATIONS:

NOW, THEREFORE, Landowner hereby declares that the Landowner's Parcel is and shall be subject to, and hereby imposes on the Landowner's Parcel, the following covenants, conditions and restrictions:

1. Acceptance and Approval of Assessments and Lien on Property:

(a) Landowner accepts each Assessment levied on the Landowner's Parcel owned by such Landowner.

(b) The Assessment (including any reassessment, the expense of collection, and reasonable attorney's fees, if incurred) is (a) a first and prior lien (the "Assessment Lien") against the property assessed, superior to all other liens or claims except for liens or claims for state, county, school district or municipality ad valorem property taxes whether now or hereafter payable, and (b) a personal liability of and charge against the owners of the property to the extent of their ownership regardless of whether the owners are named. The Assessment Lien is effective from the date of the Assessment Ordinance until the Assessments are paid and may be enforced by the City in the same manner as an ad valorem property tax levied against real property that may be enforced by the City. The owner of any assessed property may pay, at any time, the entire Assessment levied against any such property. Foreclosure of an ad valorem property tax lien on property within the District will not extinguish the Assessment or any unpaid but not yet due annual installments of the Assessment, and will not accelerate the due date for any unpaid and not yet due annual installments of the Assessment.

It is the clear intention of all parties to these Declarations of Covenants, Conditions and Restrictions, that the Assessments, including any annual installments of the Assessments (as such annual installments may be adjusted, decreased or extended), are covenants that run with the Landowner's Parcel and specifically bind Landowner, and its successors and assigns.

In the event of delinquency in the payment of any annual installment of the Assessment, the City is empowered to order institution of an action in district court to foreclose the related Assessment Lien, to enforce personal liability against the owner of the real property for the Assessment, or both. In such action the real property subject to the delinquent Assessment may be sold at judicial foreclosure sale for the amount of such delinquent property taxes and Assessment, plus penalties, interest and costs of collection.

2. Landowner or any subsequent owner of the Landowner's Parcel waives:

(a) any and all defects, irregularities, illegalities or deficiencies in the proceedings establishing the District and levying and collecting the Assessments or the annual installments of the Assessments;

(b) any and all notices and time periods provided by the PID Act including, but not limited to, notice of the establishment of the District and notice of public hearings regarding the levy of Assessments by the City Council concerning the Assessments;

(c) any and all defects, irregularities, illegalities or deficiencies in, or in the adoption of, the Assessment Ordinance by the City Council;

(d) any and all actions and defenses against the adoption or amendment of the Service and Assessment Plan, the City's finding of a 'special benefit' pursuant to the PID Act and the Service and Assessment Plan, and the levy of the Assessments; and

(e) any right to object to the legality of any of the Assessments or the Service and Assessment Plan or to any of the previous proceedings connected therewith which occurred prior to, or upon, the City Council's levy of the Assessments.

3. **Amendments:** This Declaration may be terminated or amended only by a document duly executed and acknowledged by the then-current owner(s) of the Landowner's Parcel and the City. No such termination or amendment shall be effective until a written instrument setting forth the terms thereof has been executed by the parties by whom approval is required as set forth above and recorded in the real Property Records of Wharton County, Texas.

4. **Third Party Beneficiary**: The City is a third-party beneficiary to this Declaration and may enforce the terms hereof.

5. **Notice to Subsequent Purchasers**: Upon the sale of a dwelling unit within the District, the purchaser of such property shall be provided a written notice that reads substantially similar to the following:

TEXAS PROPERTY CODE SECTION 5.014
NOTICE OF OBLIGATION TO PAY PUBLIC IMPROVEMENT DISTRICT ASSESSMENT TO THE CITY OF _____, WHARTON COUNTY, TEXAS CONCERNING THE PROPERTY AT [Street Address].

As the purchaser of this parcel of real property, you are obligated to pay an assessment to the City of _____, Texas, for improvement projects undertaken by a public improvement district under Chapter 372 of the Texas Local Government Code, as amended. The assessment may be due in periodic installments.

The amount of the assessment against your property may be paid in full at any time together with interest to the date of payment. If you do not pay the assessment in full, it will be due and payable in annual installments (including interest and collection costs). More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the City of _____, _____, _____, Texas _____.

Your failure to pay the assessment or the annual installments could result in a lien and in the foreclosure of your property.

Signature of Purchaser(s) _____ Date: _____

The seller shall deliver this notice to the purchaser before the effective date of an executory contract binding the purchaser to purchase the property. The notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. If the notice is included as part of the executory contract or another notice, the title of the notice prescribed by this section, the references to the street address and date in the notice, and the purchaser's signature on the notice may be omitted.

[Signature Page to Follow]

EXECUTED by the undersigned on the date set forth below to be effective as of the date first above written.

LANDOWNER

By: _____
Name Jim Maddox
Its: Manager

STATE OF TEXAS §
§
COUNTY OF Wharton §

This instrument was acknowledged before me on the 15 day of November, 20 22 by Jim Maddox in his capacity as Manager of Wharton SS LLC, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of Wharton SS LLC and as the Manager of such.

(SEAL)

GWYNETH TEVES NOTARY PUBLIC STATE OF TEXAS NOTARY ID 12632745-6 01/27/2025

_____
Notary Public, State of Texas

LANDOWNER AGREEMENT - EXHIBIT III

HOMEBUYER EDUCATION PROGRAM

As used in this Exhibit Ill, the recorded Notice of the Authorization and Establishment of the Wharton Public Improvement District No. ___ and the Declaration of Covenants, Conditions and Restrictions in Exhibit II of this Agreement are referred to as the "Recorded Notices."

1. Any Landowner who is a Builder shall attach the Recorded Notices and the final Assessment Roll for such Assessed Parcel (or if the Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30 year payment for such Assessed Parcel) as an addendum to any residential homebuyer's contract.

2. Any Landowner who is a Builder shall provide evidence of compliance with No. ___ above, signed by such residential homebuyer, to the City.

3. Any Landowner who is a Builder shall prominently display signage in its model homes, if any, substantially in the form of the Recorded Notices.

4. If prepared and provided by the City, any Landowner who is a Builder shall distribute informational brochures about the existence and effect of the District in prospective homebuyer sales packets.

5. Any Landowner who is a Builder shall include Assessments in estimated property taxes, if such Builder estimates monthly ownership costs for prospective homebuyers.

Exhibit G
Certification for Payment Form

The undersigned is an agent for _____, a Texas _____ (the "Developer"), and requests payment from the _____ of the Project Fund (as defined in the Indenture) from the City of _____, Texas (the "City"), or Trustee (as defined in the Indenture) in the amount of $_____ for costs incurred in the establishment, administration, and operation of the Wharton Public Improvement District No. ___(the "District") and for labor, materials, fees, and/or other general costs related to the creation, acquisition, or construction of certain Authorized Improvements related to the District. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Indenture.

In connection to the above referenced payment, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this payment request form on behalf of the Developer, and is knowledgeable as to the matters set forth herein.

2. The payment requested for the below referenced Authorized Improvement(s) has not been the subject of any prior payment request submitted for the same work to the City or, if previously requested, no disbursement was made with respect thereto.

3. The amount listed for the Authorized Improvement(s) below is a true and accurate representation of the Actual Costs associated with the creation, acquisition, or construction of said Authorized Improvement(s); and such costs: (i) are in compliance with the Bond Indenture; and (ii) are consistent with the Service and Assessment Plan.

4. The Developer is in compliance with the terms and provisions of the Development Agreement, the Indenture, and the Service and Assessment Plan.

5. All conditions set forth in the Bond Indenture for the payment hereby requested have been satisfied.

6. The work with respect to the Authorized Improvement(s) referenced below (or their completed segment, section or portion thereof) has been completed and the City may begin inspection of the Authorized Improvement(s).

7. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

Payments requested are as follows:

a. X amount to Person or Account Y for Z goods or services.
b. Etc.

As required by the Indenture, the Actual Costs for the Authorized Improvement(s) shall be paid as follows:

Authorized Improvement:	Amount to be paid from the Project Fund	Total Cost of Authorized Improvement

Attached hereto, are receipts, purchase orders, Change Orders, and similar instruments which support and validate the above requested payments.

Pursuant to the Development Agreement, after receiving this payment request, the City is authorized to inspect the Authorized Improvement (or completed, section or portion thereof segment) and confirm that said work has been completed in accordance with all applicable governmental laws, rules, and Plans.

I hereby declare that the above representations and warranties are true and correct.

_____

By:_____
Name:_____
Its:_____
Date:_____

APPROVAL OF REQUEST BY CITY

The undersigned is in receipt of the attached Certification for Payment. After reviewing the Certification for Payment, the Certification for Payment is approved in the amount of $_____, and the Trustee is directed to disburse the requested payment in said amount from the _____ Account of the Projected Fund, in accordance with the Certification for Payment. The City's approval of the Certification for Payment shall not have the effect of estopping or preventing the undersigned from asserting claims under the Indenture, the Service and Assessment Plan, any other agreement between the parties or that there is a defect in the Authorized Improvement.

CITY OF WHARTON, TEXAS

By:_____
Name: _____
Title: _____
Date: _____

APPENDIX A - SUBDIVISIONS

An Ordinance Providing Rules and Regulations Governing the Platting or Replatting of Land into Subdivisions in the City of Wharton and Within Five Miles of the Corporate Limits of the City of Wharton and Requiring Plats and Replats to Conform to Such Rules and Regulations in Order to Procure the Approval of the City Planning Commission, City of Wharton; Providing a Penalty and Savings Clause and Repealing All Conflicting Ordinances.

Footnotes:

*--- **(1)** ---*

***Editor's note—** Printed herein is the subdivision ordinance, as adopted by the council on March 26, 1964. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Additions made for clarity are indicated by brackets.*

***Charter reference—** Planning commission, § 127.*

***Cross reference—** Mobile homes and trailers, ch. 38; streets, sidewalks and public ways, ch. 70; utilities and services, ch. 86.*

***State Law reference—** Regulation of subdivisions, V.T.C.A., Local Government Code § 212.001 et seq.*

Sec. 1. - General.

These regulations shall govern every person, firm, association, or corporation owning any tract of land within the city limits of the City of Wharton who may hereafter develop or divide the same into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to said city, or for laying out suburban lots or building lots, or any lots, streets, alleys, parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(Ord. No. 2021-12, 8-23-21)

Sec. 2. - Definitions.

2.01 City or the city shall mean City of Wharton.

2.02 Subdivision shall mean the division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership, and shall include resubdivision.

2.03 Resubdivision shall mean the division of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines.

2.04 The word "shall" shall be deemed as mandatory. The word "may" shall be deemed as permis

2.05 Plat shall mean a map or chart of the subdivision. It shall include plan, plat or replat, in both sin and plural.

2.06 Commission shall mean the city planning commission.

Sec. 3. - Purpose, authority and jurisdiction.

3.01 Under the authority of V.T.C.A., Local Government Code ch. 212, subch. A (V.T.C.A., Local Government Code § 212.001 et seq.), which is hereby made a part of these regulations, the city council does hereby adopt the following regulations to hereafter control the subdivision of land within the corporate limits of the city and in the unincorporated areas lying within one mile of the city limits, in order to provide for the orderly development of the areas and to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sewage, and other facilities.

3.02 As used herein, the term "subdivision" shall mean the division of a tract or parcel of land into two or more lots for the purpose, whether immediate or future, of sale or building development, and shall include resubdivision. "Resubdivision" shall mean any change in the division of any existing subdivision or any change in lot size therein, or the relocation of any street lines.

3.03 Any owner of land located inside of or within one mile of the corporate limits of the city wishing to subdivide such land shall submit to the planning commission a plan of subdivision which shall conform to the minimum requirements set forth in these regulations. An owner subdividing his land into parcels of not less than five acres each for agricultural use and not involving new streets shall be exempt from these requirements.

3.04 No subdivision plat shall be filed or recorded, and no lot in a subdivision inside of or within one mile of the corporate limits of the city shall be improved or sold, until the plat shall have been approved by both the planning commission and the city council. The city shall have the authority to prohibit the installation of public utilities in unapproved streets and to prohibit the issuance of building permits for structures on lots abutting on unapproved streets.

(Ord. No. 78-5, 2-27-78; Ord. No. 81-2, 1-26-81; Ord. No. 82-8, 3-22-82)

Sec. 3.5. - [Extraterritorial jurisdiction.]

3.5.01 Extraterritorial jurisdiction area defined.

Under the authority of V.T.C.A., Local Government Code § 42.021 and ch. 212, subch. A (V.T.C.A., Local Government Code § 212.001 et seq.), which are hereby made a part of these regulations, the city council of the City of Wharton does hereby exercise its authority and does hereby designate all lands lying outside of the corporate limits of the City of Wharton and within one mile of the city limits of the City of Wharton to be

within the extraterritorial jurisdiction of the City of Wharton as authorized by law to include all of such both north and south of the Colorado River and also within one mile of the Wharton Municipal Airport, which is in the city limits of the City of Wharton.

3.5.02 Lands lying within one-half mile of the city limits, rules and regulations.

All of the rules, regulations and provisions of sections 1 through 6 of the subdivision ordinance of the City of Wharton, Texas [this appendix], are hereby adopted and declared and shall be applied to all unincorporated areas lying outside of the city limits of the City of Wharton and within one-half mile of said city limits, same being the exact same rules, regulations and provisions applied to lands lying within the corporate limits of the City of Wharton.

3.5.03 Lands lying within the area from one-half mile outside the city limits to one mile outside the city limits, special rules and regulations.

All of the rules, regulations and provisions of sections 1 through 6 of the subdivision ordinance of the City of Wharton, Texas [this appendix], are hereby adopted and declared and shall be applied to all unincorporated areas lying outside of the city limits of the City of Wharton and within the area from one-half mile outside the city limits to one mile outside the city limits, the same being the exact same rules, regulations and provisions applied to lands lying within the corporate limits of the City of Wharton; except, however, the city planning commission may consider and grant certain variances within this outer one-half-mile area if the developer provides sufficient evidence to establish that such variances are reasonable and necessary under the circumstances and that they would not have any substantial detrimental effect on the growth patterns of the city, said variances being listed as follows:

A. *Variance number one—Private sanitary sewer systems.* The requirement that the developer install sanitary sewer lines as provided in the subdivision ordinance may be waived by the planning commission, and private or individual sewage disposal systems substituted therefor provided each specific building site is subjected to soil percolation test by the owner or developer, the results of such test to be approved by the City of Wharton building inspection department after complete information is furnished to the city, including the specific number of family units to be built on each specific site. Such percolation test shall conform to the plumbing code of the City of Wharton, Texas, with each disposal field and seepage size to be computed from table E-4 of said code. Each leaching area shall be determined according to table E-5 of the city plumbing code, and each system shall have not less than a 750-gallon septic tank and a 100-gallon grease tank as per table E-1 of said code. If some other type of private sanitary sewer system is desired other than septic tanks, the same must be approved by the city planning commission and city building inspection department after submission of detailed plans and specifications.

B.

Variance number two—Private water systems. Private water systems may be allowed provided that th plans and specifications and construction of same are in conformance with city and state standards and subject to inspection by the city.

