CITY OF SUGAR LAND

CITY COUNCIL AGENDA

Sugar Land City Hall
2700 Town Center Boulevard North
Sugar Land, Texas 77479

TUESDAY, APRIL 16, 2024

CITY COUNCIL MEETING

CITY COUNCIL CHAMBER
5:30 P.M.

I. ATTENTION

A. *Members of the City Council, Board and/or Commission may participate in deliberations of posted agenda items through videoconferencing means. A quorum of the City Council, Board and/or Commission will be physically present at the above-stated location, and said location is open to the public. Audio/Video of open deliberations will be available for the public to hear/view, and are recorded as per the Texas Open Meetings Act.*

The meeting will live stream at https://www.sugarlandtx.gov/1238/SLTV-16-Live-Video or https://www.youtube.com/user/SugarLandTXgov/live. Sugar Land Comcast Cable Subscribers can also tune-in on Channel 16.

INVOCATION

Mayor Joe Zimmerman

PLEDGES OF ALLEGIANCE

Mayor Joe Zimmerman

RECOGNITION

2023 SERVE SUGAR LAND
VOLUNTEERS OF THE YEAR

Carly Thompson, Community Engagement Manager

EARTH DAY
APRIL 18, 2024

Christian Eubanks, Environmental Manager
Vicki Gist, Keep Sugar Land Beautiful

TEXAS COURT CLERKS ASSOCIATION
CERTIFIED MUNICIPAL COURT CLERK
CHELBY HANDY

Pat Riffel, City of Friendswood Court Administrator
Kendra Beverly, Court Administrator

II. PUBLIC COMMENT

Citizens who desire to address the City Council, Board and/or Commission in person with regard to matters on the agenda must complete a "Request to Speak" form and give it to the City Secretary, or designee, prior to the beginning of the meeting.

Each speaker is limited to three (3) minutes, speakers requiring a translator will have six (6) minutes, regardless of the number of agenda items to be addressed. Comments or discussion by the City Council, Board, and/or Commission Members, will only be made at the time the subject is scheduled for consideration.

Disclaimer: The City of Sugar Land reserves the right to remove any individual for comments deemed inappropriate, impertinent, profane, slanderous and/or for not adhering to the public comment rules outlined in this notice.

For questions or assistance, please contact the Office of the City Secretary (281) 275-2730.

III. CONSENT AGENDA

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. Consideration of and action on authorization of a Contract with Zoll Medical Corporation, in the amount of $22,192.00, for the purchase of four (4) software X Series Advanced Upgrade Kits, for a cumulative contract amount of $88,434.07 for goods and services rendered in Fiscal Year 2024.

Doug Boeker, Fire - EMS Chief

B. Consideration of and action on authorization of a Contract with G&S Asphalt, Inc., DBA American Materials, Inc., in the amount of $130,000.00, for the purchase of Earthen Road Materials for the Alkire Lake Subdivision Roadway Reconstruction Interlocal Project.

Ryon Bell, Streets and Drainage Manager

C. Consideration of and action on authorization of a Interlocal Agreement with the Harris County Flood Control District, for the installation and maintenance of gage stations.

Ryon Bell, Streets and Drainage Manager

D. Consideration of and action on authorization of a Contract with Sander Engineering Corporation, in the amount of $205,282.04, for design and bid phase services for the Lift Station Rehabilitation Project, CIP CWW2401.

Alence Poudel, Engineer III

E. Consideration of and action on authorization of Amendment No. 1 to the Development Agreement by and between the City of Sugar Land, Texas, Benchmark Acquisitions, LLC, and Abbey Lakes Interests, L.P.

Elizabeth Huff, Executive Director of Economic Development and Tourism

F. Consideration of and action on the minutes of the April 2, 2024 meeting.

Ashley Newsome, Deputy City Secretary

IV. ORDINANCES AND RESOLUTIONS

A. **FIRST CONSIDERATION:** Consideration of and action on **CITY OF SUGAR LAND ORDINANCE NO. 2330:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, AMENDING CHAPTER 2, ARTICLE 5, DIVISION 4 OF THE CODE OF ORDINANCES TO ADD A DANGEROUS DOG RENEWAL FEE, AN AGGRESSIVE DOG FEE AND A STERILIZATION FEE, AMENDING CHAPTER 3, ARTICLE 2 OF THE CODE OF ORDINANCES BY REVISING THE DANGEROUS DOG PROVISIONS, BY ESTABLISHING A COMMUNITY CAT PROGRAM, AND OTHER AMENDMENTS RELATED THERETO.

Cindy King, Animal Services Manager

V. WORKSHOP

A. Review of and discussion on the Sugar Land Legacy Foundation 2023 Annual Report.

Kimberly Terrell, Interim Director of Parks and Recreation

VI. CITY COUNCIL CITY MANAGER REPORTS

A. City Council Member Reports

- Community Events Attended or Scheduled

B. City Manager Report

- Community Events Attended or Scheduled
- Other Governmental Meetings Attended or Scheduled
- Council Meeting Schedule

THE MAYOR AND CITY COUNCIL RESERVE THE RIGHT, UPON MOTION, TO SUSPEND THE RULES TO CONSIDER BUSINESS OUT OF THE POSTED ORDER. IN ADDITION TO ANY EXECUTIVE SESSION LISTED ABOVE, THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THIS MEETING FOR THE PURPOSE OF CONSULTATION WITH THE ATTORNEY AS AUTHORIZED BY TEXAS GOVERNMENT CODE SECTIONS 551.071 TO DISCUSS ANY OF THE MATTERS LISTED ABOVE.

IF YOU PLAN TO ATTEND THIS PUBLIC MEETING AND YOU HAVE A DISABILITY THAT REQUIRES SPECIAL ARRANGEMENTS AT THE MEETING, PLEASE CONTACT THE CITY SECRETARY, (281) 275-2730. REQUESTS FOR SPECIAL SERVICES MUST BE RECEIVED FORTY-EIGHT (48) HOURS PRIOR TO THE MEETING TIME. REASONABLE ACCOMMODATIONS WILL BE MADE TO ASSIST YOUR NEEDS.

THE AGENDA AND SUPPORTING DOCUMENTATION IS LOCATED ON THE CITY WEBSITE (WWW.SUGARLANDTX.GOV) UNDER MEETING AGENDAS.

Posted on this 12th day of April, 2024 at 2:46 P.M.

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO:

AGENDA OF: City Council Meeting

INITIATED BY: ***Carly Thompson, Community Engagement Manager***

PRESENTED BY: ***Carly Thompson, Community Engagement Manager***

RESPONSIBLE DEPARTMENT: Communications & Community Engagement

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AGENDA CAPTION:
2023 SERVE SUGAR LAND
VOLUNTEERS OF THE YEAR

RECOMMENDED ACTION:
Recognize 2023 Serve Sugar Land Volunteers of the Year.

EXECUTIVE SUMMARY:
The Serve Sugar Land program began in 2007 and has connected many residents of Sugar Land and surrounding areas to numerous volunteer opportunities during the last 16 years. As a result, these individuals have become more involved in their community and in local government. In 2023, 403 volunteers contributed 13,200 hours of service to the city; this equates to an in-kind donation of more than $419,760 to the city. Not only did they donate their time, but they contributed to many goals and enhanced the service levels of the departments they served. These areas included Municipal Court, Animal Services, Economic Development, Police, People and Culture, Parks and Recreation, and the T.E. Harman Senior Center.

Each year, City departments are asked to nominate a volunteer who enhances the delivery of city services and fosters community within Sugar Land. The 2023 Volunteers of the Year are:

- Brenda Frye, Municipal Court
- Bonnie Finnegan, Animal Shelter
- Texas Master Naturalists Coastal Prairie Chapter – Kevin Peters, Shannon Westveer, and Shree Nath, Parks and Recreation – Parks Development
- Terri Ball, T.E. Harman Center – Parks and Recreation
- Rickie Rabourn, Economic Development
- Maria Sujith, People and Culture
- Richard Taylor, Police

BUDGET

EXPENDITURE REQUIRED:

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE:

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO:

AGENDA OF: City Council Meeting

INITIATED BY: ***Nicole Solis, Assistant Director of Neighborhood Services***

PRESENTED BY:
Christian Eubanks, Environmental Manager
Vicki Gist, Keep Sugar Land Beautiful

RESPONSIBLE DEPARTMENT: Environmental and Neighborhood Services

AGENDA CAPTION:
EARTH DAY
APRIL 18, 2024

RECOMMENDED ACTION:
Proclaim April 18, 2024, as Earth Day in the City of Sugar Land

EXECUTIVE SUMMARY:
The first Earth Day was organized in 1970 in several major US cities to promote the ideas of ecology, encourage respect for life on earth, and highlight growing concern over pollution of soil, air, and water. Earth Day is now observed in nearly 200 nations with outdoor performances, exhibits, street fairs, and celebrations that focus on environmental issues. It is noted as one of the largest civic events recognized across the world.

By adopting environmentally conscientious habits in our daily lives, our community is bringing about a cleaner, safer, and more sustainable environment. The City and KSLB celebrate environmental awareness through a variety of events and activities. KSLB continues to partner with the City to provide recycling education through activities in local schools. In addition, the City continues to promote environmental habits throughout the year

by developing educational pieces, which are available on the City's website and social media.

This year, the Public Works Department, the Parks Departments and KSLB invite the community to attend the Party at the Plaza Earth Day event, which will be held Thursday, April 18, 2024, at the Smart Financial Center plaza from 6-8 PM. The event will feature live, environmentally-themed performances by Jack Golden, a display of a Republic Services recycling truck for public education, and various food and drink vendors. Additionally, attendees will have the opportunity to view Earth Day-themed art displays and learn about City environmental initiatives through outreach programs from various departments. Green City Recyclers will be on-site to offer complimentary textile recycling.

The Public Works Department and Keep Sugar Land Beautiful request that the Mayor and City Council proclaim April 18, 2024, as Earth Day in the City of Sugar Land and recognize the many activities conducted throughout the year to support environmental awareness within the City of Sugar Land.

BUDGET

EXPENDITURE REQUIRED:

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE:

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO:

AGENDA OF: City Council Meeting

INITIATED BY:
Samantha Rodriguez, Administrative Assistant

PRESENTED BY:
Pat Riffel, City of Friendswood Court Administrator
Kendra Beverly, Court Administrator

RESPONSIBLE DEPARTMENT: Municipal Court

AGENDA CAPTION:
TEXAS COURT CLERKS ASSOCIATION
CERTIFIED MUNICIPAL COURT CLERK
CHELBY HANDY

RECOMMENDED ACTION:
Recognize Chelby Handy, Sugar Land Municipal Court Services Supervisor, for achieving Certified Municipal Court Clerk through the Texas Court Clerks Association.

EXECUTIVE SUMMARY:
Chelby Handy is being recognized because she has obtained her Certified Municipal Court Clerk Certification. Out of approximately 3,000 Court Clerks in the State of Texas, Chelby is one of only 144 certified Municipal Court Clerks.

This is indeed a significant accomplishment, and it reflects Chelby's dedication to professional development and educational growth in the field of court administration. Being recognized as the 143nd clerk to obtain this designation is a testament to her hard work and commitment.

Chelby's journey involved meeting rigorous requirements, including obtaining Certified Court Clerk I and II certifications, requiring 40 hours of education and successful completion of two three-part exams. Additionally, achieving the Certified Municipal Court Clerk certification involved 40 hours of court observation, a professional journal, extensive reading, and a three-part exam on the required material. Chelby's commitment to completing these demanding tasks underscores her dedication to the judicial system and the City of Sugar Land.

Certified court clerks, like Chelby, are invaluable assets to the court system. Their knowledge, education, and confidence contribute to the smooth functioning of the court, ensuring that all defendants receive due process and are informed of their legal options. This not only enhances customer service but also creates a positive experience for defendants, attorneys, and the public interacting with the court.

Chelby's accomplishment sets her apart as a member of an elite group of court clerks in the State of Texas, and her commitment to continuous learning and professional growth is commendable. Her achievement not only elevates her own career but also enhances the overall effectiveness and credibility of the judicial process in Texas.

BUDGET

EXPENDITURE REQUIRED: NA

CURRENT BUDGET: NA

ADDITIONAL FUNDING: NA

FUNDING SOURCE:NA

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: III.A.

AGENDA OF: City Council Meeting

INITIATED BY: ***Doug Boeker, Fire - EMS Chief***

PRESENTED BY: ***Doug Boeker, Fire - EMS Chief***

RESPONSIBLE DEPARTMENT: Fire

AGENDA CAPTION:

Consideration of and action on authorization of a Contract with Zoll Medical Corporation, in the amount of $22,192.00, for the purchase of four (4) software X Series Advanced Upgrade Kits, for a cumulative contract amount of $88,434.07 for goods and services rendered in Fiscal Year 2024.

RECOMMENDED ACTION:

Sugar Land Fire – EMS recommends that Mayor and City Council approve the software purchase upgrades for four eligible Zoll cardiac monitors in the amount of $22,192.00, for a cumulative contract amount of $88,434.07 for goods and services rendered in Fiscal Year 2024.

EXECUTIVE SUMMARY:

Sugar Land Fire – EMS currently utilizes a total of 12 Zoll cardiac monitors to serve a variety of essential functions in providing high level patient care. These cardiac monitors represent one of, if not the single most-utilized assets we carry. As with all technology, Zoll has improved their technology drastically since 2014 when the first cardiac monitors were initially purchased. While 50% of our monitors have exceeded the recommended life of 7 years from the manufacturer and are no longer able to be upgraded, four of our monitors are able to be upgraded. The upgrade of four monitors to the latest technology will bring them up to match our two newest monitors, which we have been using for approximately six months

with great success.

This enhanced technology allows for more precise patient monitoring during delicate and invasive procedures, as well as tailored feedback displays for managing critical patients. Zoll offers an upgrade package to bring existing devices up to the new platform and we have four devices that qualify for that service. Purchasing the device upgrade package would allow us to deploy this enhanced capability with the most current technology available on each ambulance in the city and enable our current monitors to match capabilities of future monitor replacements.

The cost to upgrade the software for each device is $5,548.00 bringing the total amount to $22,192.00 for all four eligible Zoll cardiac monitors. Funding for this purchase would be made from the opioid settlement balance the department received. The software upgrade to the Zoll monitors would provide enhanced monitoring and respiratory management for all opioid patients.

Sugar Land Fire – EMS recommends that Mayor and City Council approve the software purchase upgrades for four eligible Zoll cardiac monitors in the amount of $22,192.00, for a cumulative contract amount of $88,434.07 for goods and services rendered in Fiscal Year 2024.

BUDGET

EXPENDITURE REQUIRED: $22,192.00

CURRENT BUDGET: $22,192.00

ADDITIONAL FUNDING: N/A

FUNDING SOURCE: Opioid Settlement Balance

ATTACHMENTS:

Description	Type
Sole Source	Contracts

SINGLE / SOLE SOURCE DOCUMENTATION
Texas Local Government Code 252.022

Department: Fire **Project #:**

Requested By: K. Leverence **Phone #:** 2175

Vendor Name: Zoll **Est. Cost:** $ 22,192.00

Description of Purchase: X Series Advanced Upgrade Software Kit

The City is using a single * or sole ** source purchasing method because:

Other

Justification:

The Zoll X- Series is the current Cardiac Monitor/ Defibrillator that Sugar Land Fire and EMS is trained on and our entire fleet is equipped with the same monitor. Additionally, this monitor integrates with our EMS reporting system allowing important information to be directly imported into our Patient Care Reports. Zoll Medical is the Sole Source for Zoll X-Series Monitor. This software allows us to view and analyze the performance data our cardiac monitors collect on each patient interaction. This gives us opportunity for a deep, individual, data based case review with our personnel involved.

The following steps were taken to verify that a similar product/service is not available elsewhere:

Checked the following Search Engines or Internet Sites

Justification:

This is a proprietary product affiliated with the cardiac monitors we already own. Each manufacturer has a software exclusive to their product. We already own Zoll hardware.

*Single Source: Only one vendor can be used due to patents, copyrights, secret processes, or natural monopolies.
** Sole Source: Only one vendor possesses the unique capability to meet the City's requirements.

Additional Comments:

Clearances:

Department Head

2-15-24
Date

269 Mill Road
Chelmsford, Massachusetts 01824-4105
978·421·9655 *(main)*
978·421·0025 *(fax)*
www.zoll.com

February 9, 2024

Kevin Leverence
Sugar Land Fire Department
10405 Corporate Drive
Sugar Land, TX 77487

Dear Kevin:

We appreciate your selection of ZOLL® products. This letter serves as confirmation that ZOLL® Medical Corporation at 269 Mill Road in Chelmsford, Massachusetts, is the sole manufacturer and source of X Series® and X Series Advanced Defibrillators for the EMS Market. ZOLL® or Steven Bagwell, Houston-EMS Account Executive, will not sell an X Series® and X Series Advanced Defibrillator to Sugar Land Fire Department through any vendor or dealer and no vendor or dealer is authorized to provide warranty or service.

Should you have any questions or require additional information please contact me at Contracts@zoll.com.

Sincerely,

Jody Podgurski

Jody Podgurski
Local Contracts - Team Lead

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: III.B.

AGENDA OF: City Council Meeting

INITIATED BY: ***Ryon Bell, Streets and Drainage Manager***

PRESENTED BY: ***Ryon Bell, Streets and Drainage Manager***

RESPONSIBLE DEPARTMENT: Public Works

AGENDA CAPTION:

Consideration of and action on authorization of a Contract with G&S Asphalt, Inc., DBA American Materials, Inc., in the amount of $130,000.00, for the purchase of Earthen Road Materials for the Alkire Lake Subdivision Roadway Reconstruction Interlocal Project.

RECOMMENDED ACTION:

The Public Works Department recommends approval of a contract with G&S Asphalt for materials needed to reconstruct the roadways as agreed in the Alkire Lake Interlocal Project Agreement with Fort Bend County Road and Bridge Division. This contract will be utilizing Fort Bend County cooperative pricing Bid 24-041 for total contract cost of $130,000.00.

EXECUTIVE SUMMARY:

The Public Works Department is collaborating with Fort Bend County Road and Bridge Division to replace the asphalt streets in the Alkire Lakes subdivision.

Utilizing data provided by our most recent pavement assessment along with visual evaluations, city staff determined that 60% of the roads within the Alkire Lakes subdivision are extended past useful life and meet the criteria for reconstruction.

The project rehabilitation will include milling the existing asphalt, correcting any subgrade issues, and applying new asphalt for West Alkire Lake Dr., North Horseshoe Dr., and

Horseshoe Dr. The project will only rehabilitate roadway that are currently asphalt and will not impact any of the existing concrete roadways.

The assumed cost of materials for the Public Works Department will be approximately $130,000.00 and includes 10% contingency. Project completion should be reached within 15 working days. The Public Works Department is working with the County to determine a definitive start date for the project but has agreed to begin in the summer months of 2024.

Communication with residents will be of the utmost importance. Public Works will begin distributing door hangers two (2) weeks prior to the start date and will follow up in person with residents as necessary.

The Public Works Department recommends approval of a contract with G&S Asphalt for materials needed to reconstruct the roadways as agreed in the Alkire Lake Interlocal Project Agreement with Fort Bend County Road and Bridge Division. This contract will be utilizing Fort Bend County cooperative pricing Bid 24-041 for total contract cost of $130,000.00.

BUDGET

EXPENDITURE REQUIRED: 130000

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE: Public Works Operating Budget

ATTACHMENTS:

	Description	Type
🗋	Contract	Contracts

CITY OF SUGAR LAND
STANDARD CONTRACT FOR GENERAL SERVICES
$100K to $999,999.99
(Rev. 8-19-22)

I. Signatures. By signing below, the parties agree to the terms of this Contract:

CITY OF SUGAR LAND	**CONTRACTOR:**
By:	**By:** Brian D. Ard
Date:	**Date:** 4/2/2024
Title:	**Title:** Sales Manager
	Company: American Materials, Inc.

APPROVED AS TO FORM:
Trista Day

II. General Information and Terms.

Contractor's Name and Address:	G&S Asphalt Inc. DBA American Materials 10126 Cash Road Stafford, Texas 77477
Description of Services:	Purchase Earthen Road Materials for Alkire Lake Subdivision Roadway Reconstruction Project
Maximum Contract Amount:	$130,000.00
Effective Date:	On the latest of the dates signed by both parties.
Termination Date:	See III.C.

Contract Parts: This Contract consists of the following parts:

I. Signatures
II. General Information and Terms
III. Standard Contractual Provisions
IV. Additional Terms or Conditions
V. Additional Contract Documents

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: III.C.

AGENDA OF: City Council Meeting

INITIATED BY: ***Ryon Bell, Streets and Drainage Manager***

PRESENTED BY: ***Ryon Bell, Streets and Drainage Manager***

RESPONSIBLE DEPARTMENT: Public Works

AGENDA CAPTION:

Consideration of and action on authorization of a Interlocal Agreement with the Harris County Flood Control District, for the installation and maintenance of gage stations.

RECOMMENDED ACTION:

Authorize an Interlocal Agreement between the City of Sugar Land and Harris County Flood Control District for the Installation and Maintenance of Flood Gage Stations in the amount of $26,600 per year for 10 years for a total of $266,000.00.

EXECUTIVE SUMMARY:

As part of ongoing aggressive efforts to invest in drainage infrastructure to protect residents and the community, the City of Sugar Land ("City") owns and maintains a network of flood gage stations located throughout the city. The thirty eight (38) gage stations are located in channels, bayous and detention basins to provide the public and staff with measured rainfall amounts and water levels. The measured rainfall and water levels are transmitted to the Harris County Flood Control District (HCFCD) and displayed as part of the Harris County Flood Warning System. In addition to the City's data, the Harris County Flood Warning System includes data from partner agencies such as Fort Bend County, Harris County Toll Road Authority, City of Houston, METRO, City of Pearland, TxDOT, the Trinity River Authority and the San Jacinto River Authority.

The Interlocal Agreement allows the HCFCD personnel to install gage stations, conduct assessments, inspections, and repair gage stations as needed. In addition, the Interlocal Agreement specifies time frames for completion of the tasks. Below is a list of the general scope of the agreement.

- Provide preventative maintenance to the 38 gage stations on a bi-annual schedule with a basic annual cost of $700.00 per station (such maintenance to occur approximately six months apart). Preventative maintenance on transmitters, rain gage tipping buckets, water level devices, and solar panels will be to HCFCD standards. Additionally, recommendations will be provided for future site and system wide upgrades.

- Within two work weeks of completing a maintenance cycle, the HCFCD will provide the City with a written summary report of the work performed, including problems noted and fixed equipment settings, and calibrations from the preventative maintenance performed.

- Review the City's gage stations data daily during the workweek to verify timely and accurate data flow and determine any potential sensor concerns.

- Between preventative maintenance, troubleshoot and provide repairs as needed upon validation of equipment failure or other problem at the gage stations. The HCFCD has 48 hours to acknowledge the problem or equipment failure and determine how to correct it. The HCFCD will alert the City of the problem, the anticipated course of action for correction, and when the gage station is successfully repaired.

- Maintain an accurate survey of gage stations site elevations using determined benchmark elevations.

The Public Works Department recommends approval of an Interlocal Agreement between Harris County Flood Control District and the City of Sugar Land, in the amount of $266,000, for the installation and maintenance of gage stations.

BUDGET

EXPENDITURE REQUIRED: 266000

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE: Public Works Operating Budget

ATTACHMENTS:

	Description	Type
🗋	Interlocal Agreement	Contracts

INTERLOCAL AGREEMENT FOR INSTALLATION AND MAINTENANCE OF GAGE STATIONS BETWEEN THE CITY OF SUGAR LAND AND THE HARRIS COUNTY FLOOD CONTROL DISTRICT

This interlocal agreement ("Agreement") is made and entered into pursuant to state law, including Texas Government Code Ann. 791.001, *et. seq.*, by and between the **City of Sugar Land,** a municipal corporation located in Fort Bend County, Texas ("City"), and the **Harris County Flood Control District**, a body corporate and politic under the laws of the State of Texas ("District"). The City and the District are referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS:

Pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 791, as amended, cities, counties, special districts and other legally constituted political subdivisions of the State of Texas are authorized to enter into local contracts and agreements with each other regarding governmental functions and services.

The natural resources and functions of rivers, streams, bayous and channels help maintain the integrity of natural and manmade systems and provide multiple benefits such as the conveyance and storage of flood waters, recreation, the improvement of surface water quality, and the provision of habitats for fish and wildlife.

The periodic flows from rainwater have the potential to cause extensive damage to property and loss of life.

Local goals for flood warning, flood damage reduction, and efficient drainage can be better achieved through cooperative management.

The City desires that the District maintain a total of thirty-eight (38) existing gage stations owned by the City that measure rainfall amounts and water levels in channels.

The thirty-eight (38) gage stations will transmit their data to the District's base station for reporting on the public Harris County Flood Warning System website.

The City may request additional gage stations to be installed and maintained at any time during this Agreement by submitting a written request to the District.

The District has determined that maintaining the City owned gage stations would increase the efficiency and effectiveness of a District purpose, and benefit the citizens of Harris County and within the jurisdiction of City.

NOW THEREFORE, in consideration of the mutual covenants contained herein and subject to the conditions herein set forth, the City and the District hereby agree as follows:

1. Gage Stations

City owns and the District maintains thirty-eight (38) gage stations installed by the District under the authority of a previous interlocal agreement between the parties. The parties have agreed upon the terms, provided below, whereby the District will maintain the existing thirty-eight (38) gage stations.

During the term of this Agreement, the parties may, but shall not be obligated to, by an exchange of letters between the City and the District, agree to the installation and maintenance of additional gage stations, subject to the encumbrance and payment of additional funds.

2. District Responsibilities

The District will:

A. Provide preventative maintenance labor to the thirty-eight (38) gage stations on a bi-annual schedule (such maintenance to occur approximately six months apart). Preventative maintenance on transmitters, rain gage tipping buckets, water level devices, and solar panels will be to the District standards. Additionally, recommendations will be provided for future site and system wide upgrades.

B. Add the gages to the District's publicly available Flood Warning System (FWS) website once the gage stations are operational. Data provided by these gages will remain on the FWS website until such time this Agreement is terminated.

C. Provide the City with a written summary report of the work performed within two (2) work weeks of completing a maintenance cycle, including items such as problems noted and fixed equipment settings, and calibrations from the preventative maintenance performed.

D. Review the City's gage station data to verify timely and accurate data flow and determine any potential sensor concerns.

E. Troubleshoot and provide repair as needed between preventative maintenance upon validation of equipment failure or other problem at the gage stations as weather and site conditions safely permit. The District has forty-eight (48) hours to acknowledge the problem or equipment failure and determine how to correct it. The District will alert the City of the problem, the anticipated course of action for correction, and when the gage station is successfully repaired.

F. Maintain an accurate survey of gage station site elevations using determined benchmark elevations.

G. Install new gage stations at locations, as jointly agreed to by the Parties pursuant to Section 1, for additional consideration.

H. Perform these same services for each additional gage station installed by the District at the City's request, if any.

I. Not incur any financial commitment under this Agreement. The City understands and agrees, said understanding and agreement being of the absolute essence of this Agreement, that the District is not appropriating funds under this Agreement for the completion of the work.

3. City Responsibilities

The CITY will:

A. Maintain an inventory of replacement parts for the gage stations at the City and be prepared to provide the District access to the inventory within a forty-eight (48) hour notice. The City will provide an inventory status report of the replacement parts to the District quarterly. Should the District require a part that is not within the City's inventory to repair a gage station, the City will purchase the required part and provide to the District for installation, within fourteen (14) days of notice by the District of the needed part.

B. Pay the District an annual maintenance fee within thirty (30) days of each anniversary of the Effective Date of this Agreement for each the City's gage stations that will be maintained by the District that year at a cost of $700 per gage station on the first anniversary, but which cost may be adjusted yearly thereafter at the discretion of the District to reflect increased expenses.

C. Pay additional installation fees and maintenance fees as agreed upon by the Parties within two (2) weeks of each newly requested gage station being installed to cover all the District expenses not covered by the prepaid annual maintenance fee.

D. The City will remit all payments to:

Harris County Flood Control District
9900 Northwest Freeway
Houston, Texas 77092
Attn: Financial Manager

G. Retain full ownership of the gage stations and provide any necessary replacement parts for lost, damaged, or destroyed gages.

H. Provide the District access to perform required work and maintenance.

I. Keep gage sites mowed, free of debris to support proper gage function, and accessible for the District.

4. Term of Agreement

This Agreement shall be for a period of one year beginning on the Effective Date. Thereafter, this Agreement shall automatically renew annually for a period of ten years unless terminated as provided herein.

This Agreement may be terminated by either Party, without cause, by sending thirty (30) days' advance written notice to the other Party. Within sixty (60) days of termination by either Party, the District shall return the City funds provided under this Agreement, if any, less costs incurred by the District for services performed prior to the effective date of such termination.

5. Notice

Any notice required to be given by one Party to another must be given in writing addressed to the Party by: (a) delivering the notice in person; (b) depositing the notice in the U.S. Mail, certified or registered, return receipt requested, postage prepaid; (c) by depositing the notice with Federal Express or another nationally recognized courier service for next day delivery; or (d) sending the notice by telefax with confirming copy sent by mail. Notice is deemed effective when received by

the Party to be notified. Any address for notice may be changed by written notice as provided herein. Notice shall be given to the Parties at the following addresses:

For the City:	City of Sugar Land P.O. BOX 110 Sugar Land, Texas 77487-0100 Attn: Brian Butscher, Director of Public Works
For the District:	Harris County Flood Control District 9900 Northwest Freeway Houston, Texas 77092 Attn: Jeff Lindner, Director Hydrologic Operations Division
With a copy to:	Harris County Flood Control District 9900 Northwest Freeway Houston, Texas 77092 Attn: Dr. Tina Peterson, Director Harris County Flood Control District

6. Miscellaneous

A. It is expressly understood and agreed by the Parties to this Agreement that no Party shall be held liable for the actions of another Party to this Agreement while in any manner furnishing services hereunder.

B. Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the District. The Parties agree that no provision of this Agreement extends either Party's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas. Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by either Party of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas.

C. In the event the District fails or refuses to perform any of its obligations herein, the City's sole remedy shall be to terminate this Agreement.

D. Each Party to this Agreement shall be solely responsible for defending against and liable for paying any claim, suit, or judgment for damages, loss, or costs, arising from that Party's negligence in the performance of this Agreement in accordance with applicable law.

E. This Agreement is governed by the laws of the State of Texas. The forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

F. If any provision of the Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of both Parties.

G. The District does not agree to binding arbitration, nor does the District waive its rights to a jury trial.

H. This Agreement represents the entire understanding between the Parties and supersedes all other negotiations, representations, or agreements, written or oral, relating to this Agreement.

I. This Agreement may be amended only by the mutual written consent of the Parties.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the date the Agreement is approved by the Commissioners Court of Harris County (Effective Date).

Date: _____

APPROVED AS TO FORM:

Christian D. Menefee
Harris County Attorney

By:_____
EMILY KUNST
Assistant County Attorney

HARRIS COUNTY FLOOD CONTROL DISTRICT

By:_____
LINA HILDAGO
County Judge

APPROVED AS TO FORM:

MEREDITH RIEDE
CITY Attorney

By:_____
MEREDITH RIEDE
City Attorney

CITY OF SUGAR LAND

By:_____
JOE R. ZIMMERMAN, MAYOR

ATTEST:

By_____
ASHLEY NEWSOME
City Secretary

By_____
MIKE GOODRUM
City Manager

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the County of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT FOR INSTALLATION AND MAINTENANCE OF GAGE STATIONS BETWEEN THE HARRIS COUNTY FLOOD CONTROL DISTRICT AND THE CITY OF SUGAR LAND

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

		Yes	No	Abstain
AYES:	Judge Lina Hidalgo	☐	☐	☐
NAYS:	Comm. Rodney Ellis	☐	☐	☐
ABSTENTIONS:	Comm. Adrian Garcia	☐	☐	☐
	Comm. Tom Ramsey	☐	☐	☐
	Comm. Lesley Briones	☐	☐	☐

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

Pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 791, as amended, cities, counties, special districts and other legally constituted political subdivisions of the State of Texas are authorized to enter into local contracts and agreements with each other regarding governmental functions and services.

The natural resources and functions of rivers, streams, bayous and channels help maintain the integrity of natural and manmade systems and provide multiple benefits such as the conveyance and storage of flood waters, recreation, the improvement of surface water quality, and the provision of habitats for fish and wildlife,

The periodic flows from rainwater have the potential to cause extensive damage to property and loss of life.

Local goals for flood warning, flood damage reduction, and efficient drainage can be better achieved through cooperative management.

The City desires that the District maintain a total of thirty-eight (38) existing gage stations owned by the City that measure rainfall amounts and water levels in channels.

The thirty-eight (38) gage stations will transmit their data to the District's base station for reporting on the public Harris County Flood Warning System website.

The City may request additional gage stations to be installed and maintained at any time during this Agreement by submitting a written request to the District.

The District has determined that maintaining the City owned gage stations would increase the efficiency and effectiveness of a District purpose, and benefit the citizens of Harris County and within the jurisdiction of City.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS THAT:

Section 1: The recitals set forth in this order are true and correct.

Section 2: County Judge Lina Hidalgo is hereby authorized to execute for and on behalf of the Harris County Flood Control District, an Interlocal Agreement by and between the Harris County Flood Control District and the City of Sugar Land, for the maintenance of gage stations to gather, disseminate and relay stream elevation and rainfall data through the Harris County Flood Control District's Flood Warning System, said Agreement being incorporated herein by reference for all purposes as though fully set forth verbatim herein.

Section 3: All Harris County and Harris County Flood Control District officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: III.D.

AGENDA OF: City Council Meeting

INITIATED BY: ***Alence Poudel, Engineer III***

PRESENTED BY: ***Alence Poudel, Engineer III***

RESPONSIBLE DEPARTMENT: Engineering

AGENDA CAPTION:

Consideration of and action on authorization of a Contract with Sander Engineering Corporation, in the amount of $205,282.04, for design and bid phase services for the Lift Station Rehabilitation Project, CIP CWW2401.

RECOMMENDED ACTION:

Authorizing execution of a professional services contract in the amount of $205,282.04 with Sander Engineering Corporation for design and bid phase services for Lift Station Rehabilitation Project, CIP CWW2401

EXECUTIVE SUMMARY:

Every year, the City's Utilities Department carries out routine inspections and assessments of wastewater lift stations to identify those in need of rehabilitation. For Fiscal Year 2024, the department will focus on developing rehabilitation plans for the Orchard Lane Lift Station (LS) No. 46, Avondale Lift Station (LS) No. 138, and Small Great Lakes Lift Station (LS) No. 121. This initiative is designed to improve operational efficiency, ensure regulatory compliance, and prolong the service life of these essential wastewater management facilities.

The need for rehabilitation of the Orchard Lane LS, Avondale LS, and Small Great Lakes LS is urgent, given their aging infrastructure, reliability challenges, significant deterioration of wet wells, and the wear and tear on pumps and control panels. This action is critical to

prevent operational failures, maintain system integrity and efficiency, and ensure the sustainability of the city's wastewater management. It's also vital to update these lift stations' conditions in the City's Lift Station Database for integration into the Asset Management model, aiding in strategic planning and infrastructure reliability.

Major rehabilitation is necessary for all three stations to prevent further deterioration, potential system failure, and future high repair costs, as well as to meet electrical codes for operational efficiency and safety. The upgrades will include the installation of a Supervisory Control and Data Acquisition (SCADA) communication system for enhanced monitoring and control.

Following City Policy Number PU-109, Sander Engineering, Inc., a pre-qualified firm with relevant experience, has been selected to undertake the design phase of this project. Both the Engineering and Public Works Departments have expressed satisfaction with Sander Engineering's prior work on similar projects and recommend their services for the upcoming design phase.

