



## LEANDER TAX INCREMENT REINVESTMENT ZONE NO. 1

CITY OF LEANDER - 200 WEST WILLIS STREET - LEANDER - TEXAS - 78646

### AGENDA FOR THE May 11, 2015 MEETING OF THE LEANDER TIRZ No. 1

**NOTICE IS HEREBY GIVEN** of the Meeting of the Board of Directors of the Leander TIRZ No. 1 to be held at **Leander City Hall, City Manager's Conference Room, 200 West Willis Street, Leander, Texas** on the 11th day of May, 2015 at 2:00 p.m.. At the meeting the Board of Directors will consider and act upon the following agenda items:

1. Open meeting and roll call
2. Approval of the minutes: March 4, 2015
3. Discussion and possible action to acknowledge the termination of the development and reimbursement agreement dated February 5, 2008 for the Leander Crossing project between the Betz Company, the City, Leander TIRZ #1 and the Leander Development Authority.
4. Adjourn

I hereby certify that the above notice of the Organizational Meeting of the Board of Directors of the LEANDER TIRZ. No. 1 was posted on the bulletin board at City Hall, 200 West Willis, Leander, Texas on the 7th day of May, 2015 by 5:00 p.m. pursuant to Ch. 551 Tex. Gov't. Code.

A handwritten signature in blue ink, reading "Debbie Haile", is written over a horizontal line.

Debbie Haile, TRMC - City Secretary  
City of Leander, Texas



**LEANDER TAX INCREMENT REINVESTMENT ZONE NO. 1**  
CITY OF LEANDER - 200 WEST WILLIS STREET - LEANDER - TEXAS - 78646

**MINUTES**  
**FOR THE March 4, 2015 MEETING**  
**OF THE LEANDER TIRZ No. 1**

**NOTICE IS HEREBY GIVEN** of the Meeting of the Board of Directors of the Leander TIRZ No. 1 to be held at **Pat Bryson Municipal Hall, 201 North Brushy Street, Leander, Texas** on the 4th day of March, 2015 at 2:00 p.m.. At the meeting the Board of Directors will consider and act upon the following agenda items:

1. Open meeting and roll call  
**Kent Cagle opened the meeting at 2:00pm. In attendance were Kent Cagle, Virginia Naumann, Cynthia Long and Dale Vannoy. Shanan Shepherd was absent.**  
**Also in attendance were Tom Yantis, Robert Powers, Debbie Haile and Debora Penberg.**
2. Approval of the minutes: October 13, 2014  
**Motion made by Cynthia Long to approve. Second by Virginia Naumann. Motion passes, all voting "aye"**
3. Consider an amendment to the Oak Creek TIRZ Development and Reimbursement Agreement  
**Tom Yantis explained**  
**Motion made by Virginia Naumann to approve. Second by Cynthia Long. Motion passes, all voting "aye"**
4. Presentation of the updated TIRZ Market Analysis  
**The updated Market analysis was presented by**
5. Discussion on the Leander TIRZ No. 1 Financial Report  
**Robert Powers explained the Financial Report**
6. Adjourn  
**With there being no further business, the meeting adjourned at 2:30pm**

Attest:

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Kent Cagle, President

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Debbie Haile, TRMC, City Secretary



## **Executive Summary**

**May 11, 2015**

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**Agenda Subject:** Discussion and possible action to acknowledge the termination of the development and reimbursement agreement dated February 5, 2008 for the Leander Crossing project between the Betz Company, the City, Leander TIRZ #1 and the Leander Development Authority.

**Background:** The TIRZ Board and Development Authority entered an agreement with the Betz Company in 2008 for the reimbursement of certain TIRZ projects that were to be constructed as a part of the planned Leander Crossing development. The developer did not meet the deadlines in the agreement related to securing development approvals for the project.

The original developer has subsequently sold a portion of the property to Gehan Homes. A new development agreement related to subdivision ordinance variances was approved by the City Council on April 2, 2015. Part of that agreement acknowledges the termination of the original development agreement and requires the signature of the TIRZ Board and the Development Authority.

This item authorizes the TIRZ Board and Development Authority president to sign the agreement acknowledging termination of the original development and reimbursement agreement.

**Origination:** Applicant: Chris Lynch (Gehan Homes) on behalf Leander Capital, LLC

**Financial Consideration:** None.

**Recommendation:** Staff recommends approval.

**Attachments:**

1. Original Development Agreement (being terminated)
2. New Development Agreement (acknowledging termination)
3. Location Exhibit

**Prepared By:** Tom Yantis, AICP  
Assistant City Manager

5/5/2015

## DEVELOPMENT AND REIMBURSEMENT AGREEMENT FOR THE LEANDER CROSSING

This Development and Reimbursement Agreement for the Leander Crossing ("Agreement") is made, entered into and effective as of the 5<sup>th</sup> day of February, 2008 (the "Effective Date") by and between the Leander Development Authority, a non-profit corporation formed pursuant to Subchapter D, Chapter 431, Texas Transportation Code, and the City Charter of the City of Leander (the "Authority"), and Betz Company, a Texas corporation ("Developer"). The City of Leander, Texas (the "City"), a Texas home-rule municipal corporation, executes this Agreement for the limited purposes of the City Council of the City ("Council") approving this Agreement as a contractual obligation of the Authority, and acknowledging the City will, during the Term of this Agreement, pay the Rebate Amounts (as hereinafter defined) and the Property Tax (as hereinafter defined) to the Tax Increment Fund established in Section 6 of Ordinance No. 06-029-00 that created Reinvestment Zone Number One, City of Leander, Texas ("TIRZ #1). TIRZ #1 a legal entity created by the City pursuant to *Chapter 311, Texas Tax Code*, executes this Agreement for the limited purposes of the Board of Directors of TIRZ #1 ("Board") approving this Agreement as a contractual obligation of the Authority, and acknowledging that TIRZ #1 will promptly transfer to the Authority for payment to Developer the Rebate Amounts and the Property Tax that are deposited in the Tax Increment Fund by the City. The Authority and Developer are sometimes referred to herein as the "Parties".

### RECITALS

Whereas, the City created and established the TIRZ #1 boundaries;

Whereas, the Authority was created to contract for the construction of projects in the TIRZ #1 Financing Plan, subject to such contracts being approved by the Council and the Board;

Whereas, the Council zoned the land area within TIRZ #1 as a Planned Unit Development ("PUD") and approved the Master Plan as the zoning map and PUD Plan of the "Leander Transportation Oriented Development District Planned Unit Development" (the "TODD PUD");

Whereas, the City and Williamson County have agreed that fifty percent (50%) of their respective ad valorem taxes collected on the increase in the appraised value over the Base Value of property within TIRZ #1 ("Tax Increment Receipts") will be dedicated to TIRZ #1, and deposited into the Tax Increment Fund for the use by TIRZ #1;

Whereas, the City has agreed to remit to TIRZ #1 sixty percent (60%) of certain water impact fees ("Capital Recovery Fees") that are received by the City for connections to water facilities that are constructed pursuant to an authorized contract with the Authority and identified in both the TIRZ #1 Financing Plan and the City's water impact fee ordinance;

Whereas, TIRZ #1 has agreed to remit to the Authority the Property Tax and the Rebate Amounts to fund and pay costs and expenses to be paid by the Authority pursuant to a contract executed by the Authority and approved by the Council and Board; and

Whereas, the Authority is contracting for the construction and completion of water and other infrastructure projects that are identified and listed in the approved Financing Plan;

NOW, THEREFORE, for and in consideration of the terms, conditions and covenants set forth herein, the Parties hereby contract, covenant and agree as follows:

**ARTICLE I.  
PURPOSES, TERM AND CONSIDERATION.**

**1.01. Property.** The Developer owns, or has the legal authority to develop approximately 166.27 acres of land that abuts State Highway 183A, said land being more particularly described in the attached Exhibit "A" which is made a part hereof for all purposes ("Property"). Developer has presented a concept plan for the subdivision and development of the Property to be known as the Leander Crossing ("Subdivision"). A copy of the proposed concept plan for the Leander Crossing is attached hereto and incorporated herein for all purposes as Exhibit "B" (the "Concept Plan"). The Concept Plan for the Leander Crossing provides for the development of 81.76 acres within the boundaries of TIRZ #1 (the "TIRZ Property"), and 84.57 adjoining acres that is outside the boundaries of TIRZ #1, with the TIRZ Property being developed pursuant to the following requirements, -0- acres being developed pursuant to the requirements of Transect Zone 1; -0- acres being developed pursuant to the requirements of Transect Zone 2; sixty (60) acres pursuant to the requirements of Transect Zone 3; twenty-two (22) acres being developed pursuant to the requirements of Transect Zone 5; and -0- acres being developed pursuant to the requirements of Transect Zone 6. The Concept Plan provides for the 84.57 acres of the Property that is not within TIRZ #1 to be developed, 32.94 acres being developed for general commercial, 31.6 acres being developed for multi-family, 19.97 acres for being developed for single family, and 4 acres being dedicated as green space. The TIRZ Property will be developed pursuant to and in compliance with State law, the TODD PUD, Leander Transportation Oriented Development District Planned Unit Development Ordinance, the Smart Code adopted by the City, and the applicable building and construction codes of the City (collectively the "TODD Regulations"). The portion of the Property that is not within the boundaries of TIRZ #1 will be developed pursuant to and in compliance with the Concept Plan, State law, the conventional zoning and subdivision regulations and other applicable rules, regulations, codes and ordinances of the City (the "Applicable Regulations"). Developer shall obtain all subdivision, zoning and other regulatory approvals required for the Leander Crossing, and plat and develop the Property in whole or in phases or sections for uses consistent with the Concept Plan and the regulatory approvals hereafter obtained by Developer, in accordance with this Agreement, and, as applicable, the Applicable Regulations and the TODD Regulations. The TIRZ Property is within the boundaries of TIRZ #1 and the TODD PUD, and all ad valorem tax increment receipts to be encumbered and paid pursuant to this Agreement shall be limited to tax increment receipts from the TIRZ Property.

**1.02. Development Incentives.** The Authority desires to promote development within the TODD PUD by providing financial assistance for the construction of capital improvement projects that are listed in the TIRZ #1 Financing Plan approved by the City. By Ordinance No. 06-029-00, the City Council designated an area within the City as a reinvestment zone pursuant to Chapter 311, *Texas Tax Code*, and designated said zone as Reinvestment Zone Number One, City of Leander, Texas.

**1.03. Financing Plan.** TIRZ #1 has adopted a Financing Plan that identifies certain water, wastewater, drainage, water quality, road and other facilities within and outside of the TIRZ #1 that are eligible for reimbursement funding from TIRZ #1. The Authority finds that the projects defined

herein and listed in Article 3 ("TODD Projects") are consistent with and included in the Financing Plan, and are appropriate for reimbursement pursuant to this Agreement.