C. *Variance number three—Streets.* All streets shall meet all of the existing requirements of the city subdivision ordinance except that the planning commission may allow streets within such area to be built without curb, gutter and storm sewer if adequate drainage is provided, said streets to have the following minimum dimensions:

Street Width Classification	Right-of-Way Width	Paving Width
Major streets	100 feet	40 feet
Secondary streets	100 feet	34 feet
Local streets	80 feet	28 feet

3.5.04 Plat notice requirements for outer one-half-mile variances.

If the city planning commission grants either a sanitary sewer system variance or a street variance in the outer one-half-mile area, any plat submitted to the commission must have substantially the following notice placed on the plat, said notice to be in full capital letters as follows:

> "NOTICE TO PROPERTY OWNERS: THIS SUBDIVISION IS BEING DEVELOPED WITH PRIVATE SANITARY SEWER SYSTEMS AND WITHOUT CURB, GUTTER AND STORM SEWERS. THIS SUBDIVISION IS WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF WHARTON, AND THE PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO THE POSSIBILITY OF FUTURE ASSESSMENT BY THE CITY OF WHARTON FOR CURB, GUTTER, STORM SEWER AND/OR SANITARY SEWAGE IMPROVEMENTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS."

(Ord. No. 78-5, 2-27-78; Ord. No. 2021-12, 8-23-21)

Sec. 4. - Procedure.

4.01 Preliminary plat.

A preliminary plat of any proposed subdivision, prepared by a registered engineer or a registered public surveyor and bearing his seal, shall be submitted to the planning commission for approval before the subdivider proceeds with the final plat for record.

1. This preliminary plat shall be drawn to a scale of 100 feet to the inch.

The preliminary plat shall contain the following information:

2. *Existing features inside subdivision.*
   a. The existing boundary lines of the land to be subdivided. Boundary lines shall be drawn in heavy for easy identification.
   b. The location of existing watercourses, railroads, and other similar drainage and transportation features.
   c. The location and width of existing streets, alleys, easements, buildings and structures.
   d. Topographical information with contour lines at two-foot intervals.
3. *Existing features outside subdivision.*
   a. The name and property lines of adjoining property owners.
   b. The name and location of adjacent subdivisions, streets, easements, pipelines, watercourses, etc.

   All lines outside of subdivision boundaries to be dashed.
4. *New features inside of subdivision.*
   a. The proposed name of the subdivision.
   b. The location and width of proposed streets.
   c. The approximate width and depth of all lots. If the sidelines are not parallel, the approximate distance between them at the building line and at the narrowest point should be given.
   d. The location of building lines, alleys and easements.
   e. The location and approximate size of sites for schools, churches, parks, and other special land uses.
   f. The approximate acreage of the property to be subdivided.
5. *Key map.* A key map showing relation of subdivision to well-known streets in all directions to a distance of at least one mile.
6. *Title, etc.* The date, scale, north point and title under which the plat is to be recorded, with the name of the owner and engineer or surveyor platting the tract.
7. *Submission.* The planning commission shall be furnished with three legible prints of the preliminary plat and with three copies of a letter of transmittal stating briefly the type of street surfacing, drainage, sanitary facilities, and water supply proposed, and the name and

address of the owner or agent and engineer or surveyor, seven days or more before the regular planning commission meeting. These documents shall be filed in the office of the Community Development Department.

8. *Approval.* The planning commission shall approve, conditionally approve or disapprove within 30 days any preliminary plat submitted to it. Approval of the preliminary plat shall not constitute final acceptance of the final plat. Preliminary approval will expire six months after the approval by the planning commission of the preliminary plat or of final sections thereof, except that if the subdivider shall apply in writing prior to the end of such six-month period, stating reasons for needing the extension, this period may be extended for another six months but not beyond the total of one year.
9. *Street names.* The planning commission shall have the authority to designate names of all proposed streets within the subdivision. The planning commission, in exercising its authority to name streets, may take into consideration suggestions from the developers of the subdivisions regarding the naming of streets.

4.02 Final plat.

After approval of a preliminary plat by the planning commission, a final plat, prepared by a registered engineer or a registered public surveyor and bearing his seal, shall be submitted to said planning commission by filing in the office of the Community Development Department. Such plat shall have all changes and alterations made on it that were required on the previously submitted preliminary plat.

1. *Sheet size and scale.* All final plats shall be drawn in India ink or tracing cloth sheets 24 inches by 30 inches (24″ × 30″) and to a scale of one-inch equals 100 feet. Where more than one sheet is required, an index sheet of maximum size 24 inches by 30 inches (24″ × 30″) shall be filed showing the entire subdivision. Where the area to be developed can be drawn on a sheet one-half size or less with the scale of the drawing remaining one-inch equals 100 feet, a sheet 24 inches by 15 inches (24″ × 15″) may be used.

The final plat shall contain the following information:

2. *Existing features inside subdivision.*
    a. The existing boundary lines of the land to be subdivided. Boundary lines shall be drawn in heavy for easy identification.
    b. The location of existing watercourses, railroads, and other similar drainage and transportation features.
    c. The location and width of existing streets, alleys, easements, buildings and structures to be retained.
3. *Existing features outside subdivision.*
    a.

The name and property lines of adjoining subdivisions and of the adjoining property owners, together the respective plat or deed references.

b. The name and location of adjacent streets, alleys, easements, watercourses, etc.

All lines outside of subdivision boundaries to be dashed.

4. *Streets, alleys, easements.* The lines and names of all proposed streets or other ways or easements to be dedicated to public use, with the following engineering data:
   a. *For streets.*

      Complete curve data (L, R, P.C., P.R.C., P.T.) shown on the centerline or on each side of street.

      Length and bearings of all tangents.

      Dimensions from all angle points and points of curve to an adjacent side lot line.

   b. *For watercourses and easements.* Distances to be provided along the side lot lines from the front lot line or the high bank of a stream. Traverse line to be provided along the edge of all large watercourses in a convenient location, preferably along a utility easement if paralleling the drainage easement or stream.
5. [*Name; acreage.*] Name of subdivision and total acres.
6. *Lots and blocks.* The lines and numbers of all proposed lots and blocks with complete bearings and dimensions for front, rear and side lot lines.
7. [*Building lines.*] Building lines shall be shown on all lots.
8. *Reservations.* The use and property dimensions of all special reservations, including sites for schools, churches, and parks.
9. *Monuments and control points.*
   a. The description and location of all permanent survey monuments and control points.
   b. Suitable primary control points to which all dimensions, bearings and similar data shall be referred. Dimensions shall be shown in feet and decimals of a foot.
10. *Certificate of approval to be placed on the plat.*

    "Know all men by these presents:

That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Wharton, Texas.

"Approved this _____ day of _____, 20___ by the City Planning Commission of the City of Wharton, Texas.

	_____ Chairman
	_____ Secretary

"Approved this _____ day of _____, 20___, by the City Council of the City of Wharton, Texas.

	_____ Mayor
	_____ City Secretary"

11. *Key map.* A key map showing relation of subdivision to well-known streets in all directions to a distance of at least one mile.
12. *Title, etc.* The date, scale, north point and subdivision title.
13. *Dedications and certificates.* Such dedications and certificates as are applicable.
14. *Special restrictions.* Where restrictions of use of land, other than those given in these regulations are to be imposed by the subdivider, such restrictions may be placed on the final plat or on a separate instrument filed with the plat.
15. *Tax receipt.* A receipt showing that all taxes have been paid is to be submitted concurrent with the final plat.
16. *Submission.* The planning commission shall be furnished with three legible prints and the original tracing or a reproducible copy of the final plat seven days or more before the regular planning commission meeting. These documents shall be filed in the office of the Community Development Department.
17. *Approval.* Final approval will expire one year after planning commission action granting approval of any plat unless the plat has been filed for record, except that if the subdivider shall apply in writing prior to the end of such one-year period, stating reasons for needing the extension, this period may, at the discretion of the commission, be extended for another year

but not beyond that period.

(Ord. No. 82-8, 3-22-82; Ord. No. 87-4, 2-9-87; Ord. No. 2021-12, 8-23-21)

Sec. 5. - General requirements and design standards.