The project's engineering scope includes:

1. Developing construction plans and technical specifications
2. Preparing contract documents for bidding, estimating costs, finalizing documents for contract execution
3. Conducting a topographic survey for each station.

The professional services fee has been negotiated to a not-to-exceed amount of $205,282.04, with funding allocated in CIP CWW2401. The design phase is expected to be completed within eight months from the Notice to Proceed.

The Engineering and Public Works Departments recommend that the City Council authorize a professional services contract with Sander Engineering, Inc. to provide design services for the Lift Station Rehabilitation Project CIP CWW2401 in the amount of $205,282.04.

BUDGET

EXPENDITURE REQUIRED: 205,282.04

CURRENT BUDGET: 400,000.00

ADDITIONAL FUNDING: N/A

FUNDING SOURCE: Revenue Bonds

ATTACHMENTS:

Description	Type
Contract	Contracts

CITY OF SUGAR LAND STANDARD CONTRACT FOR PROFESSIONAL ENGINEERING DESIGN SERVICES FOR CITY FACILITIES

$100,000 to $999,999
(Rev. 8-19-22)

I. Signatures. By signing below, the parties agree to the terms of this Contract.

CITY OF SUGAR LAND	**ENGINEER**:
By:	**By:** Erik D. Miller, P.E.
Date:	**Date:** March 14, 2024
Title:	**Title:** Vice President
	Company: Sander Engineering Corporation

APPROVED AS TO FORM:

II. General Information and Terms.

Engineer's Name and Address:	Sander Engineering 2901 Wilcrest, Suite 550 Houston, Texas 77042
Project Description:	Engineering Design Services for Lift Stations Rehabilitation Project – Avondale, Small Great Lakes, and Orchard, CIP No. CWW2401
Maximum Contract Amount:	$205,282.04
Effective Date:	On the latest date of the dates executed by both parties.
Termination Date:	See III.F.

Contract Parts: This Contract consists of the following parts:

I. Signatures
II. General Information and Terms
III. Standard Contractual Provisions
IV. Additional Terms or Conditions
V. Additional Contract Documents

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: III.E.

AGENDA OF: City Council Meeting

INITIATED BY: ***Kareem Heshmat, Senior Planner, Community Planning and Redevelopment***

PRESENTED BY: ***Elizabeth Huff, Executive Director of Economic Development and Tourism***

RESPONSIBLE DEPARTMENT: Community Planning & Redevelopment

AGENDA CAPTION:

Consideration of and action on authorization of Amendment No. 1 to the Development Agreement by and between the City of Sugar Land, Texas, Benchmark Acquisitions, LLC, and Abbey Lakes Interests, L.P.

RECOMMENDED ACTION:

Staff recommends that City Council approve Amendment No. 1 to the Development Agreement by and between the City of Sugar Land, Texas, Benchmark Acquisitions LLC and Abbey Lakes Interest LP.

EXECUTIVE SUMMARY:

The purpose of this agenda item is to review and consider Amendment No. 1 to the Development Agreement by and between the City of Sugar Land, Texas, Benchmark Acquisitions LLC and Abbey Lakes Interest LP.

Development Agreement History

On February 1, 2022, the City Council authorized a Settlement Agreement and release of claims in the lawsuit styled Benchmark Acquisitions, LLC v. City of Sugar Land, Cause No. 16-DCV-233432. The Settlement Agreement included terms and obligations for resolving a suit filed by Benchmark against the City.

On March 1, 2022, the City Council authorized a Development Agreement, an action step in implementing the Settlement Agreement. The Development Agreement outlines specific obligations and terms for all the parties going forward.

Proposed Amendment No. 1 to the Development Agreement

Amendment No. 1 is primarily driven by the City's receipt of a 0% interest loan from the Texas Water Development Board in the amount of $27.5M to fund preliminary engineering, final design and construction of all drainage projects (please see Exhibit G - Joint Drainage Project List & Map for more information). The City and Developer agree that the necessary steps and processes will be followed as required by the guidelines of the TWDB to fulfill the obligations as identified within the approved TWDB program guidelines. Amendment No. 1 outlines the actions that must be taken by each responsible party following its execution.

Primary revisions in Amendment No. 1 include:

- **Section 5.02 Floodplain Mitigation/Drainage and Detention** is updated to reflect how detention and mitigation basins will be paid for and constructed.
- **Section 5.06 Permitting/State/Federal Approvals** is added to reflect the City's receipt of a 0% interest loan from the Texas Water Development Board (TWDB), and outlines adherence to FEMA guidelines and other necessary permits to be obtained.
- **Section 5.07 Calculation and Payment of Debt Service** is added requiring the City of Sugar Land to prepare an annual debt service budget to be delivered to MUD 234, and outlines MUD 234's pro rata share of the City's debt service payments and the due date for the payment every year until the debt is expired. Please see **Exhibit J – Debt Service Schedule** for more detail.
- **Section 5.08 Unconditional Obligation to Pay** is added in order to account for and guarantee all required reimbursement from MUD 234 to the City as required per the agreement for all expenses related to the shared drainage improvements.
- **Section 5.09 City Reimbursement of Funds Previous Expended by District** is added and provides reimbursement of funds expended by the developer to move the drainage improvements forward. The requested reimbursement equals $166,000 and directly relates to drainage mitigation work and environmental work that was completed under the guidance of the developer prior to the City receiving the 0% interest loan through the TWDB.
- Addition of a **Joinder Agreement** that has been added in order to bring MUD 234 into the agreement as a party with the developer that will obligate the signed party to the terms of the agreement and applies to the First Amendment and any subsequently executed amendments to the agreement approved by all parties.

Other revisions in Amendment No. 1 include:

- An updated land plan that reduces the overall number of residential lots from ~800 to ~640 and revisions to the ultimate layout of the joint drainage projects
- Modifying the legal name of entities that are party to the Development Agreement
- Numerical refinements, such as drainage and detention requirements, to more accurately reflect current project scope and details
- Additional standard state law requirements, disclosures and acknowledgements required

for municipal contracts (Sections 10.12 - 10.16)

Please see **Amendment No. 1 and updated Exhibits B, G, F and J** attached for more details.

BUDGET

EXPENDITURE REQUIRED:

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE:

ATTACHMENTS:

Description	Type
Development Agreement Amendment No. 1	Agreement
Executed Development Agreement	Agreement

FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF SUGAR LAND, TEXAS, BENCHMARK ACQUISITIONS, LLC, AND
ABBEY LAKES INTEREST, L.P.

This First Amendment to Development Agreement ("First Amendment") is effective as of the latest of the dates signed by the parties hereto ("Effective Date"), by and between:

1) The CITY OF SUGAR LAND, TEXAS (the "City"), a home-rule city duly incorporated under the laws of the State of Texas, acting by and through its governing body, the City Council of the City of Sugar Land, Texas; and

2) BENCHMARK ACQUISITIONS, LLC, a Texas limited liability company, and ABBEY LAKES LTD., a Texas limited partnership (collectively, "Developer").

BACKGROUND

The City and Developer previously entered into that certain Development Agreement dated March 1, 2022 (the "Agreement"), governing, among other things, the design, financing, and construction of certain public improvements.

The Parties now wish to amend the Agreement to reflect increased drainage/detention requirements and that the City has secured Texas Water Development Board funding.

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the City and Developer hereby agree as follows:

AGREEMENT

1. The name of Developer ABBEY LAKES INTEREST, L.P., a Texas limited partnership, is hereby changed to ABBEY LAKES LTD., a Texas limited partnership, the general partner of which is Camcorp Management, Inc., a Texas corporation. ABBEY LAKES INTEREST, L.P. is an assumed name of ABBEY LAKES LTD, and the change noted here is simply meant to reflect that ABBEY LAKES LTD is the proper party to sign development agreements as one of the Developers. This change in no way affects the validity of ABBEY LAKES INTEREST, L.P.'s signature on the Agreement as binding on ABBEY LAKES LTD.

2. Section 1.01. The definition of Industrial Development Tracts is hereby amended to read: *Industrial Development Tracts* means the 15.748-acre tract and the 14.625-acre tract within the Property as referenced and depicted in **Exhibit** F.

3. Section 5.02 is deleted and replaced in its entirety as follows:

Section 5.02 Floodplain Mitigation/Drainage and Detention. The City has engaged a third-party engineer to prepare a detailed master drainage plan for the region which includes the Property as well as land owned by the City. This report outlines the drainage and detention improvements necessary for the full development of these combined tracts. The City acknowledges that this report provides the full drainage and detention requirements for development of the Property.

The master drainage report outlines that the total volume required for the detention and drainage for development of the combined tracts is 1,130 ac-ft. Based on the report, the City and the Developer have identified a list of joint drainage projects (the "Joint Drainage Projects") that will provide the necessary drainage and detention for development of the Property and the City Property, which Joint Drainage Projects are

described and shown on **Exhibit G** attached. The City and the Developer agree to share in the costs of the Joint Drainage Projects as described on and in the shares listed on **Exhibit G**.

The Parties will develop the regional detention/mitigation basin shown on **Exhibit G** (the "Detention/Mitigation Basin"). The City will designate the land necessary to provide for the approximately 236 acre-feet of detention required to serve the City Property (the "City Detention Tract"), which is no less than approximately 25 acres of land, as soon as practical after the Effective Date. The preliminary location of the City Detention Tract is shown on **Exhibit G** as that portion of the Detention/Mitigation Basin located to the east of the Property. The Developer will transfer the portion of the Detention/Mitigation Basin of approximately 94 acres on the Property to MUD 234 (the "MUD Detention Tract"). After transfer of the MUD Detention Tract, MUD 234 will grant the City a drainage easement on the MUD Detention Tract for the construction of the Detention/Mitigation Basin. After MUD 234 and the Developer transfer the necessary easement and land, the City will design, construct and finance the Detention/Mitigation Basin and related improvements. MUD 234 will pay its pro rata share of the City's debt service payments as set forth below and in Section 5.07 of this Agreement. The City will apply for and obtain all necessary permits.

The Detention/Mitigation Basin will be developed and paid for as follows:

i) The City will dedicate the land necessary to provide 236 acre-feet of detention volume on the City Property for the Detention/Mitigation Basin;

ii) The Detention/Mitigation Basin design is subject to MUD 234 review and approval.

iii) The Developer will dedicate the land necessary to provide 894 acre-feet of detention volume of the Property for the Detention/Mitigation Basin estimated to be 92 acres;

iv) The City has issued bonds through a private placement to the Texas Water Development Board for the Joint Drainage Project costs. MUD 234 will pay, through semi-annual payments, its pro-rata share (57%)of the City's debt service payments on the bonds Calculated in accordance with Section 5.07 below.

v) After construction, the City will maintain the Detention/Mitigation Basin, and MUD 234 will pay its pro-rata share of such maintenance costs using the same formula as shown on Exhibit G; the annual maintenance budget is subject to review and approval by the District; the annual maintenance budget is subject to approval by the Developer as long as it owns any developable land in the District; and

vi) The City and MUD 234 will evaluate the potential to jointly develop recreational and/or surface water storage facilities within the Detention/Mitigation Basin.

4. Section 5.03(b) is deleted and replaced in its entirety as follows:

(b) The City agrees to dedicate all necessary right-of-way for the extension of Owens Road on the City Property. The City will construct Owens Road on the City Property from the Owens Road Tie-in (defined below) to the common boundary of the City Property and the Property as shown on **Exhibit H**.

5. Section 5.06 is hereby added to the Agreement and reads as follows:

Section 5.06 Permitting/State/Federal Approvals. The City has secured a zero interest loan for the detention and mitigation work through the Texas Water Development Board ("TWDB") Flood Infrastructure Fund ("FIF"). The City will work to satisfy all required steps of the TWDB funding in order to plan, design and construct the full detention and mitigation projects as identified in Exhibit G. In conjunction with this work the City will make application to FEMA for the required accommodations in accordance with the City's Flood Damage Prevention Ordinance and the floodplain administrator.

The City will make application to FEMA for a Conditional Letter of Map Revision ("CLOMR") or Letter of Map Revision (LOMR), as determined by the Floodplain Administrator, for the Property and alignment of Owens Road through the City Property, which application will be made within six (6) months of the Effective Date of this First Amendment. The City will diligently pursue securing the necessary agreements, approvals, or permits from Fort Bend County, TxDOT and Union Pacific Railroad necessary for the construction of Owens Road (collectively, the "Owens Road Approvals"). The City will advertise for bids for construction of at least two lanes of Owens Road across the City Property within 30 days of the later of 1) FEMA's approval of the CLOMR/LOMR, or the City's determination that the CLOMR/LOMR is not necessary or required for the construction of Owens Road on the City Property, or 2) the other Owens Road Approvals; provided however, that if a CLOMR/LOMR is determined to be required and if such CLOMR/LOMR requires improvements to be constructed prior to commencing the construction of Owens Road, then the City will advertise for bids within 30 days of the later of 1) the completion of the improvements required by the CLOMR/LOMR, or 2) the other Owens Road Approvals. Thereafter the City will diligently purse competition of the project.

The City will, within 30 days of the Effective Date of this First Amendment, diligently pursue securing the necessary agreements, approvals, or permits from Fort Bend County, TxDOT, Union Pacific Railroad, and the U.S. Army Corps of Engineers, including permits under Section 404 of the Clean Water Act, necessary for the construction of the Joint Drainage Projects found in Exhibit G.

6. Section 5.07 is hereby added to the Agreement and reads as follows:

Section 5.07 Calculation and Payment of Debt Service. The City shall prepare an annual debt service budget which contains the following items, to the extent necessary or convenient:

(i) the total debt service requirements on the City bonds for the next calendar year, including paying agent and registrar fees; and

(ii) the total revenues required to pay such debt service requirements and related expenses after allowance for fund balances resulting from capitalized interest, interest earnings, and other revenues; and

(iii) amounts due from MUD 234 and the dates on which such amounts are due and payable. The amount due from MUD 234 will be its pro-rata share of the bonds based on a percentage of the construction costs.

Such budget shall be prepared and sent to MUD 234 by September 1 or as soon as practicable after MUD 234 has received its certified appraised values for the year.

MUD 234 agrees to pay its pro rata share of the City's debt service payments on the bonds issued for the entire Joint Drainage Project to the City from ad valorem taxes authorized, assessed and levied for such purposes, revenues, if any, derived from the operation of MUD 234's facilities or from any other legally available services on or before the date specified by the City.

The current annual debt service requirements are shown on Exhibit J, and the MUD 234 share is 57% of the annual amount shown.

If MUD 234 fails to pay any amounts due to the City on the date(s) specified, such unpaid amount shall accrue interest at the rate of fifteen percent (15%) per annum. If the City institutes suit to collect any unpaid amounts, the City shall be entitled to recover reasonable attorneys' fees.

7. Section 5.08 is hereby added to the Agreement and reads as follows:

Section 5.08 Unconditional Obligation to Pay. All charges imposed by the City to pay debt service on the bonds, to make payments to other persons constructing or financing joint drainage project facilities, and to pay operation and maintenance expenses shall be made by MUD 234 without set-off, counterclaim, abatement, suspension, or diminution, and this Agreement shall not terminate, nor shall MUD 234 have any right to terminate this Agreement, nor be entitled to the abatement of any such payment or any reduction thereof nor shall the obligations of MUD 234 under this Article be otherwise affected for any reason, including without limitation acts or conditions of the City that might be considered failure of consideration, eviction or constructive eviction, destruction or damage to the Joint Drainage Project facilities, failure of the City to perform and observe any agreement, whether expressed or implied, or any duty, liability, or obligation arising out of or connected with the Agreement , it being the intention of the parties that all sums required to be paid by Mud 234 to the City for such purposes shall continue to be payable in all events and the obligations of MUD 234 hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Agreement.

If MUD 234 disputes the amount to be paid to the City, MUD 234 shall nonetheless promptly make payments as billed by the City, and if it is subsequently determined by agreement, arbitration, regulatory decision, or court decision that such disputed payment should have been less, the City will then make proper adjustments to MUD 234 so that MUD 234 will receive credit for its overpayment(s). Nothing contained in this Section shall be construed to release the City from performance of any portion of this Agreement or any other agreements entered into by the parties, and in the event the City shall fail to perform any such agreement, MUD 234 may seek relief against the City pursuant to Article VIII of this Agreement as MUD 234 deems necessary.

8. Section 5.09 is hereby added to the Agreement and reads as follows:

Section 5.09 City Reimbursement of Funds Previously Expended by District. The City and Developer both recognize that Developer has expended funds for the benefit of the Joint Drainage Project prior to the signing of this First Amendment. The funds previously expended by Developer total $166,000.00. Within sixty (60) days of the sale of bonds by the City as referenced in Section 5.02(iv) above (or receipt of funds from any other source to pay for the Joint Drainage Project), the City shall reimburse the Developer the $166,000.00 previously expended by Developer for the benefit of the Joint Drainage Project.

9. Section 10.01 is hereby revised to reflect the correct point of contract for Developer:

Developer: ABBEY LAKES LTD
Patrick Carrigan-Smith
13141 Northwest Freeway
Houston, Texas 77040

BENCHMARK ACQUISITIONS, LLC
Patrick Carrigan-Smith
13141 Northwest Freeway
Houston, Texas 77040
With Copy to : Legal@camillo.com

10. Section 10.12 is hereby added to the Agreement and reads as follows:

Section 10.12 Chapter 2271 – Anti-Boycott of Israel Verification. Developer is not a Company that boycotts Israel and will not boycott Israel so long as the Agreement remains in effect. The terms "boycotts Israel" and "boycott Israel" have the meaning assigned to the term "boycott Israel" in Section 808.001, Texas Government Code. For purposes of this paragraph, "Company" means a for-profit

organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit, but does not mean a sole proprietorship.

11. Section 10.13 is hereby added to the Agreement and reads as follows:

Section 10.13 Chapter 2252 Verification – Anti-Terrorism Verification. At the time of this Agreement, neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor: (i) engages in business with Iran, Sudan, or any foreign terrorist organization pursuant to Subchapter F of Chapter 2252 of the Texas Government Code; or (ii) is a company listed by the Texas Comptroller pursuant to Section 2252.153 of the Texas Government Code. The term "foreign terrorist organization" has the meaning assigned to such term pursuant to Section 2252.151 of the Texas Government Code. For purposes of this paragraph, "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or other entity or business association whose securities are publicly traded, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

12. Section 10.14 is hereby added to the Agreement and reads as follows:

Section 10.14 Chapter 2274 – Anti - Boycott of Energy Companies Verification. Developer is not a Company that boycotts energy companies and will not boycott energy companies so long as the Agreement remains in effect. The terms "boycotts energy companies" and "boycott energy companies" have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code. For purposes of this paragraph, "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit, but does not include a sole proprietorship.

13. Section 10.15 is hereby added to the Agreement and reads as follows:

Section 10.15 Chapter 2274 – Anti - Discrimination of Firearm Entity or Firearm Trade Association Verification. Developer is not a Company that has a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association so long as the Agreement remains in effect. The terms "discriminates against a firearm entity or firearm trade association" and "discriminate against a firearm entity or firearm trade association" have the meaning assigned to the term "discriminate against a firearm entity or firearm trade association" in Section 2274.001(3), Texas Government Code (as added by SB 19). For purposes of this paragraph, "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit, but does not mean a sole proprietorship.

14. Section 10.16 is hereby added to the Agreement and reads as follows:

Section 10.16 Chapter 2274 - Lone Star Infrastructure Protection Act Verification. If under this Agreement, Developer is granted direct or remote access to the control of critical infrastructure, excluding access specifically allowed for product warranty and support, neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Contractor, nor any of its sub-contractors (i) is owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia or any designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, of any designated country; and (ii) is headquartered in China, Iran, North Korea, Russia or a designated country. The term "designated country" means a country designated by the Governor as a threat to critical

infrastructure under Section 113.003 of the Texas Business & Commerce Code. The term "critical infrastructure" means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system, or water treatment facility.

15. **Exhibit B**, Concept Plan is attached and hereby amended.

16. **Exhibit G**, Joint Drainage Projects Exhibit, is attached and hereby amended.

17. A Form 1295 has been executed by Developer prior to the execution of this document.

18. Except as specifically amended in this First Amendment, the Agreement shall remain in full force and effect in accordance with its original terms and conditions, and nothing in this First Amendment affects the validity of the Agreement.

19. Capitalized terms used herein shall have the same meanings given them in the Agreement. The Developer will assign its payment obligations under this Agreement to MUD 234. Upon acceptance of such assignment by MUD 234, Developer is only responsible for making advances to MUD 234 to the extent necessary prior to MUD 234's levying a tax sufficient for such annual payments and shall have no obligation for the payment of the City's bonds nor will it be an obligated party for purposes of the City's bonds.

20. This First Amendment, and the obligations imposed upon MUD 234 hereunder, is contingent upon MUD 234 signing the joinder agreement attached hereto and made a part hereof.

[Execution pages follow.]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment in multiple copies, each of equal dignity, as of the Effective Date.

BENCHMARK ACQUISITIONS, LLC,
a Texas limited liability company

By: _____
Name: Patrick Carrigan-Smith
Title: Manager

THE STATE OF TEXAS §
§
COUNTY OF Harris §

This instrument was acknowledged before me on the 26th day of March, 2024, by Patrick Carrigan-Smith, manager of Benchmark Acquisitions, LLC, a Texas limited liability company, on behalf of said limited liability company.

Jerry Wayne LeBlanc III
My Commission Expires
9/25/2027
Notary ID 134572577

_____
Notary Public, State of Texas

(NOTARY SEAL)

ABBEY LAKES LTD.
a Texas limited partnership

By: C.I.L. Holdings LLC
a Texas limited liability company
its sole General Partner

By: _____
Name: Patrick Carrigan-Smith
Title: Vice President, Land Acquisition & Development

THE STATE OF TEXAS §
§
COUNTY OF Harris §

This instrument was acknowledged before me on March 26th, 2024, by Patrick Carrigan-Smith, VP Land Development & Acquisition of C.I.L. Holdings LLC, a Texas limited liability company, the sole General Partner of Abbey Lakes Ltd., a Texas limited partnership, on behalf of said company and partnership.

Jerry Wayne LeBlanc III
My Commission Expires
9/25/2027
Notary ID134572577

_____
Notary Public, State of Texas

(NOTARY SEAL)

CITY OF SUGAR LAND, TEXAS,
a municipal corporation

By: _____
Michael W. Goodrum, City Manager

ATTEST:

_____
Thomas Harris, III, City Secretary

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the_____day of_____, 2024, by Michael W. Goodrum, City Manager of the City of Sugar Land, Texas, a municipal corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

(NOTARY SEAL)

JOINDER AGREEMENT

For and in consideration of the benefits of the Development Agreement by and between the City of Sugar Land, Texas, Benchmark Acquisitions, LLC and Abbey Lakes Interest, L.P., dated the March 1, 2022 ("Agreement"), as amended by this First Amendment, receipt and sufficiency of which consideration is hereby acknowledged and agreed to, the undersigned hereby acknowledges and agrees that by executing this joinder, (i) it will become and be joined as a party to the Agreement, and (ii) to the extent the Agreement creates rights and obligations on behalf of the undersigned, it agrees to be bound by the terms of the Agreement that obligate the undersigned as if it were a party to the Agreement. The joinder shall apply to the First Amendment and any subsequently executed amendment to the Agreement approved by the parties.

ACCEPTED AND AGREED TO this 22nd day of March, 2024.

Fort Bend County Municipal Utility District No. 234

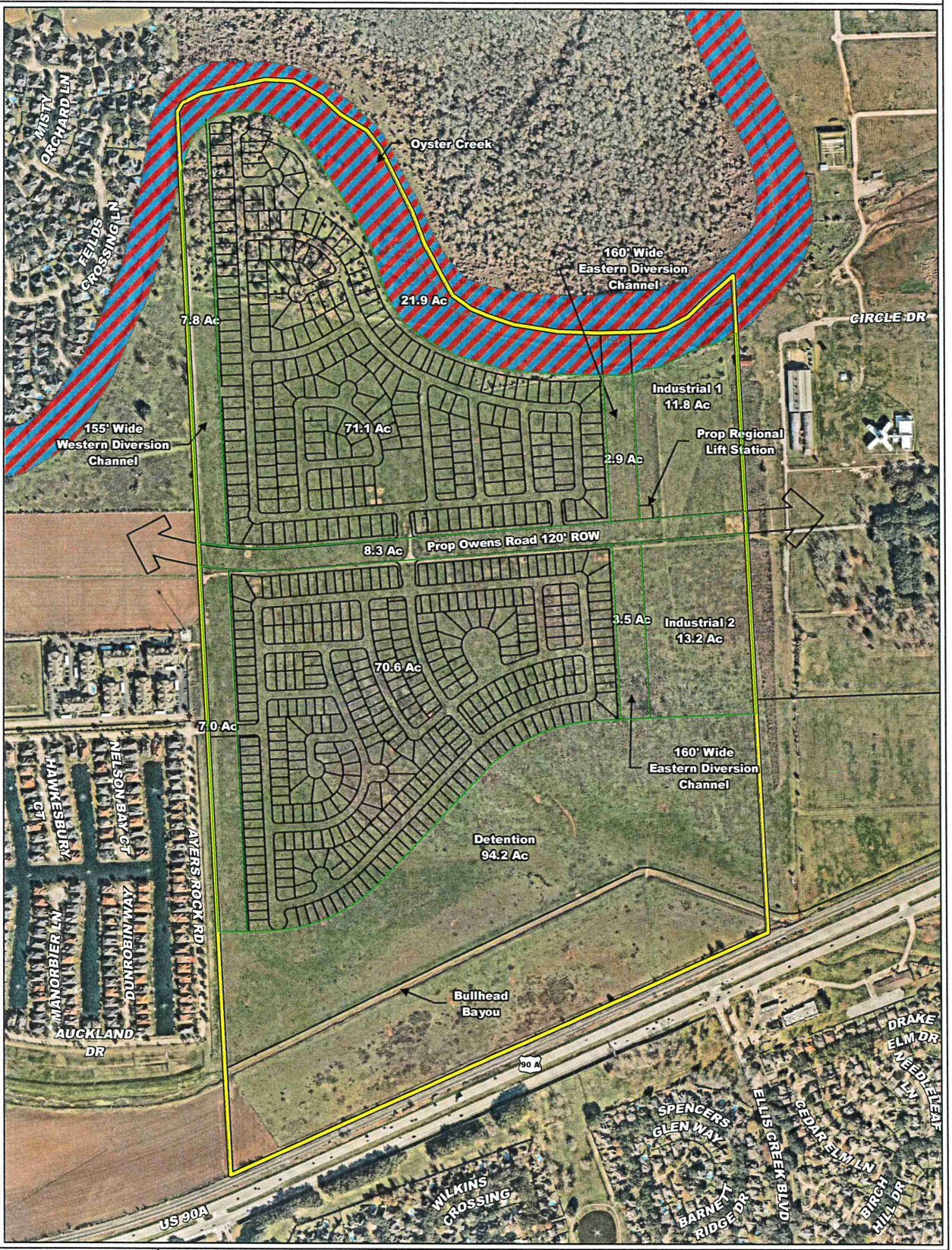
By: _____
Johnathan Aelmore, Vice President

ATTEST:

By: _____
Jason Moore, Secretary

Revised Exhibit B – Aerial Land Plan (Page 1)

EXHIBIT B - AERIAL LAND PLAN OVERALL



VICINITY MAP
1 INCH = 10 MILES

ABBEY LAKES
FORT BEND COUNTY, TEXAS

0 500
1 INCH : 500 FEET
IMAGERY PROVIDED BY NEARMAP©

LEGEND
- Floodway
- District Boundary

Lot Summary
50' x 100' - 371 Lots
60' x 110' - 266 Lots
Total - 637 Lots

ESFCs
SF Lots - 637 ESFCs
Rec Center - 4 ESFCs
Industrial - 100 ESFCs (4 ESFCs/ac)
Total - 741 ESFCs

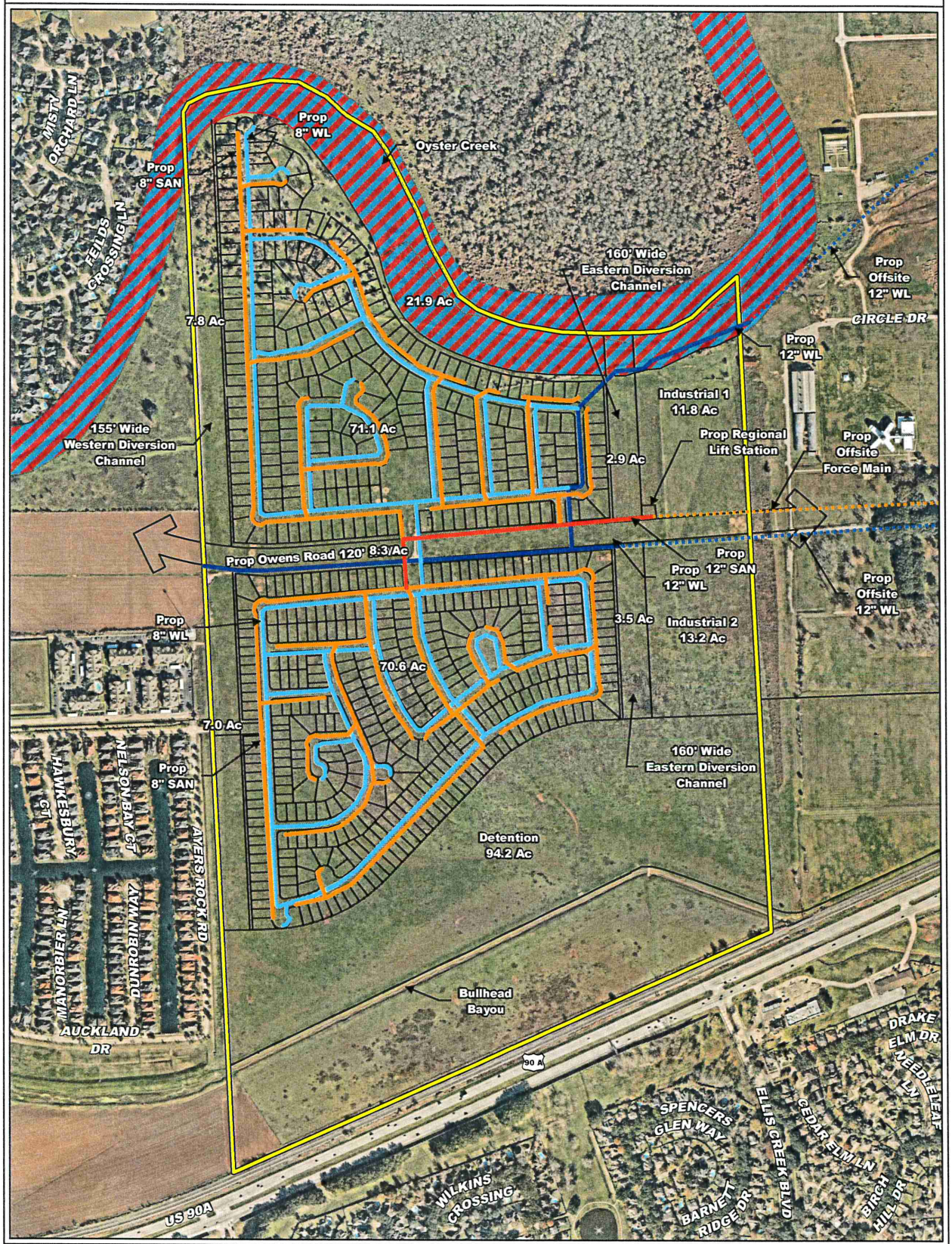
Acreage Summary
Detention - 94.2 ac
Diversion Channels - 21.2 ac
Oyster Creek Floodway - 21.9
Owens Road - 8.3 ac
Single Family - 141.9 ac
Industrial - 25.0 ac
Total FBCMUD 234 - 312.5 ac

QUIDDITY
Texas Board of Professional Engineers Registration No. F-23290

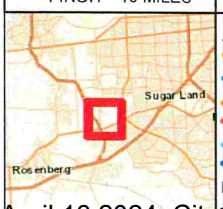
P:\Practice Workspace\Corporate Services\GIS\Projects\0_Individuals\M_Ramirez\FB234\Aerial_Land_Plan_11x17.mxd Project Number: XXXXX-XXXX-XX Date: 3/6/2024 User Name: ada1

Revised Exhibit B – Proposed Utilities (Page 2)

EXHIBIT B - PROPOSED UTILITIES



VICINITY MAP
1 INCH = 10 MILES



ABBEY LAKES
FORT BEND COUNTY, TEXAS

0 500
1 INCH : 500 FEET
IMAGERY PROVIDED BY NEARMAP©

LEGEND
- Proposed Offsite Force Main
- Proposed Offsite Waterline
- Proposed 8" Sewerline
- Proposed 12" Sewerline
- Proposed 8" Waterline
- Proposed 12" Waterline
- Floodway

Lot Summary
50' x 100' - 371 Lots
60' x 110' - 266 Lots
Total - 637 Lots

ESFCs
SF Lots - 637 ESFCs
Rec Center - 4 ESFCs
Industrial - 100 ESFCs (4 ESFCs/ac)
Total - 741 ESFCs

Acreage Summary
Detention - 94.2 ac
Diversion Channels - 21.2 ac
Oyster Creek Floodway - 21.9
Owens Road - 8.3 ac
Single Family - 141.9 ac
Industrial - 25.0 ac
Total FBCMUD 234 - 312.5 ac

QUIDDITY
Texas Registered Professional Engineers Registration No. F-23290

Path: V:\Practice Workspace\Corporate Services\GIS\Projects\0_Individuals\M_Ramirez\FB234\Proposed_Utilities_11x17.mxd Project Number: XXXXX-XXXX-XX Date: 3/6/2024 User Name: ada1

Revised Exhibit B – Proposed Utility Connections (Page 3)

PROPOSED
UTILITY CONNECTION
EXHIBIT B
FBCMUD No. 234
FORT BEND COUNTY, TEXAS
1 INCH : 600 FEET
IMAGERY PROVIDED BY NEARMAP
VICINITY MAP
1 INCH = 10 MILES
LEGEND
Prop. Waterline
Prop. Force Main
Prop. Lift Station
Ex. Waterline
Ex. Sanitary Sewer
Ex. Force Main
District Boundary
EX. 16" W.L.
SMITHVILLE
CONNECT TO EXISTING 16"
PROP. 12" W.L.
EX. OYSTER CREEK
PROP. REGIONAL LIFT STATION
PROP. 12" W.L.
PROP. JOHN SHARP DRIVE
(120' ROW)
PROPERTY BOUNDARY
PROP. FORCE MAIN
PROP. 12" W.L.
BENCHMARK ACQUISITIONS
PROP. LINE
EX. BULLHEAD SLOUGH
FORCE MAIN
CONNECTION TO CITY
SANITARY SEWER
SYSTEM
EX. 12" SAN.
EX. 8" W.L.
EX. 12" SAN.
EX. 12" W.L.
PROP. 12" W.L.
CONNECTION TO
EXISTING 12" W.L.
EX. 12" SAN.
EX. 8" W.L.
US 90A
SPENCERS GLEN WAY
CEDAR ELM LN
NEEDLELEAF LN
MAPLE DR
SCARLET
EASTON AVE
GHATHAM AVE
AYERS ROCK RD
DUNROBIN WAY
NELSON BAY CT
FIELDS CROSSING LN
GIRGLE DR
SH 6
6
90 A

Exhibit F Property Descriptions for Options Tracts

County: Fort Bend
Project: Abbey Lakes (FBC MUD No. 234)
M.S.G. No.: 221160
Job Number: 1102-DS

FIELD NOTES FOR 15.748 ACRES

Being a 15.748 acres (685,965 square feet) tract of land, located in the Mills M. Battle League, Abstract Number (No.) 9, Fort Bend County, Texas; said 15.748 acre tract being a portion of a called 311.889 acre tract, recorded in the name of Benchmark Acquisitions, LLC in Fort Bend County Clerk's File (F.B.C.C.F.) No. 2007046117 and being a portion of Tract 2, called 311.885 acres, of State of Texas Department of Highways and Public Transportation, a subdivision plat of record in Slides No. 1831B and 1832A, Fort Bend County Plat Records (F.B.C.P.R.); said 15.748 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the Texas Coordinate System of 1983, South Central Zone, per G.P.S. observations).

