AGENDA
ELGIN CITY COUNCIL
REGULAR MEETING
TUESDAY, AUGUST 17, 2021
ELGIN PUBLIC LIBRARY ANNEX COUNCIL CHAMBERS
404 NORTH MAIN STREET
6:30 PM

Members of the public may watch the meeting at:

https://www.youtube.com/channel/UC3OGBV_IoV0Nr3AqM1jJTzA

I. **CALL TO ORDER**

II. **ROLL CALL**

III. **INVOCATION**

IV. **PLEDGE OF ALLEGIANCE**

V. **PUBLIC COMMENT**

Individuals may request to speak on items on the agenda, and items not on the agenda, by requesting to speak during the meeting and under "PUBLIC COMMENT" and will be required to fill out a "PUBLIC COMMENT FORM" and present it, along with any material, handouts or information for Council, to the City Secretary prior to commencement of the Council meeting. Speaker comments are limited to three (3) minutes.

No formal action can be taken by the City Council on items not posted on the agenda. Items requiring a Public Hearing will allow a member of the public an opportunity to speak during the Public Hearing and does not require submission of a "PUBLIC COMMENT FORM." Speakers must address their comments to the Mayor or Presiding Officer rather than to an individual Council Member or member of Staff. All speakers must limit their comments to the specific subject matter noted on the "PUBLIC COMMENT FORM" and refrain from personal attacks or derogatory comments directed at any Council Member, member of Staff, other individual or group.

VI. **CITY MANAGERS REPORT**

1. **Introduction Of New Employees**

Documents:

EX SUMMARY FINAL.PDF

2. **General Activity Report And/Or Project Update**

Documents:

EX SUMMARY- GENERAL ACTIVITY REPORT.PDF

VII. CONSENT AGENDA

The Consent Agenda includes non-controversial and routine items that are considered to be self-explanatory by the City Council and will be enacted with one motion, one second, and one vote. Any member of the City Council may pull any item from the Consent Agenda in order that the City Council discuss and act upon it individually as a part of the Regular Agenda.

1. **City Council Regular Meeting Minutes - August 3, 2021**

   Documents:

   EX SUMMARY- CITY COUNCIL REGULAR MEETING MINUTES.PDF
   8-3-21 CITY COUNCIL REGULAR MEETING MINUTES.PDF

2. **Consideration Of Request To Use City Hall Grounds And Parking Lots For The Relay For Life Event On Saturday, September 18, 2021, From 10:00 A.m. To Midnight, And Waive Fees Associated With Event**

   Documents:

   EXECUTIVE SUMMARY RELAY.PDF
   RELAYREQUEST TO CITY COUNCIL.PDF

3. **A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE MAYOR TO EXECUTE THE TRINITY RANCH WASTEWATER SERVICE AGREEMENT WITH THE ELGIN MUNICIPAL UTILITY DISTRICT NO. 1 AND MAKING CERTAIN FINDINGS RELATED THERETO**

   Documents:

   EX SUMMARY- TR MUD NO1 WWAGR.PDF
   RESOTRINITY1WWAGR821.PDF
   ELGIN MUD NO. 1 - TRINTY RANCH - WASTEWATER SERVICE AGREEMENT.PDF

4. **A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE MAYOR TO EXECUTE THE TRINITY RANCH WASTEWATER SERVICE AGREEMENT WITH THE ELGIN MUNICIPAL UTILITY DISTRICT NO. 2 AND MAKING CERTAIN FINDINGS RELATED THERETO**

   Documents:

   EX SUMMARY- TR MUD NO2 WWAGR.PDF
   RESOTRINITY2WWAGR821.PDF
   ELGIN MUD NO. 2 - TRINTY RANCH - WASTEWATER SERVICE AGREEMENT.PDF

VIII. NEW BUSINESS

1. **A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF THE ELGIN ECONOMIC DEVELOPMENT CORPORATION AND YERICO MANUFACTURING, INC AND AUTHORIZING THE MAYOR TO APPROVE THE AGREEMENT**

   Documents:

EX SUMMARY FINAL.PDF
RESOLUTION FOR YERICO ED AGREEMENT II.PDF
YERICO AGREEMENT II SIGNED BY YERICO.PDF

2. **Review And Discussion Of The Proposed FY2021-22 Annual Budget And Property Tax Rate**

Documents:

EX SUMMARY-BUDGET REVIEW.PDF

IX. EXECUTIVE SESSION

The City Council may announce that it will adjourn the public meeting at any time during the meeting and convene in Executive Session pursuant to Chapter 551 of the Texas Government Code to discuss any matter as specifically listed on the agenda and/or as permitted by Chapter 551 of the Texas Government Code.