5.01 Streets.

1. *Conformity to major street plan.* The width and location of streets shall conform to such major street plan as the planning commission may have adopted, both as to horizontal and vertical alignment and right-of-way widths.
2. *Relation to adjoining street system.* The proposed street system shall extend all existing major streets and such existing secondary and local-access streets as may be desirable for convenience of circulation. Where possible, the width and the horizontal and vertical alignment of extended streets shall be preserved.
3. *Street jogs.* Where offsets in street alignment are, in the opinion of the planning commission, unavoidable, such offsets may be employed provided the distance between centerlines is not less than 125 feet.
4. *Large-lot subdivisions.* If the lots in the proposed subdivision are large enough to suggest resubdivision in the future, or if part of the tract is not subdivided, consideration must be given to possible future street openings and access to future lots which could result from such resubdivision.
5. *Through traffic.* Local residential streets shall be designed so as to discourage high-speed or through traffic.
6. *Topography.* The street system shall bear a logical relationship to the natural topography of the ground.
7. *Street widths.* "Street width" shall be measured from front lot line to front lot line of opposite lots.
    a. *Local streets.* Local streets shall have a minimum width of 50 feet.
    b. *Secondary streets.* Secondary or feeder streets shall have a minimum width of 60 feet.
    c. *Major streets.* The width of major streets shall be determined by the planning commission, the major street plan, and adopted standards. Major streets with a right-of-way width of less than 100 feet are to be increased to a width of 100 feet for a distance of 150 feet at the approach to a major street intersection, with a transition back to normal right-of-way over a distance of an additional 150 feet.
8. *Street alignment.* The maximum deflection in alignment permitted without use of curve shall be ten degrees.
9.

Major street curves. Curves in major streets shall have a centerline radius of 2,000 feet or more with exceptions to this standard granted only by the planning commission.

10. *Secondary street curves.* Curves in secondary or feeder streets shall have a centerline radius of 800 feet or more, with exceptions to this standard granted only by the planning commission.
11. *Local street curves.* Curves in local streets are to have a centerline radius of 300 feet or more, except for "loop" or partial "loop" streets.
12. *Reverse curves.* Reverse curves shall be separated by a minimum tangent of 100 feet.
13. *Vertical curves.* See: Engineering and Construction Standards [section 6].
14. *Dead-end streets—Cul-de-sacs.*
    a. *Turnarounds.* Turnarounds are to have a minimum right-of-way radius of 50 feet for a single-family and two-family use and 60 feet for other uses.
    b. *Maximum length.* The maximum length of a dead-end street with a permanent turnaround shall be 600 feet, except in conditions of unusual topography.
    c. *Temporary turnarounds.* Temporary turnarounds are to be provided at the end of streets more than 400 feet long that will be extended in the future. The following note should be placed on the plat: "Cross-hatched area is temporary easement for turnaround until street is extended (give direction) in a recorded plat."
15. *Street intersections.*
    a. *Angle of intersection.* Except where existing conditions will not permit, all streets, major and minor, shall intersect at a 90-degree angle. Variations of more than ten degrees on minor streets and more than five degrees on major or secondary streets must first be approved by the planning commission.
    b. *Radius at acute corners.* Acute angle intersections approved by the planning commission are to have 25-foot or greater radii at acute corners.
    c. *Centerline tie with existing streets.* Each new street intersecting with or extending to meet an existing street shall be tied to the existing street on centerline with dimensions and bearings to show relationship.
16. *Partial or half-streets.* Partial or half-streets may be provided where the planning commission feels that a street should be located on a property line. The following note shall be used in all [each] such dedication:

    "This _____-foot strip is dedicated as an easement for all utility purposes including storm and sanitary sewers and shall automatically become dedicated for street purposes when and insofar as a _____-foot strip adjacent to it is so dedicated and the required improvements as are installed."

17. *Reserve strips.* Provisional one-foot reserves may be used along the side or end of streets that abut acreage tracts, accompanied by a note on the plat as follows:

    "One-foot reserve to become automatically dedicated for street purposes when adjacent property is subdivided in a recorded plat."

18. *Street names.* New streets shall be named so as to provide continuity of name with existing streets and so as to prevent conflict with identical or similar names in other parts of the city.
19. *Private streets.* Private streets are prohibited.

5.02 Lots.

1. *Use.* All lots shown on the plat will be for residential purposes unless otherwise noted. Standards that apply to residential lots follow.
2. *Lot size.* To conform with subdivision ordinance. On the basis of the district in which they lie and the use to which they are to be put, all lots must conform to the regulations of the subdivision ordinance, including minimum area, width, and depth.
3. *Minimum width.* Sixty feet. Radial lots to have minimum width of 60 feet at and for a distance of 30 feet behind the building line.
4. *Minimum depth.* One hundred twenty feet.
5. *Minimum area.* Seven thousand two hundred square feet.
6. *Corner lots.* Corner lots with a width of less than 75 feet are to be at least five feet wider than average of interior lots in the block. Corner lots with a width of less than 85 feet adjacent to a major thoroughfare are to be at least 15 feet wider than the average of interior lots in the block.
7. *Lots on major streets.* Lots facing or backing on major streets shall be at least ten feet deeper than average of lots facing on adjacent minor streets.
8. *Lots on drainage easements.* Minimum usable lot depths for lots backing on natural drainage easements shall be not less than 80 feet measured between front lot line and drainage easement.
9. *Lot width.* The lot width is the average of the front and rear lot dimensions.
10. *Lot shape.* Lots should be rectangular insofar as practicable. Sharp angles between lot lines should be avoided. The ratio of depth to width should not ordinarily exceed 2½ to one.
11. *Lot lines.* Side lot lines should be perpendicular or radial to street frontage and the following note may be used in lieu of bearings:

    "All side lot lines are either perpendicular or radial to street frontage unless otherwise noted."

12. *Lot facing.*

    a.

Street frontage. Each lot shall be provided with adequate access to an existing or proposed public stre frontage on such street.

b. *Double front.* Double front lots are prohibited except when backing on major thoroughfares.

c. *Front facing.* Wherever feasible, each lot should face the front of a similar lot across the street. In general, an arrangement placing adjacent lots at right angles to each other should be avoided.

13. *Lot numbering.* All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.

14. *Driveway restrictions.* Rear and side driveway access to major thoroughfares shall be prohibited.

5.03 Blocks.

1. *Block length.*

a. *Residential.* Maximum block length for residential use shall be 1,200 feet, measured along the center of the block. Six hundred feet is a desirable minimum.

b. *On major street.* Maximum block length along a major street shall be 1,600 feet except under special conditions and upon approval of the planning commission.

2. *Block width.* Blocks shall be wide enough to allow two tiers of lots of at least minimum depth, except when prevented by the size of the property or the need to back up to a major thoroughfare.

3. *Block numbering.* Blocks are to be numbered consecutively within the overall plat and/or sections of an overall plat as recorded.

5.04 Building lines.

1. *Front street.* The front building line shall not be less than 25 feet from the front property line, except that where the lots face on a major street, the front building line shall not be less than 35 feet from the front property line.

2. *Side street.* The building line on the side of corner lots shall not be less than 15 feet from the side street property line, except that where the lots side on a major street, the building line shall not be less than 25 feet from the side street property line, and where the side of a corner lot is across the street from or adjacent to the front of other lots, the building line shall be at the same distance from the street as the front building line of the opposite or adjacent lots.

3. *Rear street.* The rear building line where lots back on a major street shall not be less than 25

feet from the rear property line.

5.05 Alleys.

1. *Width.* Where provided, alleys shall not be less than 20 feet in width.
2. *Cutoffs.* In case of intersecting alleys, a cutoff shall be required at each corner. Cutoffs shall be triangles having two equal sides each of which shall be not less than ten feet in length.
3. *Dead-end alleys.* Dead-end alleys will not be permitted. Alleys in new subdivisions shall connect to alleys in adjacent subdivisions wherever feasible.
4. *Alleys required.* Alleys shall be required in all business areas and in those portions of new residential subdivisions where partial blocks are needed to complete existing blocks with alleys.