COMMENCING at a 5/8-inch iron rod found at the southeast corner of a called 20 acre tract recorded in the name of Robert Schumann in Volume (Vol.) 66, Page (Pg.) 486, Probate Records of Fort Bend County (P.R.F.B.C.), being on the northerly Right-of-Way (R.O.W.) line of the Southern Pacific Railroad (100 feet wide; Vol. V, Pg. 226, and Vol. 39, Pg. 220, both of the Fort Bend County Deed Records (F.B.C.D.R.), marking the southwest corner of said 311.889 acre tract;

Thence, with the northerly R.O.W. line of said Southern Pacific Railroad, North 65 degrees 40 minutes 42 seconds East, a distance of 3,232.11 feet to a 5/8-inch iron rod found for the southeast corner of said 311.889 acre tract, and the southwest corner of the residue of a called 5202.88 acre tract recorded in the name of Central Prison Farm, in Volume 152, Page 425, F.B.C.D.R.;

Thence, with the westerly line of said residue tract and the east line of said 311.889 acre tract, North 02 degrees 47 minutes 39 seconds West, a distance of 1,256.12 feet to the **POINT OF BEGINNING** of the herein described tract;

Thence, through and across said 311.889 acre tract the following three (3) courses:

1. South 87 degrees 13 minutes 36 seconds West, a distance of 746.07 feet to an angle point at the southwest corner of the herein described tract;

2. North 02 degrees 47 minutes 14 seconds West, a distance of 906.71 feet to an angle point at the northwest corner of the herein described tract;

3. North 85 degrees 15 minutes 42 seconds East, a distance of 746.39 feet to an angle point on the easterly line of said 311.889 acre tract and the westerly line of said residue tract, being the northeast corner of the herein described tract;

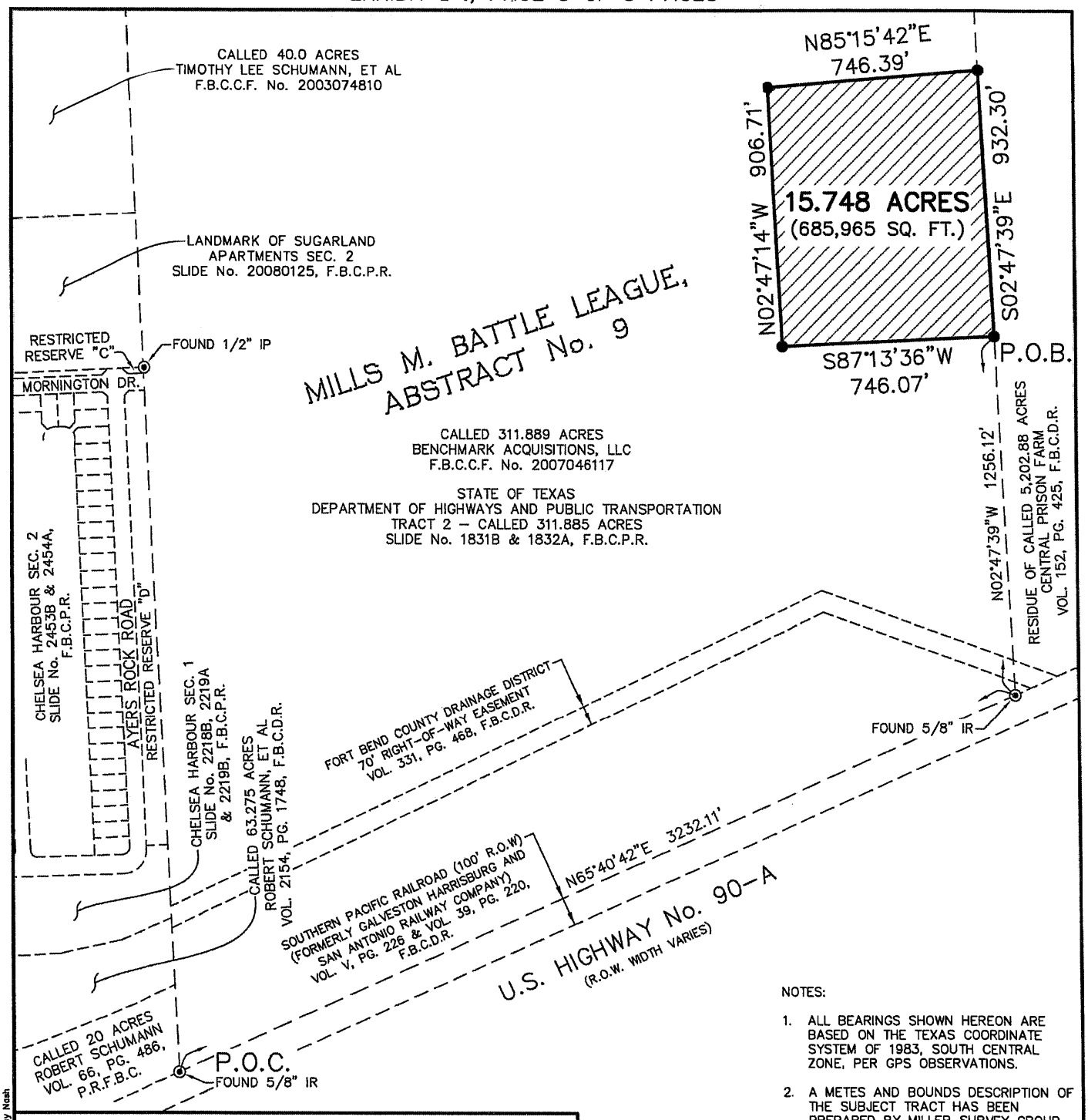
Thence, along the line common to said 311.889 acre tract and said residue tract, South 02 degrees 47 minutes 39 seconds East, a distance of 932.30 feet to the **POINT OF BEGINNING** and containing 15.748 acres (685,965 square feet) of land.

An Exhibit of the herein described tract has been prepared by Miller Survey Group and accompanies this description.

Anthony R. Peacock

Anthony R. Peacock, R.P.L.S.
Texas Registration No. 5047

Miller Survey Group
www.millersurvey.com
Texas Firm Reg. 10047100
Ph: (713) 413-1900
M&B No. 221160
Dwg. No. 1102-EXH-3
Date: June 10, 2022



NOTES:

1. ALL BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, PER GPS OBSERVATIONS.
2. A METES AND BOUNDS DESCRIPTION OF THE SUBJECT TRACT HAS BEEN PREPARED BY MILLER SURVEY GROUP AND ACCOMPANIES THIS EXHIBIT.

LEGEND

F.B.C.C.F. = FORT BEND COUNTY CLERK'S FILE
F.B.C.P.R. = FORT BEND COUNTY PLAT RECORDS
F.B.C.D.R. = FORT BEND COUNTY DEED RECORDS
P.R.F.B.C. = PROBATE RECORDS OF FORT BEND COUNTY
No. = NUMBER
IR = IRON ROD
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
R.O.W. = RIGHT-OF-WAY
S.F. = SQUARE FEET
PG. = PAGE
VOL. = VOLUME
⊙ = FOUND 5/8-INCH IRON ROD (UNLESS OTHERWISE NOTED)
● = ANGLE POINT

EXHIBIT

15.748 ACRES (685,965 SQ. FT.)

LOCATED IN
MILLS M. BATTLE LEAGUE, ABSTRACT 9
FORT BEND COUNTY, TEXAS

MILLER SURVEY★GROUP
www.millersurvey.com
1760 WEST SAM HOUSTON PARKWAY NORTH★HOUSTON, TEXAS 77043
PHONE 713-413-1900★FAX 713-413-1944
TEXAS FIRM REGISTRATION No. 10047100

JOB No.: 1102-DS	SCALE: 1"= 500'	DATE: 06/10/2022	FIELD BOOK: N/A
DWG. No.: 1102-EXH-3	DRAWN BY: BJN	CHK. BY: ARP	M&B No.: 221160

A:\1102-ABBEY LAKES\DWG\1102-EXH-3_RECOVER.DWG 5/9/22 BJay Nash

County: Fort Bend
Project: Abbey Lakes (FBC MUD No. 234)
M.S.G. No.: 221161
Job Number: 1102-DS

FIELD NOTES FOR 14.625 ACRES

Being a 14.625 acres (637,054 square feet) tract of land, located in the Mills M. Battle League, Abstract Number (No.) 9, Fort Bend County, Texas; said 14.625 acre tract being a portion of a called 311.889 acre tract, recorded in the name of Benchmark Acquisitions, LLC in Fort Bend County Clerk's File (F.B.C.C.F.) No. 2007046117 and being a portion of Tract 2, called 311.885 acres, of State of Texas Department of Highways and Public Transportation, a subdivision plat of record in Slides No. 1831B and 1832A, Fort Bend County Plat Records (F.B.C.P.R.); said 14.625 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the Texas Coordinate System of 1983, South Central Zone, per G.P.S. observations).

COMMENCING at a 5/8-inch iron rod found at the southeast corner of a called 20 acre tract recorded in the name of Robert Schumann in Volume (Vol.) 66, Page (Pg.) 486, Probate Records of Fort Bend County (P.R.F.B.C.), being on the northerly Right-of-Way (R.O.W.) line of the Southern Pacific Railroad (100 feet wide; Vol. V, Pg. 226, and Vol. 39, Pg. 220, both of the Fort Bend County Deed Records (F.B.C.D.R.), marking the southwest corner of said 311.889 acre tract;

Thence, with the northerly R.O.W. line of said Southern Pacific Railroad, North 65 degrees 40 minutes 42 seconds East, a distance of 3,232.11 feet to a 5/8-inch iron rod found for the southeast corner of said 311.889 acre tract, and the southwest corner of the residue of a called 5202.88 acre tract recorded in the name of Central Prison Farm, in Volume 152, Page 425, F.B.C.D.R.;

Thence, with the westerly line of said residue tract and the east line of said 311.889 acre tract, North 02 degrees 47 minutes 39 seconds West, a distance of 2,308.49 feet to the **POINT OF BEGINNING** of the herein described tract;

Thence, through and across said 311.889 acre tract the following five (5) courses:

1. South 85 degrees 15 minutes 42 seconds West, a distance of 746.38 feet to an angle point at the southwest corner of the herein described tract;

2. North 02 degrees 47 minutes 14 seconds West, a distance of 814.65 feet to an angle point at the northwest corner of the herein described tract;

3. North 86 degrees 10 minutes 17 seconds East, a distance of 294.05 feet to an angle point;

4. North 75 degrees 22 minutes 29 seconds East, a distance of 234.34 feet to an angle point;

5. North 49 degrees 00 minutes 26 seconds East, a distance of 283.10 feet to an angle point on the easterly line of said 311.889 acre tract and the westerly line of said residue tract, being the northeast corner of the herein described tract;

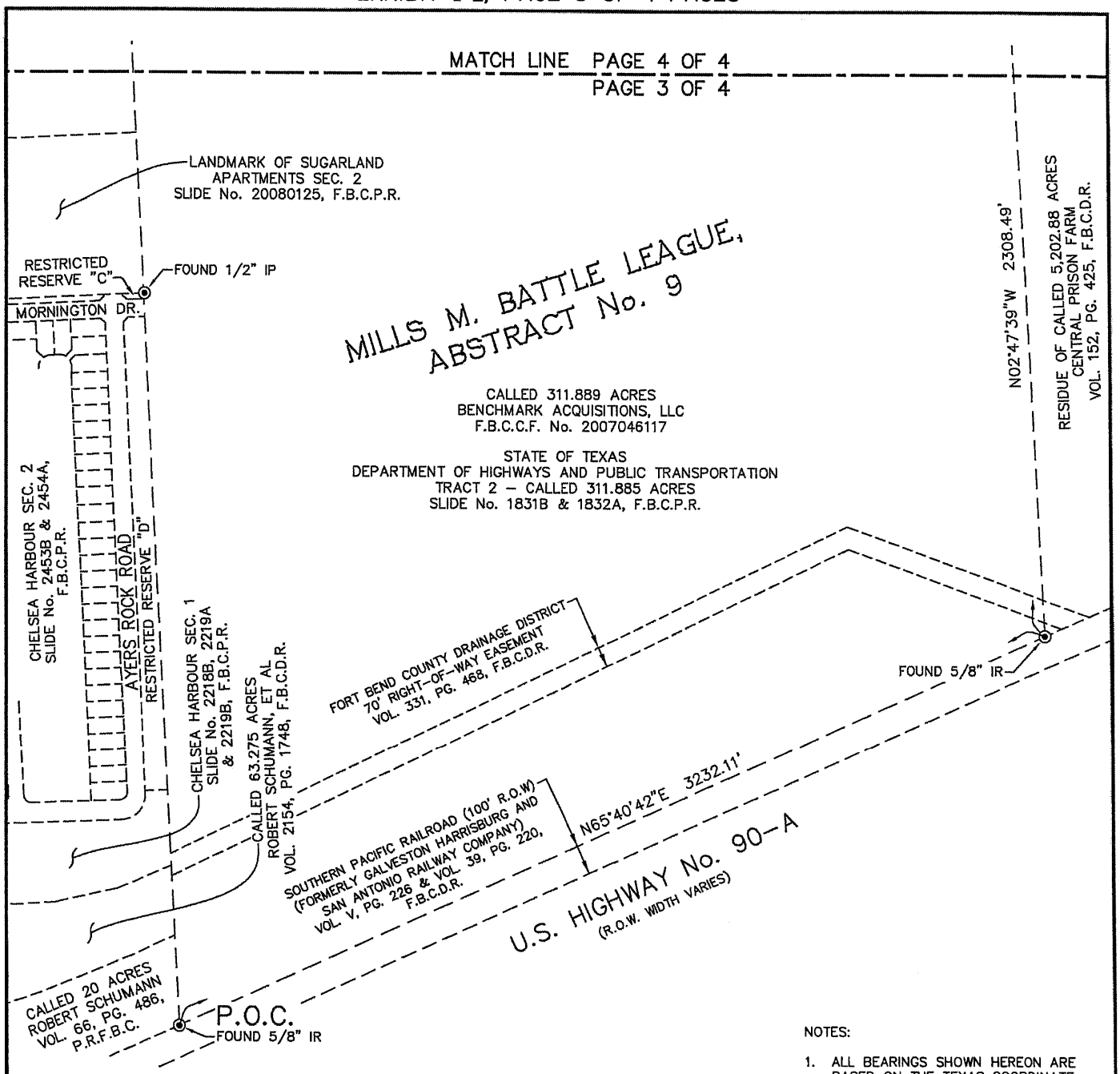
Thence, along the line common to said 311.889 acre tract and said residue tract, South 02 degrees 47 minutes 39 seconds East, a distance of 1,017.75 feet to the **POINT OF BEGINNING** and containing 14.625 acres (637,054 square feet) of land.

An Exhibit of the herein described tract has been prepared by Miller Survey Group and accompanies this description.

Anthony R. Peacock

Anthony R. Peacock, R.P.L.S.
Texas Registration No. 5047

Miller Survey Group
www.millersurvey.com
Texas Firm Reg. 10047100
Ph: (713) 413-1900
M&B No. 221161
Dwg. No. 1102-EXH-4
Date: June 10, 2022



NOTES:

1. ALL BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, PER GPS OBSERVATIONS.
2. A METES AND BOUNDS DESCRIPTION OF THE SUBJECT TRACT HAS BEEN PREPARED BY MILLER SURVEY GROUP AND ACCOMPANIES THIS EXHIBIT.

EXHIBIT

14.625 ACRES (637,054 SQ. FT.)

LOCATED IN
MILLS M. BATTLE LEAGUE, ABSTRACT 9
FORT BEND COUNTY, TEXAS

MILLER SURVEY★GROUP
www.millersurvey.com
1760 WEST SAM HOUSTON PARKWAY NORTH★HOUSTON, TEXAS 77043
PHONE 713-413-1900★FAX 713-413-1944
TEXAS FIRM REGISTRATION No. 1 0047100

JOB No.: 1102-DS	SCALE: 1"= 500'	DATE: 06/10/2022	FIELD BOOK: N/A
DWG. No.: 1102-EXH-4	DRAWN BY: BJN	CHK. BY: ARP	M&B No.: 221161

A:\1102-ABBEY LAKES\DWG\1102-EXH-4.DWG 6/9/22 Bjoy Nash

LEGEND

F.B.C.C.F. = FORT BEND COUNTY CLERK'S FILE
F.B.C.P.R. = FORT BEND COUNTY PLAT RECORDS
F.B.C.D.R. = FORT BEND COUNTY DEED RECORDS
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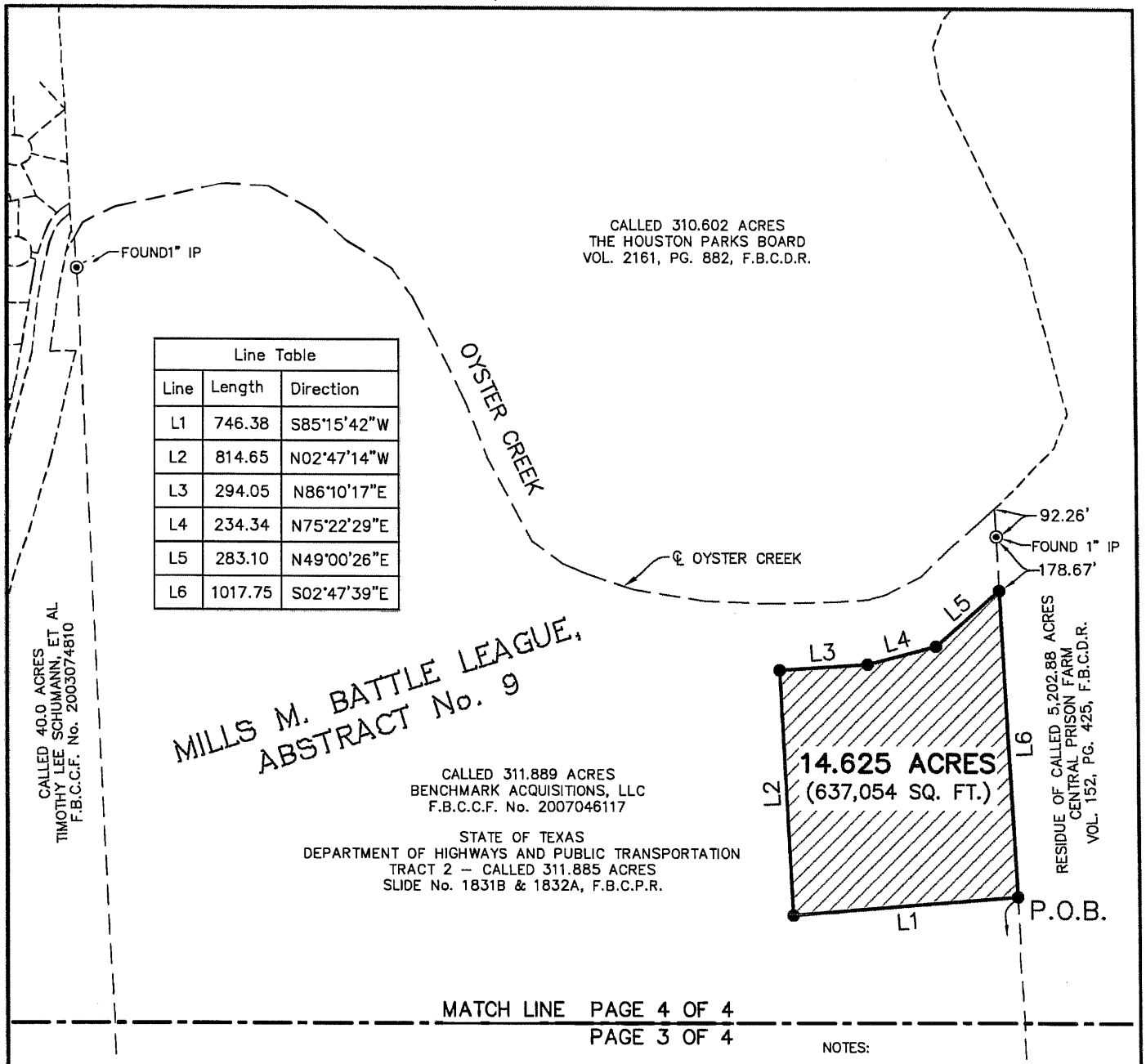
P.O.C. = POINT OF COMMENCEMENT
R.O.W. = RIGHT-OF-WAY
S.F. = SQUARE FEET
PG. = PAGE
VOL. = VOLUME
◉ = FOUND 5/8-INCH IRON ROD (UNLESS OTHERWISE NOTED)
● = ANGLE POINT



Line Table		
Line	Length	Direction
L1	746.38	S85°15'42"W
L2	814.65	N02°47'14"W
L3	294.05	N86°10'17"E
L4	234.34	N75°22'29"E
L5	283.10	N49°00'26"E
L6	1017.75	S02°47'39"E

MATCH LINE PAGE 4 OF 4
PAGE 3 OF 4

NOTES:

1. ALL BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, SOUTH CENTRAL ZONE, PER GPS OBSERVATIONS.
2. A METES AND BOUNDS DESCRIPTION OF THE SUBJECT TRACT HAS BEEN PREPARED BY MILLER SURVEY GROUP AND ACCOMPANIES THIS EXHIBIT.

EXHIBIT
14.625 ACRES (637,054 SQ. FT.)
LOCATED IN
MILLS M. BATTLE LEAGUE, ABSTRACT 9
FORT BEND COUNTY, TEXAS

MILLER
SURVEY★GROUP
www.millersurvey.com
1760 WEST SAM HOUSTON PARKWAY NORTH★HOUSTON, TEXAS 77043
PHONE 713-413-1900★FAX 713-413-1944
TEXAS FIRM REGISTRATION No. 10047100

JOB No.: 1102-DS	SCALE: 1"= 500'	DATE: 06/10/2022	FIELD BOOK: N/A
DWG. No.: 1102-EXH-4	DRAWN BY: BJN	CHK. BY: ARP	M&B No.: 221161

LEGEND

F.B.C.C.F. = FORT BEND COUNTY CLERK'S FILE
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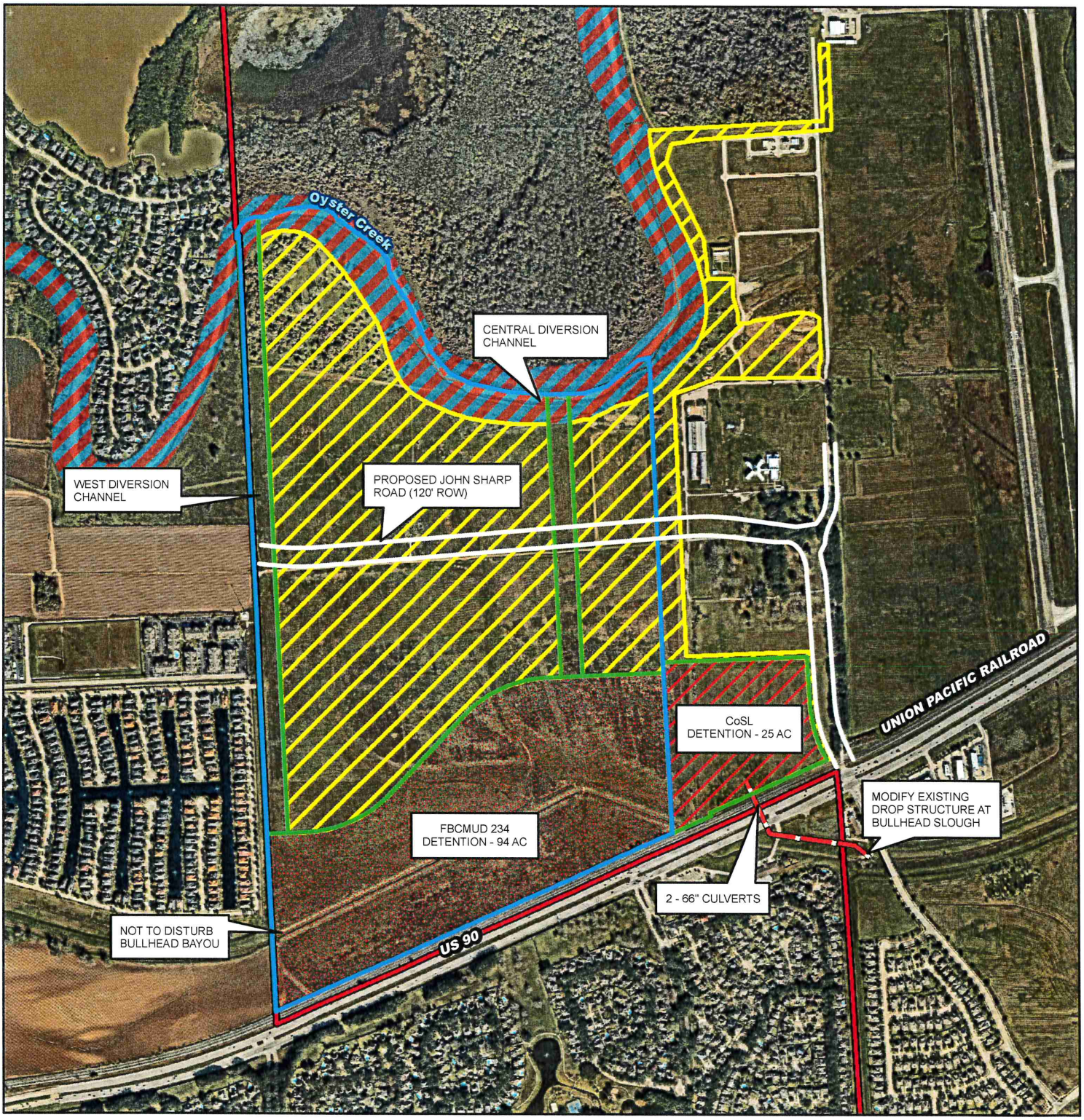
S.F. = SQUARE FEET
PG. = PAGE
VOL. = VOLUME
⊙ = FOUND 5/8-INCH IRON ROD (UNLESS OTHERWISE NOTED)
● = ANGLE POINT

A:\1102-ABBEY LAKES\DWG\1102-EXH-4.DWG 6/8/22 BJay Nash

Exhibit G Joint Drainage Projects

PROPOSED FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 234
JOINT DRAINAGE PROJECT EXHIBIT G



VICINITY MAP
1 INCH = 10 MILES

OYSTER CREEK DIVERSION CHANNEL AND DETENTION
SUGAR LAND, TEXAS

0 500 1,000
1 INCH=1,000 FEET
IMAGERY PROVIDED BY NEARMAP

LEGEND

- City of Sugarland City Limits
- Drainage Project
- Fill Area
- FEMA Floodway
- FBCMUD 234 Boundary
- FBCMUD 234 Detention (94 Acres)
- CoSL Detention (25 Acres)

Total Detention Acreage = 119 acres

QUIDDITY
Texas Board of Professional Engineers Registration No. F-23290

Path: K:\00237\00237-0061-00 Oyster Creek Diversion Channel and Deten\2 Design Phase\Analysis\2_GIS\0_MXD\Other_Working\JointDrainageProjectsExhibit_v2_Floodway.mxd Project Number: 00237-0061-00 Date: 2/20/2024 User Name: CLH

Exhibit J Debt Service Schedule

City of Sugar Land, Texas

Combination Tax and Surplus Revenue Certificates of Obligation

Taxable Series 2022 - TWDB (FIF)

Sources & Uses

Dated 09/20/2022 | Delivered 09/20/2022

Sources Of Funds	
Par Amount of Bonds	$27,500,000.00
Total Sources	**$27,500,000.00**

Uses Of Funds	
Costs of Issuance	90,510.00
Rounding Amount	27,409,490.00
Total Uses	**$27,500,000.00**

Debt Service Schedule

Date	Principal	Coupon	Total P+I	Fiscal Total
09/20/2022	-	-	-	-
02/15/2024	915,000.00	-	915,000.00	-
09/30/2024	-	-	-	915,000.00
02/15/2025	915,000.00	-	915,000.00	-
09/30/2025	-	-	-	915,000.00
02/15/2026	915,000.00	-	915,000.00	-
09/30/2026	-	-	-	915,000.00
02/15/2027	915,000.00	-	915,000.00	-
09/30/2027	-	-	-	915,000.00
02/15/2028	915,000.00	-	915,000.00	-
09/30/2028	-	-	-	915,000.00
02/15/2029	915,000.00	-	915,000.00	-
09/30/2029	-	-	-	915,000.00
02/15/2030	915,000.00	-	915,000.00	-
09/30/2030	-	-	-	915,000.00
02/15/2031	915,000.00	-	915,000.00	-
09/30/2031	-	-	-	915,000.00
02/15/2032	915,000.00	-	915,000.00	-
09/30/2032	-	-	-	915,000.00
02/15/2033	915,000.00	-	915,000.00	-
09/30/2033	-	-	-	915,000.00
02/15/2034	915,000.00	-	915,000.00	-
09/30/2034	-	-	-	915,000.00
02/15/2035	915,000.00	-	915,000.00	-
09/30/2035	-	-	-	915,000.00
02/15/2036	915,000.00	-	915,000.00	-
09/30/2036	-	-	-	915,000.00
02/15/2037	915,000.00	-	915,000.00	-
09/30/2037	-	-	-	915,000.00
02/15/2038	915,000.00	-	915,000.00	-
09/30/2038	-	-	-	915,000.00
02/15/2039	915,000.00	-	915,000.00	-
09/30/2039	-	-	-	915,000.00
02/15/2040	915,000.00	-	915,000.00	-
09/30/2040	-	-	-	915,000.00
02/15/2041	915,000.00	-	915,000.00	-
09/30/2041	-	-	-	915,000.00
02/15/2042	915,000.00	-	915,000.00	-
09/30/2042	-	-	-	915,000.00
02/15/2043	915,000.00	-	915,000.00	-
09/30/2043	-	-	-	915,000.00
02/15/2044	920,000.00	-	920,000.00	-
09/30/2044	-	-	-	920,000.00
02/15/2045	920,000.00	-	920,000.00	-
09/30/2045	-	-	-	920,000.00
02/15/2046	920,000.00	-	920,000.00	-
09/30/2046	-	-	-	920,000.00
02/15/2047	920,000.00	-	920,000.00	-
09/30/2047	-	-	-	920,000.00
02/15/2048	920,000.00	-	920,000.00	-
09/30/2048	-	-	-	920,000.00
02/15/2049	920,000.00	-	920,000.00	-
09/30/2049	-	-	-	920,000.00
02/15/2050	920,000.00	-	920,000.00	-
09/30/2050	-	-	-	920,000.00
02/15/2051	920,000.00	-	920,000.00	-
09/30/2051	-	-	-	920,000.00
02/15/2052	920,000.00	-	920,000.00	-
09/30/2052	-	-	-	920,000.00
02/15/2053	920,000.00	-	920,000.00	-
09/30/2053	-	-	-	920,000.00
Total	**$27,500,000.00**	-	**$27,500,000.00**	-

Yield Statistics

Bond Year Dollars	$437,826.39
Average Life	15.921 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	-
Bond Yield for Arbitrage Purposes	-
All Inclusive Cost (AIC)	0.0207179%

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	15.921 Years

Debt Service Schedule

Date	Principal	Coupon	Total P+I
09/30/2022	-	-	-
09/30/2023	-	-	-
09/30/2024	915,000.00	-	915,000.00
09/30/2025	915,000.00	-	915,000.00
09/30/2026	915,000.00	-	915,000.00
09/30/2027	915,000.00	-	915,000.00
09/30/2028	915,000.00	-	915,000.00
09/30/2029	915,000.00	-	915,000.00
09/30/2030	915,000.00	-	915,000.00
09/30/2031	915,000.00	-	915,000.00
09/30/2032	915,000.00	-	915,000.00
09/30/2033	915,000.00	-	915,000.00
09/30/2034	915,000.00	-	915,000.00
09/30/2035	915,000.00	-	915,000.00
09/30/2036	915,000.00	-	915,000.00
09/30/2037	915,000.00	-	915,000.00
09/30/2038	915,000.00	-	915,000.00
09/30/2039	915,000.00	-	915,000.00
09/30/2040	915,000.00	-	915,000.00
09/30/2041	915,000.00	-	915,000.00
09/30/2042	915,000.00	-	915,000.00
09/30/2043	915,000.00	-	915,000.00
09/30/2044	920,000.00	-	920,000.00
09/30/2045	920,000.00	-	920,000.00
09/30/2046	920,000.00	-	920,000.00
09/30/2047	920,000.00	-	920,000.00
09/30/2048	920,000.00	-	920,000.00
09/30/2049	920,000.00	-	920,000.00
09/30/2050	920,000.00	-	920,000.00
09/30/2051	920,000.00	-	920,000.00
09/30/2052	920,000.00	-	920,000.00
09/30/2053	920,000.00	-	920,000.00
Total	**$27,500,000.00**	**-**	**$27,500,000.00**

Yield Statistics

Bond Year Dollars	$437,826.39
Average Life	15.921 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	-
Bond Yield for Arbitrage Purposes	-
All Inclusive Cost (AIC)	0.0207179%

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	15.921 Years

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SUGAR LAND, TEXAS,
BENCHMARK ACQUISITIONS, LLC, AND
ABBEY LAKES INTEREST, L.P.

EXHIBITS

Exhibit A	-	Property Description
Exhibit B	-	Concept Plan
Exhibit C	-	Option Agreement (Industrial Development Tracts)
Exhibit D	-	Avigation Easement
Exhibit E	-	Utility Agreement
Exhibit F	-	[Reserved]
Exhibit G	-	Regional Drainage Project List & Map
Exhibit H	-	Owens Road Schematic
Exhibit I	-	Memorandum of Agreement

DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF SUGAR LAND, TEXAS, BENCHMARK ACQUISITIONS, LLC AND ABBEY LAKES INTEREST, L.P.

This Development Agreement (the "Agreement") is made and entered into as of the effective date by and between:

1) THE CITY OF SUGAR LAND, TEXAS (the "City"), a home rule city duly incorporated under the laws of the State of Texas, acting by and through its governing body, the City Council of the City of Sugar Land, Texas; and

2) BENCHMARK ACQUISITIONS, LLC, a Texas limited liability company, and ABBEY LAKES INTEREST, L.P., a Texas limited partnership (collectively, "Developer").

RECITALS

Benchmark owns approximately 312 acres of land in Fort Bend County, Texas, located in the City's corporate limits and described in **Exhibit A**, attached hereto and made a part hereof for all purposes (the "Property"). Benchmark intends to transfer the Property to Abbey Lakes, which is a related entity, for development.

The City is a home rule City with all powers except those specifically limited by the Constitution and laws of the State of Texas.

The City's current policy for development in the City's corporate limits allows development through the creation of municipal utility districts in the City's corporate limits with dissolution of a municipal utility district at such time as the City deems feasible and appropriate.

The Developer desires to develop a high-quality community within the Property generally consistent with all development standards applicable to land within the City's corporate limits. However, the Developer represents that securing the financing for the purchase and development of the Property requires an agreement providing for long-term certainty in regulatory requirements, development standards, and timing of dissolution of a municipal utility district by the City.

The City owns an approximately 228-acre tract of land adjacent to the Property that the City intends to develop for municipal purposes and industrial development. The proximity of the City Property and the Property afford the Parties the opportunity to jointly develop certain improvements to achieve cost savings.

The Parties agree that the development of the Property can best proceed pursuant to a development agreement.

It is the intent of this Agreement to establish certain restrictions and commitments imposed and made in connection with the development of the Property.

Accordingly, the City and the Developer are proceeding in reliance on the enforceability of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, the City and the Developer agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATIONS

Section 1.01 Terms Defined In This Agreement.