**1.04. Requested Reimbursements.** Developer has requested the Authority to reimburse Developer for costs associated with the construction of certain water, road and bridge facilities that are included in the Financing Plan and required for the development of the Subdivision. Such projects are listed and described in Article 3, and are hereinafter referred to as the TODD Projects.

**1.05. Benefits.** Developer will benefit from being reimbursed development costs and by virtue of the improved feasibility for current development of the Property, the financial benefit of the reimbursements and the City services that will be made available to the Property. The Authority, TIRZ #1 and the City will benefit from the initial development within the TODD PUD, the enhancement of land values in properties that will be served by the infrastructure constructed by Developer, and resulting tax revenues that the City and Williamson County will realize.

**1.06. Consideration.** The benefits to the Parties set forth in Section 1.05 above, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

**1.07. Developer Assigns.** As used hereinafter in this Agreement, the word "Developer" shall mean and include the Developer and its grantees, successors and assigns.

**1.08. Term of Agreement.** The term of this Agreement commences on the Effective Date and terminates on the dissolution or expiration of TIRZ #1 (the "Term"), unless terminated sooner upon either Developer's receipt of all reimbursement amounts hereunder or upon Developer defaulting in the performance of this Agreement and such default is not cured in a timely manner after notice. Notwithstanding the Term of this Agreement, it is specifically provided that the payment of the Rebate Amounts and rebate of Capital Recovery Fees will terminate on the tenth (10th) anniversary of the Effective Date.

**1.09. Developer Default Events.** The following shall constitute events of Developer's default subject to a Developer's right to cure:

(a) if the Developer does not make application for and obtain Planning and Zoning Commission approval of a Concept Plan, that is generally consistent with Exhibit "B", of all of the Property within six months after the Effective Date;

(b) if the Developer does not make application for and diligently pursue Planning and Zoning Commission approval and Council rezoning consistent with Exhibit "B", of that part of the Property that is outside the boundaries of TIRZ #1 within one year after the Effective Date;

(c) if the Developer does not make application for and obtain City approval of a Preliminary Plat of all of the Property within one year after the Effective Date;

(d) if the Developer does not make application for City approval of a Final Plat of all of the Property, or a separate and distinct numbered phase or section of the Subdivision as shown on the approved Preliminary Plat, on or before the expiration of two (2) years after the Effective Date

of this Agreement, which plat is consistent (as applicable) with the Concept Plan, the TODD PUD, the Applicable Regulations, the TODD Regulations and this Agreement;

(e) if the Developer does not complete the design, construction and installation of the TODD Projects on or before three (3) years after the Effective Date; or

(f) if the Developer otherwise defaults in the performance of this Agreement and fails to timely cure such default after notice and opportunity to cure.

**1.09. Concept Plan.** It is the intent of this Agreement that the Leander Crossing will generally be laid out, planned, developed and constructed in compliance with the Concept Plan, as hereafter approved in a manner compliant with the requirements and procedures of the Applicable Regulations or the TODD Regulations, as such regulations apply to the Property.

## **ARTICLE 2. DEFINITIONS.**

**2.01. "Acceptance Date"** means the date on which the City accepts a TODD Project for ownership, operation and maintenance.

**2.02. "Authority Revenue"** means the Property Tax and the Rebate Amounts that are received by the Authority to be reimbursed to Developer pursuant to this Agreement; provided that when applicable to a TODD Project listed in Section 3.03 or Section 3.04 the term "Authority Revenue" shall not include any Rebate Amount.

**2.03. "County"** means Williamson County, Texas.

**2.04. "Encumbered Account"** means a separate account established by the Board within the Tax Increment Fund for the deposit of TIRZ Property Tax Increment Receipts received after the Effective Date and prior to the Initial Acceptance Date, for payment to the Authority and payment by the Authority to the Developer as provided in this Agreement.

**2.05. "Initial Acceptance Date"** means the date on which the City accepts the first TODD Project constructed and installed by Developer, for ownership, operation, and maintenance pursuant to Section 4.02(b).

**2.06. "Payment Account"** means a separate account established by the Board within the Tax Increment Fund for the deposit of TIRZ Property Tax Increment Receipts received after the Initial Acceptance Date, for payment to the Authority and Developer as provided in this Agreement.

**2.07. "Project Costs"** means the documented costs and expenses incurred by the Developer and approved by the Authority for the design and construction of a TODD Project, as provided more specifically in Section 5.01.

**2.08. "Project Plan" or "Financing Plan"** means the Financing Plan for the TIRZ #1 adopted pursuant to *Chapter 311, Texas Tax Code*, including all amendments thereto, that lists the capital improvement projects eligible for financing by TIRZ #1.

**2.09. "Property Tax"** means eighty percent (80%) of the ad valorem Tax Increment Receipts that result from assessments and taxes collected on the TIRZ Property, and are required to be remitted to the Authority for the benefit of Developer pursuant to Article 4 of this Agreement.

**2.10. "Rebate Amounts"** means sixty percent (60%) of the Capital Recovery Fees that are paid to the City to obtain water service within the Property. The Rebate Amounts shall be paid to TIRZ #1 and by TIRZ #1 to the Authority for payment by the Authority to Developer to reimburse a portion of the construction costs of the Water Transmission Main which is listed as a capital improvement project in the water impact fee ordinance to be funded by capital recovery fees. Payment of the Rebate Amounts will terminate on the earlier to occur of (a) the termination of this Agreement; (b) Developer having been reimbursed for the Project Costs of the Water Transmission Main from Property Tax and Rebate Amounts; or (c) ten years after the Effective Date.

**2.11. "Reimbursable Amount(s)"** means the lesser of the aggregate amount provided in Section 4.07 for the total of all the TODD Projects, the amount set forth in Article 3 for each of the individual TODD Projects, the agreed actual cost and expense of designing and constructing the TODD Projects, or the total amount of the Quarterly Incentive Payments that are payable from the Property Tax and Rebate Amounts to the Developer during the Term of this Agreement.

**2.12. "Reimbursement"** means the Rebate Amounts that are payable to Developer for credit against the cost and expense of designing and installing the Water Transmission Main, and the Property Tax amounts that are payable to Developer for credit against the cost and expense of designing and installing the TODD Projects inclusive of the Water Transmission Main.

**2.13. "TIRZ Property Tax Increment Receipts"** means the Tax Increment Receipts that result from the increasing tax values of real estate within the TIRZ Property, that are received by TIRZ #1 and are required by this Agreement to be paid to the Authority for payment to Developer.

**2.14. "TODD Project(s)"** has the meaning given in Section 1.03 above, and are the TODD Projects described in Article 3 as eligible for reimbursement under this Agreement.

**2.15. "Subdivision Improvements"** has the meaning provided in Section 3.06.

### **ARTICLE 3. SUBJECT TO REIMBURSEMENT.**

**3.01. Eligible TODD Projects.** The TODD Projects for which Developer will be eligible for a Reimbursement under this Agreement include (a) the Water Transmission Main, as defined in Section 3.02; (b) the Brushy Creek Bridge, as defined in Section 3.03; and (c) the Road Improvements, as defined in Section 3.04. The Water Transmission Main shall be eligible to receive Reimbursements consisting of both the Property Tax and the Rebate Amounts. The TODD Projects listed in Sections 3.03 and 3.04 shall not be credited with any Rebate Amount, and shall be eligible for a Reimbursement only from the Property Tax.

**3.02. Water Transmission Main.** The Water Transmission Main for which Developer will be eligible to receive a reimbursement of Project Costs under the terms of this Agreement consists of a sixteen inch (16") water transmission main, consisting of approximately 6,000 LF of water line,

together with all reasonably required valves, equipment and appurtenances, extending from FM 2243 and the Overlook Estates to SH 183A at the southern edge of the Property. The maximum Reimbursable Amount for the Water Transmission Main is \$660,000.

**3.03. Brushy Creek Bridge.** The Brushy Creek Bridge, for which Developer will be eligible to receive Reimbursement of Project Costs, shall consist of a three (3) lane bridge that will cross Brushy Creek and its flood plain at the location shown on Exhibit "C". The Brushy Creek Bridge will have thirty-seven feet (37') of width of vehicle travel lanes, protected pedestrian pathways, and a decorative railing that preserves and enhances views of Brushy Creek (the "Brushy Creek Bridge"). The maximum Reimbursable Amount for the Brushy Creek Bridge is \$525,000.

**3.04. Road Improvements.** The following road improvements ("Road Improvements") for which Developer will be eligible to receive a Reimbursement of Project Costs include:

(a) **Wade Parkway.** Wade Parkway will be a four (4) lane divided roadway with median, street trees and sidewalks, at the location shown on Exhibit "C", designed and constructed in compliance with the TODD Regulations and good engineering practices. The maximum Reimbursable Amount for Wade Parkway is \$524,000.

(b) **Leander Crossing Blvd.** Leander Crossing Boulevard will be a four (4) lane divided roadway with median, street trees and sidewalks, at the location shown on Exhibit "C", designed and constructed in compliance with the TODD Regulations and good engineering practices. The maximum Reimbursable Amount for Leander Crossing Blvd is \$480,000.

(c) **Wade Parkway and FM 2243 Intersection Enhancements.** The enhancements that will be eligible as a Project Cost include a traffic signal, street pavers and pedestrian enhancements at the intersection of Wade Parkway and FM 2243, designed and constructed in compliance with the TODD Regulations and good engineering practices. The maximum Reimbursable Amount for the Intersection is \$225,000.

**3.05. Limited Reimbursements.** Developer will not be eligible to receive a Reimbursement or any other contribution for any project or work that is not listed above in this Article 3. Leander Crossing will include a 4.47 acre village green with plaza area and water feature; 6.23 acres of greenbelt along an easement area with pedestrian trail; 9.66 acres of land with enhancements dedicated around the Brushy Creek detention and water quality ponds, and all other required Subdivision Improvements. The dedication of such tracts of land and installation of enhancements that are approved by the City will satisfy the City parkland dedication requirements.

**3.06. Subdivision Improvements.** The TODD Projects do not include any water or wastewater lines, roads, utilities, enhancements, drainage or detention facilities, lighting, sidewalks, parks, or other facilities, within the Property that are required for the Subdivision by the TODD Regulations, or as applicable the Applicable Regulations, or by regulatory authorities with jurisdiction over the Property ("Subdivision Improvements"). The Project Costs of the TODD Projects do not include the cost or expense of any Subdivision Improvements other than those described in Sections 3.02 through 3.05 above.

**3.07. No Rebate on Subdivision Improvements.** Developer shall, at Developer's expense

which shall not be rebated or reimbursable, construct the Subdivision Improvements.

Developer shall cause construction plans to be prepared for the TODD Projects and Subdivision Improvements in accordance with the Applicable Regulations and TODD Regulations (as applicable), and good engineering practices.