5.06 Easements.

1. *Size.* The size of easements where alleys are not provided shall not be less than five feet on each side of rear lot lines, with additional five feet on each side beginning at a plane 20 feet above the ground. The full width of easement shall be not less than ten feet at ground level nor less than 20 feet aboveground.
2. *Use.* Where necessary, easements shall be retained for poles, wires, conduits, storm sewers, sanitary sewers, water lines, open drains, gas lines, or other utilities. Such easements may be required across parts of lots (including side lines) other than as described above, if in the opinion of the planning commission same is needed.

5.07 Improvements.

1. *Monuments.* Concrete monuments eight inches in diameter and 15 inches long shall be placed at all block corners and at all corners of the boundary lines of a subdivision. The exact intersection point on the monument shall be marked by a reinforcing bar one-half inch in diameter and 12 inches long embedded in the concrete monument. Intermediate property corners, curve points and angle points shall be marked with a piece of one-half-inch round reinforcing rod driven flush with the finished ground level or lower if necessary, in order to keep same from being disturbed.
2. *Sidewalks.* The subdivider/developer shall install sidewalks on both sides of all streets in the subdivision. Sidewalks shall be designed in accordance with standards on file with the building department. The planning commission may require:
   a. Installation along one or both sides of specified local streets;
   b. Installation of sidewalks in locations shown in the comprehensive plan; and
   c. Sidewalk connections necessary to permit safe pedestrian access to adjoining properties.
   d. Existing sidewalks that are demolished or damaged will be replaced by developer.

3. *Other required improvements.* See: Engineering and Construction Standards [section 6].

5.08 Reservations.

1. *Permitted purposes.* No land contained in the proposed subdivision shall be reserved for any use other than a use permitted by the zoning ordinance for the district in which the land to be reserved is located.
2. *Designation on plat.* The specific use for which each piece of land is to be reserved must be shown by appropriate label or description on the subdivision plat. Provision for future abandonment of a reservation as may be appropriate must likewise be shown on said plat.
3. *Parks and playgrounds.* The location and size of parks and playgrounds shall be in accordance with the planning commission's park sites plan and with the requirements of the city council. Park sites are to be purchased at the developer's acreage cost plus a prorated cost of improvements.
4. *Schools.* The location and size of schools shall be in accordance with the planning commission's school sites plan and with the requirements of the school district.

5.09 Variances.

When a subdivider can show that a provision of these regulations would cause unnecessary hardship if strictly adhered to and where, because of some condition peculiar to the site in the opinion of the planning commission a departure may be made without destroying the intent of such provisions, the planning commission may authorize a variance.

5.10 Penalty.

Any person violating this ordinance, or any portion thereof shall upon conviction be guilty of a misdemeanor and shall be fined not less than $10.00 nor more than $500.00, and each day that such violation continues shall be considered a separate offense and punishable accordingly.

5.11 Savings clause.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the city council in adopting this ordinance, that no portion thereof, or provision or regulation continued herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provision of this ordinance.

(Ord. No. 2021-12, 8-23-21)

Sec. 6. - Engineering and construction standards.

6.01 Policies.

Policies, terms and conditions to be followed in paving work, and the extending of water and sewer are included in city ordinances. All improvements shall be installed by the developer. The city shall not participate in the development unless a larger facility or improvement is required by the city. The city will participate in the cost of the facility to the extent of the difference in the cost of the facility or improvement required to serve the developer's land and that required by the city to be installed.

6.02 Engineering.

The developer will be required to retain the services of an engineer registered in the State of Texas, whose seal shall be placed on the drawings, for the design and inspection of the drainage, roads and streets, sewer and water facilities within the subdivision.

The services performed by the developer's engineer shall be as designated in the current issue of "Manual of Professional Practice—General Engineering Service," as published by the Texas Society of Professional Engineers and shall include both design and inspection as defined therein.

6.03 Streets.

All streets will be either reinforced concrete pavement on a compacted subgrade or a flexible base with an asphaltic concrete surface course on a compacted subgrade. Concrete pavement shall be provided with either an integral curb poured with the pavement, or a separate curb constructed on top of, and doweled to, the concrete pavement. Flexible base pavement shall be provided with a combination curb and gutter section.

1. *Alignment, grade and width.* Alignment of streets shall be as hereinbefore stated in General Requirements and Design Standards [section 5].
2. *Grades.* Gutter gradients shall be a minimum of one-quarter of one percent. Crown sections shall slope not less than one-quarter inch per foot for asphaltic concrete and one-eighth inch per foot for Portland cement concrete. The minimum drop around curb return will be one-tenth of one foot. The maximum drop of grade tangents from opposite direction to a common low point shall not exceed 1½ feet. All gutter grades shall be above the design water surface of ditches and storm sewers. All grade changes with an algebraic difference of one percent or more shall be connected with a vertical curve.
3. *Width.* Minimum width of streets shall be as follows:

Classification	Row width	Street width back-to-back of curb
Major streets	80'	61 ft.

Secondary or feeder streets	60'	39 ft.
Local streets (flexible base)	50'	32 ft.
Local streets (concrete)	50'	30 ft.

4. *Pavement design.* Pavement design shall conform to the following general requirements unless otherwise approved by the planning commission. References to state department of transportation specifications regarding street work are references to the "Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges " most recently adopted by the state department of transportation.
5. *Concrete pavement.* Concrete pavement shall conform to the requirements of the "Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges Standard Specification for Road and Bridge Construction" most recently adopted by the state department of transportation. Concrete pavements shall have a minimum thickness of six inches for local streets and a minimum thickness of seven inches for secondary streets, feeder streets, and major streets. Concrete pavement shall be reinforced with three-eighths-inch deformed bars at 24 inches center to center each way.
6. *Flexible base pavement.* Flexible base pavement shall consist of a base course of the thickness and of the type materials indicated for flexible bases, and shall be surfaced with one of the types of surface courses indicated below:
   a. *Flexible base courses.*

      Seven inches of compacted cement stabilized shell using 1½ sacks of Portland cement per ton.

      Eight inches of compacted crushed stone conforming to item 242, state department of transportation, standard specifications.

      Eight inches of compacted iron ore conforming to item 240, state department of transportation, standard specifications.

      Six inches of compacted crushed stone conforming to item 242, state department of transportation, standard specifications, provided that the subgrade is lime treated, subject to inspection and approval by the city engineer.

   b. *Surface courses.*

      One and one-half inches of cold mix limestone rock asphalt pavement conforming to item 330, state department of transportation, standard specifications.

One and one-half inches of hot mix asphaltic concrete pavement conforming to item state department of transportation, standard specifications.

One and one-half inches of hot mix cold laid asphaltic concrete pavement conforming to item 350, state department of transportation, standard specifications.

Two-course surface treatment conforming to item 322, state department of transportation, standard specifications.

7. *Curb and gutter.* Curb and combination curb and gutter shall be constructed of reinforced concrete. Cross section and shapes shall conform to standards on file with the Public Works Department.
8. *Driveways.* Driveway approaches and connections of internal accesses to streets shall conform to standards on file with the Public Works Department.

6.04 Alleys.

1. *Pavement type.* All alleys shall be paved as a minimum with six inches of crushed stone flexible base, conforming to requirements for street paving.
2. *Pavement width.* A minimum paved width of ten feet shall be required for all alleys.
3. *Drainage.* Drainage shall be collected by swales outside the edge of the base course where no concrete gutter is provided. Depth of swale shall be as required for drainage with a minimum slope of one-half of one percent.