Unless the context requires otherwise, and in addition to the terms defined above, the following terms and phrases used in this Agreement shall have the meanings set out below:

City means the City of Sugar Land Texas, a home-rule municipal corporation.

City Council means the City Council of the City or any successor governing body.

City Manager means the City Manager of the City.

City Property means that certain 228-acre tract of land owned by the City adjacent to and east of the Property.

Concept Plan means the conceptual land use plan for the proposed development of the Property attached hereto as **Exhibit B**.

Designated Mortgagee means, whether one or more, any mortgagee or security interest holder that has been designated to have certain rights pursuant to Article VI herein.

Developer means Benchmark Acquisitions, LLC, a Texas limited liability company, and Abbey Lakes Interests, L.P., a Texas limited partnership.

Development Code means the Development Code of the City as it exists on the Effective Date (or as amended consistent with Article III of this Agreement.)

Effective Date and similar references mean the date City Council authorizes the Mayor of the City to execute this Agreement.

Generally Accepted Standards means public infrastructure standards imposed by a majority of the municipalities in the Houston Metropolitan statistical area.

Industrial Development Tracts means the 16.09-acre tract and 14.14-acre tract within the Property shown on the Concept Plan and currently zoned Restricted Industrial District (M-1).

Landowner means Benchmark Acquisitions, LLC, and a successor in interest to the Property, except an Ultimate Consumer.

MUD 234 means Fort Bend Municipal Utility District No. 234 created over the Property by HB3019 (2019), as codified in Chapter 8055, Texas Special Districts Local Laws Code.

Ordinance means both the ordinances of the City and any other formal written policies of the City that exist as of the Effective Date

Party or *Parties* means a party or the parties to this Agreement.

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

Property means all the land as described in the attached **Exhibit A**.

TCEQ means the Texas Commission on Environmental Quality and its successors.

Utility Agreement means the Utility Agreement attached hereto as **Exhibit E**.

Ultimate Consumer means the purchaser of a tract or lot within the Property who does not intend to resell, subdivide the tract or lot, or develop public infrastructure to serve the tract or lot in its ordinary course of business.

ARTICLE II
CONCEPT PLAN AND LAND USE

Section 2.01 Introduction. The Property is to be developed as a mixed-use community zoned for residential and industrial uses.

Section 2.02 Concept Plan. The City and the Developer acknowledge that the Concept Plan, attached as Exhibit B, is the Preliminary Plan for the development of the Property. To the extent allowed by law, the City agrees to approve plans, zoning and plats consistent with the land uses shown in the Concept Plan, including plans for single-family residential development, industrial development, alignment of the Owens Road extension, and general layout of water and wastewater trunk lines and drainage facilities. The parties acknowledge and agree that the Concept Plan may be revised and refined by the Developer as the Developer continues its investigation of the Property and prepares a feasible and detailed plan for development of the Property, provided that the Developer will not be authorized to revise the Concept Plan to contradict any requirements of this Agreement. Substantive amendments to the Concept Plan require approval by the City but do not require an amendment to this Agreement.

Section 2.03 Industrial Development Tracts; City Option to Purchase. (a) The City has requested, and the Developer has agreed, to include the Industrial Development Tracts in the Concept Plan. The Developer will within 30 days of the Effective Date, provide the City with Option Agreements on each of the Industrial Development Tracts, in a form and with terms substantially similar to those shown on **Exhibit C** attached hereto or in a form otherwise agreeable to the Parties. The "Option Period" is the five years from the date on which two lanes of Owens Road is open to traffic adjacent to the Industrial Development Tracts, and trunk water, sewer and drainage are available in Owens Road adjacent to the Industrial Development Tracts. For purposes of this section, adjacent means within the Owens Road right-of-way (or utility easements abutting that right of way) that abuts an Industrial Development Tract.

During the Option Period, the Developer may develop all or a portion of the Industrial Development Tracts consistent with the City's Restricted Industrial (M-1) zoning designation. The City and the Developer agree to jointly market the City Property and the Industrial Development Tracts for sale to an industrial developer as a single master-planned industrial park or to individual end users.

After the expiration of the Option Period, the Developer may request, and the City will consider rezoning the Industrial Development Tracts to such other zoning designation as may be appropriate for the market conditions at the time of the request, including residential.

Section 2.04 Avigation Easements. The Developer agrees to grant an Avigation Easement over any portion of the Property zoned for single-family residential purposes, substantially similar to the attached **Exhibit D**.

Section 2.05 Zoning. To the extent allowed by law, the City agrees to initiate and take all necessary action to zone the Property in accordance with the Concept Plan, which includes the City's R-1 and R-1Z Standard Residential Districts and Restricted Industrial (M-1).

ARTICLE III
DESIGN AND CONSTRUCTION STANDARDS AND APPLICABLE ORDINANCES

Section 3.01 Land Use Regulatory Standards, and Development Quality. The City and the Developer agree that one of the primary purposes of this Agreement is to provide for quality development of the Property that is compatible with the standards of development within the City and certainty to the land use 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. In exchange for Developer's performance of the obligations under this Agreement to develop the Property in part for industrial use, in accordance with certain standards and to provide the overall quality of development described herein, the City agrees to the extent allowed by law that it will zone and permit the land uses reflected on the Concept Plan, regulate development using the Ordinance and Development Code currently in place, and not impose or attempt to impose any moratoriums on building or growth within the Property.

By the terms of this Agreement, the City and Developer intend to 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. The City and the Developer agree that the Developer will comply with all City Ordinances and Development Codes.

Section 3.02 Density. Development of the Property shall be generally consistent with the Concept Plan. The parties agree lot and street layout shown on the Concept Plan are for illustration and final layout will be determined through the City's review and approval of plats for the Property.

Section 3.03 Construction Standards for Public Improvements and Drainage Criteria. The financial feasibility of the development is based on cost estimates for public infrastructure using the City's regulations as they exist at the time of this Agreement. The City will allow the Developer and MUD 234 to design and construct all public improvements in accordance with the Ordinances and the Development Code. To the extent allowed by law, the City agrees to modify its regulations for the construction of public improvements only as provided in this paragraph. During the term of this Agreement, the City may modify, supplement or amend the Development Code to make them consistent with Generally Accepted Standards. The criteria and construction standards for drainage facilities and improvements shall be consistent with criteria and standards currently imposed by the City and as further described in Section 5.02.

ARTICLE IV
MUNICIPAL UTILITY DISTRICT PROVISIONS

Section 4.01 Municipal Utility District or Special District.

The Landowner has submitted to the City an executed petition for the City's consent to the creation of MUD 234 and the inclusion of the Property within the boundaries of such district (the "Petition").

The Developer will finance all or part of the obligations to provide public infrastructure, including public water, sewer, stormwater, regional detention, and public roads through MUD 234.

Section 4.02 Dissolution. The City agrees that it will not dissolve or attempt to dissolve MUD 234 until the following conditions have been met:

1) one hundred percent (100%) of the developable acreage within MUD 234 has been developed with water, wastewater treatment, drainage, road and park facilities; and

2) the Developer, or its assigns developing within the District, shall be reimbursed by MUD 234 to the maximum extent permitted by the rules of the Texas Commission on Environmental Quality; or the City assumes any obligation for reimbursement of MUD 234.

As described above, "developable acreage" means the total acreage in MUD 234 less acreage associated with land uses for roads, utility easements, drainage easements, mitigation sites, lakes, creeks, bayous, parks and open space.

Upon dissolution of MUD 234, the City will assume all rights, assets, liabilities and obligations of MUD 234 (including all obligations to reimburse the Developer, or its assigns developing within MUD 234).

Section 4.03 Utility Agreement. The Developer agrees to have the MUD 234 enter into the Utility Agreement within 120 days of the Effective Date. The City will execute the Utility Agreement after approval and execution by MUD 234. All public infrastructure will be provided by the Developer or MUD 234 in accordance with the provisions of the Utility Agreement, the terms of which are incorporated herein by reference. The Developer may itself develop any or all the public improvements pursuant to the terms of the Utility Agreement and is a third-party beneficiary thereof.

Section 4.04 Annexation of City Property. In order to facilitate the development of the City Property, the City may petition MUD 234 to annex all or a portion of the City Property into its boundaries for the purpose of providing a reimbursement mechanism for the infrastructure necessary to serve the City Property. If the City files such a petition, the Developer agrees to use its best efforts to have MUD 234 annex the City Property into the MUD.

ARTICLE V
JOINT FACILITIES

Section 5.01 Introduction. The City Property and the Property share certain impediments to development, including:

i) lack of convenient access to U.S. 90A;

ii) overflow from Oyster Creek that sheet flows across the properties into Bullhead Slough; and

iii) existing railroad tracks located at the southern boundary of the properties that limit the number of and locations of roadway and utility crossings.

In order to remove these development impediments, the City and the Developer have identified several public improvements that can and should be jointly designed and constructed to facilitate the development of their respective properties, including the extension of Owens Road across the properties and the railroad tracks to U.S. 90A, water and sewer trunk lines, flood plain mitigation, and regional drainage and detention.

The timely completion of these improvements is critical to the successful development of the City Property and the Property. The Parties agree to use all commercially reasonable efforts to coordinate the design and construction of these joint facilities to coincide with the development of the Property.

Section 5.02 Floodplain Mitigation/Drainage and Detention. The City has engaged a third-party engineer to prepare a detailed master drainage plan for the region which includes the Property as well as land owned by the City. This report outlines the drainage and detention improvements necessary for the full development of these combined tracts. The City acknowledges that this report provides the full drainage and detention requirements for development of the Property.

The master drainage report outlines that the total volume required for the detention and drainage for development of the combined tracts is 1,651 ac-ft. Based on the report, the City and the Developer have identified a list of joint drainage projects (the "Joint Drainage Projects") that will provide the necessary drainage and detention for development of the Property and the City Property, which Joint Drainage Projects are described and shown on **Exhibit G** attached. The City and the Developer agree to share in the costs of the Joint Drainage Projects as described on and in the shares listed on **Exhibit G**.

The Parties will develop the regional detention/mitigation basin shown on **Exhibit G** (the "Detention/Mitigation Basin"). The City will designate the land necessary to provide for the approximately 345 acre-feet of detention required to serve the City Property (the "City Detention Tract"), which is approximately 25 acres of land, as soon as practical after the Effective Date. The preliminary location of the City Detention Tract is shown on **Exhibit G** as that portion of the Detention/Mitigation Basin located to the east of the Property. The Developer will transfer the portion of the Detention/Mitigation Basin on the Property to MUD 234. After designation of the City Detention Tract, the City will grant MUD 234 a drainage easement on the City Detention Tract for the construction of the Detention/Mitigation Basin. After the City and the Developer transfer the necessary easement and land to it, MUD 234 will design, bid, construct and maintain the Detention/Mitigation Basin.

The Detention/Mitigation Basin will be developed and paid for as follows:

i) The City will dedicate a total of 25 acres of the City Property for the Detention/Mitigation Basin;

ii) The Developer/MUD 234 will pay the cost to design the Detention/Mitigation Basin;

iii) The Detention/Mitigation Basin design is subject to City review and approval;

iv) The Developer will dedicate a maximum of 94 acres of the Property for the Detention/Mitigation Basin;

v) Each Party will pay their pro-rata share (using the same formula in Section 5.02) of construction costs for the Detention/Mitigation Basin as those costs come due and payable (or as otherwise may be agreed by MUD 234); and

vi) After construction, the City will maintain the Detention/Mitigation Basin, and MUD 234 will pay its pro-rata share of such maintenance costs using the same formula as shown on **Exhibit G**.

vii) The City and MUD 234 will evaluate the potential to jointly develop recreational and/or surface water storage facilities within the Detention/Mitigation Basin.

Section 5.03 Owens Road.

(a) Owens Road is planned as an arterial/major thoroughfare from U.S. 90A to F.M. 1464. Owens Road will serve as the primary access to and from the Property and the City Property. It is the understanding and intention of the Parties that Fort Bend County is responsible for the design, construction and financing of Owens Road from the Grand Parkway to the western boundary of the Property. Voters in the County previously authorized $8.03 million in bonds for Owens Road in 2017. The County has requested additional voter authorization in 2020 in the amount of 9.84 million. The City will enter into an agreement with the County allocating the responsibility and cost for Owens Road consistent with this Agreement. Developer will join that agreement as a party if requested by the City or County. The Developer agrees to dedicate 120-feet of right-of-way and necessary temporary construction easements for the construction of Owens Road as a four-lane divided boulevard within the Property along the alignment shown on **Exhibit H.** The Developer will construct Owens Road on the Property in phases as follows:

i) Developer will plat and dedicate the entire right-of-way for Owens Road as part of its first development plat on the Property;

ii) Developer will construct a minimum of two (2) lanes of Owens Road within the Property as part of its first phase of lot development on the Property;

iii) Developer will construct the remaining two (2) lanes of Owens Road within the Property contemporaneously with either the City's construction of the second two (2) lanes of Owens Road on the City Property, or the County's construction of the second two lanes from the Grand Parkway to the western boundary of the Property.

(b) The City agrees to dedicate all necessary right-of-way for the extension of Owens Road on the City Property. The City will construct Owens Road on the City Property from the Owens

Road Tie-in (defined below) to the common boundary of the City Property and the Property as shown on Exhibit H. The Developer is making application to FEMA for a Conditional Letter of Map Revision ("CLOMR") or Letter of Map Revision (LOMR), as determined by the Floodplain Administrator, for the Property and alignment of Owens Road through the City Property, which application will be made on or before June 1, 2022. The City will diligently pursue securing the necessary agreements, approvals, or permits from Fort Bend County, TxDOT and Union Pacific Railroad necessary for the construction of Owens Road (collectively, the "Owens Road Approvals"). The City will advertise for bids for construction of at least two lanes of Owens Road across the City Property within 30 days of the later of 1) FEMA's approval of the CLOMR/LOMR, or the City's determination that the CLOMR/LOMR is not necessary or required for the construction of Owens Road on the City Property, or 2) the other Owens Road Approvals; provided however, that if a CLOMR/LOMR is determined to be required and if such CLOMR/LOMR requires improvements to be constructed prior to commencing the construction of Owens Road, then the City will advertise for bids within 30 days of the later of 1) the completion of the improvements required by the CLOMR/LOMR, or 2) the other Owens Road Approvals. Thereafter the City will diligently purse competition of the project.

(c) Except as provided in this Section, or in Section 5.04, the Developer will have no additional obligation to construct or pay for the construction of Owens Road.

Section 5.04 The Owens Road Tie-in.

(a) The parties acknowledge that the extension of Owens Road from the Property to U.S. 90A requires an at-grade road crossing at the existing Union Pacific railroad tracks and an adjustment to the vertical elevation of U.S.90A. The roadway crossing will also provide the location and opportunity to extend trunk water lines and trunk sewer lines under the railroad tracks and US 90A to connect to existing City water and sewer infrastructure that will serve the Property and the City Property. Collectively, the road crossing, trunk water line, and trunk sewer line are referred to as the "Owens Road Tie-in."

(b) The City will apply for all and acquire required permits for the construction of the Owens Road Tie-in, including but not limited to the application for and acquisition of any appropriate Texas Department of Transportation and Union Pacific Railroad permits. The City makes no representation as to the timing of approval of such permits but agrees to use reasonable efforts to make proper and timely application and response to such permitting entities.

(c) The design and construction of the Owens Road Tie-in will be funded in whole or part through bonds or other funds provided by the City and/or Fort Bend County. The City will cause the design and construction of the Owens Road Tie-in to include a 12-inch water line and a 24-inch steel sleeve for a regional force main from the existing City facilities to the City Property. To the extent the costs of the Owens Road Tie-in are not funded by Fort Bend County, the City and the Developer agree to share in those additional costs equally.

Section 5.05 Bidding of City-Funded Improvements.

(a) Definitions. In this section:

Improvement means any of the improvements specified in Section 252.043 (d) of the Local Government Code, as amended, for which the City is to provide funding for construction under this Agreement, including floodplain mitigation.

Change order means a change order as specified in Section 252.048 of the Local Government Code.

(b) Bidding Requirements. Developer shall follow the competitive sealed bidding requirements of Chapter 252 of the Local Government Code in soliciting and receiving bids for the construction of any Improvement for which the City is obligated to pay Developer more than $25,000 under this Agreement. The Developer may award the construction contract for any Improvement to any contractor submitting a bid, but the City will be liable for and shall be obligated to pay Developer under this Agreement only the lesser of the following: (1) the amount of the lowest responsible bid received by the Developer, as determined by the City; or (2) the actual amount of the contract awarded by the Developer.

(c) Change Orders. If Developer and City agree that a change order for any Improvement is necessary, the City will approve the change order in the same manner it approves a change order for a contract with the City. The City shall be obligated to pay the cost of the change order within 30 days of the date Developers notify the City that the work covered by the change order has been completed.

(d) City Payment. Within 30 days following the date Developer enters into a contract for the construction of any Improvement that is to be funded by the City, Developer will notify the City in writing of the award of the contract. Within 30 days following the date that Developer notifies the City that construction of the Improvement has begun, the City will pay the Developer the City's pro rata share of the costs of the Improvement pursuant to this Agreement and based upon the amount of the winning bid. Within 60 days of completion of the construction of the Improvement, Developer will cause to be made a final accounting of the costs of the Improvement. The Developer will then invoice the City for its pro rata share of cost overruns, and the City will pay the invoice within 30 days of receipt. Within 30 days of completion of the final audit, the Developer shall reimburse the City the amount of any overpayment by the City.

(e) Applicable Laws. Developer will comply with all of the City's ordinances that apply to the approval and construction of the Improvements and any requirements the City would be required to follow if it were awarding the contract for the construction of the Improvement, including the performance and payment bond requirements of Section 252.044 of the Local Government Code, as amended.

(f) Inspection and Reports. The City's employees and agents shall have the right to inspect the construction of the Improvements as construction progresses. Upon the City's request, Developer and Developer's employees and agents shall provide written documentation regarding the construction of the Improvements.

ARTICLE VI
PROVISIONS FOR DESIGNATED MORTGAGEE

Section 6.01 Notice to Designated Mortgagee. Pursuant to Section 6.03, any Designated Mortgagee shall be entitled to simultaneous notice any time that a provision of this Agreement requires notice to Developer.

Section 6.02 Right of Designated Mortgagee to Cure Default. Any Designated Mortgagee shall have the right, but not the obligation, to cure any default in accordance with the provisions of Section 6.03 and Article VIII.

Section 6.03 Designated Mortgagee. At any time after execution and recordation in the Real Property Records of Fort Bend County, Texas, of any mortgage, deed of trust, or security agreement encumbering the Property or any portion thereof, the Developer (a) shall notify the Parties in writing that the mortgage, deed of trust or security agreement has been given and executed by the Developer, and (b) may change the Developer's address for notice pursuant to Section 10.01 to include the address of the Designated Mortgagee to which it desires copies of notice to be mailed.

At such time as a release of any such lien is filed in the Real Property Records of Fort Bend County, Texas, and the Developer give notice of the release to the Parties as provided herein, all rights and obligations of the Parties with respect to the Designated Mortgagee under this Agreement shall terminate.

The Parties agree that they may not exercise any remedies of default hereunder unless and until the Designated Mortgagee has been given thirty (30) days written notice and opportunity to cure (or commences to cure and thereafter continues in good faith and with due diligence to complete the cure) the default complained of. Whenever consent is required to amend a particular provision of this Agreement or to terminate this Agreement, the Parties agree that this Agreement may not be so amended or terminated without the consent of such Designated Mortgagee; provided, however, consent of a Designated Mortgagee shall only be required to the extent the lands mortgaged to such Designated Mortgagee would be affected by such amendment or termination. Each Party bound or benefited by this Agreement agrees that it will from time to time promptly respond to any written request from designated mortgagee for an assessment of the then current status of performance under this Agreement.

Upon foreclosure (or deed in lieu of foreclosure) by a Designated Mortgagee of its security instrument encumbering the Property, such Designated Mortgagee (and its affiliates) and their successors and assigns shall not be liable under this Agreement for any defaults that are in existence at the time of such foreclosure (or deed in lieu of foreclosure). Furthermore, so long as such Designated Mortgagee (or its affiliates) is only maintaining the Property and marketing it for sale and is not actively involved in the development of the Property, such Designated Mortgagee (and its affiliates) shall not be liable under this Agreement. Upon foreclosure (or deed in lieu of foreclosure) by a Designated Mortgagee, any development of the Property shall be in accordance with this Agreement.

If the Designated Mortgagee and/or any of its affiliates and their respective successors and assigns, undertakes development activity, Designated Mortgagee shall be bound by the terms of this

Agreement. However, under no circumstances shall such Designated Mortgagee ever have liability for matters arising either prior to, or subsequent to, its actual period of ownership of the Property, or a portion thereof, acquired through foreclosure (or deed in lieu of foreclosure).

ARTICLE VII
PROVISIONS FOR DEVELOPER

Section 7.01 Vested Rights. The Parties agree that the Effective Date will be the date used for purposes of Chapter 245, Texas Local Government Code, specifically the date defined by Section 245.002(a).

Section 7.02 Waiver of Actions Under Private Real Property Rights Preservation Act. The Developer hereby waives their right, if any, to assert any causes of action against the City accruing under the Private Real Property Rights Preservation Act, Chapter 2007, Texas Government Code (the "Act"), that the City's execution or performance of this Agreement or any authorized amendment or supplements thereto may constitute, either now or in the future, a "Taking" of Developer's, Developer's grantee's, or a grantee's successor's "Private Real Property," as such terms are defined in the Act. Provided, however, that this waiver does not apply to, and the Developer's and Developer's grantees and successors do not waive their rights under the Act to assert a claim under the Act for any action taken by the City beyond the scope of this Agreement which otherwise may give rise to a cause of action under the Act.

Section 7.03 Developer's Right to Continue Development. The Parties to this Agreement hereby acknowledge and agree that, subject to Section 9.04 of this Agreement, the Developer may sell a portion of the Property to one or more Persons who shall be bound by this Agreement and perform the obligations of Developer hereunder. In the event that there is more than one Person acting as a Developer hereunder, the acts or omissions of one Developer which result in that Developer's default shall not be deemed the acts or omissions of any other Developer, and a performing Developer shall not be held liable for the nonperformance of another Developer. In the case of nonperformance by one or more Developers, the City may pursue all remedies against such nonperforming Developer as set forth in Section 8.05 hereof but shall not impede the planned or ongoing development activities nor pursue remedies against the performing Developer.

Section 7.04 Voter Trailers. The Developer may construct voter trailers on the Property to be served by private wells and septic systems and without platting, notwithstanding any Ordinance to the contrary. The Developer must remove any voter trailers, private wells and septic systems on the Property within three months after the 50th house on the Property is occupied, unless the City Manager approves an extension to this deadline.

ARTICLE VIII
MATERIAL BREACH, NOTICE AND REMEDIES

Section 8.01 Material Breach of Agreement.

(a) It is the intention of the Parties to this Agreement that the Property be developed in accordance with the terms of this Agreement and that Developer follows the development plans as

set out in the Concept Plan as approved by the City or as modified with approval of the City. The Parties acknowledge and agree that any major deviation from the Concept Plan and the concepts of development contained therein and any substantial deviation by Developer from the material terms of this Agreement would frustrate the intent of this Agreement, and therefore, would be a material breach of this Agreement. A material breach of this Agreement by Developer shall be deemed to have occurred in the following instances:

1) Developer's failure to develop the Property in compliance with the Concept Plan, as from time-to-time amended; or

2) Failure of Developer to substantially comply with a provision of this Agreement.

(b) The Parties acknowledge and agree that any substantial deviation by the City from the material terms of this Agreement would frustrate the intent of this Agreement and, therefore, would be a material breach of this Agreement. A material breach of this Agreement by the City shall be deemed to have occurred in the following instances:

1) The imposition or attempted imposition of any moratorium on building or growth on the Property, except as allowed by State law or this Agreement;

2) The imposition of a requirement to provide regionalization of public utilities through some method substantially or materially different than the plan set forth in this Agreement or the Utility Agreement;

3) An attempt by the City to dissolve a MUD serving the Property prior to the occurrence of the conditions set forth in Section 4.02 of this Agreement;

4) An attempt by the City to enforce City ordinances or policies affecting the subdivision or development of the Property other than the Ordinances and Development Code, or that is inconsistent with the terms and conditions of this Agreement; and

5) An attempt by the City to modify or amend the zoning on the Property or the Concept Plan, or otherwise prevent any development of the Property that complies with the requirements of this Agreement.

If a Party to this Agreement believes that another Party has, by act or omission, committed a material breach of this Agreement, the provisions of this Article VIII shall provide the remedies for such default.

Section 8.02 Notice of Developer's Default.

(a) The City Manager shall notify the Developer and each Designated Mortgagee in writing of an alleged failure by a Developer to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The alleged defaulting Developer shall, within thirty (30) days after receipt of such notice or such longer period of time as the City Manager may specify in such notice, either cure such alleged failure or, in a written response to the City Manager, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(b) The City Manager shall determine (a) whether a failure to comply with a provision has occurred; (b) whether such failure is excusable; and (c) whether such failure has been cured or will be cured by the alleged defaulting Developer or a Designated Mortgagee. The alleged defaulting Developer shall make available to the City Manager, if requested, any records, documents or other information necessary to make the determination.

(c) In the event that the City Manager determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the City Manager, or that such failure is excusable, such determination shall conclude the investigation.

(d) If the City Manager determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the alleged defaulting Developer or a Designated Mortgagee in a manner and in accordance with a schedule reasonably satisfactory to the City Manager, then the City Manager shall so notify the City Council in a written report which may recommend action to be taken by the City Council. The City Manager shall provide notice and a copy of such report to each Developer and each Designated Mortgagee. After receipt of such report from the City Manager, or at any time upon its own motion, the City Council may proceed to mediation under Section 8.04 or exercise the applicable remedy under Section 8.05 hereof, provided that if the City Council acts on its own motion, it shall follow the notice and procedural provisions of Section 8.02 hereof.

Section 8.03 Notice of City's Default.

(a) Any Developer shall notify the City Manager in writing of an alleged failure by the City to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The City Manager shall, within 30 days after receipt of such notice or such longer period of time as that Developer may specify in such notice, either cure such alleged failure or, in a written response to each Developer, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

(b) The Developer shall determine (a) whether a failure to comply with a provision has occurred; (b) whether such failure is excusable; and (c) whether such failure has been cured or will be cured by the City. The City Manager shall make available to the Developer, if requested, any records, documents or other information necessary to make the determination.

(c) In the event that the Developer determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the Developer, or that such failure is excusable, such determination shall conclude the investigation.

(d) If the Developer determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the City in a manner and in accordance with a schedule reasonably satisfactory to the Developer, then the Developer shall so notify the City Council in a written report which may request action to be taken by the City Council. The Developer shall provide notice and a copy of such report to the City Manager. If requested in the

Developer's report, the City Manager will add the matter to the agenda of the next meeting of the City Council for consideration and action by City Council.

Section 8.04 Mediation. In the event the Parties to this Agreement cannot, within a reasonable time, resolve their dispute pursuant to the procedures described in Sections 8.02 or 8.03, the Parties agree to submit the disputed issue to non-binding mediation. The Parties shall participate in good faith, but in no event shall they be obligated to pursue mediation that does not resolve the issue within seven days after the mediation is initiated or 14 days after mediation is requested. The Parties participating in the mediation shall share the costs of the mediation equally.

Section 8.05 Remedies.

(a) In the event of a determination by the City that a Developer has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 8.04, the City may, subject to the provisions of Section 7.03, file suit in a court of competent jurisdiction in Fort Bend County, Texas, and seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act and termination of this Agreement as to the breaching Developer.

(b) In the event of a determination by a Developer that the City has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 8.04, the Developer may file suit in a court of competent jurisdiction in Fort Bend County, Texas, and seek any relief available, at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act and termination of this Agreement.

ARTICLE IX.
BINDING AGREEMENT, TERM, AMENDMENT, AND ASSIGNMENT

Section 9.01 Beneficiaries. This Agreement shall bind and inure to the benefit of the Parties, their successors and assigns. In addition to the Parties, Designated Mortgagees, and their respective successors or assigns, shall also be deemed beneficiaries to this Agreement. The terms of this Agreement shall constitute covenants running with the land comprising the Property and shall be binding on all future developers and owners of any portion of the Property, other than Ultimate Consumers. A memorandum of this Agreement, in the form attached hereto as **Exhibit I**, shall be recorded in the County Clerk Official Records of Fort Bend County, Texas.

Section 9.02 Term. This Agreement shall commence and bind the Parties on the Effective Date and continue until a date that is 30 years from its Effective Date, unless terminated on an earlier date pursuant to other provisions or by express written agreement executed by the City and Developer.

Section 9.03 Termination. In the event this Agreement is terminated as provided in this Agreement or is terminated pursuant to other provisions, or is terminated by mutual agreement of the Parties, the Parties shall promptly execute and file of record, in the County Clerk Official Records of Fort Bend County, a document confirming the termination of this Agreement, and such other documents as may be appropriate to reflect the basis upon which such termination occurred.

Section 9.04 Assignment or Sale. Benchmark Acquisitions, LLC will assign all of its rights and obligations under this Agreement to Abbey Lakes Interest, L.P. upon the Landowners transfer of

the Property. After such transfer and assignment, Benchmark Acquisitions, LLC will provide written notice thereof to the City Manager and will thereafter have no further obligations under this Agreement. Developer may assign any rights under this Agreement upon written notice to the City Manager. In the event a Developer desires to sell a portion of the Property to any person other than an Ultimate Consumer, Developer shall promptly notify the City Manager in writing of such sale. Any assignment of rights under this Agreement or sale of the Property, other than to an Ultimate Consumer, shall be subject to this Agreement, and the terms of this Agreement shall be binding upon an assignee or subsequent purchaser of land as provided in Section 9.01 hereof. Any contract, agreement to sell land, or instrument of conveyance of land which is a part of the Property, other than to an Ultimate Consumer, shall recite and incorporate this Agreement as binding on any purchaser or assignee.

Section 9.05 Transfer of Control of Developer. The Developer shall promptly notify the City prior to any substantial change in ownership or control of that Developer. As used herein, the words "substantial change in ownership or control" shall mean a change of more than 49% of the stock or equitable ownership of a Developer. Any contract or agreement for the sale, transfer, or assignment of control or ownership of a Developer shall recite and incorporate this Agreement as binding on any purchaser, transferee, or assignee.

ARTICLE X
MISCELLANEOUS PROVISIONS

Section 10.01 Notice. The Parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications ("Notice") required to be given by one Party to another by this Agreement shall be given in writing addressed to the Party to be notified at the address set forth below for such Party, (a) by delivering the same in person, (b) by depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to the Party to be notified, or (c) by depositing the same with Federal Express or another nationally recognized courier service guaranteeing "next day delivery," addressed to the Party to be notified, or (d) by sending the same by telefax with confirming copy sent by mail. Any notice required to be given by a Party to a Designated Mortgagee shall be given as provided above at the address designated upon the identification of the Designated Mortgagee. Notice deposited in the United States mail in the manner herein above described shall be deemed effective from and after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties, until changed as provided below, shall be as follows:

City: CITY OF SUGAR LAND
2700 Town Center Blvd. North
Sugar Land, Texas 77479
Attn: City Manager

Developer: ABBEY LAKES INTEREST, L.P.
Louis Trapolino
10410 Windermere Lakes Blvd.

Houston, Texas 77065

BENCHMARK ACQUISTIONS, LLC
Louis Trapolino
10410 Windermere Lakes Blvd.
Houston, Texas 77065

With Copy to:
THE MULLER LAW GROUP PLLC
202 Century Square Blvd.
Sugar Land, Texas 77478

The Parties shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by giving at least five days written notice to the other Parties. A Designated Mortgagee may change its address in the same manner by written notice to all of the Parties. If any date or any period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following such Saturday, Sunday or legal holiday.

Section 10.02 Time. Time is of the essence in all things pertaining to the performance of this Agreement.

Section 10.03 Severability. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected.

Section 10.04 Waiver. Any failure by a Party hereto to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof or of any other provision hereof, and such Party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

Section 10.05 Applicable Law and Venue. The construction and validity of this Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law principles. Venue shall be in Fort Bend County, Texas.

Section 10.06 Reservation of Rights. To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.

Section 10.07 Further Documents. The Parties agree that at any time after execution of this Agreement, they will, upon request of another Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement.

Section 10.08 Incorporation of Exhibits and Other Documents by Reference. All Exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

Section 10.09 Effect of State and Federal Laws. Notwithstanding any other provision of this Agreement, Developer, and its successors or assigns, shall comply with all applicable statutes or regulations of the United States and the State of Texas, as well as any City Ordinances, and any rules implementing such statutes or regulations pursuant to the terms of Article III.

Section 10.10 Authority for Execution. The City hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the City Charter and City Ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreements of such entities.

Section 10.11 Liability of Ultimate Consumer. Ultimate Consumers shall have no liability for the failure of the 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 and land use restrictions applicable to the use of their tract or lot.

[SIGNATURE PAGE FOLLOWS]

AGREED TO AND ACCEPTED:

THE CITY OF SUGAR LAND, TEXAS

By: _____

TITLE: City Manager

DATE: 3-7-22

ABBEY LAKES INTEREST, L.P.