**ARTICLE 4.**  
**ECONOMIC DEVELOPMENT INCENTIVE.**

**4.01. TODD Project Costs Reimbursed.** Subject to the terms, limitations and provisions of this Agreement, and Developer's full and timely performance of, and compliance with, each of the requirements set forth in this Agreement, Developer shall be eligible to receive Authority Revenue as payment for up to the stated percentage amounts of the following TODD Project Costs:

(a) up to one hundred percent (100%) of the Project Costs of the Water Transmission Main:

(b) up to fifty percent (50%) of the Project Costs for the following:

- (i) Brushy Creek Bridge, described in Section 3.04(a);
- (ii) Wade Parkway, described in Section 3.04(b);
- (iii) Leander Crossing Boulevard, described in Section 3.04(c); and
- (iv) Wade parkway and FM 2243 Intersection;

**4.02. Quarterly Incentive Payments.** Subject to the terms, limitations and provisions of this Article 4, and Developer's full and timely performance of, and compliance with, each of the requirements and conditions of this Agreement, upon receipt from the City the Board will pay the Authority Revenue to the Authority for payment of the quarterly payments to Developer as provided in this Agreement ("Quarterly Incentive Payments"). The schedule for payment to the Authority shall be quarterly in arrears beginning thirty days after the end of the first calendar quarter following the Effective Date, and the schedule for payment by the Authority to Developer shall be identical. The Authority Revenue consists of 80% of the TIRZ Property Tax Increment Receipts and the Rebate Amounts that are received by the Authority from TIRZ #1 during the calendar quarter following the Effective Date and thereafter in each subsequent calendar quarter until the first to occur of the expiration of this Agreement or Developer being paid Reimbursable Amount; provided that after the tenth anniversary of the Effective Date a Reimbursement shall not include a Rebate Amount. Excluding the Rebate Amounts which shall be credited only to the Water Transmission Main, the Authority Revenue paid to Developer shall be allocated and credited equally to the Reimbursable Amounts for the TODD Projects listed in Sections 3.02, 3.03 and 3.04 above.

(a) **Encumbered Account.** Eighty percent (80%) of the Tax Increment Receipts on all the TIRZ Property that is received by the Authority from TIRZ #1 after the Effective Date, and prior to the date the Authority accepts as-built the first TODD Project that is completed by Developer (the "Initial Acceptance Date"), shall be deposited into the Encumbered Account and reserved for payment to Developer upon Developer completing construction and obtaining City acceptance of a TODD Project as-built; provided that (i) the amount paid by the Authority to Developer from the Encumbered Account shall not in any event exceed the Project Cost of the TODD Project that is completed by Developer and accepted by the City; (ii) if a balance remains in the Encumbered

Account after the Authority pays Developer the Project Costs of one or more completed and accepted TODD Projects, such balance shall remain in the Encumbered Account and paid to Developer upon the future completion and acceptance of other TODD Projects; and (iii) the total payments to Developer from the Encumbered Account shall not in any event ever exceed the Project Costs funded solely by Developer to obtain completion and acceptance of the TODD Projects. All Rebate Amounts, if any, paid to the Authority prior to the completion and acceptance of the Water Transmission Main shall be held in the Encumbered Account and paid to the Developer upon completion and acceptance of the Water Transmission Main. Upon completion and acceptance of all the TODD Projects the Property Tax payments made to Developer from the Encumbered Account and the Property Tax payments made to Developer from the Payment Account shall be reallocated equally and credited in equal amounts to the Reimbursable Amounts remaining unpaid, if any, from time to time on the TODD Projects.

**(b) Payment Account.** The Property Tax and Rebate Amounts that are received by the Authority from the TIRZ #1 after the Initial Acceptance Date, shall be deposited into a Payment Account and expended to reimburse the costs and expenses of designing and constructing the TODD Projects. The Payment Account shall consist of the Property Tax and Rebate Amounts received by the Authority during the calendar quarter following the Initial Acceptance Date and in each subsequent Calendar Quarter during the Term, until the first to occur of the expiration of this Agreement or Developer having been fully reimbursed for the Project Costs; provided that the Payment Account shall not include the Rebate Amounts from and after the earlier to occur of the Developer being fully reimbursed for the cost of the Water Transmission Main or the tenth anniversary of the Effective Date. The Payment Account shall be a separate account within the Tax Increment Fund.

**4.03. Deposit and Payment of Authority Revenue.** Authority Revenue will be deposited into a separate account and the Authority shall pay each respective Quarterly Incentive Payment to Developer on or before the 30<sup>th</sup> day of the month that follows each Calendar Quarter. As example, if the Initial Acceptance Date is September 1, 2008, the Authority Revenue during the three month period of October, November and December 2008 will be deposited in the separate Payment Account prior to payment to Developer on or before January 30, 2009.

**4.04. Developer Payment of Fees.** Developer, its grantees and assigns, shall pay all City fees and charges applicable to development of the Property, including, but not limited to, all subdivision plats, zoning and rezoning, site plan development and permits, building permits, capital recovery fees, costs of publication and notices, outside professional fees and charges, or other out-of-pocket expense, for the Leander Crossing. This Agreement does not waive nor, except as provided in Section 4.06, provide for the rebate of any City fees or charges.

**4.05. Termination of Quarterly Incentive Payments.** Notwithstanding any other provision of this Agreement, the payment of Quarterly Incentive Payments to Developer will terminate on the earlier to occur of the payment by the Authority to the Developer of Authority Revenue equal in the aggregate to the total Reimbursable Amount, or the payment to the Developer of the Rebate Payments as provided in this Agreement and the Quarterly Incentive Payments payable from the Property Tax during the Term. The total financial participation by the Authority in the costs of the TODD Projects, and the payments that will be paid by the Authority to the Developer shall not exceed an aggregate total of \$2,214,000.00, which amount is the maximum Reimbursable Amount.

**4.06. Drainage Impact Fees.** Performance by Developer under this Agreement shall constitute prepayment by the Developer, its grantees, successors and assigns of any future drainage impact fees that are hereafter assessed or charged by the City against the Property. The credit for prepayment shall not in any event include any future drainage fees that may be assessed for maintenance and/or operation.

**4.07. Developer Provides Security.** With respect to the construction of any TODD Project, Developer shall be required to provide a performance and payment bond, or letter of credit in lieu thereof, and otherwise post fiscal surety with Authority in amount to restore the area of construction if construction is stopped prior to completion of construction.

**4.08. Water and Wastewater Impact Fees.** Developer, its grantees and assigns, shall pay the water and the wastewater Impact Fees to the City for each lot and building site developed within the Subdivision or Property. Such fees shall be payable pursuant to *Chapt. 395, Tex. Loc. Gov't. Code*, the applicable City ordinances and Section 4.04 of this Agreement, and shall be paid by the Developer, its grantees, successors and assigns for each lot or site on the first to occur of a building permit being applied for or when water service is requested for a lot or site within the Subdivision. Such impact fees shall be paid in the amount that is established by ordinance and that is in effect when the impact fees become payable. Sixty percent (60%) of the impact fees paid to the City for water service within the Property will be deposited into the TIRZ #1 Account and remitted by TIRZ #1 to the Authority for credit against the Project Costs of the Water Transmission Main subject to the terms and provisions of this Agreement:

(a) **Water Impact Fees.** An amount equal to sixty percent (60%) of the water impact fees paid to and received by the City for Property and permits within the Property (the Rebate Amount) will be deposited into the TIRZ #1 Account, remitted to the Authority and then paid by the Authority to the Developer until the first to occur of the following: (i) the expiration of ten (10) years after the Effective Date; (ii) a default by Developer pursuant to this Agreement and such default not being timely cured by Developer; (iii) Developer has received payment of Rebate Amounts, and Property Tax payment amounts required to be allocated to the Water Transmission Main Project Costs, equal in the aggregate to the documented Project Costs of the Water Transmission Main; (iv) Developer has received Authority Revenue equal to the total documented Project Costs of the TODD Projects; or (v) Developer has received Authority Revenue equal to the maximum Reimbursable Amount of the Water Transmission Main or the TODD Projects.

(b) **Transfer of Rebate Amounts.** The Rebate Amounts will be transferred to the TIRZ #1 Account and then to the Authority quarterly in arrears;

(c) **Quarterly Incentive Payment Dates.** The payments will be paid to the Authority on or before the 30th day of each April, July, October and January following the Acceptance Date for the Water Transmission Main; and

(d) **Payment by Authority.** The Authority shall promptly make payment to Developer upon receiving funds from TIRZ #1 as provided in the foregoing Subsections 4.08(b) and (c).

Notwithstanding any other term or provision of this Agreement, in addition to the discontinuance as above provided, the payment of the Rebate Amounts will terminate: (i) at such time, if any, as

Developer, its grantees, successors and assigns, has been paid a combined amount of Property Tax, that is required to be credited to the Water Transmission Main, and Rebate Amounts, in an amount equal to the documented cost of designing and constructing the Water Transmission Main.

**4.11. Required Payment of Impact Fees.** The City shall require payment of Water and Wastewater Impact Fees within the Property no earlier than the date that a building permit is applied for, or an application is made for a connection to the City's water and wastewater system. If, for any reason, the City is prevented from collecting Water or Wastewater Impact Fees within the Subdivision, then the City shall be entitled to collect a fee of \$2,000 per living unit equivalent within the Subdivision for each connection to the City's water system and \$2,000 per living unit equivalent within the Subdivision for each connection to the City's wastewater system, as the Developer's contribution to the costs of the extension of City services to the Subdivision.

**4.12. Limitation of Reimbursements.** Notwithstanding any other term or provision of this Agreement, no reimbursement shall be made to Developer by the Authority, TIRZ #1 or the City at a time when Developer is delinquent in the payment of monies payable by Developer to the City, TIRZ #1 or the Authority pursuant to a contract or the Applicable Regulations. All reimbursement amounts that become due and payable to Developer at a time when Developer is delinquent in the payment of monies owed by Developer to the City, TIRZ #1 or the Authority, shall be held and not paid until Developer pays the delinquent amounts owed by Developer. If the payment of any such funds are withheld, and Developer thereafter during the Term of this Agreement pays all sums and amounts then owed to the City, TIRZ #1 and the Authority, the withheld sums and amounts will be promptly paid to Developer. If this Agreement is terminated at a time when Developer is delinquent in making payments owed to the City, TIRZ #1 or the Authority, Developer shall forfeit any and all rights to any such reimbursements then accrued and held by the City, TIRZ #1 or the Authority.

**4.13. Tap Fee Credits.** If Developer or the Property is lawfully entitled to receive a set number of water taps, without payment of any fee or charge, as a result of a valid contract or agreement with, or grant made by, the City or its predecessor, the credits will be given as provided in the supporting documentation.

## **ARTICLE 5. PROJECT COSTS DEFINED.**

**5.01. Project Costs Components.** The "Project Costs" for each of the TODD Projects shall be the reasonable and approved total cost of the TODD Project based upon the sum of the following:

- (a) the hard construction costs;
- (b) surveying costs;
- (c) the cost of soils and materials testing;
- (d) engineering fees relating to the Project;
- (e) any other necessary and reasonable out-of-pocket costs expended by the Developer in connection with design and construction of the TODD Projects, including the cost of any necessary land and rights-of-way located outside the boundaries of the Property;

provided, that all such sums and amounts shall be reasonable and necessary and documented to and approved by the Authority upon completion, and final acceptance by the City, of the TODD Project, for the purposes of determining the final amount of the agreed amount eligible for reimbursement to the Developer as hereinafter provided.