6.05 Drainage.

Adequate drainage shall be provided by developers and their engineers within the limits of subdivisions. The protection of adjoining property shall be considered in the review of plans submitted to the city.

1. *Drainage criteria.*
   a. All drainage plans shall be developed in accordance with the Wharton County Drainage Criteria Manual. Wharton County's manual uses the following terms: "Drainage Regulation Entity"; "Drainage Review Authority"; "Wharton County"; "County or County's"; and "County Engineer". These terms appear throughout the manual so that other governmental entities such as the City of Wharton can adopt the criteria and a county-wide drainage coordination can be achieved.
   b. The City of Wharton hereby adopts the Wharton County Drainage Criteria Manual; therefore, the generic terms mentioned above shall be generally defined as follows unless the specific context of a reference to the "county" should remain:
      i. "Wharton County": City of Wharton.
      ii.

"County" or "county's": City, or city's.

iii. "Drainage regulation entity": City of Wharton.

iv. "Drainage review authority": City engineer.

v. "County engineer": City engineer.

c. Variances to the Wharton County Drainage Criteria Manual may be granted by the City of Wharton's engineer.

2. *Operations and maintenance plan.*

a. The subdivider shall submit an operations and maintenance plan with the drainage plan. The operations and maintenance plan shall be prepared by a registered engineer and developed in accordance with the Wharton County Drainage Criteria Manual.

b. The operations and maintenance plan shall include the following:

i. An inventory and map of all drainage facilities, including natural and manmade conveyances, which comprise the subdivision's drainage system.

ii. Designation of a party or entity responsible for all tasks related to the operations and maintenance of temporary and permanent stormwater controls and drainage facilities identified in the drainage plan.

iii. Identification of a funding source for routine and non-routine maintenance, inspections, and repairs to drainage facilities.

iv. Schedules and anticipated frequency for required and routine maintenance tasks and self-inspections.

v. Design documentation for all stormwater controls and drainage facilities identified in the drainage plan.

vi. Anticipated lifespan of all stormwater controls and drainage facilities identified in the drainage plan and timeline for major improvements or replacements.

c. The Public Works Director or their designee shall review the operations and maintenance plan. The Public Works Director may request additional information or supporting documentation as necessary to ensure and verify compliance with the Wharton County Drainage Criteria Manual.

3. *Responsibility for maintenance.*

a. *Responsible party.* The subdivider shall designate a responsible party to operate and maintain stormwater controls and drainage facilities serving the subdivision. The responsible party shall monitor and implement the operations and maintenance plan at their own cost.

b.

Maintenance agreement; deed restriction. The subdivider shall submit a draft maintenance agreement for the operations and maintenance plan. The maintenance agreement shall be an agreement between the City and the responsible party to ensure adherence to the operations and maintenance plan. The Public Works Director and city attorney shall review and approve the form and content of the agreement prior to approval of the final plat by the planning commission. The responsible party shall record the approved maintenance agreement in the deed records of Wharton County as a property deed restriction to be binding upon all subsequent owners in the subdivision.

c. *Maintenance by City.* The City may, at its sole discretion, choose to accept responsibility for maintenance and operations of drainage facilities ordinarily held by the responsible party. Stormwater controls and drainage facilities may be dedicated to the city in lieu of a recorded maintenance agreement.

4. *Inspections.*

a. *Self-inspection.* The responsible party shall regularly inspect the stormwater controls and drainage facilities serving the subdivision. The responsible party shall correct any deficiencies identified during its self-inspection. The responsible party shall inspect facilities:

i. At least once each year;

ii. Following receipt of a complaint; and

iii. Following major storms and storms that could adversely affect the drainage system.

b. *Right of entry.* The subdivider shall grant the City the right for authorized representatives to access the subdivision's stormwater controls and drainage facilities at reasonable times and in a reasonable manner for inspections. This includes the right to enter a property when there is a reasonable basis to believe that a violation of this Ordinance is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Ordinance. The right of entry shall be documented in the maintenance agreement or other easements permitting the City to access and inspect drainage facilities.

c. *Recordkeeping.* The responsible party shall maintain records of all inspections and maintenance actions and shall retain the records for a minimum of three years. These records shall be made available to the City during inspection of the facility or upon request. The records shall include:

i. Inquiry and complaint forms documenting any drainage facility problems to be addressed by the responsible party;

ii. Inspection forms documenting the inspection site, date, and result;

iii. Inspection results of all inspections, routine and non-routine, performed;

iv.

Work orders requiring that the responsible party fulfill maintenance procedures; and

v. Maintenance records confirming completion of required drainage facility maintenance.

5. *Enforcement.*

a. *Notice of violation.* When the Public Works Director or designee determines a violation of this ordinance or maintenance agreement has occurred, the Public Works Director or designee shall notify the responsible party in writing.

i. The notice of violation shall contain a statement specifying the nature of the violation, a description of the methods needed to bring facilities into compliance with the ordinance or maintenance agreement, the date for the completion of such remedial action, a statement of penalties that may be assessed, and procedures for appeal.

ii. Within 30 days of receipt of written notification from the City, the responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the City in the notice. When the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient.

iii. A determination of violation may be appealed to the City Manager by filing a written notice of appeal within five (5) business days after the notice of violation.

b. *Corrective action.* If the responsible party fails or refuses to meet the requirements of this Ordinance or the maintenance agreement, following a notice of violation, the City may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. The City shall keep a detailed accounting of the costs and expenses of performing this work. After proper notice, the City may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

c. *Violations and Notice.* Any development activity that is commenced or is conducted contrary to this Ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

d. *Penalty.* Any person violating this ordinance, or any portion thereof shall upon conviction be guilty of a misdemeanor and shall be fined not less than $10.00 nor more than $500.00, and each day that such violation continues shall be considered a separate offense and punishable accordingly.

6.06 Water and sewer system.

The developer of the subdivision shall provide all water and sewer lines necessary to properly se the subdivision and shall insure that: (1) existing and/or new water facilities can supply the required demand for domestic use and for fire flow at the desired pressure; and (2) that existing and/or new sewage facilities are adequate to carry the expected load; and (3) all lines have tracer wires

1. *Sewer lines.*

   a. *Location.* Where the location of the sewer is not clearly defined by dimensions on the drawings, the sewer shall not be closer horizontally than ten feet to a water supply main or service line. Gravity sewer lines passing over water lines shall be constructed for a distance of ten feet each side of the crossing with no joints with three feet of crossing.

   b. *Materials.*

      - All pipe used for Sanitary Sewer shall be SDR 26 PVC.
      - Gravity flow and Pressure rated sewer pipe shall be green.
      - Pressure rated PVC sewer pipe and fittings shall conform to the requirements of ASTM D2241 for SDR 26 sewer pipe.
      - The pipe shall be joined with an integral bell and spigot type rubber gasketed joint.
      - Each integral bell joint shall consist of a formed bell complete with a single rubber gasket.
      - Pressure rated PVC pipe shall be installed in accordance with the manufacturer's recommendations and shall not exceed 80% of the manufacturer's recommended maximum deflection.

      SHALL NOT USE - ductile iron, cast iron, concrete, clay, steel.

      All materials used in the construction of sanitary sewer systems shall be approved by the City Engineer and the requirements of the Texas Commission on Environmental Quality. Sewers shall be designed to meet or exceed the pipe manufacturer's recommendations for depth.

   c. *Construction.* Sewers shall be constructed according to the Public Works Director or their designee specifications as to trenching, bedding, backfill, and compaction.

   d. *Manholes.* Manholes shall be spaced a distance not to exceed 400 feet and shall be constructed in accordance with specifications of the Public Works Director or their designee.

   e. *Force mains.* Force mains shall be:

      - Pressure rated PVC sewer pipe and fittings shall conform to the requirements of ASTM D2241 for SDR 26 sewer pipe.
      -

Installed according to water pipe installation specifications and current TCEQ requirements.