By: _____

TITLE: VICE PRESIDENT

DATE: 2/3/22

BENCHMARK ACQUISTIONS, LLC

By: _____

TITLE: MANAGER

DATE: 2/3/22

Exhibit A

Property Description

County: Fort Bend
Project: FM 1464 & HWY 90A
M.S.G. No.: 061220-R
Job Number: 1102-BDY

FIELD NOTES FOR 312.47 ACRES

Being a 312.47 acre tract of land, located in the Mills M. Battle League, Abstract-9, Fort Bend County, Texas; said 312.47 acre tract being all of a called 311.889 acre tract, Tract 2, recorded in the name of State of Texas for the use and benefit of the Permanent School Fund, under Fort Bend County Clerk's File Number (F.B.C.C.F.No.) 2003023371, also being all of a called 311.885 acres, Tract 2, of State of Texas Department of Highways and Public Transportation, a subdivision plat of which is recorded under Slides Number 1831B and 1832A, Plat Records of Fort Bend County, Texas (P.R.F.B.C.T.); said 312.47 acre tract being more particularly described by metes and bounds as follows (All bearings and coordinates refer to the Texas Coordinate System of 1983, South Central Zone, obtained from GPS Observation of monuments at either end of the southerly boundary line (called South 65 degrees 40 minutes 41 seconds West, 3,232.12 feet, under said F.B.C.C.F.No. 2003023371; and South 65 degrees 40 minutes 46 seconds West, 3,232.12 feet, under said Slides Number 1831B and 1832A, P.R.F.B.C.T.); (All bearings and coordinates are grid and may be converted to surface by applying the combined scale factor of 0.999875); GPS observations referenced to base stations: DH3618 TXRO ROSENBERG CORS ARP, DF5352 ANG1 ANGLETON 1 CORS ARP, and DF4379 TXHU HOUSTON RRP2 CORS ARP; and processed through OPUS):

BEGINNING at a 5/8-inch iron rod found, with aluminum cap marked Texas Department of Corrections (X=3,025,310.72; Y=13,782,264.28), marking the southwest corner of said 311.889 acre tract, the southeast corner of a called 20 acre tract recorded in the name of Robert Schumann in Volume 66, Page 486, Probate Records of Fort Bend County, Texas, said rod being in the west line of said Mills M. Battle League, and the east line of the J. H. Cartwright League, Abstract-16, said rod also being in the northerly right-of-way (R.O.W.) line of the Southern Pacific Railroad (100 feet wide; Volume V, Page 226, and Volume 39, Page 220, both of the Deed Records of Fort Bend County, Texas (D.R.F.B.C.T.), for the southwest corner of the herein described tract;

THENCE, with the west line of said Mills M. Battle League and said 311.889 acre tract, being the east line of said J. H. Cartwright League, being the east lines of the following six (6) tracts of land: said 20 acre tract; a called 63.275 acre tract recorded in the name of Robert Schumann, et al, in Volume 2154, Page 1748, D.R.F.B.C.T.; Chelsea Harbour, Sec. 1, a subdivision plat of which is recorded under Slides Number 2218B, 2219A and 2219B, P.R.F.B.C.T.; Chelsea Harbour, Sec. 2, a subdivision plat of which is recorded under Slides Number 2453B and 2454A, P.R.F.B.C.T,; a called 37.6535 acre tract recorded in the name of Campbell Concrete & Materials, L.P., under F.B.C.C.F.No. 9825453; and a called 40.0 acre tract recorded in the name of Timothy Lee Schumann, et al, under F.B.C.C.F.No. 2003074810; North 02 degrees 47 minutes 14 seconds West, passing at a distance of 902.09 feet, a 1/2-inch iron pipe (disturbed)

found 1.7 feet East of line, passing at 1,426.25 feet, a 1/2-inch iron pipe (disturbed) found 1.9 feet East of line, passing at 1,950.35 feet, a 1/2-inch iron pipe (disturbed) found 2.1 feet East of line, passing at 2,475.25 feet, a 1/2-inch iron pipe found 2.2 feet East of line, passing at 3,015.52 feet, a 1/2-inch iron pipe found at a fence corner 2.7 feet East of line, passing at 4,554.09 feet, a 1/2-inch iron pipe found 2.9 feet East of line, passing at 5,716.72 feet, a 1-inch iron pipe found marking a reference point on the high-bank of Oyster Creek, continuing in all a total distance of 5,816.84 feet (called North 02 degrees 47 minutes 15 seconds West, 5,816.84 feet, under said F.B.C.C.F.No. 2003023371; and North 02 degrees 47 minutes 10 seconds West, 5,816.84 feet, under said Slides Number 1831B and 1832A, P.R.F.B.C.T.), to a point at the northwest corner of said 311.889 acre tract, and the southwest corner of a called 310.602 acre tract recorded in the name of The Houston Parks Board, in Volume 2161, Page 882, D.R.F.B.C.T., in the centerline of said Oyster Creek , for the northwest corner of the herein described tract;

THENCE, along the northerly lines of said 311.889 acre tract, and the southerly lines of said 310.602 acre tract, being the centerline of said Oyster Creek, the following twenty-three (23) courses:

1. North 28 degrees 48 minutes 31 seconds East, a distance of 56.10 feet, to an angle point;

2. North 62 degrees 55 minutes 53 seconds East, a distance of 113.39 feet, to an angle point;

3. North 77 degrees 44 minutes 38 seconds East, a distance of 365.14 feet, to an angle point;

4. South 87 degrees 27 minutes 26 seconds East, a distance of 153.90 feet, to an angle point;

5. South 61 degrees 26 minutes 43 seconds East, a distance of 176.89 feet, to an angle point;

6. South 47 degrees 07 minutes 30 seconds East, a distance of 141.17 feet, to an angle point;

7. South 59 degrees 07 minutes 05 seconds East, a distance of 174.90 feet, to an angle point;

8. South 36 degrees 41 minutes 05 seconds East, a distance of 119.78 feet, to an angle point;

9. South 26 degrees 38 minutes 40 seconds East, a distance of 386.47 feet, to an angle point;

10. South 21 degrees 03 minutes 17 seconds East, a distance of 195.66 feet, to an angle point;

11. South 28 degrees 51 minutes 45 seconds East, a distance of 313.25 feet, to an angle point;

12. South 54 degrees 11 minutes 56 seconds East, a distance of 125.49 feet, to an angle point;

13. South 66 degrees 58 minutes 32 seconds East, a distance of 83.72 feet, to an angle point;

14. South 71 degrees 22 minutes 55 seconds East, a distance of 164.67 feet, to an angle point;

15. South 81 degrees 06 minutes 18 seconds East, a distance of 242.28 feet, to an angle point;

16. South 88 degrees 00 minutes 32 seconds East, a distance of 218.36 feet, to an angle point;

17. North 88 degrees 28 minutes 11 seconds East, a distance of 220.44 feet, to an angle point;

18. North 86 degrees 08 minutes 50 seconds East, a distance of 102.54 feet, to an angle point;

19. North 74 degrees 01 minutes 18 seconds East, a distance of 64.46 feet, to an angle point;

20. North 62 degrees 38 minutes 26 seconds East, a distance of 128.70 feet, to an angle point;

21. North 45 degrees 43 minutes 00 seconds East, a distance of 129.35 feet, to an angle point;

22. North 49 degrees 07 minutes 47 seconds East, a distance of 117.34 feet, to an angle point;

23. North 48 degrees 31 minutes 10 seconds East, a distance of 88.29 feet, to the northeast corner of said 311.889 acre tract, in the westerly line of the residue of a 5,202.88 acre tract recorded in the name of Central Prison Farm, in Volume 152, Page 425, D.R.F.B.C.T., for the northeast corner of the herein described tract;

THENCE, with the east line of said 311.889 acre tract, and the west line of said residue tract, South 02 degrees 47 minutes 39 seconds East, passing at 92.26 feet, a 1 inch iron pipe found marking a reference on the high-bank of said Oyster Creek, continuing in all a total distance of 3,597.17 feet (called South 02 degrees 47 minutes 40 seconds East, 3,586.77 feet, under said F.B.C.C.F.No. 2003023371; and South 02 degrees 47 minutes 41 seconds East, 3,586.75 feet, under said Slides Number 1831B and 1832A, P.R.F.B.C.T.), to a capped 5/8-inch iron rod (X=3,028,255.61; Y=13,783,595.29), marked Miller Survey Group set at the southeast corner of said 311.889 acre tract, and the southwest corner of said residue tract, being in the northerly R.O.W. line of said Southern Pacific Railroad, for the southeast corner of the herein described tract;

THENCE, with the south line of said 311.889 acre tract, and the northerly R.O.W. line of said Southern Pacific Railroad, South 65 degrees 40 minutes 42 seconds West, a distance of 3,232.11 feet, to the POINT OF BEGINNING and containing 312.47 acres of land.

Approximately 15.29 acres of this tract lies within the boundaries of AE floodway of oyster creek, as shown on the recorded plat of State of Texas State Department of Highways and Public Transportation.

A Land Title Survey Plat has been prepared by Miller Survey Group and accompanies this description.

John McGaughy, R.P.L.S.
Texas Registration No. 2091

Miller Survey Group
Ph: (713) 413-1900
May 23, 2006
Revised: 4-2-07

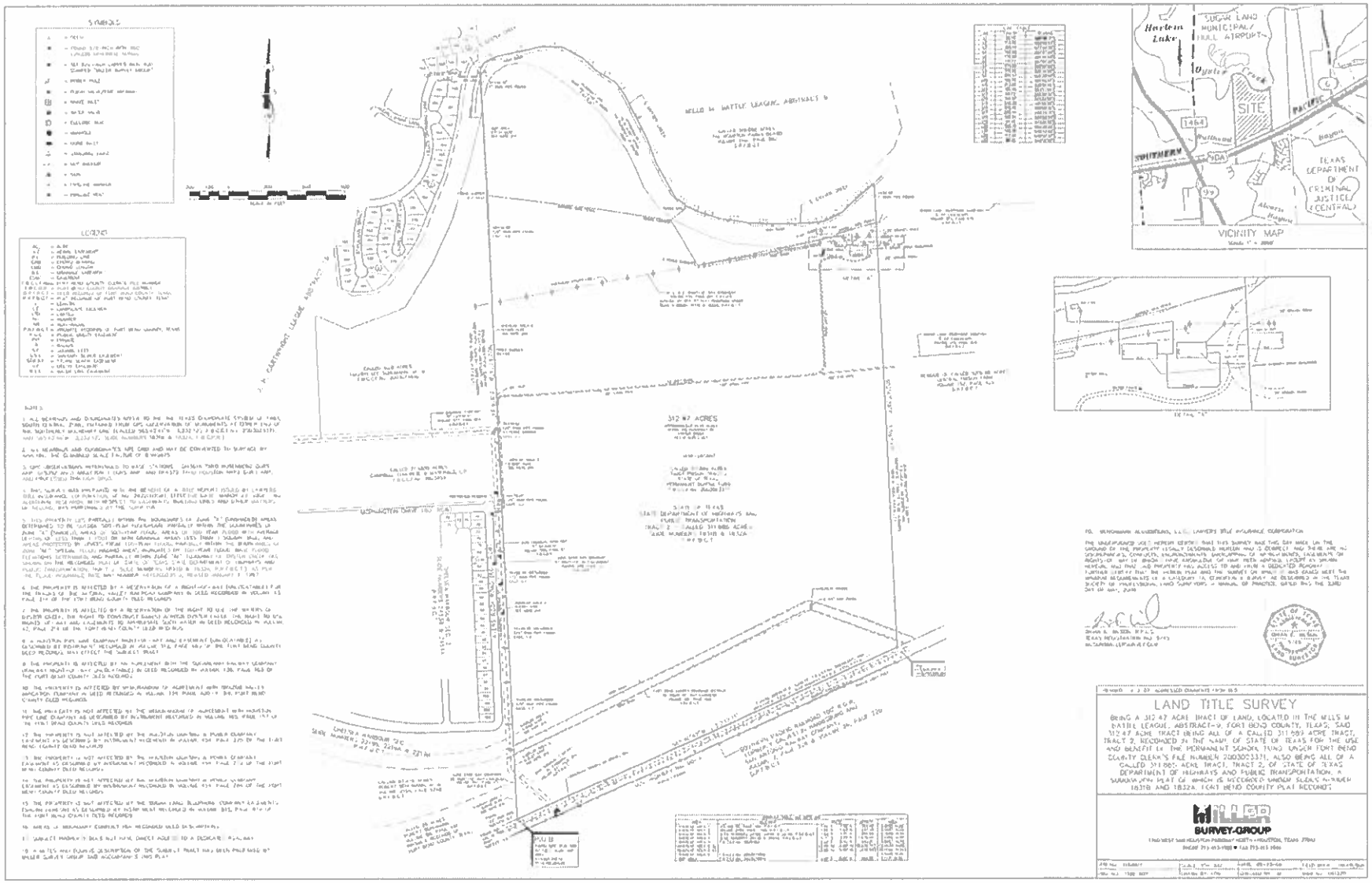
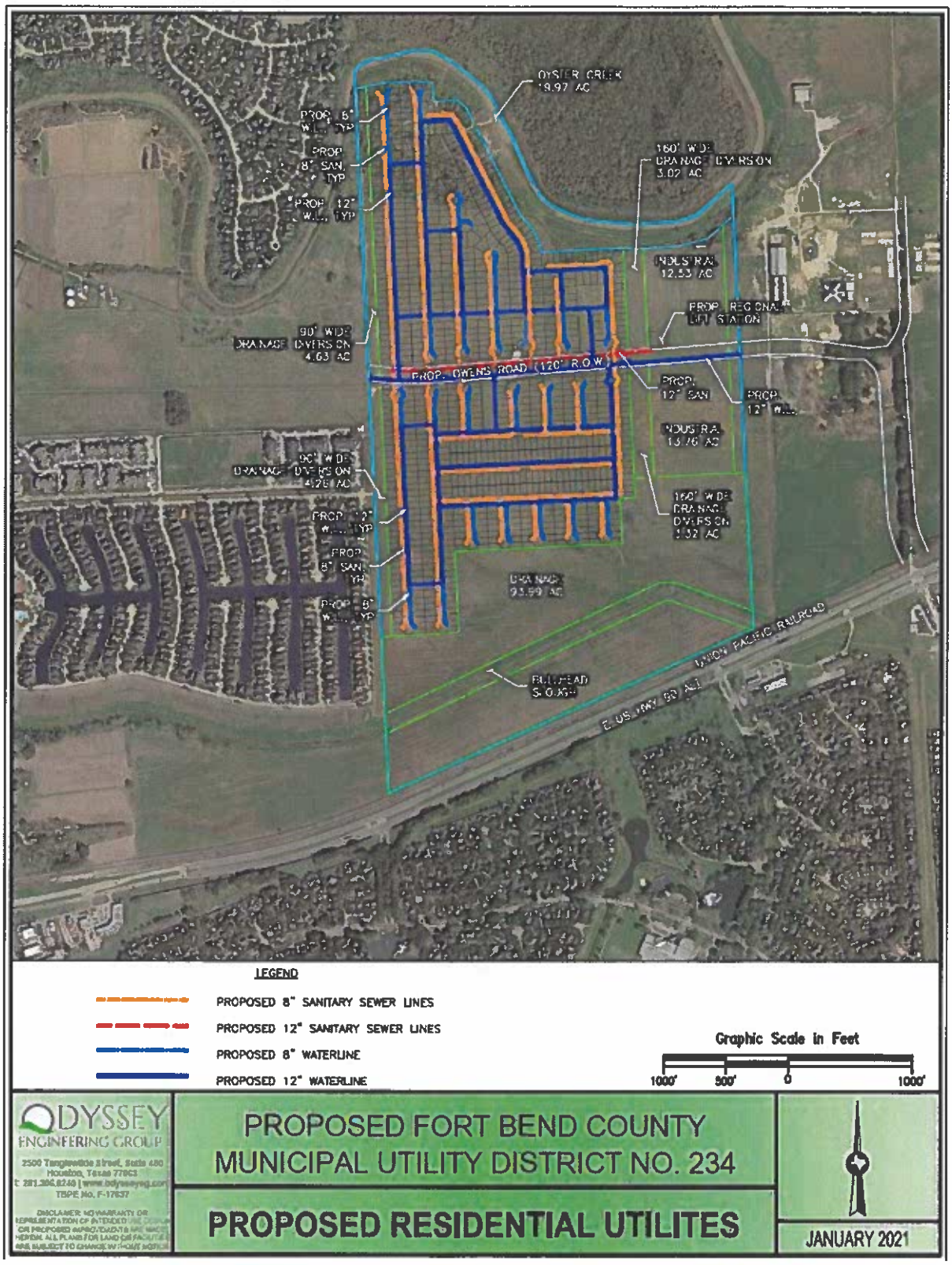
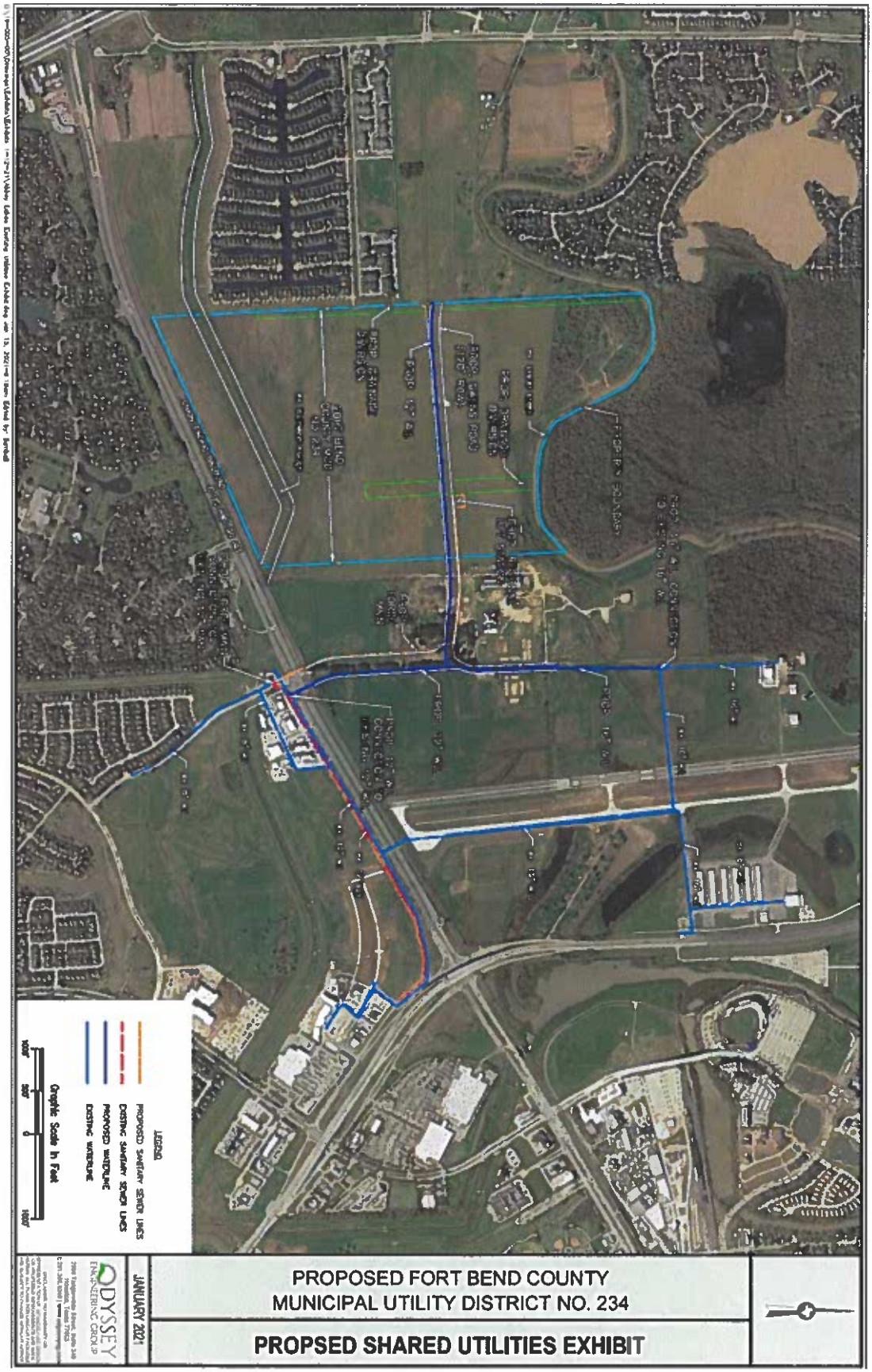

VICINITY MAP
SITE
Horseman Lake
SUGAR LAND MUNICIPAL HALL AIRPORT
PACIFIC
SOUTHERN
TEXAS DEPARTMENT OF CRIMINAL JUSTICE (CENTRAL)
312.47 ACRES
LAND TITLE SURVEY
BEING A 312.47 ACRE TRACT OF LAND, LOCATED IN THE WILLIAM BATTLE LEAGUE, ABSTRACT-9, FORT BEND COUNTY, TEXAS; SAID 312.47 ACRE TRACT BEING ALL OF A CALLED 311.093 ACRE TRACT, TRACT 2, RECORDED IN THE NAME OF STATE OF TEXAS FOR THE USE AND BENEFIT OF THE PERMANENT SCHOOL FUND UNDER FORT BEND COUNTY CLERK'S FILE NUMBER 2003033371, ALSO BEING ALL OF A CALLED 311.093 ACRE TRACT, TRACT 2, OF STATE OF TEXAS DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION, A SURVEY THE MAP OF WHICH IS RECORDED IN VOLUME SLIDES NUMBER 1831B AND 1832A (CAB) BEND COUNTY PLAT RECORDS)
MILLER SURVEY GROUP

Exhibit B
Concept Plan


OYSTER CREEK
PROP. 8" W.L., TYP.
PROP. 8" SAN., TYP.
PROP. 12" W.L., TYP.
160' WIDE DRAINAGE DIVERSION
3.02 AC
INDUSTRIAL
12.53 AC
PROP. REGIONAL LIFT STATION
90' WIDE DRAINAGE DIVERSION
4.63 AC
PROP. OWENS ROAD (120' R.O.W.)
PROP. 12" SAN.
PROP. 12" W.L.
INDUSTRIAL
13.76 AC
90' WIDE DRAINAGE DIVERSION
4.26 AC
160' WIDE DRAINAGE DIVERSION
1.32 AC
PROP. 12" W.L., TYP.
PROP. 8" SAN., TYP.
PROP. 8" W.L., TYP.
DRAINAGE
93.99 AC
RAILROAD SLOUGH
UNION PACIFIC RAILROAD
E. US HWY 90 ALT
LEGEND
PROPOSED 8" SANITARY SEWER LINES
PROPOSED 12" SANITARY SEWER LINES
PROPOSED 8" WATERLINE
PROPOSED 12" WATERLINE
Graphic Scale in Feet
1000' 500' 0 1000'
ODYSSEY ENGINEERING GROUP
2500 Tanglewilde Street, Suite 480
Houston, Texas 77063
t: 281.306.8248 | www.odysseyeg.com
TBPE No. F-17637
DISCLAIMER: NO WARRANTY OR REPRESENTATION OF INTENDED USE OF OR PROPOSED METHODS/DATA ARE MADE HEREIN. ALL PLANS FOR LAND OR FACILITIES ARE SUBJECT TO CHANGE WITHOUT NOTICE.
PROPOSED FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 234
PROPOSED RESIDENTIAL UTILITES
JANUARY 2021


LEGEND
PROPOSED SANITARY SEWER LINES
EXISTING SANITARY SEWER LINES
PROPOSED WATERLINE
EXISTING WATERLINE
Graphic Scale In Feet
1000'
500'
0
1000'
ODYSSEY
ENGINEERING GROUP
JANUARY 2021
PROPOSED FORT BEND COUNTY
MUNICIPAL UTILITY DISTRICT NO. 234
PROPSED SHARED UTILITIES EXHIBIT

1

Exhibit C

Form of

OPTION TO PURCHASE REAL ESTATE

(Unimproved Land)

This OPTION TO PURCHASE REAL ESTATE ("Agreement") is made as of the _____ day of _____, 20_____ (the "Effective Date"), by and between _____, a _____ ("Seller") and _____, a _____ ("Buyer").

WITNESSETH:

1. **Grant of Option**. For and in consideration of the sum of ten dollars (the "Option Payment") and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller hereby grants unto Buyer the irrevocable, exclusive, continuing option for a period of five years (the "Option Period") commencing on the Option Start Date (defined below) (the "Option") to purchase that certain 16.09-acre tract and 14.14-acre tract in Fort Bend County, Texas, being more particularly described in the attached Exhibit A, which is hereby incorporated by reference as fully as though copied herein (the "Property"), together with all improvements thereon, all easements, rights of way, and appurtenances thereto and all of Seller's right, title, and interest in and appertaining to any public streets adjoining said Property. The "Option Start Date" means the earlier of (i) the date on which two lanes of Owens Road are open to traffic adjacent to the Property, and trunk water, sewer and drainage are available in Owens Road adjacent to the Property, or (ii) January 1, 2036. For purposes of this section, adjacent means within the Owens Road right of way (or utility easements abutting that road right of way) that abuts the Property or a portion thereof.

2. **Purchase Price**. If Buyer exercises its Option, Buyer shall pay Seller the Fair Market Value (the "Purchase Price") on the Closing Date (as defined below))."**Fair Market Value**" shall mean the **fair market value** of the Property, as of the date the Buyer exercises the Option, determined as follows:

(a) Valuation. The parties shall meet at a mutually agreeable time and place to present such evidence as either party desires in an effort to mutually and in good faith attempt to arrive at a mutually acceptable **fair market value** for the Property. If the parties cannot so agree on a mutually acceptable **fair market value** within thirty (30) days of the receipt by Seller of the Option Notice, then either party, on written notice to the other, shall cause the matter to be submitted to appraisal, as follows:

(i) Two Appraisers. Within fourteen (14) days after giving written notice to the other party of its intention to have the matter submitted to appraisal, each party, at its own cost and by giving notice to the other party, shall appoint a qualified real estate appraiser who shall be a member of the Appraisal Institute and have at least ten (10) years' full-time commercial appraisal experience in the commercial real estate industry within fifty (50) miles of the Property, to appraise and determine the **fair market value**. The two (2) appraisers shall independently, and without consultation, prepare a written appraisal of

the **fair market value** within thirty (30) days. If the **values** of the appraisals differ by no more than ten percent (10%) of the **value** of the higher appraisal, then the **fair market value** shall be the average of the two (2) appraisals.

(ii) Three Appraisers. If the **values** of the appraisals differ by more than ten percent (10%) of the **value** of the higher appraisal, the two (2) appraisers shall designate in writing a third appraiser meeting the qualifications set out in Section 2(a)(i) above. The third appraiser shall be a person who has not previously acted in any capacity for either party. The third appraiser shall make an appraisal of the **fair market value** within thirty (30) days after selection and without consultation with the first two (2) appraisers. The **fair market value** shall be the **value** selected by the one of the two (2) appraisers that is closest, on a dollar basis, to the **fair market value** selected by the third appraiser. This **determination** of **fair market value** shall be binding and conclusive.

(b) Costs. Each party shall pay the fees and expenses of its own appraiser, and fifty percent (50%) of the fees and expenses of the third appraiser.

3. **Exercise of Option**. Buyer may exercise the Option by giving Seller notice thereof not later than 4:59 p.m., Sugar Land, Texas time, or at least 30 days prior to the last day of the Option Period. The closing of the purchase of the Property (the "Closing") shall occur within thirty (30) days after determination of the Fair Market Value (the "Closing Date").

Unless due to Seller delay or default, five years after the Option Start Date, this Agreement will automatically terminate, and Buyer shall have no further rights to purchase any of the Property not yet closed or conveyed to Buyer.

4. **Application of Option Payment**. The Option Payment shall be non-refundable except as provided in Section 13 of this Agreement. If Buyer exercises the Option, the Option Payment shall be credited against the Purchase Price.

5. **Buyer Access to the Property**. Between the Option Start Date and the earlier of (i) the Closing Date, or (ii) the expiration of the Option Period, Buyer and Buyer's agents and designees shall have the right to enter the Property for the purposes of making any investigations and inspections as Buyer may reasonably require to assess the condition of the Property. Buyer shall indemnify, defend and Seller harmless against any claims or expenses resulting from Buyer's inspection of the Property, and this indemnity obligation of Buyer shall survive the expiration or termination of this Agreement. Buyer shall also be obligated to restore the Property to the condition that existed prior to such inspections.

6. **Title**. Buyer may obtain a commitment for title insurance from the Title Company (hereinafter defined) (the "Title Commitment"). The term "Title Company" shall mean _____, Attention: _____, _____, Texas _____; phone _____; e-mail - _____. On or before the Closing, Seller shall (i) satisfy all debts secured by the Property or other liens or judgments filed against the Property arising by, through or under Seller, but not otherwise, and (ii) terminate all property agreements except for any Municipal Utility District reimbursements and utility costs affecting the Property at no cost to Buyer.

7. **Survey**. Buyer, at Buyer's expense, shall cause a boundary survey of the Property to be prepared by a surveyor registered and licensed in the State where the Property is located and designated by Buyer (the "Survey"). The Survey shall be used as the basis for calculating the Purchase Price and the preparation of a legal description to be included in the Special Warranty Deed to be delivered by Seller to Buyer at Closing.

8. **Warranties, Representations and Covenants of Seller**. As of the Effective Date and again as of the Closing Date in the event Buyer exercises any Option, Seller represents, warrants and covenants to and with Buyer as follows:

(a) Neither the Seller nor any of the Property is subject to claim, demand, suit or untitled lien proceeding or litigation of any kind, pending or outstanding, before any court or administrative, governmental or regulatory authority, agency or body, domestic or foreign, or to any order, judgment, injunction or decree of any court, tribunal or other governmental authority, or, to the best of the Seller's actual knowledge, threatened, or likely to be made or instituted.

(b) Between the Effective Date and the Closing Date, Seller will (i) pay or cause to be paid promptly when due all Taxes and other governmental charges levied or imposed upon or assessed against the Property; provided, however, that Seller may, in good faith, contest any of such taxes, assessments and charges; (ii) pay when due all payments required by any existing financing on the Property; and (iii) maintain the Property so that, on the Closing Date, the Property will be in the same condition as it exists on the Effective Date, ordinary wear and tear excepted.

(c) Between the Effective Date and the Closing Date, Seller shall not make or enter into any new lease, service agreement, property agreement, or other agreement with respect to all or any portion of the Property that would survive the Closing Date without Buyer's prior written consent.

(d) The warranties, representations and covenants of this Section 8 shall survive Closing.

9. **Warranties, Representations and Covenants of Buyer**. As of the Effective Date and again as of the Closing Date in the event Buyer exercises the Option, Buyer represents, warrants and covenants with Seller as follows:

(a) Buyer has the lawful right, power and authority to enter into and deliver this Agreement and the other Closing Documents required to be executed and delivered by Buyer and to perform its obligations hereunder and thereunder.

(b) The warranties, representations and covenants of this Section 9 shall survive Closing.

10. **Adjustments and Prorations**. At the Closing, the following adjustments between the parties shall be made as of the Closing Date:

(a) All city, state and county ad valorem real estate taxes and similar impositions levied or imposed upon or assessed against the Property ("Taxes") for the current year shall be

prorated. If the amount of Taxes for the current year cannot reasonably be determined, the apportionment shall be based upon the amount of such Taxes for the prior tax year, but shall be readjusted when the amount of such Taxes is finally determined. Special assessments levied prior to the Closing Date shall be the responsibility of Seller. The provisions contained in this subparagraph shall survive the Closing and shall not be merged into the Deed. In the event the Property is not taxed as a separate tax parcel that does not include any other property other than the Property, the taxes of the larger parcel shall be apportioned to the Property in a manner that will calculate taxes on the Property for the land only (excluding improvements) on a pro-rata percentage that the Property size is to the larger parcel so taxed; (ii) Seller agrees to cooperate with Buyer to establish a separate tax parcel as soon as reasonably possible after Closing; (iii) until such separate parcel is established, Seller and Buyer shall each deliver its prorated share of taxes to the Title Company for payment to the taxing authorities before delinquency based on the same proration provided in clause (i) above; (iv) because the tax parcel is carried on the tax rolls in the name of Seller, Seller warrants and agrees that so long as the Property remains part of such tax parcel, Seller shall pay or cause to be paid all taxes on the tax parcel in a timely manner and shall not allow such taxes to become delinquent provided that Buyer pays its pro rata share of such taxes attributable to the Property. This paragraph 10(a) will survive the Closing.

(b) If Seller changes the use of the Property before closing or if there is a denial of a special valuation on the Property claimed by Seller in the assessment of additional taxes, penalties or interest (assessments) for periods before closing, the assessments will be the obligation of Seller. If this sale or Buyer's use of the Property after closing results in additional assessments for periods before closing, the assessments will be the obligation of Buyer. This Paragraph 10(b) survives closing.

(c) All other items of expense and income regarding the operation and ownership of the Property shall be prorated as of the Closing Date.

11. **Proceedings at Closing**. On the Closing Date, the Closing shall take place as follows:

(a) Seller shall deliver to Buyer the following documents and instruments, duly executed by or on behalf of Seller (collectively, the "Closing Documents"): (i) a Special Warranty Deed in a form acceptable to Buyer conveying the Property utilizing the legal description set forth on the Survey and subject to no exceptions other than any title exceptions included in the Title Commitment; (ii) assignment of licenses, permits, and warranties; (iii) a certificate and affidavit of non-foreign status; (iv) a completed 1099-8 request for taxpayer identification number and certification and acknowledgment; (v) an affidavit reasonably required by the Title Company that will enable Buyer, at Buyer's sole cost and expense, to obtain title insurance coverage free of any exception for mechanics' or materialmen's liens, parties in possession, and the other standard exceptions; (vi) a settlement statement with respect to the Closing duly executed by Seller; (vii) evidence in form and substance reasonably satisfactory to the Title Company that Seller has the power and authority to execute and enter into this Agreement and to consummate the sale of the Property; and (viii) such other documents or instruments as are reasonably required by Buyer and for the Title Company in order to consummate the transactions contemplated by this Agreement.

(b) Buyer shall deliver to Seller the following, if the same have not been theretofore delivered by Buyer to Seller: (i) the Purchase Price in accordance with the provisions of

this Agreement; (ii) settlement statement with respect to the Closing duly executed by Buyer and (iii) such other closing documents as may be reasonably necessary to consummate the transactions with Seller under this Agreement.

(c) Seller shall surrender possession of the Property to Buyer on the Closing Date.

12. **Closing Costs**. Buyer shall pay (a) all recording costs incurred in connection with the Deed, (b) the cost of the Survey, (c) the cost of any endorsements or additional coverage as may be requested by Buyer and issued by the Title Company and (d) one half of any escrow fee. Buyer shall pay (a) the base premium for the Title Policy to be issued on the basis of the Commitment, including without limitation the cost of the title commitment, or any title search or cancellation fee associated therewith, (b) costs of releasing any liens, and (c) one half of any escrow fee. Seller shall pay its own attorneys' fees and Buyer shall pay its own attorneys' fees. All other costs and expenses of the transaction contemplated hereby shall be borne by the party incurring the same.

13. **Default; Remedies**.

(a) If Buyer has exercised the Option and wrongfully fails to purchase the Property, or otherwise breaches the terms of this Agreement, the Option Payment shall be retained by Seller as full liquidated damages for such breach. Receipt of the Option Payment shall be Seller's sole and exclusive remedy for any breach by Buyer of the terms of this Agreement. The parties acknowledge that Seller's actual damages will be difficult to ascertain, that the Option Payment represents the parties' best estimate of such damages, and that the Option Payment is a reasonable estimate of such damages.

(b) If Seller fails to sell the Property to Buyer in accordance with the terms of this Agreement or otherwise breaches the terms of this Agreement, the Option Payment shall be paid to Buyer and Buyer shall be entitled to terminate this Agreement and/or pursue all other remedies against Seller available at law or in equity, including but not limited to, specific performance.

14. **Real Estate Commissions**. Seller and Buyer each represent to the other that no broker has been the procuring cause of or has otherwise represented it in this transaction. Each party agrees to indemnity and hold the other party harmless from any claim for a real estate commission, finder's fee for the like by any person engaged by the indemnifying party.

15. **Condemnation**. In the event of the taking of all or any part of the Property by condemnation or eminent domain proceedings, or agreement in lieu thereof, or the commencement or bona fide threat of the commencement of any such proceedings prior to Closing, Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving notice thereof to Seller prior to Closing, in which event all rights and obligations of the parties under this Agreement shall expire, and this Agreement shall become null and void. If Buyer does not so terminate this Agreement, the Purchase Price shall be reduced by the total of any awards or other proceeds received by Seller prior to Closing with respect to any taking, and, at Closing, Seller shall assign to Buyer all rights of Seller in and to any awards or other proceeds payable thereafter by reason of any taking.

16. **Memorandum of Option**. Seller shall execute a Memorandum of Option Agreement at Buyer's request. Such Memorandum shall create notice of this Agreement and shall be recorded at the expense of Buyer in the Real Estate Records of the County where the Property is located.

17. **Notices**. All notices required herein shall be in writing and shall be deemed properly served if postmarked, deposited with nationally recognized overnight courier service, transmitted by email, or delivered in person to the following or to such other or additional parties and addresses as either Seller or Purchaser may subsequently designate by notice:

City: CITY OF SUGAR LAND
2700 Town Center Blvd. North
Sugar Land, Texas 77479
Attn: City Manager

Developer: ABBEY LAKES INTEREST, L.P.
Louis Trapolino
10410 Windermere Lakes Blvd.
Houston, Texas 77065

All notices properly given as aforesaid shall be deemed to be received by the addressee on the date of the postmark if mailed, the date of deposit with a nationally recognized overnight courier service, the date of transmission if transmitted by email, or the date of delivery if delivered in person.

18. **Survival**. All the provisions of this Agreement (including, without limitation, the representations, covenants and warranties of Seller as set forth in this Agreement), shall survive the consummation of the purchase and sale of the Property on the Closing Date, the delivery of the Special Warranty Deed and the payment of the Purchase Price.

19. **Parties**. This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, Buyer and Seller and their respective legal representatives, heirs, successors and assigns. Buyer may assign this Agreement without the consent of Seller.