**5.02. Developer Payment of Costs.** Except as otherwise provided herein, all costs and expenses for the TODD Projects described in Article 3 and all other costs as specifically set forth herein, or required for the development of the Property, shall be paid by the Developer as they become due. The Authority will not bear or pay any part or portion of any such costs.

**5.03. Developer Financing.** Developer will be responsible for securing financing and constructing the TODD Projects and the Subdivision. Developer shall not receive any rebate or contribution from the City, Board or Authority for any part or portion of any amenity or improvement constructed either off-site or on-site within the boundaries of the Property, or any other cost or expense whatsoever; save and except only for the obligations and performances specifically required to be performed by the Authority pursuant to the terms of this Agreement.

**(a) Bid Requirements.** Developer must obtain at least three bid sheets for the construction of a TODD Project. No public bidding is required. The Parties acknowledge that the TODD Projects will, in most cases, be built in conjunction with other Subdivision Improvements that are not subject to reimbursement under this Agreement. Developer will have each bid proposal separately identify or itemize the construction costs for each TODD Project.

**(b) City Engineer Bid Approval.** The City Engineer will timely review all bids received for the construction of each TODD Project and approves the award amount for the construction of the TODD Project; provided, however, that the selection of the contractor will be at the sole discretion of Developer. The Developer will award all construction contracts.

**(c) Developer Reports and Records.** The Developer will make quarterly reports on the amounts paid to contractors for TODD Projects and, will maintain accounts in a manner that separately reflects payments subject to reimbursement under this Agreement.

**(d) City Engineer.** The City engineer will: (i) make recommendations to and advise the TIRZ #1 and Authority on the award of construction contracts by Developer; (ii) make quarterly reports to the Authority on the progress of construction; (iii) review and make recommendations to the Board and Authority on the final as-built Project Costs; and (iv) periodically inspect the TODD Projects during construction. No changes to the plans and specifications or change orders to the construction contracts pertaining to a TODD Project may be made without the prior approval of the City Engineer. The City Engineer will cooperate appropriately with Developer and the Developer's project engineer and will keep Developer and project engineer advised of the City Engineer's findings regarding the construction of the TODD Projects.

**(e) Record Drawings.** Upon completion of construction and acceptance by the Authority, the Developer must provide the Authority and TIRZ #1 with final, "record" drawings of the TODD Projects, approved by the City Engineer.

**(f) Required Certificates.** Upon completion of construction, the City must be provided with

a certificate of completion from the project engineer certifying that the construction of the TODD Project has been completed in accordance with the plans and specifications approved by the City and that the "record" drawings required by subparagraph (f) have been furnished.

(g) **Eligible Costs.** Developer will work and coordinate with the Authority and the City Engineer, to assure actual costs of the improvements constituting the TODD Projects are accurately and truly identified and agreed between the Parties as eligible for payment under this Agreement.

## ARTICLE 6.

### PLANS, SPECIFICATIONS AND PERFORMANCE.

#### 6.01. The Authority hereby agrees:

(a) **Building Permits.** The Authority will coordinate and facilitate with the City as appropriate to arrange for and obtain the following by the City, the issuance of building permits for buildings to be constructed within a portion of the Property for which a final plat has been approved, the City has either accepted the completed subdivision infrastructure improvements for such phase, or the Developer has posted adequate fiscal surety in a form approved by the City Manager of the City, provided Developer is not in default under this Agreement; and provided further this subsection does not commit the Authority to request the City to waive otherwise applicable requirements that all on-site and off-site subdivision infrastructure for the approved plat must be accepted by City prior to issuance of a certificate of occupancy.

(b) **Authorized Coordination.** The Authority will, as appropriate, authorize City personnel to coordinate with the project engineer, in a timely manner, on specific design requirements, plans and specifications for the Subdivision and TODD Projects.

(c) **Plan Approval.** To review and approve on behalf of the Authority, as appropriate, plans for construction of the TODD Projects (hereinafter the "Approved Plans for the TODD Projects").

(d) **Required Approvals.** No approval required by Developer shall be unreasonably denied, conditioned or delayed.

(e) **Capital Improvement Project.** The construction of the Water Transmission Main is a capital improvement plan project of the City, and the Authority will receive and pay to the Developer the Rebate Amounts to reimburse a portion of the cost of designing and constructing the Water Transmission Main as specifically set forth in this Agreement.

(f) **Permits and Approvals.** To cooperate with the Developer as appropriate and take necessary, reasonable and appropriate actions on a timely basis to assist the Developer to obtain any permits, licenses or other approvals from Williamson County, TxDOT, TCEQ, or any other regulatory authority required for the construction of the TODD Projects;

(g) **Bid Approval.** Review and act upon approving bids for construction of the TODD Project, as obtained for the Developer, within a reasonable time;

(h) **Change Orders and Inspections.** During the course of the TODD Projects, review,

approve and sign, as appropriate, any necessary change orders within a reasonable time; cause all inspections of the TODD Projects within a reasonable time, and final acceptance of the completed TODD Projects within thirty (30) days of a request for final acceptance if it has been constructed in substantial accordance with approved plans and specifications.

(i) **Project Acceptance.** After completion of the construction of the TODD Projects and Subdivision Improvements in accordance with the Approved Plans for the TODD Projects and the plans and specifications approved by the City for the layout, construction and installation of the Subdivision (the "Subdivision Plans"), to approve and accept the TODD Projects and to facilitate City acceptance of the Subdivision Improvements in a timely manner.

(j) **Submittals Review.** To conduct a timely review of submittals by Developer as the submittals are made, will review submittals individually, and not require a complete set of plans in order to initiate the review.

(k) **Timely Action.** During the design and construction of the TODD Projects and the Leander Crossing, to authorize and cause permit applications and necessary change order requests to be reviewed and approved, as appropriate, and perform or cause to be performed all inspections of the TODD Projects and Leander Crossing in a timely manner.

(l) **Surety.** To accept one or more letters of credit issued by a bank acceptable to the City Manager and City Attorney of the City as security to assure the Authority is fully reimbursed for any and all reasonable costs, expenses and potential penalties, if any, that may be incurred by the Authority or the City in the performance of any act provided herein to be performed by the Authority at the cost and expense of the Developer.

(m) **Perform Under Agreement.** Perform its duties and obligations, and make timely payments of the Rebate Amounts and Property Tax to Developer, as provided in this Agreement.

#### 6.02. Developer hereby agrees:

(a) **Payment of Fees.** Developer shall pay to the Authority, TIRZ #1 and the City all fees and charges provided for or established by this Agreement, the Applicable Regulations or the TODD Regulations, as applicable, for or with respect to the development of the Property.

(b) **Build-Out of Subdivision.** Developer will develop and construct Leander Crossing as follows: (i) that part or portion of the Property that is outside the boundaries of TIRZ #1 under the conventional zoning ordinance of the City in compliance with the Concept Plan, as hereafter approved, and the Applicable Regulations; (ii) design, layout, construct and install the subdivision, infrastructure and buildings within the TIRZ Property in accordance with the approved PUD Plan and the TODD Regulations; (iii) in compliance with the construction plans that are approved by the City Engineer; and (iv) make timely and compliant applications for all required permits.

(c) **Fees and Charges.** Developer will pay the water and wastewater impact fees and tap fees, and all other fees and charges applicable to the development of the Property.

(e) **Dedication.** Upon completion of the TODD Projects and the Subdivision, the Water

Transmission Main and all other water and wastewater lines, pipes and facilities located within the Property, shall be dedicated to the City for ownership, operation and maintenance; provided the same have been constructed in substantial accordance with approved plans and specifications.

(f) **Timely Coordination.** Developer will coordinate with the Engineer on specific design requirements and specifications; and review and approve the plans and specifications for the TODD Projects in a timely manner.

(g) **Concept Plan.** This Agreement does not approve any concept or development plan. Exhibit "B" provides a general concept plan that is generally acceptable to the Council, Board and Authority, but the term "Concept Plan" as used in this Agreement means the Concept Plan that is finally approved after notice and hearings as provided in the applicable regulations. It is agreed that the final approved Concept Plan shall be substantially similar to Exhibit "B".

(h) **General Statement of Purpose.** The primary purpose of this Agreement is to provide for the timely construction of the TODD Projects for and on behalf of the Authority, and to establish the Parties' agreement with respect to the Rebate Amounts and Property Tax to be paid to Developer, and provide the Authority's agreement to participate in the Project Costs of the TODD Projects and obligation to pay the Authority Revenues to Developer as provided herein.

(i) **No Waiver of Regulations.** This Agreement does not waive any requirement of the Applicable Regulations or the TODD Regulations.

(j) **Developer Performance.** Developer will timely perform and complete each and every task, duty, obligation and responsibility of the Developer set forth in this Agreement, and those set forth in the Applicable Regulations or the TODD Regulations, as applicable.

**6.03. Natural Resource Regulations.** Developer further agrees that Leander Crossing will be constructed and operated in compliance with the applicable local, state and federal natural resource and environmental laws, rules and regulations, including, but not limited to, the following, to the extent, if any, as they may be or become applicable:

(a) **Water Quality Protection.** The Developer will comply with all applicable TCEQ regulations, including but not limited to, the Edwards Aquifer Rules, 30 TAC 213, as may be amended; and

(b) **Stormwater Controls.** To the extent necessary, Developer will prepare and implement a storm water management and pollution prevention plan in compliance with the TCEQ's Texas Pollution Discharge Elimination System storm water general permit for construction related storm water discharges, and otherwise as required.

## **ARTICLE 7. EMINENT DOMAIN.**

7.01. The Authority agrees to cooperate and facilitate with the City for the City to provide reasonable use of all necessary City lands, rights-of-way and easements and to provide further required easements or lands in fee simple as may be necessary for construction of the Water

Transmission Main, save and except for any such land and easements within the Property. It is acknowledged there exists a public necessity for the Water Transmission Main, the Water Transmission Main will be an Authority project for the benefit of TIRZ #1 and the City, and the Authority agrees to work, cooperate and facilitate with the City to cause the City to use its power of eminent domain to acquire such lands or easements, if necessary. Developer shall pay the costs of any eminent domain proceeding that is initiated under the terms of this Agreement.

**ARTICLE 8.**  
**ASSIGNMENT OF COMMITMENTS AND OBLIGATIONS.**

8.01. The Developer's rights and obligations under this Agreement may be assigned by the Developer to one or more purchasers of all or part of the Property.