SHALL NOT USE - ductile iron, cast iron, concrete, clay, steel

2. *Water lines.*

   a. *Piping.* All materials used in the construction of public water distribution systems must be in conformance with American Water Works Association (AWWA) and NSF International guidelines.

      - Polyvinyl chloride (PVC) pipe shall be manufactured in accordance with AWWA C900 or C905 specifications and shall be minimum DR-18, Pressure Class 235 PSI.
      - Pipe shall be furnished with bell and spigot joint with rubber gasket joint conforming to the above specification.
      - Spigot ends shall be beveled, and reference marked to facilitate joining and insure proper seating depth.
      - Water pipe shall be blue.

      SHALL NOT USE - ductile iron, cast iron, concrete, clay, steel.

   b. *Threading.* Threading on fire hydrant outlets shall be suitable for use with city fire protection equipment.

   c. *Valves.* At intersections of water distribution lines, the number of valves will be one less than the number of radiating lines (two valves for tee connection and three for cross connection).

3. *Off-site extensions required to serve subdivisions and other developments.*

   a. Developers (including individuals, subdividers and owners of multifamily dwelling units) shall pay the entire cost of water and sewer main extensions from present city lines as are necessary to extend to and reach the subdivision; and, if necessary, lift stations that are required to serve that development; as determined by the planning commission. For purposes of this section, a water main in excess of eight inches inside diameter and a sanitary sewer main in excess of 12 inches inside diameter may be considered oversize and the city may participate in any costs of oversize water or sewer mains, at its option, provided the oversize capacity is not required to serve the development and provided that such city funds are available. Otherwise, the city will not participate in extensions and lift stations.

   b. The city shall approve all contracts for utility construction prior to their execution by the developer. In the event the city cannot justify the costs involved in any such contract where reimbursement is involved, the city shall have the right to submit the specifications

and subject matter for sealed bids, the developer then accepting and paying the lowest and best bid a determined by the city and if the developer desires to proceed with the project.

6.07 Street lighting.

The developer shall be required to install street lighting in the subdivision. Street lighting shall conform to the guidelines and recommendations of the power company as shall be approved or amended by the planning commission. Prior to final approval of the subdivision plat, the developer shall submit a proposed street lighting plan showing proposed locations, proposed construction details and lighting levels. The location of the proposed streetlights shall be shown on the final plat.

(Ord. No. 73-2, 1-22-73; Ord. No. 75-22, 11-10-75; Ord. No. 76-25, 12-13-76; Ord. No. 82-6, 3-8-82; Ord. No. 2004-10, 4-12-04; Ord. No. 2013-11, 6-10-13; Ord. No. 2021-12, 8-23-21)

Sec. 7. - Townhouses.

7.01 Townhouse lots.

Townhouse lots may be created by special permit to be issued by the city planning commission where each townhouse lot is to be served by a public sewage and water system, subject to the following conditions in addition to those applicable to all other subdivisions under the subdivision ordinance:

1. Subdivisions with townhouse lots within the corporate limits of the city, or outside the corporate limits of the city, but within the extraterritorial jurisdiction of the city for subdivision control, may be approved only after approval of such project has been given by the city planning commission in accordance with applicable Code provisions, and then only as the proposed townhouse subdivision is in strict accordance with the terms and provisions of the special permit.
2. Subdivisions with townhouse lots must be accompanied by site plan in connection with such subdivision showing location and dimensions of all proposed buildings, accessory uses and other improvements in addition to the other requirements provided for other subdivisions.
3. All common area shall be clearly identified on the plat and adequate provisions made for maintenance and taxation.
4. A legal opinion by an attorney licensed to practice law in Texas accurately describing and defining the rights and duties of the owners, the legal status of the common areas and facilities, if any, and provisions for taxation and maintenance of such common areas, if any, shall accompany each subdivision with townhouse lots.

7.02 Definitions.

Common area: An area held, designed and designated principally for the common use of the occupants of a townhouse project.

Private yard: An area open space within a townhouse but which is unoccupied and unobstru by any portion of a structure.

Townhouse: A dwelling unit structure having a common wall with one or more adjoining dwelling unit structures.

Townhouse group: Two or more contiguous townhouses connected by common walls.

Townhouse lot: A parcel of land designed to be developed with a townhouse as that term is defined in the Subdivision Ordinance.

Townhouse project: A townhouse development or plan which is submitted and approved by a single special permit, and which is laid out on contiguous land, all uninterrupted by intervening public streets.

7.03 Townhouse requirements.

Townhouses, as hereinafter limited, may be constructed on approved townhouse lots provided they meet the following requirements:

1. Each townhouse lot is located on an individual lot.
2. The following unit and area requirements are complied with:
    a. That there be at least four connected units in each townhouse project;
    b. That the townhouse project site contains not less than 3,500 square feet of area per unit, including common area, if any;
    c. That not less than 80 percent of the townhouse lots in a project be at least 20 feet in width, provided that the remaining lots in a project be at least 16 feet in width;
    d. That each lot 20 feet or more in width shall contain not less than 1,800 square feet, and each lot less than 20 feet in width shall contain not less than 1,440 square feet;
    e. That each townhouse group shall have not less than four adjoining townhouse units, provided that the commission may approve up to 20 percent of said units in two- and three-unit groups when the project contains 12 or more units.
3. The following height, coverage and setback requirements are met:
    a. That no building or accessory structure shall exceed 35 feet in height;
    b. That coverage of a project shall not exceed 45 percent of the total site area; those structures constituting "coverage" under this provision include, but are not limited to, buildings, and required parking spaces;
    c. That coverage of the common area or areas, if any, shall not exceed 30 percent of said common area or areas; those structures constituting coverage in this provision include, but are not limited to, all buildings, structures and required parking, but shall no

driveways or walkways;

d. Each lot shall contain a private yard with not less than 400 square feet of area; not more than one-half the required private yard may be occupied by a driveway, but parking areas shall not be included in the computation of the required private yard area; a wall or solid fence, not less than five feet in height, shall be required on side lot lines where the required private yard adjoins said lot lines; a private yard may contain a patio cover or roof which does not cover more than 25 percent of the private yard; each wall or fence shall have a three-foot gate, except that gates may be in back wall or fence only where a townhouse lot has access to a public alley;

e. All buildings shall be set back from the front street 25 feet for the building line, and the front line of any porch shall be set back from the front street 20 feet; except that the commission may approve a setback of ten feet, including porches, when said buildings are located on a minor street, not classified as a collector, arterial or expressway, and when the reduced setback will not, in the opinion of the commission, detrimentally affect existing or proposed development adjacent to and across the street, and within 200 feet on each side of the area of proposed reduction of setback within the project;

f. All buildings shall be set back from the side street ten feet for the building line;

g. No side yard shall be required between connected townhouses or units;

h. Within a townhouse project there shall be at least 15 feet of separation or combined side yard between each townhouse group;

i. At least ten feet of side yard shall be provided at the side property line of any townhouse project;

j. All townhouses shall set back from the rear lot line at least ten feet; garages or carports having direct access to a rear alley or common driveway shall set back from the rear lot line at least ten feet; other accessory buildings shall set back from the rear lot line at least five feet; however the commission may reduce or waive the required rear yard requirements where a common area of at least 15 feet in width is provided and there is provision for pedestrian and vehicular safety, utility service and privacy.

4. No townhouse group shall exceed 200 feet in length.

5. The following parking and driveway requirements are complied with:

a. Two off-street parking spaces shall be provided for each townhouse, which shall be located on the individual townhouse lot, but any required parking space not located on the individual lot shall be located within 100 feet of the lot;

b. No parking shall be provided in the front 15 feet of a townhouse lot or common area, nor in the ten feet adjacent to a side street;

c.

No driveway located in the front yard of a townhouse lot shall exceed 50 percent of the lot width;

d. One-way common driveways shall be at least nine feet in width and two-way common driveways shall be at least 18 feet in width.