20. **Seller's right to develop; Termination of Option.** During the Option Period, and before the Buyer has exercised the Option on the Property, the Developer may develop all or a portion of the Property consistent with the City's Restricted Industrial (M-1) zoning designation. If the Seller elects to develop the Property as provided in this Section, it shall provide written notice of its intent to develop the Property to the Buyer, which notice will contain a general description of the portion of the Property to be developed and the intended development (e.g., "The Seller intends to develop 5 acres of the Property with an approximately 50,000 square foot warehouse.") After delivery of the notice, Buyer may not exercise the Option as to the property proposed for development until any of the following occurrences: i) the Seller breaks ground on the proposed development, in which event the Option will terminate as to the portion of the Property being developed; ii) the Seller abandons the proposed development; iii) 12 months from the date of the notice, if the Seller is not diligently pursuing development of the Property.

21. **Miscellaneous**.

(a) The validity, construction, and interpretation of this Agreement shall be governed in accordance with the laws of the State where the Property is located. In the event any

portion of this Agreement is determined to be unenforceable by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect.

(b) Time of the essence with respect to all matters to be performed pursuant to this Agreement.

(c) This Agreement supersedes all prior and contemporaneous discussions and agreements between Seller and Buyer with respect to the purchase and sale of the Property and other matters contained herein, and this Agreement contains the sole and entire understanding between Seller and Buyer with respect thereto. This Agreement may be amended only by a written agreement signed by the party to be charged.

(d) This Agreement may be executed in multiple counterparts, all of which together shall constitute one and the same Agreement. Execution of this Agreement may be evidenced by electronic signature.

(e) In the event it becomes necessary to enforce this Agreement through an attorney, or by the institution of litigation, the prevailing party, in addition to all other damages or remedies which may be awarded, shall be entitled to receive all costs incurred by it in undertaking such action, including court costs, out of pocket expenditures and reasonable attorney's fees.

IN WITNESS WHEREOF, this Agreement has been executed by the Buyer and Seller as of the date first above written.

ABBEY LAKES INTEREST, L.P.,
a Texas limited partnership

By: _____, general partner

By:_____
Name:_____
Title: Manager

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____, Manager of _____, general partner of Abbey Lakes Interest, L.P., a Texas limited partnership, on behalf of said company and partnership.

Notary Public, State of Texas

(NOTARY SEAL)

After recording, return to Muller Law Group, 202 Century Square Boulevard, Sugar Land Texas, 77478.

Exhibit D

AVIGATION AND NOISE INTRUSION EASEMENT

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF FORT BEND §

THAT ABBEY LAKES INTEREST,L.P., a Texas limited partnership (hereinafter called "**Grantor**"), for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration in hand paid by THE CITY OF SUGAR LAND, TEXAS, a home rule municipality (hereinafter called "**Grantee**"), the receipt and sufficiency of which is hereby acknowledged, subject to the matters herein stated, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY unto Grantee, and Grantee's successors and assigns, a non-exclusive easement and right-of-way over that certain 312-acre parcel of land located in Fort Bend County, Texas, and more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes (the "**Property**") as follows:

> Grantee, its invitees, and the general public using the Grantee's Sugar Land Regional Airport (the "**Airport**"), have the continuing and perpetual right of flight and passage of aircraft in the airspace over the Property for landing at, taking off from, and operating from the Airport and the right to direct upon the Property the noise, vibration, fumes, and all other effects inherent in and resulting from the operation of aircraft over the Property and from the Airport. "**Aircraft,**" as used herein, means any type of aircraft now in existence or hereafter developed or manufactured.

This conveyance is further expressly made subject to all restrictions, easements, rights of way and mineral or royalty reservations and interests affecting the Property and appearing of record in the Official Public Records of Real Property of Fort Bend County, Texas to the extent the same are validly existing and enforceable against the Property (the "**Permitted Exceptions**").

TO HAVE AND TO HOLD the Easement, unto said Grantee, its successors and assigns, forever; and, subject to the Permitted Exceptions and the other matters set forth herein, Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend the title to the Easement unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

[EXECUTION PAGE FOLLOWS]

EXECUTED as of _____.

ABBEY LAKES INTEREST, L.P.,
a Texas limited partnership

_____

By: , general partner

By:_____
Name:_____
Title: Manager

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____, Manager of _____, general partner of Abbey Lakes Interest, L.P., a Texas limited partnership, on behalf of said company and partnership.

_____
Notary Public, State of Texas

(NOTARY SEAL)

After recording, return to Muller Law Group, 202 Century Square Boulevard, Sugar Land Texas, 77478.

THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

This instrument was acknowledged before me on the _____ day of _____, 2019, by _____, and _____, as _____ and _____, respectively of _____on behalf of said _____.

_____
Notary Public, State of Texas

(NOTARY SEAL)

After recording, return to:

Exhibit E
Utility Agreement

UTILITY AGREEMENT BETWEEN FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 234 AND THE CITY OF SUGAR LAND, TEXAS

THIS AGREEMENT made and entered into as of the ____day of ____, 2022, by and between the CITY OF SUGAR LAND, TEXAS ("City") and Abbey Lakes Interest, L.P. ("Developer") on behalf of itself and proposed FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 234 ("District") (hereinafter the term District shall be construed to include both DEVELOPER and the District, as it is the intention of the parties to this Agreement that all rights, benefits and obligations pursuant to this Agreement shall ultimately be assigned to the District, except as otherwise provided herein. Thus, the representations made herein by the District represent Developer's commitment to cause or direct the same to occur.)

BACKGROUND

The District was created for the purpose of furnishing water, sanitary wastewater, and drainage services and roads to the area within its boundaries, as may be modified from time to time ("Property"). The District will contain approximately 312 acres of land in Fort Bend County, Texas, as further described by metes and bounds in Act of May 23, 2019, 86th Leg., R.S., S.B. 3019 (to be codified at Texas Special Districts Local Law Code, Chapter 8055).

Among other projects, the District will acquire and construct a water distribution system and a wastewater collection system to serve the Property and works and improvements necessary to properly drain the Property. The District will make adequate arrangements so that it will have the financial capability to enable it to acquire and construct the needed facilities and to discharge any obligations incurred in acquiring and constructing such facilities.

The City is a municipal corporation and is operating under a home rule charter adopted under the laws of the State of Texas. The City has the power under the laws of the State of Texas to acquire, own, and operate a water and sanitary wastewater system and works and improvements necessary for the drainage of the lands in the City. The City also has the authority to contract with a District organized under the authority of Article XVI, Section 59, and Article III, Section 52, of the Constitution of Texas, whereby the District will acquire or construct for the City water supply or treatment systems, water distribution systems, sanitary wastewater collection or treatment systems or works or improvements necessary for the drainage of lands in the City.

The District is entirely within the City's limits. As a result, both the City and the District have common duties and responsibilities to the present and future landowners.

In order to provide a water distribution system, sanitary wastewater collection system and works and improvements for the drainage of the portion of the City which lies within the boundaries

of the District; in order to assure that the District will have the financial capabilities to extend the services to the present and future landowners within the boundaries of the District; in order to secure the commitment of the District to extend the services without discrimination and on the same basis as extension of services made to all other landowners in the District; and in consideration of the District acquiring and constructing the System, the City is willing to commit and obligate itself to accept title to the System provided herein and to operate and maintain the System as set forth herein.

The District plans to proceed at the earliest possible time, in an expeditious manner, with the acquisition and construction of the necessary water, sanitary wastewater, and drainage systems to serve all the land within the District without discrimination and without preference toward any particular landowner or landowners. The District is willing to commit to extend utilities as required by this Agreement.

In order to assure the continuing and orderly development of the land and property within the District, the District and the City desire to enter into this Agreement whereby the District will acquire and/ or construct improvements, facilities, equipment, and appliances necessary for a water distribution and sanitary wastewater collection system, and a drainage system to serve the area within the District, as provided in this Agreement in accordance with all requirements of the City, in order that all of the land and property in the District will be placed in the position ultimately to receive adequate water, sanitary wastewater, and drainage services.

AGREEMENT

For and in consideration of the mutual promises, obligations, covenants and benefits hereinafter set forth, the District and the City contract and agree as follows:

ARTICLE 1
DEFINITIONS AND EXHIBITS

Section 1.01 Definitions.

"Approving Bodies" means the City of Sugar Land, the Texas Commission on Environmental Quality, and any other federal, state, county, or local agency having jurisdiction.

"City" means the City of Sugar Land, Texas, a municipal corporation.

"City Property" means that certain 228-acre tract of land owned by the City adjacent to and east of the Property.

"Connection Fee" means that fee charged by the City for a connection to the City's Water System and Wastewater System as such fees are set by the City from time to time in accordance with its Code of Ordinances.

"District" means Fort Bend County Municipal Utility District No. 234, a body politic and corporate and governmental agency created and operating under the provisions of Chapters 49 and 54, Texas Water Code, as amended, and pursuant to Article XVI, Section 59, and Article III, Section 52 of the Texas Constitution and, where appropriate, the Board of Directors thereof.

"District Engineer" means the independent engineering firm which may be employed from time-to-time by the District.

"Drainage System" means any portion of the storm water drainage system constructed to serve any land within the District, including necessary easements, rights-of-way, and sites required for same.

"Equivalent Single-Family Service Connection" or "ESFC" means the daily measure of wastewater discharge which is 300 gallons per day that is attributed to one single-family residential home and the daily measure of water consumption that is attributed to one single-family residential home which is 475 gallons per day.

"Oversized Facilities" means a size larger than would be required pursuant to the City's applicable standards for development within the District.

"Phase" means any part of the System to be acquired or constructed to serve an area that it is economically feasible to serve.

"Property" means all the land as described in the attached **Exhibit A**.

"Sanitary Wastewater System" means the sanitary wastewater system constructed to serve any land within the District, including necessary lift stations, easements, rights-of-way, and sites required for same.

"Security Interest" means the interest granted pursuant to Section 2.08 hereof in the System to serve property within the District.

"System" means the Water System, Sanitary Wastewater System, and Drainage System.

"TCEQ" means the Texas Commission on Environmental Quality or its successors.

"Water System" means the potable water supply system constructed to serve any land within the District, including necessary easements, rights-of-way, and sites required for same.

Section 1.02 Exhibits.

The following Exhibits attached or to be attached to this Agreement are a part of the Agreement as though fully incorporated herein:

Exhibit A Oversized Facilities

Exhibit B Drainage and Floodplain Mitigation

Exhibit C Regional Drainage Project List & Map

Section 1.03 Representations by the District.

The District makes the following representations:

(a) The District is a body politic and corporate and a governmental agency created and operating under the provisions of Section 49 and 54, Texas Water Code, pursuant to Article XVI, Section 59, and Article III, Section 52, Texas Constitution and is authorized to enter into this Agreement.

(b) The District has the power and authority to acquire and construct the System and has the power and authority, subject to the approval of the Approving Bodies and its duly qualified electors at an election called for such purposes, to issue and sell unlimited tax bonds to acquire and construct the System to serve the present and future landowners within the District.

(c) The District proposes to issue and sell its bonds from time to time, to acquire and construct the System to serve the area within the District, and shall use its best efforts to procure from the appropriate federal, state, county, municipal, and other authorities the necessary permits and approval to issue and sell its bonds and to acquire and construct the System.

(d) It is currently contemplated that the System will be acquired and constructed in integral and operational stages sufficient to provide utility service to the area within the District as development proceeds. As the acquisition and construction of each such integral stage of the System is completed and becomes fully operational, the District shall transfer such stage of the System to the City. As provided herein, the City upon completion of construction and its acceptance of the System has the right and duty to operate and maintain the System.

Section 1.04 Representations of City.

The City makes the following representations:

(a) The City is a home rule city operating under the laws of the State of Texas and is authorized and empowered to enter into this Agreement. By Ordinance of the City Council, the Mayor has been duly authorized to execute and deliver this Agreement.

(b) The City has the authority to levy, assess, and collect ad valorem taxes on property within the District and to use the taxes collected by it from property within the City, including the area within the District, as provided in this Agreement.

(c) The City presently has or will have the power and authority to obtain the water supply and sanitary wastewater treatment facilities necessary to properly serve the System to be acquired and constructed by the District.

(d) The City will accept conveyances, as provided for herein, of the completed integral stages of the System, which have been acquired or constructed by the District in accordance with the terms and provisions of this Agreement.

ARTICLE 2
THE SYSTEM

Section 2.01 Design of the System.

The District Engineer shall prepare preliminary plans and specifications of the System in accordance with the requirements of the City. The System may include structures or improvements outside the boundaries of the District if reasonably necessary to serve the area within the District. All final plans and specifications for the System shall be submitted to the City for approval. The final plans and specifications for each integral stage of the System shall be prepared in accordance with the standards of the City in effect as of the date of submission thereof to the City for approval. The System shall be constructed or installed within easements dedicated to the installation of such type of facility or within road rights-of way.

The District shall design the System in accordance with City Design Standards, sound engineering principles and in compliance with requirements of the Approving Bodies. If necessary, the City shall join or cooperate in obtaining necessary permits provided that the District pays all costs of obtaining such permits. If appropriate, such permits shall be in the name of the City.

Section 2.02 Extension of the System in Phases.

The District shall construct or extend the System in such stages as is economically feasible. The District shall proceed with the construction or extension of the System in an expeditious manner in such stages as are economically feasible from time to time in order that all of the areas within the District will eventually receive the benefits of water, sanitary wastewater, and drainage services. Such extension shall be accomplished by the District in accordance with prudent and sound management principles. Accordingly, the District's duty to proceed with the construction or extension of the System shall be subject to and consistent with existing development trends within the District and surrounding areas, the marketability of developed lots and acreage within the District, the need for expansions to the System to serve areas within the District, existing economic conditions, and existing conditions in the municipal bond market. When the District determines that it is economically feasible to extend the System, or any part thereof, to a particular area, it shall so notify the City in writing or by the submission of new plats and construction plans.

Section 2.03 Preparation of Final Plans and Specifications.

When the determination is made that it is economically feasible to construct or extend the System, the District shall direct the District Engineers to prepare final plans and specifications of the Phase.

Section 2.04 Approval of Final Plans and Specifications.

Before the commencement of construction within the District, the District shall submit to the City all final plans and specifications of each Phase and secure the City's approval thereto. Whenever feasible, plans for interrelated or dependent systems should be submitted at the same time. Without limiting the generality of the foregoing, all water meters, flushing valves, valves, pipes, and appurtenances thereto installed or used within the District shall conform to the specifications of the City. Without limiting the generality of the foregoing, all water service lines and wastewater service lines, lift stations, and appurtenances thereto installed or used within the District shall comply with the City's standard plans and specifications. The final plans and specifications of the Phase shall be submitted to such Approving Bodies as may require such submission and the District shall use its best efforts to obtain any necessary approvals. After all Approving Bodies approve the final plans and specifications, the District shall be authorized to proceed with construction as provided herein.

During the term of this Agreement, the City may modify, supplement or amend its construction standards for public improvements (including water, sanitary wastewater, drainage and flood control facilities) to make them consistent with generally accepted standards imposed by governmental entities on the design and construction of public improvements within the Gulf Coast Region. The City may make only such modifications, supplements, and amendments to such standards as are necessary to ensure that such standards are consistent with modern technology, engineering practices, and construction techniques. All such modifications, supplements, and amendments to such standards shall be uniformly applied to all development governed by the City Ordinances Code and the Development Code. Modifications, supplements and amendments to such standards that do not conform to these criteria will not be applicable to the Property. The criteria and construction standards for drainage facilities and improvements shall be consistent with criteria and standards imposed by the City as they may be amended by the City from time to time.

Section 2.05. Regional and Offsite Facilities.

(a) The District will connect to the City's Water Supply System and the City's Sanitary Sewer System by:

1. constructing a lift station within the District and a force main from that lift station to the City's existing 12-inch sanitary sewer line located in Easton Avenue immediately south of U.S. 90A, and

2. constructing a water line from the District's western boundary along the alignment of future Owens road to the City's existing 12-inch water line located at the southeast corner of Easton Avenue and U.S. 90A, and connecting that to the City's existing 16" water line located on the City's Airport property.

The general layout and configuration of these facilities is shown on **Exhibit A**. All line sizes are estimates and are subject to review and approval by the City Engineer. The Costs for these lines

will be credited against any Connection Fee otherwise due from the District or any developer of land within the District.

The City is responsible for making any other offsite improvements necessary to serve the Property, if such improvements are included as system capital improvements in the City's Connection Fee calculation.

(b) If the City requires any other portions of the System to be constructed to a size larger than would be required pursuant to the City's applicable standards for development within the District (the "Oversized Facilities"), the City will be responsible for all costs to construct such expansions or extensions. The facilities described in subsection (a) of this section are not Oversized Facilities within the meaning of this subsection (b).

The District agrees, when applicable, to bid any such Oversized Facilities with alternates so as to determine the actual incremental costs of the oversizing. The incremental cost of the oversizing shall be calculated based upon the difference in cost between the District's successful bid (awarded in accordance with state law to the most responsible person that will be most advantageous to the District and result in the best and most economical completion of the facilities) and the alternate to oversize the facilities included on such successful bid. For example, if the District needs an eight-inch waterline but the City would like a twelve-inch waterline to be installed, the District will solicit bids for an eight-inch pipe and a twelve-inch pipe, and the incremental costs of the oversizing will include only the difference in the costs between the two pipe sizes and will not include excavation costs. Prior to award of any contract in which Oversized Facilities will be built, the District will present the City with the bids and bid tabulations, and the City and the District must agree to the incremental costs based on such bid or the District is not required to oversize the facilities.

In lieu of payment by the City for oversizing costs, the City may request that the District pay such oversizing costs, and such costs paid by the District shall be credited against any Connection Fees payable to the City under Section 2.11 of this Agreement. If payable Connection Fees for the District is less than the oversizing costs, the City shall be required to pay the difference in such costs to the District prior to construction of such oversized facility.

Section 2.06 Advertisement for Bids.

Construction contracts shall be let on a competitive bidding basis in accordance with the applicable requirements of Section 49 and 54, Texas Water Code, as amended, or any successor provisions. After preparation of final plans and specifications and their approvals as required by this Agreement, the District shall advertise for or solicit bids (as required) for the construction of the Phase described in the final plans and specifications. The City's representatives shall be notified of and invited to attend each pre-bid conference and the bid opening. All bids received by the District shall be reviewed by designated representatives of the District and the designated representatives of the City, and such representatives shall recommend to the District within 20 days, that one of the bids received and submitted by the District on each Phase be accepted or that all bids be rejected. The City and District shall designate from time to time in writing the persons who shall be their designated

representatives. The District reserves the right to re-advertise for bids if the first bids are not acceptable to the District.

Section 2.07 Award of Construction Contract; Certain Contract Provisions.

If the District has on deposit funds in a sum sufficient to pay the construction costs of the proposed work or has reasonable assurance that such funds will be forthcoming, then the District shall enter into a contract or contracts with the contractor or contractors whose bids have been accepted by the District. The District shall award all construction contracts on the basis of the most advantageous bid by a responsible, competent contractor, in accordance with Chapters 49 and 54 of the Texas Water Code, as amended, and the rules of the TCEQ. Each contract with the District shall comply with Chapters 49 and 54, Texas Water Code, as amended, provide for retainage in accordance with Section 49.273, Texas Water Code, as amended, or any successor provision, require a performance bond and a payment bond in accordance with applicable requirements of Texas Government Code, Ch. 2253, as amended, and/ or Texas Property Code, as applicable, require workers' compensation insurance, builders' risk insurance, and public liability insurance in such sums as the District shall determine, and require a covenant and warranty to diligently prosecute the work in a good and workmanlike manner and in accordance with the final plans and specifications.

In addition to any other construction contract provisions, any construction contract for District's facilities shall include: (i) the construction contractor's one-year warranty of work performed under the contract, and (ii) at a minimum, the insurance coverage required by the City for similar public works contracts. . Contractor's warranty and bonds will be provided in the name of the City.

Section 2.08 Resident Project Representation During Construction.

The District Engineer shall make reports to the City's representative and shall recommend final acceptance of the facilities to the District's Board of Directors when appropriate. The District's Engineer shall file all required documents with the TCEQ. The City's representative and the District's Engineer shall meet when the City reasonably, and the District's Engineer shall provide observation reports to the City's representative on a monthly. If the City's representative discovers that the construction is not in substantial conformance with the approved plans and specifications, the City's representative shall promptly notify and consult with the District's Engineer regarding the problem. The District's Engineer shall have a reasonable period of time in which to cure the problem or cause the problem to be cured. If the City's representative and the District's Engineer are unable to resolve the problem, the City's representative reserves the right to halt construction until problems are resolved The City has the right to require the District Engineer to replace the District project representative.

No part of this section shall be construed as denying the City or its representatives the right to be on the jobsite at any time for the purpose of assuring the compliance and the quality of work. Further, the City will have the authority to directly instruct the contractor to repair any deficient work upon discovery.

The District Engineer will be responsible for assuring that all engineering and construction related work is compliant with the City's design standards, specifications and development codes

Section 2.09 Ownership by City.

As the facilities in each Phase are acquired and constructed, the District shall transfer the same to the City, reserving a Security Interest therein for the purpose of securing the performance of the City under this Agreement. Performance shall include, but not be limited to:

(1) providing the adequate maintenance and operation of the System;

(2) providing the water and wastewater treatment capacity;

(3) providing reasonable and timely review and approval as required herein; and

(4) maintaining the water distribution and wastewater collection line capacity as constructed by the District.

At such time as the principal, interest, and redemption premium, if any, on the District's Bonds issued to acquire and construct the applicable Phase have been paid or provided for in full, upon request by the City, the District shall execute a release of such Security Interest with respect to such Phase and the City shall own such Phase free and clear of such Security Interest. The District will transfer all warranties of contractors and subcontractors, if any, and all other rights beneficial to the operation of the Phase to the City.

Section 2.10 Acceptance of Facilities and Operation by City.

As construction of each Phase is completed, representatives of the City shall inspect the same, and, if the City finds that the same is fully operational and functioning as designed, has been completed in accordance with the final plans and specifications approved by the City, or any modifications thereof approved by the City, and in accordance with all applicable laws, rules, and regulations, pursuant to the terms of this Agreement the City will accept the same whereupon ownership of such portion of the System shall be transferred to the City and be operated and maintained by the City at its sole expense as provided herein. Such acceptance shall be subject to (i) the District providing the City with the District Engineer's Certificate of Substantial Completion and the Affidavit of Bills Paid; (ii) the District providing the City with an electronic GIS mapping plan, including all attributes used in the City GIS plan at the time of submission in a format acceptable to the City for each constructed Phase; (iii) the District providing the City with any manuals or other material relating to the proper operation of the System; and (iv) the District providing or assigning to the City easement for such facilities, to the extent required. The City shall not be responsible for the cost of any repair of the System identified by the City as in need of repair prior to the City's acceptance. Thereafter, the City shall accept the System and such acceptance shall operate to transfer to the City all bond and warranties of the contractor and subcontractor.

The City may accept temporary facilities under certain circumstances satisfactory to the City. Before such temporary facilities may be put in place, the City and the District must execute written contracts containing the criteria under which the temporary facilities will be removed. Nothing herein shall be deemed to require the City to accept or maintain any portion or part of the System that is not

functionally integrated and operational (e.g., wastewater lines not connected to an operating wastewater treatment plant), until the City deems the System is operating in an acceptable manner. In the event the System has not been completed in accordance with the final plans and specifications approved by the City, the City will advise the District in what manner said System does not comply, and the District shall correct the same, whereupon the City shall again inspect the System and accept the same if the defects have been corrected. During the term of this Agreement, the City will operate the System or portions thereof that the City has accepted and provide service to all users within the District without discrimination consistent with current City service policy.

Section 2.11 Water Supply and Wastewater Treatment.

The City will provide water supply to the System and treatment of wastewater collected in the System to the District. The District, or a developer on behalf of the District, agrees to pay Connection Fees for such water supply and wastewater treatment capacity. The City will, upon the District's request and payment of Connection Fees, issue a letter of assurance that the District is entitled to the use and benefit of water supply and wastewater treatment capacities in the City's water supply and wastewater treatment facilities in the amount necessary to serve the property for which fees are paid, if such capacity is then available. If the requested capacity is not available at the District's time of request, the City will so notify the District and take immediate action to make the necessary modifications and enlargements to the City's water supply and wastewater treatment facilities in order that it will have sufficient capacity to supply the District. Notwithstanding the foregoing sentence, the City's obligation to provide service to the District is unconditional, and the City will use its best efforts to at all times maintain sufficient capacity in its water and wastewater system to serve the District, provided the District has kept the City informed of its build-out schedule as required by this subsection.

As a part of the operation of the System or portions thereof which have been accepted by the City, the City shall supply the District all of its requirements of potable water and wastewater treatment. The water supply and wastewater treatment services provided by the City to the District shall be substantially equivalent in quality to the water supply and wastewater treatment services the City provides to other City customers.

The parties anticipate that the City will, as development occurs within the District and other areas, make the necessary modifications and enlargements to the City's water supply and wastewater treatment facilities in order that it will have sufficient capacity to supply and serve the District. To enable the City to effectively manage water and wastewater treatment capacity needs, the District shall provide to the City by December 31 of each year during the term of this Agreement, a written projection of new improvements and Phases to be added to the System during the next two years and such other information as the City may reasonably require to evaluate its future water supply and wastewater treatment capacity needs. However, it is within the City's discretion to determine if and when the City may expand such facilities.

Section 2.12 Water and Wastewater Rates.

The City shall fix such rates and charges for customers of the System as the City, in its sole discretion, determines is necessary, provided that the rates and charges for services afforded by the System will be equal and uniform to those charged other similar users within the City. All revenue from the System shall belong exclusively to the City.

Section 2.13 Maintenance of the System.

Subject to the limitations, if any, which may be provided by law and after acceptance of each integral stage of the System, the City shall at all times maintain the System, or cause the same to be maintained, in good condition and working order and will operate the same, or cause the same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles. Each party hereto will comply with all contractual provisions and agreements entered into by it and with all the valid rules, regulations, directions, or orders by any governmental, administrative, or judicial body promulgating same. If either party violates any such rule, regulation, direction or order, it shall be solely responsible for any fine, penalty, or sanction imposed on it.

Section 2.14 Service Beyond the Boundaries of the District.

The District shall not allow the System to be extended to serve, on a permanent basis, any real property located outside the District without the prior written consent of the City.

Section 2.15 Other Service Providers.

The District shall not undertake to enter into a contract with any party other than the City to provide or supply potable water or wastewater treatment services for any portion of the District without the prior written approval of the City

Section 2.16 Records and Reports.

The District shall promptly provide to the City upon request, and without charge, copies of any records or documents on file with the District relating to the construction, operation, maintenance, or repair of the System. The District will provide the City with an electronic mapping plan of the system, including all attributes required for inclusion in the City's Geographic Information System. The City shall promptly provide to the District upon request, and without charge, copies of any records or documents on file with the City relating to the construction, operation, maintenance, or repair of the System.

Section 2.17 Dissolution.

The City agrees that it will not dissolve or attempt to dissolve a MUD or similar special district serving the Property until the following conditions have been met:

1) 100% of the developable acreage within the MUD or similar special district has been developed with water, wastewater treatment, drainage facilities, road and park facilities; and

2) The Developer, or its assigns developing within the District, has been reimbursed by the MUD or similar special district to the maximum extent permitted by the rules of the Texas Commission on Environmental Quality or the City assumes any obligation for reimbursement of the MUD or similar special district under such rules.

As described above, "developable acreage" means the total acreage in the MUD or similar special district less acreage associated with land uses for roads, utility easements, drainage easements, mitigation sites, lakes, creeks, bayous, parks and open space.

Upon dissolution of the MUD or similar special district, the City will assume all rights, assets, liabilities and obligations of the MUD or similar special district (including all obligations to reimburse the Developer, or its assigns developing within the MUD or similar special district).

Section 2.18 Tax Rebate.

The City acknowledges that a portion of its ad valorem tax rate includes debt service attributable to debt issued to construct water and wastewater facilities to serve property outside the District. The City Council has determined that tax rebate payments made under this policy serve the public purpose of providing equitable relief to the MUD property owners from the additional City taxes imposed to pay a portion of the bond debt incurred by other MUDs and assumed by the City upon dissolution. The City agrees to rebate a portion of the City's ad valorem tax revenue to the District, subject to the following terms:

1.) The MUD will agree to only use the tax rebate payments to reduce the MUD' s ad valorem tax rate by applying the payments to the MUD's annual debt service payment.

2.) In each year that a MUD has bond debt incurred for the construction of public water, wastewater and drainage facilities, the City will make annual tax rebate payments to the MUD in an amount that is the lesser of:

a. The amount the MUD is required to pay in principal and interest on its bond debt for that year; or

b. The portion of the City's ad valorem taxes collected from within the MUD, determined by applying that portion of the City' s then current ad valorem tax rate dedicated to the payment of the debt service for dissolved MUDs, to the taxable value of property in the MUD, after excluding the City's cost of collection, including penalties, interest, or late fees.

3.) The City will make the tax rebate payments to the MUD on or before February 15 of each year, for the taxes collected during the preceding year.

The Parties intend that the rebate provided herein meets the City rebate required by law [see 30 TAC 293.11(d)(8)]. In the event it is determined by the TCEQ that such rebate does not meet the legal requirement, the rebate amount will be increased to meet the legally required minimum.

Section 2.19 Tax Levy.

In order to provide for the payment of its obligations under this Agreement, the City will, if necessary, levy, within the limits prescribed by law, for the current year and each succeeding year thereafter, while its obligations under this Agreement remain in effect, an ad valorem tax upon all taxable property within the City sufficient to pay the City's obligations under this Agreement, including the payment of interest and to create and provide for a sinking fund of not less than two percent of the principal amount of the City's obligations under this Agreement. The City hereby finds and declares that the existing and available taxing authority of the City for such purposes is adequate to permit a legally sufficient tax.

Section 2.20 System Users Are City Customers.

The District shall not allow customers to connect to the Water or Wastewater Systems. As ownership of each portion of the Water and Wastewater Systems is transferred to the City, any persons applying for and receiving water and wastewater service through the Water and Wastewater Systems will be water and wastewater customers of the City and will, in receiving water and wastewater service, be subject to the same ordinances, rules, and regulations, including applicable rates and charges, that are applicable to other customers of the City's water and wastewater systems. The City will not discriminate in providing water and wastewater services to persons located in the District on the basis that the customer is located within the District.

Section 2.21 Floodplain Mitigation.

The overflow of floodwaters from Oyster Creek across the Property and the City Property will be contained within two drainage channels and a series of detention ponds shown on **Exhibit B**. The City and the District agree to share in the costs related to floodplain mitigation for the Property and the City Property based on the gross acreage of the Property and the City Property, which equates to a cost share of 43% to the City and 57% to the District.

Section 2.22 Drainage and Detention.

The City has engaged a third-party engineer to prepare a detailed master drainage plan for the region which includes the Property as well as land owned by the City. This report outlines the drainage and detention improvements necessary for the full development of these combined tracts. The City acknowledges that this report provides the full drainage and detention requirements for development of the Property.

The master drainage report outlines that the total volume required for the detention and drainage for development of the combined tracts is 1,651 ac-ft. Based on the report, the City and the Developer have identified a list of joint drainage projects (the "Joint Drainage Projects") that will provide the necessary drainage and detention for development of the Property and the City Property,

which Joint Drainage Projects are described and shown on **Exhibit C** attached. The City and the Developer agree to share in the costs of the Joint Drainage Projects as described on and in the shares listed on **Exhibit C.**

The Parties will develop the regional detention/mitigation Basin shown on **Exhibit C** (the "Detention/Mitigation Basin"). The City will designate the land necessary to provide for the approximately 345 acre-feet of detention required to serve the City Property (the "City Detention Tract"), which is approximately 25 acres of land, as soon as practical after the Effective Date. The off-site preliminary location of the City Detention Tract is shown on **Exhibit C** as that portion of the Detention/Mitigation Basin located to the east of the Property. The Developer will transfer the portion of the Detention/Mitigation Basin on the Property to The District. After acquisition of the City Detention Tract, the City will grant The District a drainage easement on the City Detention Tract for the construction of the Detention/Mitigation Basin. After the City and the Developer transfer the necessary easement and land to it, the District will design, bid, construct and maintain the Detention/Mitigation Basin.

The Detention/Mitigation Basin will be developed and paid for as follows:

i) The City will dedicate a total of 25 acres of the City Property for the Detention/Mitigation Basin;

ii) The Developer/District will pay the cost to design the Detention/Mitigation Basin;

iii) The Detention /Mitigation Basin design is subject to City review and approval;

iv) The Developer will dedicate a maximum of 94 acres of the Property for the Detention/Mitigation Basin;

v) Each Party will pay their pro-rata share (using the same formula in **Exhibit C**) of construction costs for the Detention/Mitigation Basin as those costs come due and payable (or as otherwise may be agreed by the District); and

vi) After construction, the City will maintain the Detention/Mitigation Basin, and the District will pay its pro-rata share of such maintenance costs using the same formula as shown on **Exhibit C.**

vii) The City and the District will evaluate the potential to jointly develop recreational and/or surface water storage facilities within the Detention/Mitigation Basin.

Section 2.23 Annexation of City Property.

In order to facilitate the development of the City Property, the City may petition the District to annex all or a portion of the City Property into its boundaries for the purpose of providing a reimbursement mechanism for the infrastructure necessary to serve the City Property. If the City files such a petition, the District agrees to annex the City Property into the District provided such annexation meets all legal requirements for annexation.

ARTICLE 3
MISCELLANEOUS PROVISIONS

Section 3.01 Notice of District's Default.

The City Manager shall notify the District in writing of an alleged failure by a Developer to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The alleged defaulting District shall, within thirty (30) days after receipt of such notice or such longer period of time as the City Manager may specify in such notice, either cure such alleged failure or, in a written response to the City Manager, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

The City Manager shall determine (a) whether a failure to comply with a provision has occurred; (b) whether such failure is excusable; and (c) whether such failure has been cured or will be cured by the alleged defaulting District. The alleged defaulting District shall make available to the City Manager, if requested, any records, documents or other information necessary to make the determination.

In the event that the City Manager determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the City Manager, or that such failure is excusable, such determination shall conclude the investigation.

If the City Manager determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the alleged defaulting District in a manner and in accordance with a schedule reasonably satisfactory to the City Manager, then the City Manager shall so notify the City Council in a written report which may recommend action to be taken by the City Council. The City Manager shall provide notice and a copy of such report to the District. After receipt of such report from the City Manager, or at any time upon its own motion, the City Council may proceed to mediation under Section 3.03 or exercise the applicable remedy under Section 3.04 hereof, provided that if the City Council acts on its own motion, it shall follow the notice and procedural provisions of Section 3.01 hereof.

Section 3.02 Notice of City's Default.

The District shall notify the City Manager in writing of an alleged failure by the City to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The City Manager shall, within 30 days after receipt of such notice or such longer period of time as that District may specify in such notice, either cure such alleged failure or, in a written response to the District, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

The District shall determine (a) whether a failure to comply with a provision has occurred; (b) whether such failure is excusable; and (c) whether such failure has been cured or will be cured by the

City. The City Manager shall make available to the District, if requested, any records, documents or other information necessary to make the determination.

In the event that the District determines that such failure has not occurred, or that such failure either has been or will be cured in a manner and in accordance with a schedule reasonably satisfactory to the District, or that such failure is excusable, such determination shall conclude the investigation.

If the District determines that a failure to comply with a provision has occurred and that such failure is not excusable and has not been or will not be cured by the City in a manner and in accordance with a schedule reasonably satisfactory to the District, then the Developer shall so notify the City Council in a written report which may request action to be taken by the City Council. The District shall provide notice and a copy of such report to the City Manager. If requested in the District's report, the City Manager will add the matter to the agenda of the next meeting of the City Council for consideration and action by City Council.

Section 3.03 Mediation.