8.02. This Agreement shall be binding upon the Parties, their successors and assigns.

**ARTICLE 9.**  
**WAIVER AND RELEASE.**

9.01. The Parties acknowledge above that the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. The Parties further acknowledge that both the City and the Developer voluntarily elected the benefits and obligations of this Agreement, as opposed to the benefits available were Developer to have elected to develop the Property without the benefits and obligations of this Agreement, pursuant to and in compliance with the City ordinances. Therefore, save and except the right to enforce the obligations of the Authority to perform each and all of the Authority's duties and obligations under this Agreement, Developer hereby waives any and all claims or causes of action Developer may have for or with respect to any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement. Developer specifically releases any equitable or legal claim that it may have regarding or with respect to the requirement to install or construct any project or obligation undertaken by Developer pursuant to this Agreement.

**ARTICLE 10.**  
**DEFAULT.**

10.01. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other party. Upon the passage of thirty (30) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that, if the nature of the default is such that it cannot reasonably be cured within the thirty (30) day period, the party receiving the notice of default may during such initial thirty (30) day period for cure give the other party written notice that it has commenced cure within the thirty (30) day period and will diligently and continuously prosecute the cure to completion as reasonably soon as possible, and such written notice together with diligent and continuous prosecution of the cure shall extend the time permitted for cure for up to 90 calendar days so long as the cure is being diligently and continuously pursued during such time; and provided further that, if the cure cannot be reasonably accomplished within the 90 calendar day period but the applicable facts,

circumstances and progress establish that a cure will be obtained within a reasonable period of time following the expiration of the 90 calendar day period, the time for cure will be extended for an additional period of time as mutually agreed by the Parties (such agreement not to be unreasonably withheld); provided, further, that if a default is not cured within applicable time period of thirty (30) business days, or, as applicable, written notice having been given and cure being commenced and diligently and continuously prosecuted, within ninety (90) calendar days after the giving of the written notice, or, as otherwise applicable, within the time mutually agreed by the Parties due to the defaulting party not being able to obtain a cure within ninety (90) calendar days after the defaulting party gives written notice that it is commencing cure, the non-defaulting party may terminate this Agreement.

**ARTICLE 11.**  
**FORCE MAJEURE.**

11.01. The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, including, but not limited to, the State of Texas, Williamson County or the City of Leander, or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability. The term "force majeure" will specifically include an attack by terrorists within the United States, that results in a disruption of the financial markets for a period of more than one (1) weeks.

11.02. If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within thirty (30) days after the occurrence thereof.

11.03. The obligations of the party giving such notice, to the extent affected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.

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

**ARTICLE 12.**  
**NOTICES.**

12.01. Any notice to be given hereunder by any party to another party shall be in writing and may be affected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when

deposited with the United States Postal Service with sufficient postage affixed. Any notice mailed to the City shall be addressed:

Leander Development Authority  
Reinvestment Zone Number One, City of Leander, Texas  
City of Leander  
Attn: City Manager  
P. O. Box 319  
200 West Willis Street  
Leander, Texas 78646-0319

with copy to:  
Knight & Partners  
Attorneys at Law  
Executive Office Terrace  
223 West Anderson Lane, Suite A105  
Austin, Texas 78752  
Telephone (512) 323-5778  
Facsimile (512) 323-5773

City of Leander  
Attn: City Engineer  
P. O. Box 319  
200 West Willis Street  
Leander, Texas 78646-0319

Any notice mailed to Developer shall be addressed:

Betz Company  
Attn: Ryan Betz  
5707 Willow Lane  
Dallas, TX 75230  
Telephone (469) 682-2212  
Facsimile (512) 930-3299  
email ryan@betzcompany

with copy to:  
Arthur J. Anderson  
Winstead PC  
1201 Elm Street, #5400  
Dallas, Texas 75270  
Telephone (214) 745-5745  
Facsimile (214) 745-5390

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

**ARTICLE 13.**  
**ENTIRE AGREEMENT.**

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

**ARTICLE 14.  
EFFECTIVE DATE.**

This Agreement shall be effective as of the Effective Date first provided above in the opening paragraph of this Agreement.

**ARTICLE 15.  
TEXAS LAW GOVERNS.**

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

**ARTICLE 16.  
TIME OF THE ESSENCE.**

16.01. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

**ARTICLE 17.  
ATTORNEYS' FEES.**

17.01. If Developer or the City is a prevailing party in any legal proceeding brought under or with relation to this Agreement, such party shall be entitled to recover from the non-prevailing party all costs of such proceeding and its reasonable attorneys' fees.

**ARTICLE 18.  
GOVERNMENTAL POWERS; WAIVER OF IMMUNITY**

18.01 By its execution of this Agreement, the Authority, TIRZ #1 and the City do not waive or surrender any of their respective governmental powers, immunities, or rights except as follows:

(a) City waives governmental immunity from suit and immunity from liability as to any action brought by a party to pursue the remedies available under this Agreement, but only to the extent necessary to pursue such remedies if the City fails to pay the Property Tax/Tax Increment Receipts to the Tax Increment Fund or fails to pay the Rebate Amounts to the Authority. Nothing in this section shall waive any claims, defenses or immunities that the City, TIRZ #1 or the Authority may have with respect to suits filed by persons or entities other than a party to this Agreement.

(b) TIRZ #1 waives governmental immunity from suit and immunity from liability as to any action brought by a party to pursue the remedies available under this Agreement, but only to the extent necessary to pursue such remedies if TIRZ #1 fails to pay the Property Tax/Tax Increment Receipts allocated to the Authority pursuant to this Agreement and that are actually paid to the Tax Increment Fund by the City, or fails to pay any of the Rebate Amounts that may be received by TIRZ #1 to the Authority. Nothing in this section shall waive any claims, defenses or immunities that the City, TIRZ #1 or the Authority may have

with respect to suits filed by persons or entities other than a party to this Agreement.

(c) Authority waives governmental immunity from suit and immunity from liability as to any action brought by a party to enforce the terms, provisions and conditions of this Agreement. No defenses of the Authority, other than governmental immunity, are waived as to any third party or as to any party to this Agreement. Nothing in this section shall waive any claims, defenses or immunities whatsoever that Authority may have with respect to suits filed by persons or entities other than a party to this Agreement.

(d) Nothing in this Agreement is intended to delegate or impair the performance by the City or TIRZ #1 of their respective governmental functions.

EXECUTED in multiple originals and effective as of the Effective Date set forth above.

**Leander Development Authority**

Attest:

Debbie Haile  
Debbie Haile, City Secretary  
and Assistant Corporate Secretary



By: [Signature]  
Name:  
Title: President

**Betz Company**

By: [Signature]  
Name: Ryan Betz  
Title: President

State of Texas [

County of Williamson [

On this the 5<sup>th</sup> day of February, 2008, this Development and Reimbursement Agreement for the Leander Crossing, by and between Leander Development Authority and the Betz Company, was approved by the Board of Reinvestment Zone Number One, City of Leander, Texas, and the Board will remit to the Authority Tax Increment Receipts received from the City and required for the Board to fund its duties and obligations pursuant to the Agreement.

Reinvestment Zone Number One,  
City of Leander, Texas

Attest:

Debbie Haile  
Debbie Haile, Assistant Secretary

By: [Signature]  
Name:  
Title: President



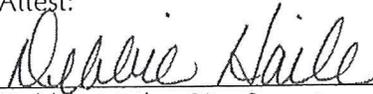
State of Texas [

County of Williamson [

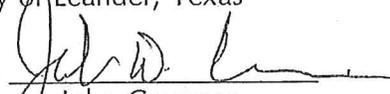
On this the 5<sup>th</sup> day of February, 2008, this Development and Reimbursement Agreement for the Leander Crossing, by and between Leander Development Authority and Betz Company, was approved by majority vote of the City Council of the City of Leander, Texas, for the limited purposes of authorizing and approving the Agreement as an obligation of Leander Development Authority, and, that subject to the terms and provisions of the Agreement:

- (1) during the Term of this Agreement, the City will pay the Property Tax/Tax Increment Receipts to the Tax Increment Fund established in Section 6 of Ordinance No. 06-029-00 that created Reinvestment Zone Number One, City of Leander, Texas ("TIRZ #1); and
- (2) during the ten year period beginning on the Effective Date, the City will pay the Rebate Amounts to the Authority; and
- (3) the City will reasonably cooperate with the Authority to facilitate the accomplishment of the purposes of this Agreement.

Attest:

  
Debbie Haile, City Secretary

City of Leander, Texas

By:   
Name: John Cowman  
Title: Mayor

### Hill Country Land Surveying, LLC

Boundary • Topographic • GPS  
110 North Milam • Fredericksburg, Texas 78624  
Phone 830-990-2665 • Fax 830-990-5095

#### Field Notes for a 166.27 Acre Tract of Land

Being a 166.27 acre tract of land out of the Elijah D. Harmon Survey, Abstract No. 6, Williamson County, Texas, said 166.27 acre tract being more particularly described by metes and bounds as follows:

**Beginning** at the northwest cutback corner at the southwest intersection of R. M. Highway 2243 and 183 Turnpike, for a northerly corner of the herein described tract;

**Thence**, with the easterly line of the herein described tract, the westerly line of the 183 Turnpike, S. 68°40'02" E., 139.57 feet, S. 24°24'53" E., 3005.55 feet, S. 18°53'30" E., 828.26 feet and S. 19°10'00" E., to the southeast corner of the herein described tract, the northeast corner of the Jeffery Leavitt tract recorded in Doc # 2002055976, Official Public Records, Williamson County, Texas;

**Thence**, with the south line of the herein described tract, the north line of the Jeffery Leavitt tract, the north line of Wiley Leavitt tract recorded in Volume 1862, Page 407, Official Public Records, S. 70°51'30" W., 1257.28 feet to the southwest corner of the herein described tract, in the east line of Oak Ridge Section 2;

**Thence**, with the west line of the herein described tract, along the east line of Oak Ridge Section 2, the east line Overlook Estates Section 1 and 2, the east line of Southwestern Foundation, et. al. as recorded in Doc # 2004099160 Official Public Records, Williamson County, Texas, and the east line of the City of Leander tract recorded in Volume 1867, Page 849, Official Public Records, Williamson County, Texas, N. 19°09'30" W., 485.43 feet, N. 09°01'30" W., 1506.60 feet, N. 18°49'25" W., 1313.56 feet, N. 18°47'30" W., 951.78 feet, and N. 21°31'44" W., 193.28 feet to the northwest corner of the herein described tract, an angle point of the City of Leander tract;

**Thence**, with a northwest line of the herein described tract, a southeast line of the City of Leander tract, N. 52°40'30" E., 664.33 feet to the north corner of the herein described tract, and being in the south line of R. M. Highway 2243;

**Thence**, with the south line of R. M. Highway 2243, the northerly line of the herein described tract, S. 79°08'30" E., 14.81 feet to the point-of-curvature of a curve to the left whose central angle is 30°12'31", whose radius is 1311.57 feet, and whose chord bears, N. 83°49'52" E., 683.53 feet;

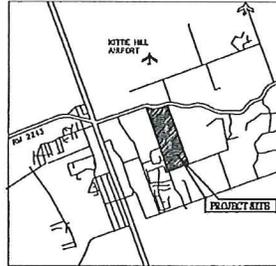
**Thence**, with the south line of R. M. Highway 2243, the northerly line of the herein described tract, along said curve to the left, an arc distance of 691.51 feet to the Point-of-Beginning and containing 166.27 acres of land.