6. Townhouse exterior walls may be erected on the division property line if built of two-hour, fire-resistant construction. The walls shall be extended from its lowest foundation to 18 inches above the finished roof, with all other provisions of group A occupancies of the building code to remain applicable. The outside end walls may be built of one-hour, fire-resistant construction.

(Ord. No. 71-4, 5-10-71; Ord. No. 2021-12, 8-23-21)

Sec. 8. - Patio homes.

8.01 Patio home lots.

Patio home lots may be created by special permit to be issued by the city planning commission where each patio home lot is to be served by a public sewage and water system, subject to the following conditions in addition to those applicable to all other subdivisions under the subdivision ordinance:

1. Subdivisions with patio home lots within the corporate limits of the City of Wharton, or outside the corporate limits of the City of Wharton, but within the extraterritorial jurisdiction of the city for subdivision control, may be approved only after approval of such project has been given by the city planning commission in accordance with applicable code provisions, and then only as the proposed patio home subdivision is in strict accordance with the terms and provisions of the special permit.
2. Subdivisions with patio home lots must be accompanied by site plan in connection with such subdivision showing location and dimensions of all proposed buildings, accessory uses and other improvements in addition to the other requirements provided for other subdivisions.
3. All common area shall be clearly identified on the plat and adequate provisions made for maintenance and taxation.
4. A legal opinion by an attorney licensed to practice law in Texas accurately describing and defining the rights and duties of the owners, the legal status of the common areas and facilities, if any, and provisions for taxation and maintenance of such common areas, if any, shall accompany each subdivision with patio home lots.

8.02 Definitions.

Common area: An area held, designed and designated principally for the common use of the occupants of a patio home project.

Patio home: A single-family dwelling unit structure located on a patio home lot.

Patio home group: Six or more contiguous patio home lots.

Patio home lot: A parcel of land designed to be developed with a patio home as that term is defined and authorized herein.

Patio home project: A patio home development or plan which is submitted and approved by a single special permit, and which is laid out on contiguous land.

Private yard: An area open space within a patio home lot but which is unoccupied and unobstructed by any portion of a structure.

8.03 Patio home requirements.

Patio homes, as hereinafter limited, may be constructed on approved lots provided they meet the following requirements:

1. Each patio home is located on an individual lot.
2. The following unit and area requirements are complied with:
    a. That there be at least six units in each patio home project;
    b. That the patio home project site contains not less than 2,700 square feet of area per unit, including common area, if any;
    c. That each patio home group shall have not less than six patio home lots, with each patio home lot to have not more than one single-family dwelling unit;
    d. Individual building permits may be issued for the construction of patio homes on patio home lots one at a time to individual lot owners.
3. The following height, coverage and setback requirements are met:
    a. That no building or accessory structure shall exceed 35 feet in height.
    b. Each lot shall contain a private yard with not less than 400 square feet of area; not more than one-half the required private yard may be occupied by a driveway, but parking areas shall not be included in the computation of the required private yard area.
    c. Each patio home lot shall be enclosed by a wall or solid fence, not less than five feet in height, said wall or fence to be placed along the rear lot line and along the side lot lines to a point on the side lot line extending no further than the front wall of the house and then running parallel to the front wall of the house so as to join the same and completely enclose that portion of the lot to the rear of the front wall of the house. There shall be at least one three-foot gate along that portion of the fence closest to the street in front of the house.
    d.

All buildings shall be set back from the front street or curbline at least 20 feet for the building line, and front line of any porch shall be set back from the front street at least 15 feet; except that the commission may approve a setback of ten feet, including porches, when said buildings are located on a minor street, not classified as a collector, arterial or expressway, and when the reduced setback will not, in the opinion of the commission, detrimentally affect existing or proposed development adjacent to and across the street, and within 200 feet on each side of the area of proposed reduction of setback with the project.

e. All buildings shall be set back from the side street ten feet for the building line.

f. All patio homes shall be set back from the rear lot line at least five feet; garages or carports having direct access to a rear alley or common driveway shall be set back from the rear lot line at least five feet; other accessory buildings shall [be] set back from the rear lot line at least five feet; however the commission may reduce or waive the required rear yard requirements where a common area of at least 15 feet in width is provided and there is provision for pedestrian and vehicular safety, utility service and privacy.

g. All buildings shall be set back from the side lot lines at least five feet, except that one exterior wall of a patio home may be erected on the division property line if built of two-hour, fire-resistant construction. Such walls shall be extended from their lowest foundation to 18 inches above the finished roof, with all other provisions of group A occupancies of the building code to remain applicable. Where one of the exterior walls is erected along the division property line, the side wall on the other side of such patio homes shall not be on the property line and shall be set back at least ten feet from side property line.

(Ord. No. 76-24, 12-13-76; Ord. No. 79-14, 11-26-79; Ord. No. 2021-12, 8-23-21)

Sec. 9. - Mobile homes.

9.01 Definitions.

1. For the purpose of this section, the following terms are defined and shall be construed as herein set forth unless it shall be apparent from the context that they have different meanings:

   a. *Mobile home:* Any vehicle or similar portable structure having no foundation other than wheels, jacks, blocks, or skirtings, and so designed or constructed as to permit occupancy for dwelling and be equipped with a flush toilet, lavatory, tub, or shower, and sink.

   b. *Physical barrier:* Any river, pond, canal, railroad, levy, or embankment; or any fence or hedge at least six feet in height so as to cause a 100 percent obstruction of any view up to the height of six feet.

9.02 Procedure.

1. The general procedures set out in section 4 (Procedure) of appendix A (Subdivisions) of t City of Wharton Code of Ordinances shall apply to the establishment of mobile home subdivisions.
2. In addition to the above-mentioned general requirements, any plans for a mobile home subdivision must conform to the following requirements:
    a. Any property adjacent to the area included in the plan shall not be adversely affected.
    b. A physical barrier shall surround all of the borders of the proposed subdivision.

9.03 General requirements and design standards.

The general requirements and design standards for mobile home subdivisions shall be the same as those set out in section 5 (General Requirements and Design Standards) of appendix A (Subdivisions) of the Code of Ordinances of the City of Wharton, Texas.

9.04 Engineering and construction standards.

The engineering and construction standards for mobile home subdivisions shall be the same as set out in section 6 (Engineering and Construction Standards) of appendix A (Subdivisions) of the Code of Ordinances of the City of Wharton, Texas.

(Ord. No. 88-9, 2-22-88)

Sec. 10. - Reserved.

Editor's note— Section 10 of App. A formerly contained building setback requirement enacted by Ord. No. 2000-03, § 2, adopted Jan. 10, 2000. The provisions of Ord. No. 2000-03 are found at § 18-77 of this Code.

Sec. 11. - Modular home/building.

11.01. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

> *Modular home/building* shall mean a structure or building module as defined, under the jurisdiction and control of the Texas Department of Labor and Standards and the Texas Industrialized Building Code Council and that is installed and used by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term does not include a mobile/manufactured home as defined in the Texas Manufactured Housing Standards Act.

11.02. Requirements.

1. Modular homes/buildings are allowed in the corporate city limits providing the following requirements are met:
    a. The home/building meets or exceeds all building code and setback requirements that apply to other buildings concerning on-site construction.
    b. The home/building is permanently secured to a concrete foundation and the running gear (wheels and axles) is removed.
    c. The home/building is skirted with matching weatherized material if any space is exposed between the structure and the slab or ground.
    d. The building official is so notified in writing, in form of application, for the purpose of establishing procedures for the inspection, issuing of building permits and the compliance with V.T.C.A., Occupations Code ch. 1202 .
1. All requirements throughout this chapter shall apply to modular homes/buildings as here within.

(Ord. No. 2001-08, 4-9-01; Ord. No. 2021-12, 8-23-21)