In the event the Parties to this Agreement cannot, within a reasonable time, resolve their dispute pursuant to the procedures described in Sections 3.01 or 3.02, the Parties agree to submit the disputed issue to non-binding mediation. The parties shall participate in good faith, but in no event shall they be obligated to pursue mediation that does not resolve the issue within seven days after the mediation is initiated or 14 days after mediation is requested. The Parties participating in the mediation shall share the costs of the mediation equally.

Section 3.04 Remedies.

In the event of a determination by the City that a District has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 3.03, the City may file suit in a court of competent jurisdiction in Fort Bend County, Texas, and seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act and termination of this Agreement as to the District.

In the event of a determination by a District that the City has committed a material breach of this Agreement that is not resolved in mediation pursuant to Section 3.03, the District may file suit in a court of competent jurisdiction in Fort Bend County, Texas, and seek any relief available, at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act and termination of this Agreement.

Section 3.05 Force Majeure.

In the event either party is rendered unable, wholly or in part, by force majeure, to carry out any of its obligations under this Agreement, it is agreed that on such party's giving notice and full particulars of such force majeure in writing to the other party as soon as possible after the occurrence of the cause relied upon, then the obligations of the party giving such notice, to the extent affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent

provided, but for no longer period. Such cause, as far as possible, shall be remedied with all reasonable dispatch.

The term "force majeure" as used herein, shall include but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, war, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, tornadoes and restraints of governments and people, explosions, breakage or damage to machinery or pipelines and any other inabilities of either party, whether similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which the party could not have avoided by the exercise of due diligence and care.

Section 3.06 Address and Notice.

Unless otherwise provided in this Agreement, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "notice") herein provided or permitted to be given, made or accepted by either party to the other must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, when appropriate, addressed to the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:	If to the District, to:
City Manager	Fort Bend County Municipal Utility District No. 234
City of Sugar Land 2700 Town Center Blvd. North Sugar Land, Texas 77479	c/o The Muller Law Group, PLLC 202 Century Square Blvd. Sugar Land, Texas 77478

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address, by at least fifteen (15) days written notice to the other party.

Section 3.07 Assignability.

This Agreement shall bind and benefit the respective parties and their legal successors, but shall not otherwise be assignable, in whole or in part, by either party without first obtaining written consent of the other, [provided, however, that Developer agrees to use its best efforts to assign this Agreement to the District within ninety days of the confirmation of the District. If this Agreement is not so assigned to and accepted by the District within such time, the City shall have the right to terminate this Agreement upon thirty (30) days written notice to Developer.]

Section 3.08 Severability.

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

Section 3.09 Merger.

This Agreement embodies the entire understanding between the parties and there are no prior effective representations, warranties or agreements between the parties except as set forth in the City ordinance consenting to the creation of the District.

Section 3.10 Term.

This Agreement shall be in force and effect from the date first written above and continue for a term of 40 years unless otherwise previously terminated pursuant to some term or condition of this Agreement.

[EXECUTION PAGES FOLLOW]

FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 234

By: _____

President, Board of Directors

Date: _____

ATTEST:

_____

Secretary, Board of Directors

CITY OF SUGAR LAND, TEXAS

By: _____

Date: March 7, 2022

APPROVED AS TO FORM:

_____

City Attorney

Exhibit F
[Reserved]

EXHIBIT G

Joint Drainage Project List Map

JOINT DRAINAGE PROJECT LIST BETWEEN

FORT BEND COUNTY MUD 234 AND CITY OF SUGAR LAND

	Project Title	Cost Share Benchmark	CoSL
1.	Central Diversion Channel	57%	43%
2.	West Diversion Channel	57%	43%
3.	Onsite Bullhead Slough Improvements, including drop structure located at western boundary of Benchmark Tract and upstream of Bullhead Slough crossing of UPRR and US90A	57%	43%
4.	Regional Detention/Mitigation Basin	57%	43%
5.	Airport Berm along Oyster Creek	57%	43%

All drainage projects are per the geometric terms identified per the drainagereport title "DRAINAGE AND FLOODPLAIN ANALYSIS FOR CENTRAL UNIT PRISON AND ADJACENT PROPERTIES" prepared for the City of Sugar Land,Texas by Jones|Carter and dated December 2019.

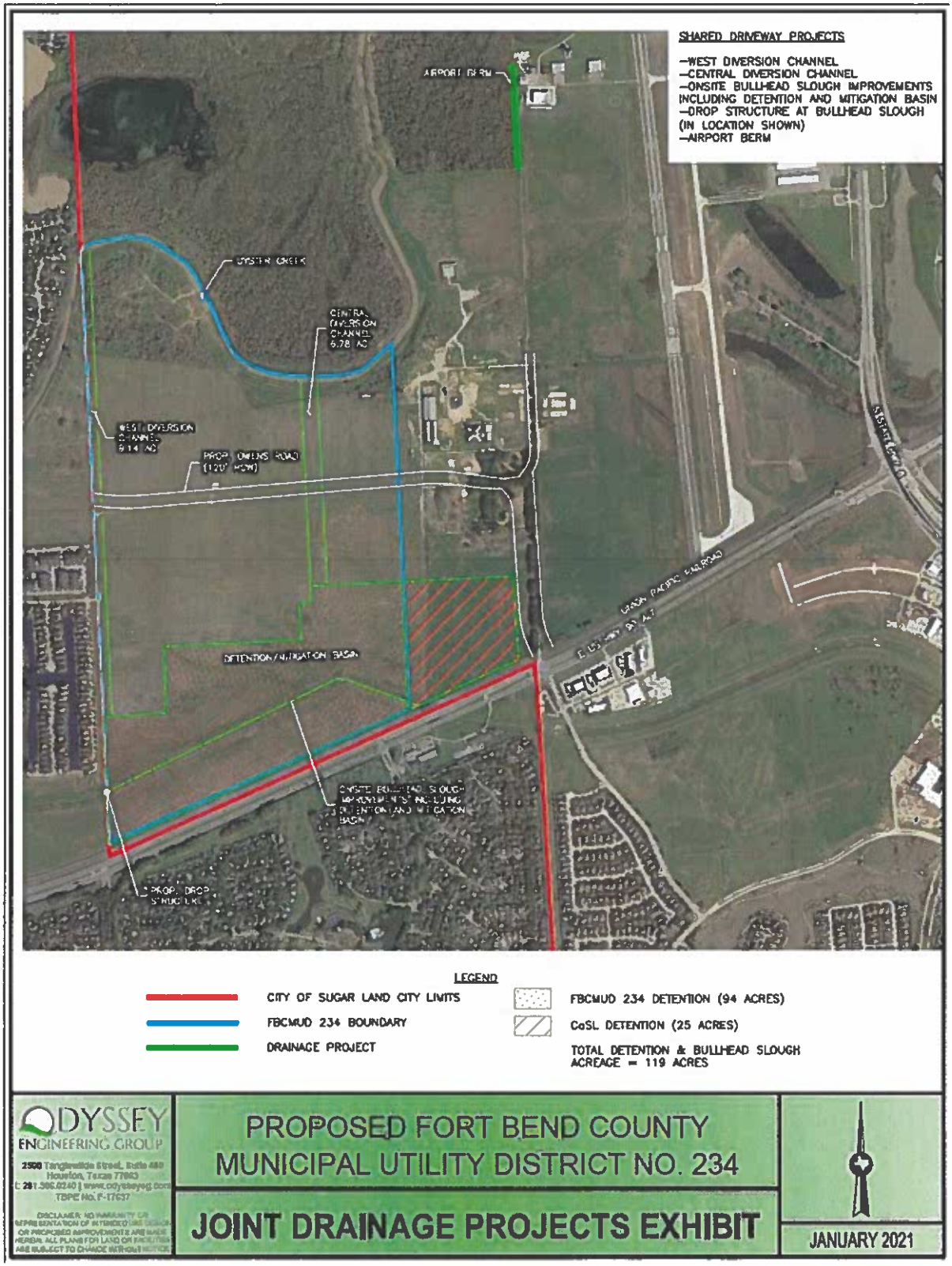

SHARED DRIVEWAY PROJECTS
-WEST DIVERSION CHANNEL
-CENTRAL DIVERSION CHANNEL
-ONSITE BULLHEAD SLOUGH IMPROVEMENTS INCLUDING DETENTION AND MITIGATION BASIN
-DROP STRUCTURE AT BULLHEAD SLOUGH (IN LOCATION SHOWN)
-AIRPORT BERM
AIRPORT BERM
OYSTER CREEK
CENTRAL DIVERSION CHANNEL 6.78 AC
WEST DIVERSION CHANNEL 9.14 AC
PROP. OWENS ROAD (120' ROW)
DETENTION/MITIGATION BASIN
ONSITE BULLHEAD SLOUGH IMPROVEMENTS INCLUDING DETENTION AND MITIGATION BASIN
PROP. DROP STRUCTURE
UNION PACIFIC RAILROAD
LEGEND
CITY OF SUGAR LAND CITY LIMITS
FBCMUD 234 BOUNDARY
DRAINAGE PROJECT
FBCMUD 234 DETENTION (94 ACRES)
CoSL DETENTION (25 ACRES)
TOTAL DETENTION & BULLHEAD SLOUGH ACREAGE = 119 ACRES
ODYSSEY ENGINEERING GROUP
TBPE No. F-17637
PROPOSED FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 234
JOINT DRAINAGE PROJECTS EXHIBIT
JANUARY 2021

Exhibit H

Owens Road Alignment

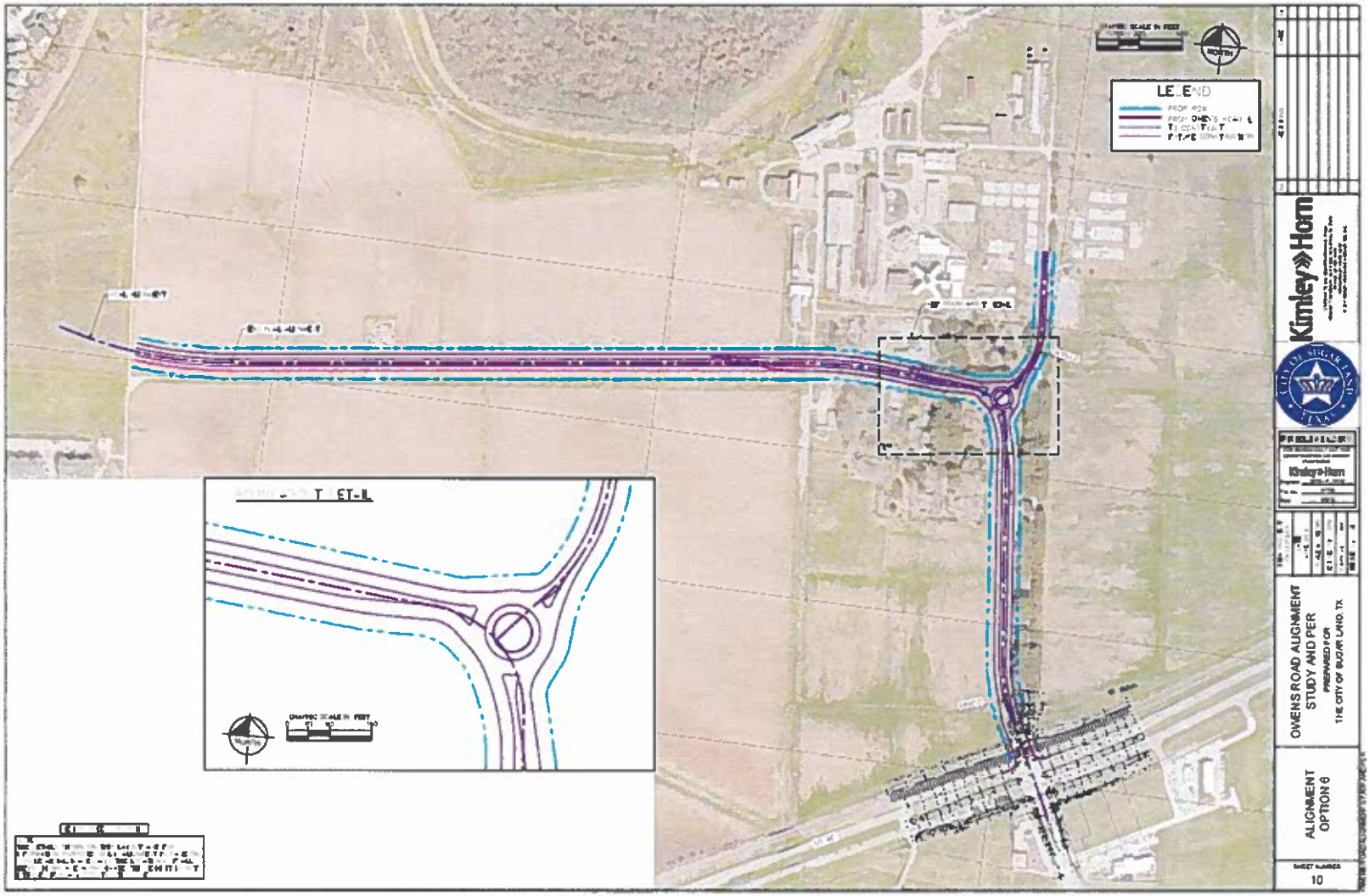


Exhibit I
MEMORANDUM OF DEVELOPMENT AGREEMENT

THE STATE OF TEXAS §
§ KNOW EVERYONE BY THESE PRESENTS:
COUNTY OF FORT BEND §

A Development Agreement (the "Agreement") was made and entered into as of _____, by and between the CITY OF SUGAR LAND, TEXAS (the "City"), a home-rule municipality in Fort Bend County, Texas, acting by and through its governing body, the City Council of Sugar Land, Texas; and ABBEY LAKES INTEREST, L.P., a Texas limited partnership (the "Developer").

The Developer owns approximately 312 acres of land more particularly described in **Exhibit A** attached hereto (collectively, the "Property").

The purpose of the Agreement is to define the City's regulatory authority over the Property, to establish certain restrictions and commitments imposed and made in connection with the development of a residential community, to provide certainty to the Developer concerning regulation of the development of the Property for a period of years, and to identify and establish a master plan and development guidelines for the development of the Property.

A copy of the Agreement, and all exhibits, and supplements or amendments thereto, may be obtained from the City Secretary of the City of Sugar Land, Texas, upon payment of duplicating costs.

EXECUTED as of _____.

ABBEY LAKES INTEREST, L.P.,
a Texas limited partnership

By: , general partner

By:_____
Name:_____
Title: Manager

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____, Manager of _____, general partner of Abbey Lakes Interest, L.P., a Texas limited partnership, on behalf of said company and partnership.

_____
Notary Public, State of Texas

(NOTARY SEAL)

After recording, return to Muller Law Group, 202 Century Square Boulevard, Sugar Land Texas, 77478.

City Council Agenda Request

MARCH 1, 2022

AGENDA REQUEST NO: V.B.

AGENDA OF: City Council Meeting

INITIATED BY: ***Jim Callaway, Director of Special Projects***

PRESENTED BY: ***Jim Callaway, Director of Special Projects***

RESPONSIBLE DEPARTMENT: Assistant City Manager

AGENDA CAPTION:

Consideration of and action on authorization of a Development Agreement, by and between the City of Sugar Land, Texas, Benchmark Acquisitions, LLC, and Abbey Lakes Interests, L.P.

RECOMMENDED ACTION:

Approval of the Development Agreement by and Between the City of Sugar Land, Texas, Benchmark Acquisitions LLC and Abbey Lakes Interest LP.

EXECUTIVE SUMMARY:

On February 1, 2022, the City Council authorized a Settlement Agreement and release of claims in the lawsuit styled Benchmark Acquisitions, LLC v. City of Sugar Land, Cause No. 16-DCV-233432. This Agreement included terms and obligations for resolving a suit filed by Benchmark against the City.

The Development Agreement presently before Council for action is a step in implementing the Settlement Agreement. This Development Agreement outlines specific obligations and terms for all of the parties going forward.

Key elements of the Development Agreement are:

- A mutually acceptable concept development plan which allows for Benchmark's development of:
  - Approximately 130 net acres of R-1 and R-1Z single-family lots
  - Approximately 30 net acres of Industrial zoning;
- An option for the City to purchase the Industrial land
  - Five-year option, beginning after infrastructure is available
  - Value to be set by appraisals
  - City and Developer agree to jointly market Industrial land;
- Consent to Creation of Fort Bend Co. Municipal Utility District No. 234 with City option to petition inclusion of City property;
- Developer construction of two lanes of Owens Road with remaining two lanes constructed when City or County connects four lanes to either side of the property;
- MUD to connect to City Systems and pay Connection Fees
- Developer/MUD to extend water/waste water from point in 90A across City property
  - MUD to receive credits against connection fees for extensions;
- Development of a Regional Detention Facility
  - Developer to pay 53% of construction cost, City pays 47%
  - Developer to provide approximately 80% of the property required for the Regional Detention Facility;
  - MUD to pay pro-rata share of maintenance costs; and,
- To the extent the costs of the Owens Road Tie-in are not funded by Fort Bend County Mobility Bonds, the City and the Developer agree to share in those additional costs equally

Developer agree to share in these additional costs equally

The Developer has submitted three original executed copies of the Development Agreement.

BUDGET

EXPENDITURE REQUIRED:

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE:

ATTACHMENTS:

	Description	Type
D	Development Agreement	Contracts

REVIEWERS:

Department	Reviewer
Assistant City Manager	Serrano, Natalie
City Secretary	Serrano, Natalie
City Secretary	Harris III, Thomas
Legal	Riede, Meredith
Agenda Coordinator	Perez, Justin
Assistant City Manager	Callaway, Jim
City Manager	May, Jennifer

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: III.F.

AGENDA OF: City Council Meeting

INITIATED BY: ***Ashley Newsome, Deputy City Secretary***

PRESENTED BY: ***Ashley Newsome, Deputy City Secretary***

RESPONSIBLE DEPARTMENT: City Secretary

AGENDA CAPTION:
Consideration of and action on the minutes of the April 2, 2024 meeting.

RECOMMENDED ACTION:
Consider the minutes of the April 2, 2024 meeting.

EXECUTIVE SUMMARY:
Consider the minutes of the April 2, 2024 meeting.

BUDGET

EXPENDITURE REQUIRED: N/A

CURRENT BUDGET: N/A

ADDITIONAL FUNDING: N/A

FUNDING SOURCE:N/A

ATTACHMENTS:

Description	Type
040224cc_minutes	Other Supporting Documents

CITY OF SUGAR LAND

CITY COUNCIL MINUTES

Sugar Land City Hall
2700 Town Center Boulevard North
Sugar Land, Texas 77479

CITY OF SUGAR LAND

TUESDAY, APRIL 2, 2024

CITY COUNCIL MEETING MINUTES

5:30 PM

Council Chamber

I. ATTENTION

A. *Members of the City Council, Board and/or Commission may participate in deliberations of posted agenda items through videoconferencing means. A quorum of the City Council, Board and/or Commission will be physically present at the above-stated location, and said location is open to the public. Audio/Video of open deliberations will be available for the public to hear/view, and are recorded as per the Texas Open Meetings Act.*

The meeting will live stream at https://www.sugarlandtx.gov/1238/SLTV-16-Live-Video or https://www.youtube.com/user/SugarLandTXgov/live. Sugar Land Comcast Cable Subscribers can also tune-in on Channel 16.

QUORUM PRESENT

All members of City Council were present. Jennifer May, Deputy City Manager, served as City Manager.

INVOCATION

Mayor Pro Tem Naushad Kermally

PLEDGES OF ALLEGIANCE

Mayor Pro Tem Naushad Kermally

II. PUBLIC COMMENT

Citizens who desire to address the City Council, Board and/or Commission in person with regard to matters on the agenda must complete a "Request to Speak" form and give it to the City Secretary, or designee, prior to the beginning of the meeting.

Each speaker is limited to three (3) minutes, speakers requiring a translator will have six (6) minutes, regardless of the number of agenda items to be addressed. Comments or discussion by the City Council, Board, and/or Commission Members, will only be made at the time the subject is scheduled for consideration.

Disclaimer: The City of Sugar Land reserves the right to remove any individual for comments deemed inappropriate, impertinent, profane, slanderous and/or for not adhering to the public comment rules outlined in this notice.

For questions or assistance, please contact the Office of the City Secretary (281) 275-2730.

The following members of the public addressed the City Council.

- Michelle Mikeska, no address provided, spoke in opposition.
- Sarah Ashour, no address provided, spoke in opposition.
- Manal, no address provided, spoken in opposition.
- Romana Ahmed, no address provided, spoke in opposition.
- Anam Ratrnani, no address provided, spoke in opposition.
- Inshirah, 811 Sugar Plum Cir, spoke in opposition
- Mazen Mawed, no address provided, spoke in opposition
- Esteban Garcia, no address provided,, spoke in opposition.
- Eve Gashparova, no address provided, spoke in opposition.
- Andy Maltz, no address provided, spoke in opposition,
- Amina Ishaq, no address provided, spoke in opposition.

III. CONSENT AGENDA

A. **SECOND CONSIDERATION:** Consideration of and action on **CITY OF SUGAR LAND ORDINANCE NO. 2333:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, AMENDING PLANNED DEVELOPMENT DISTRICTS ADOPTED BY ORDINANCE NUMBERS 1430, 1676, 1683, 1812, 1826, 1850, 1904, 1905, 1926, 1936, 2041, 2081, 2118, 2259, 2291, 2297, AND 2307 BY REMOVING SIC 5993 AND TOBACCO, HOOKAH, AND VAPOR RETAIL STORES AS A PERMITTED LAND USE.
Laura Waller, Senior Planner

B. **SECOND CONSIDERATION:** Consideration of and action on **CITY OF SUGAR LAND ORDINANCE NO. 2334:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, AMENDING THE SUGAR LAND DEVELOPMENT CODE BY REVISING THE RESIDENTIAL AND NON-RESIDENTIAL LAND USES MATRICES FOUND IN TABLES 2-71.1 AND 2-91.1 BY CONSOLIDATING AND CLARIFYING CERTAIN LAND USES, STANDARDIZING CONDITIONAL USE PERMIT CONDITIONS, REMOVING TOBACCO, HOOKAH, AND VAPOR RETAIL STORES AS A LAND USE, AND PROHIBITING THE EXPANSION OF

EXISTING TOBACCO, HOOKAH, AND VAPOR RETAIL STORES.
Laura Waller, Senior Planner

C. **SECOND CONSIDERATION:** Consideration of and action on **CITY OF SUGAR LAND ORDINANCE NO. 2336:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, PROHIBITING THE USE OF DESIGNATED GROUNDWATER FROM BENEATH CERTAIN PROPERTY LOCATED AT 810 INDUSTRIAL BOULEVARD, SUGAR LAND, TEXAS, AND SUPPORTING CERTIFICATION OF A MUNICIPAL SETTING DESIGNATION BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING A PENALTY CLAUSE; AND PROVIDING A SEVERABILITY CLAUSE.
Katie Clayton, Director of Utilities

D. **SECOND CONSIDERATION:** Consideration of and action on **CITY OF SUGAR LAND ORDINANCE NO. 2338:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, AMENDING CHAPTER 5 OF THE CODE OF ORDINANCES BY ADDING A NEW SCHOOL ZONE.
Brian Butscher, Executive Director of Public Works

E. Consideration of and action on **CITY OF SUGAR LAND RESOLUTION NO. 24-21:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, APPOINTING A HEALTH AUTHORITY FOR THE CITY OF SUGAR LAND, TEXAS, TO SERVE FOR A TERM OF TWO YEARS.
Jarred Thomas, Emergency Management Coordinator

F. Consideration of and action on **CITY OF SUGAR LAND RESOLUTION NO. 24-22:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, ADOPTING A RETAIL AND WHOLESALE WATER CONSERVATION PLAN.
Raizee Sotomayor, Conservation Manager

G. Consideration of and action on authorization of a Contract with Blackmon Mooring of Texas LLC, in the amount of $216,969.58 through the Choice Partners Cooperative Purchasing Contract No. 24/002TC-01, for the remodel of Public Works Building C.
David Brown, Facilities Manager

H. Consideration of and action on authorization of a Contract with ARKK Engineers LLC, in the amount of $239,810.00, for design and bid phase services for the Wastewater Collection System Rehabilitation Project, CIP

CWW2304.
Idahosa Igbinoba, Engineer III

I. Consideration of and action on authorization of a Temporary License Agreement with SER Construction Partners LLC, for fill materials and services at 1 Circle Drive, utilizing SER Construction Partners LLC, funds.
Greg Willey, Construction Services Manager

J. Consideration of and action on authorization of a Budget Amendment, in the amount of $250,000.00, to the General Fund for Special Events.
Kimberly Terrell, Interim Director of Parks & Recreation

K. Consideration of and action on the minutes of the March 19, 2024 and March 26, 2024 meetings.
Ashley Newsome, Deputy City Secretary

A motion to **Approve,** Item III-K, Approval of consent agenda items A through K., was made by Naushad Kermally and seconded by Jennifer Lane, the motion **Passed**.

Ayes: Ferguson, Jacobson, Kermally, Lane, McCutcheon, Whatley, Zimmerman

IV. ORDINANCES AND RESOLUTIONS

A. Consideration of and action on **CITY OF SUGAR LAND RESOLUTION NO. 24-19:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, GIVING ITS CONSENT FOR FORT BEND MUNICIPAL UTILITY DISTRICT NO. 128 TO ANNEX APPROXIMATELY 0.17 ACRES OF LAND INTO THE DISTRICT.
Ruth Lohmer, Assistant Director, Community Planning & Redevelopment

A motion to **Approve,** Item IV-A, the approval of Resolution No. 24-19, consenting to the annexation of 0.17 acres into Fort Bend County MUD 128., was made by Carol McCutcheon and seconded by Naushad Kermally, the motion **Passed**.

Ayes: Ferguson, Jacobson, Kermally, Lane, McCutcheon, Whatley, Zimmerman

V. CITY COUNCIL CITY MANAGER REPORTS

Mayor Zimmerman and City Council decided to deter Items 5 A and B.

A. City Council Member Reports

- Community Events Attended or Scheduled

B. City Manager Report

- Community Events Attended or Scheduled
- Other Governmental Meetings Attended or Scheduled
- Council Meeting Schedule

VI. ADJOURNMENT

A motion to **Approve** adjournment at 6:07 p.m. was made by Carol McCutcheon and seconded by Joe Zimmerman, the motion **Passed**.

Ayes: Ferguson, Jacobson, Kermally, Lane, McCutcheon, Whatley, Zimmerman

Ashley Newsome, Deputy City Secretary

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: IV.A.

AGENDA OF: City Council Meeting

INITIATED BY: ***Jennifer Brown, Director of Special Projects***

PRESENTED BY: ***Cindy King, Animal Services Manager***

RESPONSIBLE DEPARTMENT: Animal Services

AGENDA CAPTION:

FIRST CONSIDERATION: Consideration of and action on **CITY OF SUGAR LAND ORDINANCE NO. 2330:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, AMENDING CHAPTER 2, ARTICLE 5, DIVISION 4 OF THE CODE OF ORDINANCES TO ADD A DANGEROUS DOG RENEWAL FEE, AN AGGRESSIVE DOG FEE AND A STERILIZATION FEE, AMENDING CHAPTER 3, ARTICLE 2 OF THE CODE OF ORDINANCES BY REVISING THE DANGEROUS DOG PROVISIONS, BY ESTABLISHING A COMMUNITY CAT PROGRAM, AND OTHER AMENDMENTS RELATED THERETO.

RECOMMENDED ACTION:

Consideration and approval of First Reading of Ordinance No. 2330, establishing a community cat program, adding dangerous dog renewal fee, adding aggressive animal provisions, and adding associated fees and penalties.

EXECUTIVE SUMMARY:

Ordinance No. 2330 covers several areas related to Animal Services, which are summarized below.

Community Cat Program

The City has been conducting a pilot program for TNVR (trap-neuter-vaccinate-return) for the cat colony at First Colony Mall. This is also known as a Community Cat Program. In the last year, 37 cats/kittens have been trapped, with 18 cats spayed/neutered, vaccinated and returned to the mall. Of the remaining kittens, 13 were adopted and 5 transferred to other rescues.

With the pilot program's success, several areas of the City with community cat colonies could benefit from this program. Rescues, organizations, or individuals register with the City and then trap the cats and deliver them to contracted veterinary clinic for evaluation, vaccination, surgery, and ear-tipping. Caretakers of the colonies are not considered owners of the cats that they care for. An ear-tip is the universal sign that a community cat has been spayed or neutered. The cats are then picked up from the vet by the caretaker and returned to their colony after recovery.

Provisions for Animal Care
This Ordinance clarifies the requirements for provisions to animals:

A structurally sound shelter that is designed for the species of the animal and contains sufficient space for the animal to turn about freely and easily sit, stand or lie in a comfortable, natural position; protects the animal from injury and inclement weather; and is regularly cleaned to prevent the accumulation of waste and other dangers that may threaten the health and safety of the animal.

The animal must have sufficient food that is free from contamination and of sufficient quality and nutritive value to maintain the animal in good health; sufficient clean, fresh water; and veterinary care when needed to prevent suffering.

The Ordinance adds more explanation to the acceptable restraints and conditions that may be used for a dog to be left outside unattended, which is consistent with Health & Safety Code 821.

An owner or custodian may not leave a dog outside and unattended by use of a restraint unless the owner or custodian provides the dog access to: adequate shelter; an area that allows the dog to avoid standing water and exposure to excessive animal waste; shade from direct sunlight (a doghouse is not adequate shade); and constant access to potable water.

An owner may not restrain a dog outside and unattended by use of a restraint that: is a chain; has weights attached; is shorter in length than the greater of five times the length of the dog or 10 feet; or is attached to a pinch, prong, or choke collar or any ill-fitting collar or harness.

Dangerous Dogs and Aggressive Animals
The Ordinance replaces language for vicious animals with aggressive animal language, distinguishes between dangerous dogs and aggressive animals, and establishes a process for

having an animal declared as an aggressive animal. Establishes requirements for owning an aggressive dog.

An aggressive animal is an animal that on at least one occasion and while not legally restrained, the animal injured or killed a person or legally restrained domestic animal or livestock, or committed unprovoked acts that would cause a person to reasonably believe that an attack is imminent to themselves or a legally restrained domestic animal or livestock in their control.

A dangerous dog means a dog that makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.

The Ordinance establishes a renewal fee for a dangerous dog, as well as a registration and renewal fee for aggressive dogs.

Section 3-38 has been rewritten to address the determination as an aggressive animal and an appeal process. Section 3-39 establishes requirements for ownership of an aggressive animal, and penalties for noncompliance.

Impounded Animals
Animals impounded by the City as subject to the following, at the owners cost, in addition to impoundment fees, if proof of current status cannot be provided. Rabies vaccination, microchip implantation, and sterilization if the animal is over 6 months of age and not already sterilized.

Penalties
The Ordinance establishes a maximum $500 fine per offense for any person found guilty of violating the Ordinance. Since fines are being established, the City must publish the descriptive caption in the city's official newspaper one time within 30 days of passage.

Animal Advisory Board
The Animal Advisory Board met in a special meeting on March 22, 2024 to finalize recommended revisions to the Ordinance. The board unanimously recommends the Ordinance to City Council for consideration and approval.

Recommendation
Staff recommends approval of first reading and passage to second reading of Ordinance No. 2330. Upon approval of first reading, second reading will be placed on the April 16, 2024 agenda.

BUDGET

EXPENDITURE REQUIRED:

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE:

ATTACHMENTS:

Description	Type
Ordinance No. 2330	Ordinances

ORDINANCE NO 2330

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS AMENDING CHAPTER 2, ARTICLE 5, DIVISION 4 OF THE CODE OF ORDINANCES TO ADD A DANGEROUS DOG RENEWAL FEE, AN AGGRESSIVE DOG FEE AND A STERILIZATION FEE, AMENDING CHAPTER 3, ARTICLE 2 OF THE CODE OF ORDINANCES BY REVISING THE DANGEROUS DOG PROVISIONS, BY ESTABLISHING A COMMUNITY CAT PROGRAM, AND OTHER AMENDMENTS RELATED THERETO.

BE IT ORDAINED BY THE CITY COUNCIL

OF THE CITY OF SUGAR LAND, TEXAS

Section 1. That section 2-136(a)(5) of Chapter 2, Article 5, Division 4, is amended to read as follows:

(5) Registration – Dangerous dogs and aggressive animals

a. Initial Dangerous dog registration fee …$250.00

b. Annual Dangerous dog renewal registration fee …$50.00

c. Initial Aggressive animal registration fee …$250.00

d. Annual Aggressive animal renewal registration fee …$50.00

Section 2. That section 2-136(a) of Chapter 2, Article 5, Division 4, is amended by adding a new subsection (7) to read as follows:

(7) Sterilization fee … amount charged to city by veterinary

Section 3. That Article II, Chapter 3 of the Code of Ordinances is amended to read as follows:

ARTICLE II. ANIMAL SERVICES

DIVISION 1. GENERAL PROVISIONS

Sec. 3-11. Definitions. In this article:

Aggressive Animal means an animal that, on at least one occasion and while not legally restrained:

(a) Injured or killed a person or a legally restrained domestic animal or livestock; or

(b) Committed unprovoked acts that would cause a person to reasonably believe that an attack is imminent to themselves or a legally restrained domestic animal or livestock in their control.

Animal means any living nonhuman vertebrate or invertebrate creature.

Animal services means the city's animal services division.

Animal services officer means any person designated by the city to enforce the provisions of this article.

Animal services manager means the person designated by the city manager to supervise the business of animal services.

Animal rescue group means a 501(c)(3) charitable organization registered with the city that provides temporary care and custody of sick, injured, lost, abandoned, unwanted, or stray animals and provides veterinary services for the animals housed in its care under the supervision of a licensed veterinarian who is employed or retained by the organization.

Community cat means a feral or free-roaming cat without evidence of ownership.

Community cat caretaker means a person who provides care, including food, shelter, or medical care to one or more community cats. Community cat caretakers are not considered the owner, protector, controller, or keeper of a community cat for purposes of this article.

Community cat program (CCP) means a program approved by the city in which community cats are humanely trapped, evaluated by a veterinary professional, vaccinated for rabies, sterilized, ear-tipped, and returned to the trap location.

Dangerous dog means a dog that:

(a) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(b) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Domestic animal means an animal that is not wild, that has been bred or trained to need and accept the care of humans and to live in a tame condition, and commonly kept as a household pet.

Dunbar Bite Scale means a scale created by Dr. Ian Dunbar and used to assess the severity of biting problems based on an objective evaluation of wound pathology.

Ear-tip means the removal of the ¼ inch tip of a community cat's left ear, performed while the cat is under anesthesia by or under the supervision of a licensed veterinarian.

Fowl means one or more peacocks, peahens, chickens, guineas, turkeys, ducks, or geese.

Humane live trap means any trap designed to capture an animal without injuring the animal.

Livestock means a goat, ostrich, rhea, llama, alpaca, emu, member of the swine family, member of the equine family, or member of the bovine family.

Microchip implant means an identification chip implanted under the skin of an animal for the purpose of identification of the animal. The implanted chip is registered with a microchip registration company with current ownership information to include the current owner's name, address, telephone number, and the description of the animal.

Owner means a person who:

(1) Has title to, custody of, or provides food, water, shelter, or veterinary care for an animal; or

(2) Allows an animal to remain on or about the owner's premises for ten or more days.

Other household pet means a mammal, reptile, caged bird, or other animal usually kept as a household pet, but does not include livestock, a wild animal, a dog, a cat, or a fish.

Pest control means killing, reduction or elimination of animal pests such as rodents or agricultural and garden insects such as termites, roaches, flies, mosquitoes and other insects.

Provocation means the conduct or action of a person or another animal that could be expected to elicit or provoke an animal to chase, snap at, attack, bite or scratch the person or other animal.