*[Handwritten Signature]*  
Brad Bryan Spenrath  
Registered Professional Land Surveyor  
No. 5357 Job # 08-5010

CONCEPT PLAN  
FOR

# LEANDER CROSSING



LOCATION MAP

NOT TO SCALE

| UNITS         | LUB     | PDF         |
|---------------|---------|-------------|
| COMMERCIAL    | 299 LUB | 230,413 OPD |
| MULTI-FAMILY  | 800 LUB | 601,600 OPD |
| SINGLE FAMILY | 60 LUB  | 14,400 OPD  |

\* A PEAKING FACTOR OF 4 WAS USED FOR RESIDENTIAL AREA AND 1.7 FOR COMMERCIAL AREA. IN ADDITION DEVELOPMENT/PERMIT RATES IS BASED BASED ON 1,000 GALLONS FOR EACH PER DAY.

| UNITS         | LUB       | PDF         |
|---------------|-----------|-------------|
| COMMERCIAL    | 718 LUB   | 254,112 OPD |
| MULTI-FAMILY  | 6,690 LUB | 618,177 OPD |
| SINGLE FAMILY | 187 LUB   | 116,544 OPD |

\* CALCULATIONS FOR WATER USED FOR IRRIGATION IS BASED ON 1 GALLON PER 10 SQUARE FEET OF THE ESTIMATED OPEN SPACE.

**SUBJECT PROPERTY OWNERS OF RECORD:**

LWB JOINT VENTURES      ACRES # REVEREN WADE  
 999 RESEARCH BLVD.      P.O. BOX 513  
 AUSTIN, TX 78714      LEANDER, TX 71646  
 LEANDER DEVELOPERS 41,TD  
 P.O. BOX 249  
 LEANDER, TX 71640

**PROPOSED PROPERTY USE AND ACREAGE**

T.O.D. 1 - T.O.D. 6 (PUD)  
 T.O.D. 1 - 14.55 ACRES  
 T.O.D. 2 - 21.77 ACRES  
 T.O.D. 3 - 20.49 ACRES  
 T.O.D. 4 - 2.05 ACRES  
 T.O.D. 5 - 4.43 ACRES  
 T.O.D. 6 - 4.47 ACRES

OC1A - LOT 1 16.51 ACRES  
 OC1A - LOT 2 16.41 ACRES  
 MP2A - LOT 1 8.15 ACRES  
 MP2A - LOT 2 9.37 ACRES  
 MP2A - LOT 3 12.93 ACRES  
 EPUBZ 19.97 ACRES  
 TOTAL 166.27 ACRES

**PROPOSED ACREAGE DEDICATED FOR PARK**

AREA IN FLOOD PLAIN: 9.66 ACRES  
 AREA WITHIN BASEMENT: 6.23 ACRES  
 AREA WITHIN T.O.D. 6: 4.50 ACRES  
 TOTAL PROPOSED PARK DEDICATION: 20.39 ACRES

**NOTES:**

FINAL LOCATION OF PARKS SHALL BE COORDINATED WITH THE CITY OF LEANDER PARKS DEPARTMENT DURING THE EITP PLAN AND OR PRELIMINARY PLATTING PHASE OF THIS PROJECT. THE TIMING OF PARK DEDICATION AND OR FEES IN LIEU OF, SHALL BE DESCRIBED IN THE DEVELOPMENT AGREEMENT FOR THE PROPERTY.

PROPOSED PARK IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE CITY PARKS, RECREATION AND OPEN SPACE MASTER PLAN, AND SHALL BE COORDINATED WITH THE CITY OF LEANDER PARKS DEPARTMENT DURING THE EITP PLAN AND OR PRELIMINARY PLATTING PHASE OF THE PROJECT.

ALL PROPOSED PARK IMPROVEMENTS WILL MEET CITY PARK AND FACILITY EQUIPMENT STANDARDS AND U.S. CONSUMER PRODUCTS SAFETY COMMISSION.

**PHASING PLAN AND ANTICIPATED CONSTRUCTION DATE**

PHASE 1: SINGLE FAMILY (SFU) - 2006  
 PHASE 2: MULTI-FAMILY (MP2A) LOTS 1, 2 AND T.O.D. 5 - 2006  
 PHASE 3: COMMERCIAL (OC1A) LOT 1 - 2009  
 PHASE 4: T.O.D. 1, 2, 3, 4 AND 6 - 2009  
 PHASE 5: MULTI-FAMILY (MP2A) LOT 3 AND COMMERCIAL (OC1A) LOT 2 - 2010  
 NOTES:

THIS PROPOSED SUBDIVISION SHALL COMPLY WITH THE TIA REQUIREMENTS ALL ROAD ALIGNMENTS ARE CONCEPTUAL IN NATURE AND MAY BE REVISED BY DEVELOPER AT THE TIME OF EITP PLAN AND PRELIMINARY PLAT

A TIA IS NOT REQUIRED FOR THIS T.O.D. AREA. AT THE TIME OF FINAL PLAT, EITHER A TRAFFIC IMPACT ANALYSIS (TIA) WILL BE SUBMITTED OR A NOTE ON THIS PLAT WILL BE PROVIDED TO PAY A FEE (\$125.00 PER HOUR TRIP) IN LIEU OF THE TIA FOR THE SINGLE FAMILY PORTION OF THIS PLAT. FEES IN LIEU OF A TIA WILL BE PAID AT THE TIME OF BUILDING PERMIT FOR COMMERCIAL DEVELOPMENT.

THIS PLAN WAS PREPARED UNDER THE DIRECT SUPERVISION OF KEVIN W. SPRAGGINS, P.E. No. 84413

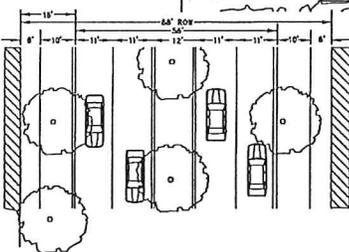
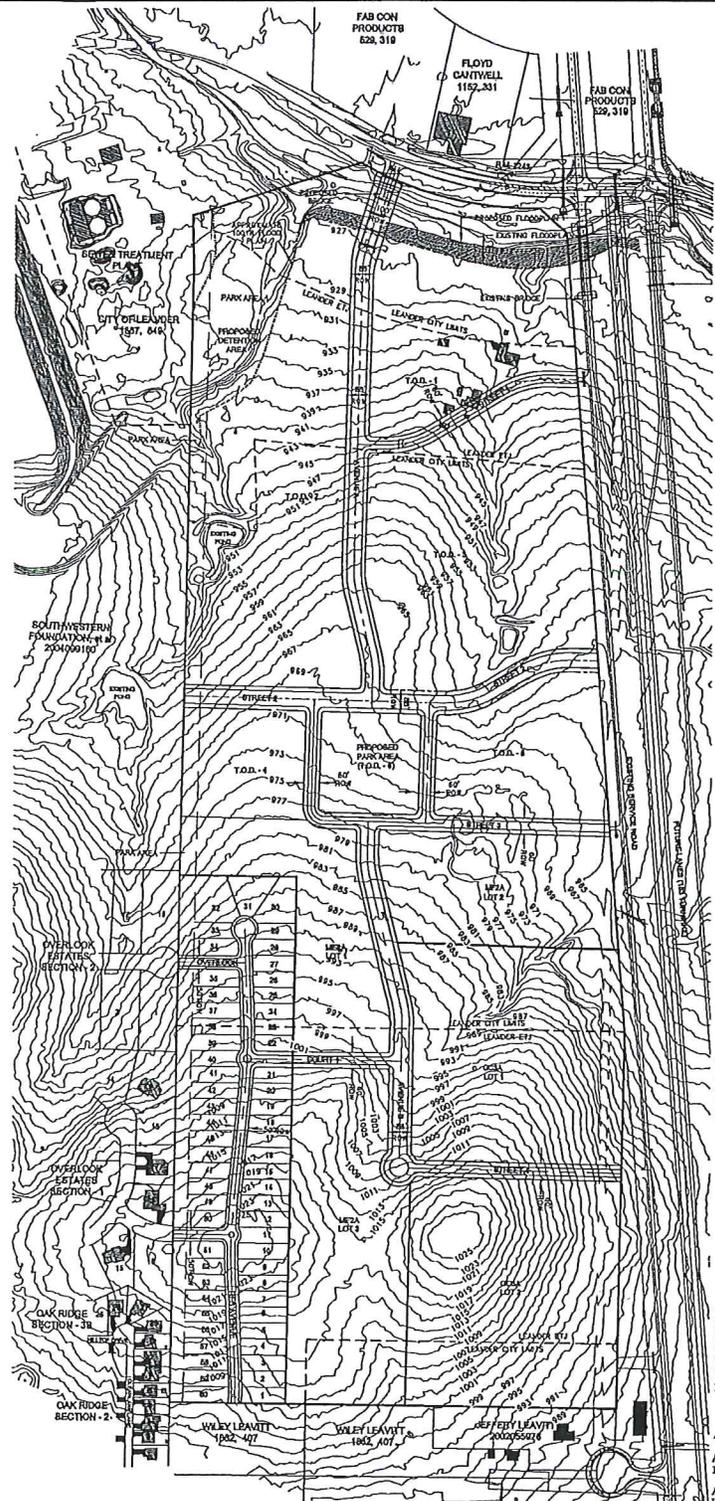


**BETZ COMPANY**  
 CONTACT: RYAN BETZ      PHONE: (469) 682-2212  
 5707 WILLOW LAKE      FAX: (972) 503-2212  
 DALLAS, TX 75230