Rabies certificate means a document issued by a veterinarian who administers a rabies vaccine in compliance with Chapter 826, Tex. Health and Safety Code and Title 25, Chapter 169, Tex. Admin. Code, that consists of:

(1) Owner's name, address and telephone number;

(2) Animal identification, including species, sex, approximate age, size, predominant breed and color;

(3) Vaccine used, including product name, manufacturer and serial number;

(4) Date vaccination was administered;

(5) Revaccination due date;

(6) Rabies tag number if tag is issued; and

(7) Veterinarian’s signature, signature stamp, or computerized signature, address and license number.

Restraint means a chain, rope, tether, leash, cable or other device that attaches an animal to a stationary object or trolley system.

Running at large means any dog, cat, or other domesticated animal present on any public or unfenced private property not belonging to the owner or under control of the owner, and without the owner or caretaker having direct physical control over such animal.

Wild animal means a venomous, poisonous or dangerous reptile, or any other animal which can normally be found in the wild state and is not normally capable of being domesticated.

Sec. 3-12. Running at large prohibited.

(a) It is unlawful for an owner or person having control of an animal to allow an animal to be running at large.

(b) It is unlawful for an owner or person having control of an animal to fail to take the acts necessary to prevent an animal from running at large.

(c) It is a defense to prosecution under this section that the animal is:

(1) A specially trained dog that is being used with or without a leash by a blind or deaf individual to aid them within the city;

(2) In attendance at a formal training class and is under the direct supervision of the owner during the entire class.

(3) Within a vehicle being driven or parked;

(4) Inside a designated off-leash animal recreation area owned or leased by the city; or

(5) A community cat located in a registered community cat colony.

Sec. 3-13. Animal waste disposal.

(a) It is unlawful for an owner or person having control of an animal to permit the animal to defecate on private property unless the person immediately removes and properly disposes of the feces.

(b) It is unlawful for an owner or person having control of an animal to walk the animal on private property without carrying at all times a suitable container or other suitable instrument for the removal and disposal of animal feces.

(c) A person on whose property an animal has unlawfully defecated may file a complaint with animal services. Prior to filing a complaint with the city, the person whose property has been defecated on must give written notice to the owner or person having control of the animal that the animal defecated on the property and the owner or person having control of the animal failed to immediately remove and properly dispose of the feces. A complaint must include the name and address of the complainant, the name and address of the violator, the location of the violation, the type of animal causing the violation, and the date and times at which the violation occurred. This complaint must also include a copy of the written notice that was sent to the violator as required by this section.

(d) It is a defense to prosecution under this section that the animal is a specially trained dog that is being used by a blind individual.

(e) It is a defense to prosecution under this section that the animal defecates upon private property owned by the owner or person having control of the animal.

Sec. 3-14. Unreasonably noisy animals.

(a) It is unlawful and declared a nuisance for any owner or person in control of an animal to allow the animal to bark, growl, howl, whine or make any other sound loud and long enough to unreasonably disturb the peace of other people on the same, adjoining or nearby property.

(b) A person may file a complaint with municipal court for this violation. Prior to filing a complaint with the city, the person having been disturbed by an animal must give written notice to the owner of the animal that the animal's conduct has disturbed his peace on more than one occasion. A complaint must include the name and address of the complainant, the name and address of the violator, the location of the violation, the type of animal causing the violation, and the dates and times at which the violation occurred. This complaint must also include a copy of the written notice that was sent to the violator as required by this section.

Sec. 3-15. Reporting of certain animals struck by motor vehicle.

An operator of a motor vehicle who strikes a dog or cat with the vehicle must immediately stop and report the injury or death to the animal's owner. If the owner cannot be ascertained or located, the operator must immediately report the accident to the police department.

Sec. 3-16. Keeping of dogs, cats, and other household pets.

(a) It is unlawful for a person to possess or keep at any one location, including in any one building, residential dwelling, or on any one lot, more than:

(1) Four dogs over four months of age;

(2) Four cats over four months of age;

(3) A combination of four dogs and cats over four months of age;

(4) Four other household pets over four months of age; or

(5) One litter not over four months of age from any dog, cat, or other household pet.

(b) It is a defense to prosecution under this section that the animals are kept:

(1) By an animal rescue group registered with the city or individual offering foster care who is registered with the city;

(2) In a state or federally permitted kennel, veterinary facility, pet store, research facility, or other nonresidential land use permitted by the city's zoning regulations that provides for the keeping of the animals; or

(3) By a community cat caretaker and live in a registered community cat colony.

Sec. 3-17. Keeping of livestock.

(a) The number of livestock, except swine, permitted in any area may not exceed one animal for the first two acres and two animals per acre for each additional acre over two acres of a single tract of land. A minimum of two acres is required for the first animal.

(b) It is unlawful for a person to keep swine within the city.

(c) An enclosure or other restrictive area for livestock must be of sufficient strength and construction to keep the livestock confined.

(d) The animal services manager may waive certain requirements of this section in cases involving a scientific program, a nonprofit organization show or humane activity.

Sec. 3-18. Keeping of fowl.

(a) It is unlawful to keep fowl on any property, except that fowl may be allowed to inhabit public lakes or ponds, and private lakes or ponds that are managed and maintained by an organization, company or corporation.

(b) The property owner or organization in control of any lake or pond where fowl are allowed must provide care and maintenance for the fowl and property and must remove or otherwise control any fowl which become a nuisance to the residents of surrounding area or community.

(c) The animal services manager may waive certain requirements of this section in cases involving a scientific program, a nonprofit organization show or humane activity.

Sec. 3-19. Keeping of rabbits.

(a) It is unlawful to keep more than two rabbits and one litter less than six weeks old on property less than one acre in size.

(b) Rabbits must be kept in a secure pen enclosure that is at least 30 feet from any adjoining property line.

(c) The animal services manager may waive certain requirements of this section in cases involving a scientific program, a nonprofit organization show or humane activity.

Sec. 3-20. Keeping of wild animals.

It is unlawful to keep any wild animal inside the corporate city limits. It is unlawful to release a wild animal inside the corporate limits.

Secs. 3-21—3-24. Reserved.

DIVISION 2. HUMANE TREATMENT OF ANIMALS

Sec. 3-25. Provisions for animals required.

(a) It is unlawful for an owner to fail to provide an animal with:

(1) A structurally sound shelter that:

a. Is designed for the species of the animal and contains sufficient space for the animal to turn about freely and easily sit, stand or lie in a comfortable, natural position;

b. Protects the animal from injury and inclement weather; and

c. Is regularly cleaned to prevent the accumulation of waste and other dangers that may threaten the health and safety of the animal.

(2) Sufficient food that is free from contamination and of sufficient quality and nutritive value to maintain the animal in good health;

(3) Sufficient clean, fresh water; and

(4) Veterinary care when needed to prevent suffering.

(b) It is unlawful to leave:

(1) An animal on property in a manner that causes or may cause the animal to suffer injury or to become a public responsibility;

(2) Any animal in any of the following unhealthy conditions:

a. Accumulation of solid waste, dangerous materials or matter, or stagnant or polluted water or liquids;

b. Accumulations of earth, rocks, waste building materials or other construction debris left on the property not associated with on-going construction on the property;

c. Any substance, matter or condition that creates a foul-smelling odor or fumes; or

(3) An animal without making reasonable arrangements for assumption of care or custody by another person.

(c) If the owner is a pet shop or rescue organization sheltering more than one animal of the same species, a designated and isolated area for animals that exhibit symptoms of contagious disease or illness is required in a location such as to prevent or reduce the spread of disease to healthy animals.

Sec. 3-26. Beating or tormenting of animals.

It is unlawful to beat, cruelly treat, torment, overload, overwork, trap with steel jaw traps, or otherwise abuse an animal, or cause, instigate, or permit a dogfight, cockfight, bullfight, or other combat between animals or between an animal and a human.

Sec. 3-27. Restraint of animals.

(1) An owner or custodian may not leave a dog outside and unattended by use of a restraint unless the owner or custodian provides the dog access to:

a. adequate shelter;

b. an area that allows the dog to avoid standing water and exposure to excessive animal waste;

c. shade from direct sunlight (a doghouse is not adequate shade); and

d. constant access to potable water.

(2) An owner may not restrain a dog outside and unattended by use of a restraint that:

a. is a chain;

b. has weights attached;

(3) is shorter in length than the greater of:

a. five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

b. 10 feet.

(4) is attached to a pinch, prong, or choke collar or any ill-fitting collar or harness.

Sec. 3-28. Enclosure of animals in parked vehicle.

(a) It is unlawful to leave, place or confine an animal in a motor vehicle or trailer in such a way as to endanger the animal's health, safety or welfare.

(b) An animal services officer, police officer or firefighter may use reasonable force to remove an animal from a vehicle if the person believes that an emergency exists to preserve the animal's health, safety or welfare.

Sec. 3-29. Transportation of animals in certain trucks or trailers.

(a) It is unlawful to operate an open bed pickup truck or open flatbed truck, or to tow an open flatbed trailer, in excess of 35 miles per hour on a public street or highway while an animal occupies the bed of the truck or trailer.

(b) It is a defense to a violation of this section that the animal was secured in a "pet kennel" or other secure enclosure, or otherwise restrained by a harness manufactured for the purpose of restraining an animal by means other than neck restraints which prevents the animal from jumping or falling from the truck or trailer.

Sec. 3-30. Changing the color of certain animals.

It is unlawful to:

(1) Change the natural color of any fowl or rabbit; or

(2) Possess for the purpose of sale or give away any fowl or rabbit that has had its natural color changed.

Sec. 3-31. Sale, barter, or giving away of certain animals.

It is unlawful for any person to sell, offer for sale, barter, or give away as toys, premiums, or novelties baby chickens or ducklings, or other fowl under three weeks old, or rabbits under two months old, unless the animal services manager first approves the manner or method of display.

Sec. 3-32. Humane trapping.

(a) Humane live traps must be used to trap dogs, cats, or small nuisance wildlife within the city.

(b) Humane live traps may be loaned by animal services to City residents. Animal services may charge a refundable deposit until the trap is returned. Animal services will not place or retrieve traps unless the animal to be trapped is injured, sick, or poses a danger to the public.

(c) A person who places the trap or a pest control company must check the trap at least once every four hours or every eight hours if the trap is left overnight. An animal may not be kept in a trap for longer than 24 hours.

(d) A person who places the trap or a pest control company must provide protection from heat, cold, precipitation, and extreme elements of the environment.

(e) It is unlawful for a person to remove, alter, damage, or tamper with a city-owned humane live trap without the consent of animal services.

Sec 3.33. Community Cat Program.

(a) To manage the community cat population effectively and humanely within the City a Community Cat Program is hereby established. Any rescue, humane organization, or any person who provides care, including food shelter or medical care to one or more community cats, intending to undertake the responsibilities of community cat caretaker shall provide the City with a written letter of intention containing its address or location, phone number and e-mail address.

(b) Permitted activities under the Community Cat Program:

(1) Trapping of a community cat for purposes of providing necessary veterinary care. Healthy community cats must be released to the location where trapped, unless unsafe to do so.

(2) Impoundment of a community cat for the purpose of evaluation by a veterinary professional, vaccination for rabies, sterilization, ear-tipping, and revaccination.

(3) Reclamation of a sterilized, vaccinated, and ear-tipped community cat without proof of ownership.

Secs. 3-34—3-35. Reserved.

DIVISION 3. DANGEROUS DOGS AND AGGRESSIVE ANIMALS

Sec. 3-36. Dangerous dogs.

(a) This section applies to the extent it is more stringent than Chapter 822 of the Texas Health and Safety Code.

(b) In addition to complying with the requirements of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, the owner of a dangerous dog shall, not later than the 30th day after learning that he is the owner of a dangerous dog:

(1) Have an unsterilized dangerous dog spayed or neutered at the owner's expense and provide proof to the director animal services manager upon registration;

(2) Register the dangerous dog with the animal services manager and pay a dangerous dog registration fee;

(3) Obtain liability insurance or show financial responsibility in the amount of at least $100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal services manager;

(4) Keep the dog restrained at all times by:

a. Keeping the dog enclosed within fences or walls that are at least six feet high and approved by animal services;

b. Keeping the dog within a fully enclosed cage or pen, or within a building from which the general public is excluded, which is designed and maintained to keep the dog from escaping by leaping, digging or other means;

c. Transporting the dog within a fully enclosed vehicle;

d. A humane and secure muzzle in a manner that will prevent the dangerous dog from biting any person or animal when taken outside an enclosure; or

e. A leash not more than 6 feet in length and in the immediate control of a person when taken outside an enclosure.

(5) Owners of a dangerous dog must post on the premises where the dog is kept a sign that a dangerous dog is on the premises. The sign must be plainly visible from each street area adjacent to the premises.

(6) Owners transporting a dangerous dog must post a sign stating "Dangerous Dog" in bold font of at least 20 type font, in a window on each side of the vehicle transporting the dangerous dog.

(7) Owners of a dangerous dog shall annually renew registration of the dangerous dog with animal services and pay an annual dangerous dog renewal registration fee.

(8) Maintain, without any lapses or cancellations, liability insurance or show financial responsibility in the amount of at least $100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal services manager annually at the time of registration renewal.

(c) A dangerous dog not restrained as required by this section is considered to be running at large.

Sec. 3-37. Ownership or custodianship changes of dangerous dogs.

(a) If the ownership or custodianship of a dangerous dog changes, the name and address of the new owner or custodian must be provided to animal services by the previous owner or custodian of the dog.

(b) If the new owner or custodian of a dangerous dog resides in the city, animal services must notify the new owner or custodian that:

(1) The dog is a dangerous dog;

(2) Registration of the dog is not transferable; and

(3) The new owner or custodian must comply with the requirements of this division.

(c) When a person residing in the city becomes the owner or custodian of a dog that has been determined to be a dangerous dog under Section 822.0421 of the Texas Health and Safety Code, the new owner or custodian must register the dog on or before the 14th day after the date of receipt of the dog or the 14th day after the date of receipt of notice from the city that the dog has been previously determined to be a dangerous dog, whichever occurs first.

(d) If the new owner or custodian of a dangerous dog does not reside in the city, animal services must notify the new owner and the appropriate animal control authority in the area where the dog has been transferred that the dog has been previously determined to be a dangerous dog.

Sec. 3-38. Determination as an aggressive animal, appeal

(a) Upon notification of an unprovoked dog attack on a person or legally restrained domestic animal that causes serious bodily injury or death, or unprovoked acts that cause a person to reasonably believe that an attack is imminent to themselves or a legally restrained domestic animal, animal services department shall investigate to determine if an animal is aggressive. The determination must be based upon an investigation that includes observation and testimony about the animal's actions at the date of the incident, including the owner's or keeper's control of the animal, and any other relevant evidence determined by the animal services manager or designee. Observations and testimony can be provided by the animal services officer or by other witnesses who personally observed the animal's actions on the date of the incident. Animal service officers or other witnesses shall sign an affidavit attesting to the observed actions on the date of the incident or other evidence collected and detailed in a report by an animal services officer and agree to provide testimony regarding the animal's actions on the date of the incident if necessary.

(b) The animal services manager shall have discretionary authority to refrain from determining an animal is an aggressive animal, even if the animal engaged in the unprovoked acts specified in the definition of aggressive animal in Section 3-11.

(c) The animal services manager may seize and impound the animal at the owner's expense pending the investigation and determination of whether the animal is an aggressive animal. The animal services manager shall impound the animal, if the animal services manager cannot, with due diligence locate the owner of the animal that has been seized under this subsection. If the owner of the animal has not been located before the 15th day after seizure and impoundment, the animal will become the sole property of the city and is subject to disposition as the animal services manager deems appropriate.

(d) At the conclusion of the investigation required by this section, the animal services manager shall:

(1) determine that the animal is not aggressive and, if the animal is impounded, may waive any impoundment fees incurred and release the animal to its owner;

(2) determine that the animal is aggressive and order the owner to comply with the requirements for ownership of an aggressive animal set forth in Section 3-39 of this article and, if the animal is impounded, release the animal to its owner after compliance with all applicable requirements;

(3) If an animal is determined to be an aggressive animal, the animal services manager shall notify the animal owner:

a. that the animal has been determined to be an aggressive animal;

b. what the owner must do to comply with requirements for ownership of an aggressive animal and to reclaim the animal, if impounded; and

c. that the owner has the right to appeal the determination of aggressiveness.

(e) An impounded animal determined by the animal services manager to be aggressive must remain impounded, or confined at a location approved by the animal services manager, and may not be released to the owner until the owner pays all fees incurred for impoundment of the animal and complies with all requirements for ownership of an aggressive animal set forth in this article.

(f) If the owner of an impounded animal has not complied with Subsection (e) within 15 days after a final determination is made that an impounded animal is aggressive, the animal will become the sole property of the city and is subject to disposition as the animal services manager deems appropriate.

(g) If, under this section, the animal services manager determines that an animal is aggressive, that decision is final unless the animal owner files a written appeal with the municipal court within 10 days after receiving notice that the animal has been determined to be aggressive. The appeal is a de novo hearing and is a civil proceeding for the purpose of affirming or reversing the animal services manager's determination of aggressiveness. If the municipal court affirms the animal services manager's determination of aggressiveness, the court shall order that the animal owner comply with the ownership requirements set forth in Section 3-39 of this article. If the municipal court reverses the animal services manager's determination of aggressiveness

and, if the animal is impounded, the court may waive any impoundment fees incurred and release the animal to its owner.

(h) The owner of the aggressive animal shall renew the registration of the aggressive animal with the animal services manager annually and pay an annual aggressive animal registration fee.

(i) The owner of an aggressive animal who does not wish to or is unable to comply with the requirements in Section 3-39 shall deliver the animal to the animal services manager not later than the 30th day after learning that the animal is aggressive.

(j) If, on application of any person, the municipal court finds, after notice and hearing, that the owner of an aggressive animal has failed to comply with Section 3-39 the court shall order the animal services manager seize the animal and shall issue a warrant authorizing that seizure. The authority shall seize the animal and shall provide for the impoundment of the animal in secure and humane conditions. At the conclusion of the hearing, the Court shall:

(1) find that the owner was in compliance with subsection (b) of 3-39 and, if the animal is impounded, order the animal services manager to waive any impoundment fees incurred and release the animal to its owner; or

(2) find that the owner was not in compliance with subsection (b) of 3-39 and order the animal services manager to seize and impound the animal, if the animal is not already impounded and order the owner to come into compliance with subsection (b) of 3-39 within ten days of that finding, at which point the animal may be released back to the owner upon payment of any impoundment fees incurred; or

(3) if, after the period of ten days the owner is still not in compliance with subsection (b) of 3-39, the aggressive animal will become the sole property of the city and is subject to disposition as the animal services manager deems appropriate.

(k) If a previously determined aggressive animal commits an act described in the definition of aggressive animal in Section 3-11, the animal services manager may seize and impound the aggressive animal at the owner's expense pending a hearing before the municipal court in accordance with this section.

(1) Upon receipt of a sworn, written complaint by any person, including the animal services manager, of an incident described in the definition of aggressive animal in Section 3-11 of this article, the municipal court shall conduct a hearing to determine whether an aggressive animal committed the act so described. The hearing must be conducted within 30 days after receipt of the complaint, but if the animal is already impounded, not later than 10 days after the date on which the animal was seized or delivered. The municipal court shall provide, by mail, written notice of the date, time, and location of the hearing to the owner of the aggressive animal and the complainant. Any interested party may present evidence at the hearing.

(2) At the conclusion of the hearing, the Court shall:

a. find that the aggressive animal did not commit an act described in the definition of aggressive animal in Section 3-11 of this article, and, if the animal is impounded, order the animal services manager to waive any impoundment fees incurred and release the animal to its owner;

b. find that the aggressive animal did commit an act described in the definition of aggressive animal in Section 3-11 of this article, and order the animal services manager to seize and impound the animal, if the animal is not already impounded, and the aggressive animal will become the sole property of the city and is subject to disposition as the animal services manager deems appropriate.

(l) The owner of an aggressive animal is responsible for all costs of seizure, acceptance, and impoundment, and all costs must be paid before the animal will be released to the owner.

Sec. 3-39. Requirements for ownership of an aggressive animal; noncompliance.

(a) Within 15 days of an animal be deemed an aggressive animal, the owner shall:

(1) have an unsterilized aggressive animal spayed or neutered at the owner's expense and provide proof to the animal services manager upon registration;

(2) register the aggressive animal with the animal services manager and pay an aggressive animal fee;

(3) restrain the aggressive animal at all times on a leash in the immediate control of a person or in a secure enclosure;

(4) when taken outside the secure enclosure, securely muzzle the animal in a manner that will not cause injury to the animal nor interfere with its vision or respiration. The muzzle must prevent the aggressive animal from biting any person or animal;

(5) obtain and maintain, without any lapses or cancellations, liability insurance coverage or show financial responsibility in an amount of at least $100,000 to cover damages resulting from an attack by the aggressive animal causing bodily injury to a person or another animal and provide proof of the required liability insurance coverage or financial responsibility to the animal services manager at the time of registration and annually at the time of registration renewal;

(6) have the aggressive animal injected with a microchip implant and registered with a national registry for animals;

(7) post a legible sign at each entrance to the enclosure in which the aggressive animal is confined stating "BEWARE AGGRESSIVE ANIMAL."

(b) The owner of the aggressive animal shall renew the registration of the aggressive animal with the animal services manager annually and pay an annual aggressive animal renewal registration fee.

(c) The owner of an aggressive animal who does not wish to or is unable to comply with Subsection (a) shall deliver the animal to the animal services manager not later than the 30th day after learning that the animal is aggressive.

(d) If, on application of any person, the municipal court finds, after notice and hearing, that the owner of an aggressive animal has failed to comply with subsection (a), the court shall order the director seize the animal and shall issue a warrant authorizing that seizure. The authority shall seize the animal and shall provide for the impoundment of the animal in secure and humane conditions. At the conclusion of the hearing, the Court shall:

(1) find that the owner was in compliance with subsection (a) of 3-39 and, if the animal is impounded, order the animal services manager to waive any impoundment fees incurred and release the animal to its owner; or

(2) find that the owner was not in compliance with subsection (a) of 3-39 and order the animal services manager to seize and impound the animal, if the animal is not already impounded and order the owner to come into compliance with subsection (a) of 3-39 within ten days of that finding, at which point the animal may be released back to the owner upon payment of any impoundment fees incurred; or

(3) if, after the period of ten days the owner is still not in compliance with subsection (a) of 3-39, the aggressive animal will become the sole property of the city and is subject to disposition as the animal services manager deems appropriate.

(e) If a previously determined aggressive animal commits an act described in Section 3-11 of this article, the animal services manager may seize and impound the aggressive animal at the owner's expense pending a hearing before the municipal court in accordance with this section.

(1) Upon receipt of a sworn, written complaint by any person, including the animal services manager, of an incident described in Section 3-11 of this article, the municipal court shall conduct a hearing to determine whether an aggressive animal committed an act described in Section 3-11 of this article. The hearing must be conducted within 30 days after receipt of the complaint, but if the animal is already impounded, not later than 10 days after the date on which the animal was seized or delivered. The municipal court shall provide, by mail, written notice of the date, time, and location of the hearing to the owner of the aggressive animal and the complainant. Any interested party may present evidence at the hearing.

(2) At the conclusion of the hearing, the Court shall:

a. find that the aggressive animal did not commit an act described in Section 3-11 of this article, and, if the animal is impounded, order the animal services manager to waive any impoundment fees incurred and release the animal to its owner;

b. find that the aggressive animal did commit an act described in Section 3-11 of this article, and order the animal services manager to seize and impound the animal, if the animal is not already impounded, and the aggressive animal will become the sole property of the city and is subject to disposition as the animal services manager deems appropriate.

(f) The owner of an aggressive animal is responsible for all costs of seizure, acceptance, and impoundment, and all costs must be paid before the animal will be released to the owner.

Sec. 3-40. Investigation of bite or scratch incidents.

(a) Animal bite or scratch incidents that break the skin will be evaluated by animal services utilizing the Dunbar Bite Scale. Bites at level 3 or above will be investigated. It is unlawful for any person to, without the permission of the animal services manager, kill or remove from the city limits any animal that has bitten any person or other animal or that has been placed under quarantine, except when it is necessary to protect the life of any person or other animal.

(b) Every animal that bites or scratches a human or attacks another animal in an unnatural manner, or has rabies or any other zoonotic disease, or is under suspicion of having rabies or any other zoonotic disease, must be immediately confined by the owner and the owner must promptly notify animal services or an animal services officer of the place where the animal is confined and the reason for the confinement. The owner may not permit the animal to come in contact with any other person or animal.

DIVISION 4. RABIES AND OTHER ZOONOTIC DISEASES

Sec. 3-41. Designation of local rabies control authority.

The animal services manager is the designated local rabies control authority and has final authority in all rabies investigations.

Sec. 3-42. Vaccination of dogs and cats.

(a) The owner of a dog or cat must have the animal vaccinated against rabies before the animal reaches four months of age, followed by a rabies vaccine booster within 12 months of the initial vaccination.

(b) After the animal has been vaccinated as required in subsection (a), the animal must receive a vaccination within:

(1) Twelve months of the last vaccination if the animal was vaccinated with an annual vaccine; or

(2) Thirty-six months of the last vaccination if the animal was vaccinated with a triennial vaccine.

(c) This section does not prohibit a veterinarian or owner from selecting a more frequent rabies vaccination schedule.

(d) An owner must provide a current rabies vaccination certificate:

(1) To an animal services officer or peace officer upon his or her request; or

(2) To animal services prior to of an animal after its impoundment.

Sec. 3-43. Animals exposed to other rabid or diseased animals or carcasses.

(a) The owner of an animal exposed to rabies must immediately confine the animal and promptly notify animal services of the place the animal is confined and the reason for the confinement. The owner may not permit the animal to come in contact with any person or animal.

(b) An animal exposed to rabies must be:

(1) Quarantined under veterinary supervision for at least 90 days immediately following exposure if the exposed animal is not currently vaccinated;

(2) Immediately revaccinated and quarantined under veterinary supervision for at least 45 days immediately following exposure if the exposed animal is currently vaccinated; or

(3) Humanely euthanized, with notification to or under the supervision of animal services.

(c) It is unlawful for a person to fail or refuse to surrender an animal for supervised quarantine or humane euthanasia, as required for rabies control, when the demand is made by the animal services manager or officers acting under the manager's discretion.

(d) The animal services manager must direct the disposition of any animal or the carcass of any animal suspected of being rabid or of having a zoonotic disease considered to be a hazard to any human being.

Sec. 3-44. Reserved.

DIVISION 5. IMPOUNDMENT, ADOPTION, AND QUARANTINE

Sec. 3-45. Impoundment of certain animals.

(a) The following animals are subject to impoundment:

(1) An animal treated in a manner determined by the animal services manager or the designee of the animal services manager to be cruel or inhumane;

(2) An animal that has bitten, scratched, or viciously attacked a person or another animal, or that needs to be placed under observation for rabies or other zoonotic diseases, as determined by an animal services officer;

(3) An animal found running at large; or

(4) An animal in violation of any provision of this article.

(b) If an animal described by this section is found on the premises of any person, the owner or occupant of the premises may confine the animal in a humane manner until the owner or occupant notifies animal services.

(c) Animal services must take reasonable effort to contact the owner of an animal impounded that is wearing current rabies vaccination tag, identification tag, or is microchipped.

(d) An owner of an impounded animal may redeem that animal during normal business hours of animal services after presenting a photo ID and:

(1) payment of all impoundment fees,

(2) payment of fee for a rabies vaccination to be administered by animal services if the owner cannot provide proof of rabies vaccination or a letter from a licensed veterinarian on office stationery dated prior to impoundment stating that the animal was not vaccinated due to health reasons;

(3) payment of a fee for a microchip implantation to be administered by animal services unless the animal already has an implanted microchip that is registered to the national database that matches to owner redeeming the animal;

(4) payment of a fee for sterilization of an animal unless:

a. the animal was spayed or neutered prior to impoundment;

b. the animal is under six months of age;

c. the animal is redeemed prior to sterilization services provided by the city.

(e) It is unlawful for a person to fail to pay the impoundment fee(s). If the owner of an impounded animal is not able to pay an impoundment fee under subsection (d), the animal may be released to the owner if the owner:

(1) Pays a portion of the fee;

(2) Signs an agreement to pay the balance of the fee on specified dates; and

(3) Has not defaulted on a prior agreement.

(f) After the fourth impoundment of an animal in a 12-month period, animal services may petition the municipal court judge for a hearing to determine if the animal is continuing to be a public nuisance. After the hearing, the owner must comply with the order issued by the municipal court judge under this section within 48 hours of the issuance of the order or within the time specified in the court order. If the animal is to be removed from the city, the owner must provide the address to which the animal was moved, to animal services in writing in compliance with the court order. Failure to comply with the court order will result in a warrant being issued for the removal of the animal. During the hearing the municipal judge may order the:

(1) Adoption of the animal, except that the animal may not be returned to the location where the animal resided at the time of the nuisance action;

(2) Euthanasia of the animal due to health, temperament, or other evidence that euthanasia is the appropriate disposition of the animal;

(3) Exclusion from the city limits of the city; or

(4) Return of the animal to the owner.

(g) To prevent further suffering, an animal that is nursing may be immediately humanely euthanized by animal services if:

(1) Impounded without the animal's mother or with the animal's mother who is unable to provide nutritious milk; and

(2) Animal services is unable, after making a reasonable effort within an age appropriate feeding schedule, to find a suitable foster to bottle feed the animal.

(h) An impounded animal that appears to be suffering from extreme injury or illness may be humanely euthanized or given to an animal rescue group for the purpose of veterinary medical care, as determined by the animal services manager.

(i) An animal will become the city's property and will be subject to disposition as the animal services management deems appropriate, including adoption, transfer to an animal rescue group, or humane euthanasia if the animal is not reclaimed by the owner after being held by animal services for:

(1) Seventy-two hours when the animal does not have identification or current vaccination tag; or

(2) One hundred twenty hours when the animal has identification or current vaccination tag.

(j) Any person reclaiming or adopting any animal under the provisions of this section will be liable for any applicable fees.

(k) Liability of owners of impounded animals.

(1) The owner of an animal impounded remains subject to prosecution for violation of this chapter regardless of reclamation or non-reclamation of the animal.

(2) The owner of an impounded animal remains liable for the fees incident to impoundment, regardless of reclamation or non-reclamation of the animal.

Sec. 3-46. Adoption of dogs and cats.

(a) A person may adopt an animal from animal services if:

(1) The animal has been classified as adoptable by the animal services manager or their designee;

(2) The prospective owner has proper facilities to contain and care for the animal including food, shelter and veterinary care; and

(3) The prospective owner agrees to have the animal sterilized in accordance with Chapter 828 of the Texas Health and Safety Code, if not already sterilized at the time of adoption.

(b) The animal services officer may refuse to allow a person to adopt an animal if the officer has reason to believe the person:

(1) Would not have proper facilities to contain and care for the animal as required by this article; or

(2) Wants the animal for resale or a purpose other than pet ownership.

(c) If an adopted animal is lost, stolen, given away, or dies, the adopting owner must notify animal services in writing within seven days of the incident if prior to the sterilization date.

(d) It is unlawful for a prospective owner to fail to have the animal sterilized and provide proof of sterilization to animal services within 30 days of adoption of an adult animal or within 30 days of the specified date estimated to be the date an adopted animal becomes four months old.

(1) The animal services manager may extend the time periods in this subsection to accommodate scheduling with the local veterinary hospital with which the city contracts. This subsection applies to the extent it is more stringent than Chapter 828 of the Texas Health and Safety Code.

Sec. 3-47. Quarantine.

(a) An animal services officer may order the quarantine of an animal involved in an incident resulting in bites or scratches that break the skin of any person or animal, or an animal suspected of having any zoonotic disease to be a hazard to the human or animal population.

(b) If an animal services officer or the animal services manager orders quarantine other than in a veterinary hospital, the owner is responsible for confining the animal and must comply with written procedures regarding the quarantine as provided to the owner by the animal services officer. The owner must be required to obtain the same veterinary supervision of the animal and release from quarantine as would be required under a supervised quarantine. The owner must pay all fees and expenses incurred as a result of the quarantine prior to release of the animal.

(c) The owner must surrender possession of the animal to animal services on demand for supervised quarantine. Supervised quarantine must be at a veterinary hospital or by any other method of adequate confinement approved by the animal services manager. The quarantine must be at least ten days and under the supervision of a licensed veterinarian, who must submit to animal services reports on the quarantined animal's physical condition on the first, fifth and 10th days immediately following the date of bite incidents or any of the other above-enumerated purposes for quarantine. A release from quarantine must be issued if no signs of rabies or other diseases have been observed during the quarantine period.

(d) A violation of quarantine by any person is just cause for seizure and impoundment of the quarantined animal by animal services. It is unlawful for any person to interrupt the observation period of any animal for any reason.

(e) A person having possession of a quarantined animal must immediately notify animal services if the animal escapes, becomes sick, or dies. An animal that dies while under quarantine must be immediately surrendered to animal services.

(f) An animal under quarantine for rabies must receive a rabies vaccination before the animal's release from quarantine if the animal does not have a current vaccination certificate.

Sec. 3-48. Disposition of cruelly treated animals.

Sections 3-45 and 3-46 do not apply to an animal impounded under Subchapter B, Chapter 821 of the Texas Health and Safety Code.

Secs. 3-49-- 3-50. Reserved.

DIVISION 6. ENFORCEMENT

Sec. 3-51. Offenses and penalty.

(a) *Offenses.* In addition to other prohibited acts or failure to act declared to be unlawful under this article, it is unlawful for:

(1) Any person to violate a provision of this article or prevent, obstruct or interfere with an animal services officer or city-employed law enforcement officer in the performance of the officer's duties.

(2) Any person to make a false report of a violation of this article or federal, state or local law related to the regulation of animals.

(3) A person to give false information to an animal services officer or city-employed law enforcement officer who is in the lawful discharge of his or her duties under this article or under federal, state or local laws.

(b) *Separate Offense.* Each 24-hour period of violation, and each separate animal or condition in violation of this article, constitutes a separate offense.

(c) *Notice to appear.* Any person violating a provision of this article by committing a prohibited act or by failing to commit a required act may be issued a notice to appear or summons to appear in municipal court for such violation.

(d) *Penalty.* Except as otherwise provided in this article, a person violating any provision of this article will, upon conviction, be punished as provided in section 1-9 of this Code.

(e) *Warrant.* The animal services manager shall be authorized to obtain a search and seizure warrant for any provision in this chapter that authorizes the seizure and impoundment of an animal including dangerous dog, aggressive animal, and rabies control provisions.

Secs. 3-52—3-60. Reserved.

Section 4. That any person found guilty of violating this ordinance will be fined not more than $500.00 for each offense. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage.

Section 5. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on _____, 2024.

ADOPTED on second consideration on _____, 2024.

_____
Joe R. Zimmerman, Mayor

ATTEST:

_____
Ashley Newsome,
Deputy City Secretary

APPROVED AS TO FORM:

City Council Agenda Request

APRIL 16, 2024

AGENDA REQUEST NO: V.A.

AGENDA OF: City Council Meeting

INITIATED BY: ***Kimberly Terrell, Interim Director of Parks and Recreation***

PRESENTED BY: ***Kimberly Terrell, Interim Director of Parks and Recreation***

RESPONSIBLE DEPARTMENT: Parks and Recreation

PURPOSE OF WORKSHOP:
Informational Only

AGENDA CAPTION:
Review of and discussion on the Sugar Land Legacy Foundation 2023 Annual Report.

RECOMMENDED ACTION:
Receipt of Sugar Land Legacy Foundation 2023 Annual Report

EXECUTIVE SUMMARY:
The Sugar Land Legacy Foundation (SLLF) is a 501(c)3 that works on behalf of the City of Sugar Land to promote community investment in large-scale quality of life projects. These projects commemorate, transform and celebrate the Sugar Land community.

The SLLF is pleased to present their 2023 annual report to the City Council

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BUDGET

EXPENDITURE REQUIRED: N/A

CURRENT BUDGET: N/A

ADDITIONAL FUNDING: N/A

FUNDING SOURCE:N/A