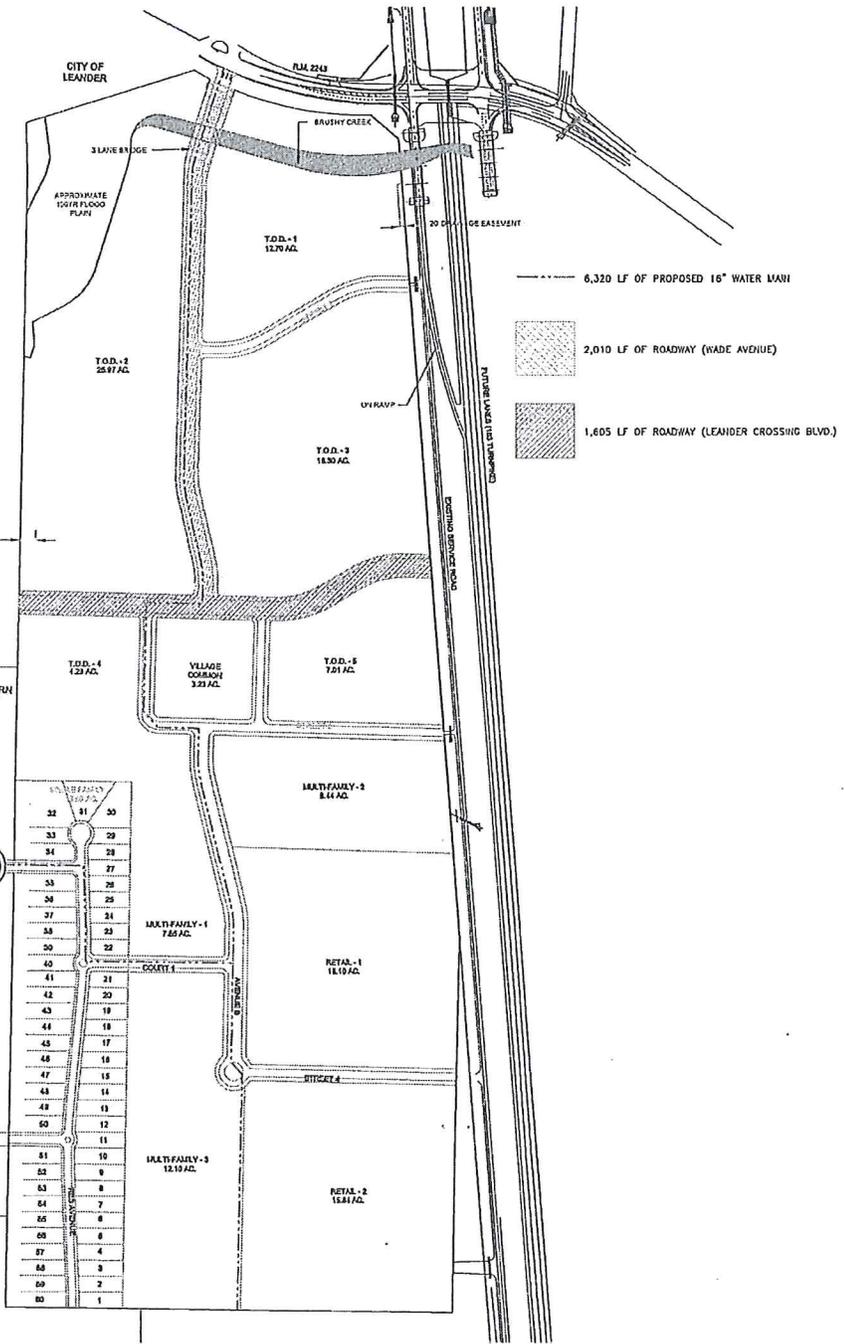
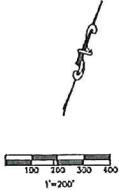
**VORDINBAUM ENGINEERING, INC. ENGINEER**  
 CONTACT: KEVIN W. SPRAGGINS      (830) 997-4744  
 507-D E. HIGHWAY ST.      FAX: (830) 997-6967  
 FREDERICKSBURG, TX 78624

FILE NO: 07082

DATE: 08/07/07      SHEET: CP (1 OF 1)  
 REV #1 08/31/07



PROPOSED TYPICAL ROADWAY SECTION FOR AVENUE A, B & AND STREET 2



**SITE SUMMARY**

|               |                   |
|---------------|-------------------|
| COMMERCIAL    | 31.91 Ac.         |
| MULTI-FAMILY  | 32.29 Ac.         |
| SINGLE FAMILY | 19.36 Ac.         |
| GREEN SPACE   | 5.79 Ac.          |
| T.O.D.        | 78.56 Ac.         |
| <b>TOTAL</b>  | <b>168.08 Ac.</b> |

OVERALL  
STREET NETWORK EXHIBIT  
FOR THE

# LEANDER CROSSING

**BEITZ COMPANY**

CONTACT: RYAN BEITZ      PHONE: (469) 682-2212  
5707 WILLOW LANE      FAX: (972) 503-2122  
DALLAS, TX 75230

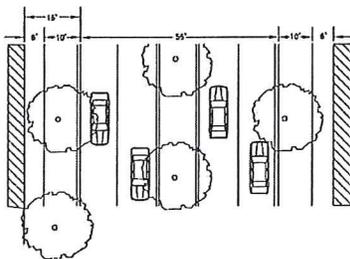
**VORDENBAUM  
ENGINEERING, INC.**

CONTACT: KEVIN W. SPRAGGINS      (830) 997-4744  
507-D E. HIGHWAY ST.      FAX: (830) 997-6967  
FREDERICKSBURG, TX 78624

**ENGINEER**

FILE NO: 07028  
SHEET: ZB (1 OF 1)

DATE: 07/13/07



PROPOSED TYPICAL ROADWAY SECTION FOR  
AVENUE A, B AND STREET 2



LOCATION MAP  
NOT TO SCALE

## DEVELOPMENT AGREEMENT FOR LEANDER CROSSING

This Development Agreement for Leander Crossing (the "Agreement") is made, entered into and effective as of **April 02, 2015** (the "Effective Date") by the City of Leander, a Texas home-rule, and Leander Capital, LLC, a Texas limited liability company (the "Developer"). The City and the Developer are herein referred to together as the "Parties".

### Recitals

**Whereas**, the Developer owns that certain property described in **Exhibit "A"**, attached hereto and incorporated herein for all purposes (the "Property"), which the Developer is developing as a subdivision known as Leander Crossing (the "Subdivision");

**Whereas**, Section 47, Chapter 10, City of Leander Code of Ordinances, the City's subdivision ordinance, requires that electric utilities lines be installed underground (the "Regulation");

**Whereas**, the Developer desires to install a temporary overhead, three-phase electric power line to serve Leander Crossing Phase 1 because, due to the phasing of the Subdivision, there will be no platted right-of-way for PEC to place electric facilities, and the temporary overhead lines will allow for the Subdivision to have power before Phase 2 is constructed and platted;

**Whereas**, the City is agreeable to allowing the Developer to install a temporary overhead power line to serve Leander Crossing Phase 1 under the terms and conditions set forth in this Agreement;

**Whereas**, the Property was subject to that certain Development and Reimbursement Agreement for the Leander Crossing dated effective as of February 5, 2008 (the "Development and Reimbursement Agreement") between and among the City, the Betz Company, a Texas corporation (the "Original Developer"), the Leander Development Authority, a Texas non-profit corporation formed pursuant to Subchapter D, Chapter 431, Texas Transportation Code, and the City Charter of the City of Leander (the "Authority"), and Reinvestment Zone Number One, of the City of Leander, Texas (the "TIRZ #1"); and

**Whereas**, the Development and Reimbursement Agreement has expired and terminated, and the Parties to this Agreement and the parties to the Development and Reimbursement Agreement desire to document such expiration and termination;

**NOW, THEREFORE**, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

**Section 1. Recitals.** The foregoing recitals are incorporated herein and made a part of this Addendum for all purposes.

**Section 2. Consideration.** The benefits to the Parties are set forth in the recitals, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

**Section 3. Electric Utility Infrastructure for Leander Crossing Phase 1.** The Developer may

install a temporary overhead three-phase electric power line from the existing Crystal Crossing subdivision through the future Phase 2 of Leander Crossing along a route approved by the City and Pedernales Electric Cooperative (“PEC”) to serve Leander Crossing Phase 1 (the “Temporary Line”), and generally shown in **Exhibit “B”**. The Temporary Line shall be designed, constructed, and installed in accordance with good engineering practices, plans and specifications approved by the City and PEC, and applicable local, state, and federal regulations, with the exception of the Regulation. The Temporary Line shall provide electric utility service on a temporary basis to Leander Crossing Phase 1. The Developer shall remove and replace the Temporary Line with an underground electric power utility line on or before the deadline for completion of the subdivision improvements for Leander Crossing Phase 2. The underground electric power utility line shall be constructed in accordance with good engineering practices, plans and specifications approved by the City and PEC, and applicable local, state, and federal regulations, including the Regulation (the “Permanent Line”). The City will not accept dedication or conveyance of subdivision improvements for Leander Crossing Phase 2 until the Developer has removed the Temporary Line and has completed and obtained acceptance of the Permanent Line. Future phases of Leander Crossing may not be developed until Leander Crossing Phase 2 is completed and accepted by the City. Any fiscal surety that is posted to guarantee completion of improvements in Leander Crossing Phase 2 as required by the Subdivision Ordinance to allow for approval and recordation of a final plat for Leander Crossing Phase 2 shall include 110% of the estimated cost of removing the Temporary Line and installing the Permanent Line. The Temporary Line shall be removed and the Permanent Line shall be completed within twenty-four (24) months from the date the City accepts the improvements for Leander Crossing Phase 1.

**Section 4. Termination of the Development and Reimbursement Agreement.** The Parties to this Agreement, the Original Developer, the Authority, and TIRZ #1 hereby acknowledge and agree that the Development and Reimbursement Agreement is expired, terminated, and no longer in effect. The Original Developer, the Authority, and TIRZ #1 execute this Agreement for the sole purpose of acknowledging the termination of the Development and Reimbursement Agreement.

**Section 5. Assignment of Commitments and Obligations.** Developer’s rights and obligations under this Agreement may be assigned by Developer to one (1) or more purchasers of all or part of the Property; provided the City Council must first approve and consent to any such assignment by Developer of this Agreement or of any right or duty of Developer pursuant to this Agreement, which consent shall not be unreasonably withheld or delayed.

**Section 6. Term; Termination.**

- (a) The term of this Agreement continue until the Developer has removed and replaced the Temporary Line with the Permanent Line as required in Section 3 above.
- (b) The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer fails to comply with this Agreement or fails to meet any deadlines imposed by this Agreement or the City’s ordinances subject to the notice and cure provisions in Section 7.

**Section 7. Default.** Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such

party of notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance, mandamus, injunction, or other equitable legal remedy not inconsistent with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy.

**Section 8. Reservation of Rights.** To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, and neither party waives any legal right or defense available under law or in equity.

**Section 9. Attorneys Fees.** A party shall not be liable to the other party for attorney fees or costs incurred in connection with any litigation between the parties, in which a party seeks to obtain a remedy from the other party, including appeals and post judgment awards.

**Section 10. Waiver.** Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

**Section 11. Force Majeure.**

- (a) The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- (b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.

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

**Section 12. Notices.** Any notice to be given hereunder by any party to another party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Leander  
Attn: City Manager  
200 West Willis  
P.O. Box 319  
Leander, Texas 78646-0319

with copy to:

Knight & Partners  
Paige H. Saenz  
223 West Anderson Lane, #A105  
Austin, Texas 78752

Any notice mailed to the Developer shall be addressed:

Leander Capital, LLC  
Two Addison Circle  
15725 N. Dallas Parkway, Suite 300  
Addison, Texas 75001  
Attn: Timothy E. Gehan

with copy to:

Gehan Homes, Ltd.  
Barton Creek Plaza III  
3815 S. Capital of Texas Highway  
Suite 275  
Austin, Texas 78704  
Attn: John Damrich

with copy to:

Nathan M. Rosen, P.C.  
One Bent Tree Tower

16475 Dallas Parkway, Suite 660  
Addison, Texas 75001  
Attn: Nathan M. Rosen

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

**Section 13. Waiver of Alternative Benefits.** The Parties acknowledge the mutual promises and obligations of the Parties expressed herein are good, valuable and sufficient consideration for this Agreement. The Parties further acknowledge the City and Developer voluntarily elected the benefits and obligations of this Agreement, as opposed to the benefits available were Developer to have elected to develop the Property without the benefits and obligations of this Agreement, pursuant to and in compliance with the applicable City ordinances. Therefore, save and except the right to enforce the obligations of the City to perform each and all of the City's duties and obligations under this Agreement to the extent such are allowed under Texas law, Developer hereby waives any and all claims or causes of action against the City Developer may have for or with respect to any duty or obligation undertaken by Developer pursuant to this Agreement, including any benefits that may have been otherwise available to Developer but for this Agreement.

**Section 14. Agreement and Amendment.** This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

**Section 15. No Joint Venture.** The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

**Section 16. No Third Party Beneficiaries.** This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

**Section 17. Effective Date.** The Effective Date of this Agreement is the defined date set forth in the first paragraph.

**Section 18. Binding Obligations; Recordation.** This Agreement shall be binding upon and

inure to the benefit of the parties, their successors, and assigns. This Agreement or a memorandum of Agreement acceptable to the City and Developer shall be recorded in the Official Public Records of Williamson County, Texas.

**Section 19. Texas Law Governs.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie exclusively in Williamson County, Texas.

**Section 20. Time is of the Essence.** It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

EXECUTED in multiple originals this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*[Signature Pages Follow]*

**CITY:**

**City of Leander, Texas**  
a Texas home-rule municipal corporation

Attest:

By: \_\_\_\_\_  
Name: Debbie Haile  
Title: City Secretary

By: \_\_\_\_\_  
Name: Christopher Fielder  
Title: Mayor

**THE STATE OF TEXAS       §**  
**COUNTY OF WILLIAMSON   §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2015, by Christopher Fielder, Mayor of the City of Leander, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

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

**DEVELOPER:**  
**Leander Capital, LLC, a Texas limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE STATE OF TEXAS           §**  
**COUNTY OF \_\_\_\_\_       §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, \_\_\_\_\_ of Leander Capital, LLC, a Texas limited liability company, on behalf of said corporation.

(SEAL)

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

**THE AUTHORITY:**  
**Leander Development Authority**  
a Texas non-profit corporation

Attest:

By: \_\_\_\_\_  
Name: Debbie Haile

By: \_\_\_\_\_  
Name: Kent Cagle  
Title: President

**THE STATE OF TEXAS       §**  
**COUNTY OF WILLIAMSON   §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2015, by Kent Cagle, President, Leander Development Authority, a Texas non-profit corporation formed pursuant to Subchapter D, Chapter 431, Texas Transportation Code, and the City Charter of the City of Leander, on behalf of said corporation.

(SEAL)

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

**TIRZ #1:**  
**Reinvestment Zone Number One, City of Leander**

Attest:

By: \_\_\_\_\_  
Name: Debbie Haile

By: \_\_\_\_\_  
Name: Kent Cagle  
Title: President

**THE STATE OF TEXAS       §**  
**COUNTY OF WILLIAMSON   §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2015, by Kent Cagle, President, Reinvestment Zone Number One, City of Leander on behalf of said reinvestment zone.

(SEAL)

\_\_\_\_\_  
Notary Public, State

**ORIGINAL DEVELOPER:**  
**Betz Company, a Texas corporation**

By: \_\_\_\_\_  
Name: Ryan Betz  
Title: President

**THE STATE OF TEXAS           §**  
**COUNTY OF \_\_\_\_\_       §**

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2015, by Ryan Betz, President of the Betz Company, a Texas corporation, on behalf of said corporation.

(SEAL)

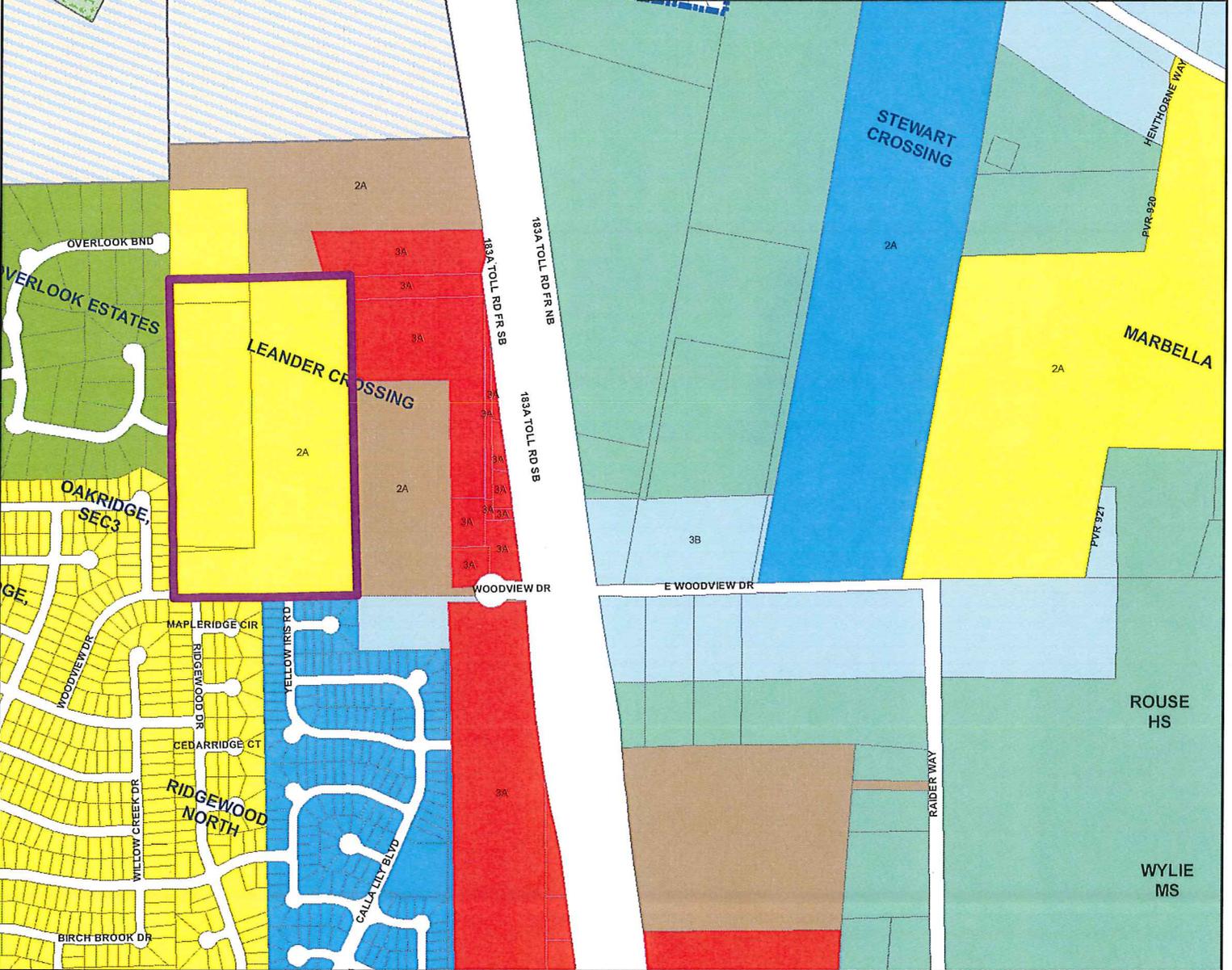
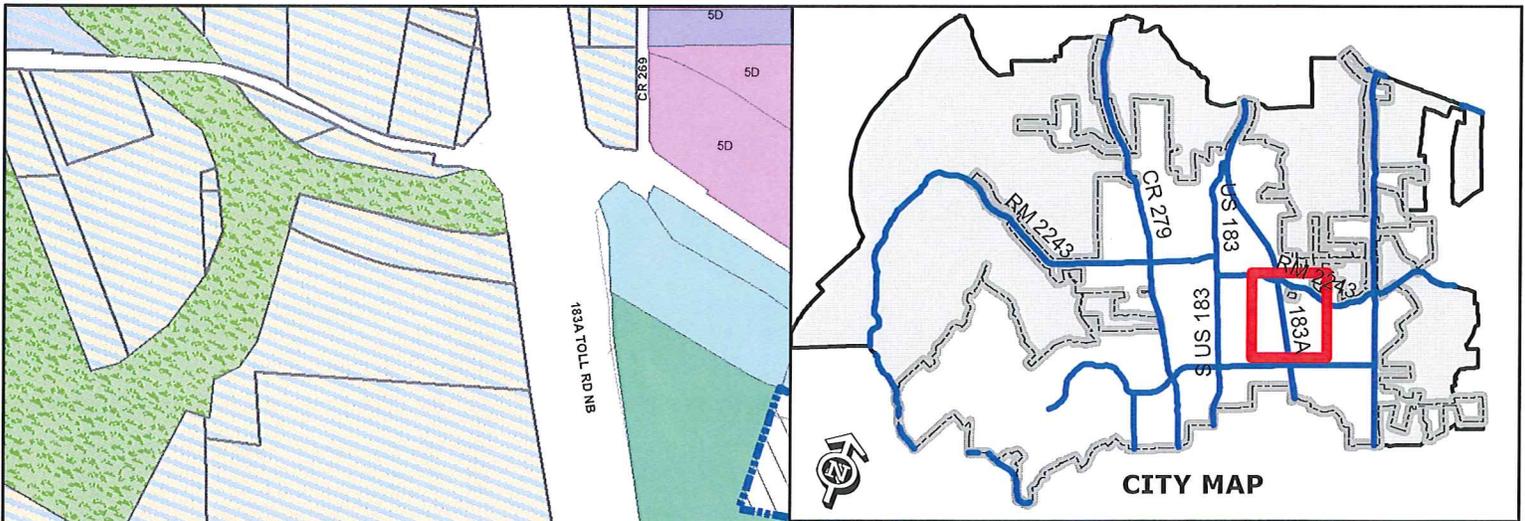
\_\_\_\_\_  
Notary Public, State of Texas

**EXHIBIT "A"**

**Description of Tracts**

**EXHIBIT "B"**

**Temporary Line**

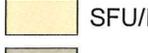
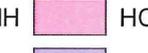
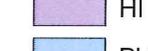
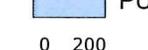
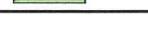


## Development Agreement

### Attachment #4

Location Exhibit  
Leander Crossing

-  Subject Property
-  City Limits

- |   |  |   |
|---|--|---|
|  SFR |  SFT    |  GC  |
|  SFE |  SFU/MH |  HC  |
|  SFS |  TF     |  HI  |
|  SFU |  MF     |  PUD |
|  SFC |  LO     |   |
|  SFL |  LC     |   |



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