X. RECONVENE

The City Council will return to open session for possible discussion and action as a result of the Executive Session

XI. ANNOUNCEMENTS

XII. ADJOURMENT

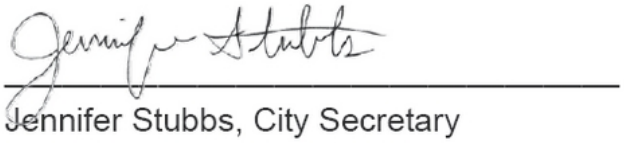
The City Council may retire to executive session any time between the meeting's opening and adjournment for the purpose of consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code; deliberation regarding real property pursuant to Chapter 551.072 of the Texas Government Code; deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code; and/or deliberation regarding the deployment, or specific occasions for implementation of security personnel or devices pursuant to Chapter 551.076 of the Texas Government Code. Action, if any, will be taken in open session.

Attendance By Other Elected or Appointed Officials: It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

Notice of Assistance at Public Meetings, the City of Elgin is committed to compliance with the Americans with Disabilities Act. Elgin City Hall and Council Chambers are wheelchair accessible and special marked parking is available. Persons with Disabilities who plan to attend this meeting and who may need assistance are requested to contact the City Secretary's Office at (512)229-3222. Please provide forty-eight hours notice when feasible.

I, Jennifer Stubbs, City Secretary for the City of Elgin, hereby certify this notice was posted at the City Hall Annex of the City of Elgin, Texas on or before Friday, August 13, 2021, in accordance

with Chapter 551 of the Texas Government Code.



Jennifer Stubbs, City Secretary

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:
Introduction of New Employees

DEPARTMENT: Human Resources

ATTACHMENTS:

PROPOSED ACTION: N/A

FINANCE APPROVAL:

Signature: _____ **Date:**_____

BACKGROUND:
New Employee Introductions that were delayed from COVID-19.

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☐ **Staff will provide brief comments and answer questions on this item at the meeting.**
☑ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:
General Activity Report and/or Project Update

DEPARTMENT: City Manager/Staff

ATTACHMENTS: None

PROPOSED ACTION:
No Council action proposed or requested; This item is to allow for general update and/or activities report relating to various on-going city projects or issues.

FINANCE APPROVAL:

Signature: _____ **Date:**_____

BACKGROUND:
This item is to provide opportunities for miscellaneous updates and comments by the staff; and general Q&A with the City Council relative to on-going projects and/or issues.

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☑ **Staff will provide brief comments and answer questions on this item at the meeting.**
☐ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:
City Council Regular Meeting Minutes- August 3, 2021

DEPARTMENT: Administration

ATTACHMENTS: City Council Regular Meeting Minutes- August 3, 2021

PROPOSED ACTION: Approval of the City Council Regular Meeting Minutes- August 3, 2021

FINANCE APPROVAL:

Signature: _____ Date:_____

BACKGROUND:
N/A

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☐ **Staff will provide brief comments and answer questions on this item at the meeting.**
☑ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

MINUTES
ELGIN CITY COUNCIL REGULAR MEETING
ELGIN PUBLIC LIBRARY ANNEX CITY COUNCIL CHAMBERS
404 NORTH MAIN STREET
August 3, 2021

CALL TO ORDER

Mayor Ramirez called the meeting to order at 6:30 p.m.

ROLL CALL

Present: Ron Ramirez, Mayor
Arthur Gibson III, Council Member
Jessica Bega, Council Member
Skyler Maldonado, Council Member
Thomas Ibis, Council Member
Matthew Callahan, Council Member
Forest Dennis, Council Member
Susie Arreaga, Council Member

Absent: Sue Brashar, Mayor Pro Tem

Mayor Ramirez stated there was a quorum. Mayor Pro Tem Brashar let the Council know she would not be in attendance. Mr. Dennis made a motion to excuse Mayor Pro Tem Brashar from the meeting. Mr. Ibis seconded the motion. All voted in favor. The motion carried.

Staff: Thomas L. Mattis, City Manager
Mysty Nauck, Acting Chief Financial Officer
Pamela Sanders, HR Director
Amy Miller, Community Development Director
Chris Noble, Police Chief
Jennifer Stubbs, City Secretary
David Harrell, Development Services Director
Elizabeth Marzec, Rec. Program Services Manager

INVOCATION

Mr. Gibson III provided the invocation.

PLEDGE OF ALLEGIANCE

Mayor Ramirez led those in attendance in reciting the Pledge of Allegiance to the Flag of the United States of America and Pledge of Allegiance to the Texas Flag.

PUBLIC HEARING

1. Public Hearing On An Ordinance Granting A Specific Use Permit For A Medical Facility On Property Located At 122 Fisher St. (0.484 Acres Of Land And 9.19 Acres Of Land, Lying In And Being Situated Out Of The Thomas Garretson Survey, Abstract 178), City Of Elgin, Bastrop County, Texas; And Providing For A Savings Clause And Repealing Conflicting Ordinances And Resolutions.

Mr. Mattis provided comments. No one wished to speak under the Public Hearing item.

PUBLIC COMMENT

There was no one from the public who wished to speak under the public comment item.

CITY MANAGERS REPORT

1. Introduction Of New Employees

Ms. Sanders recognized the following new employees:

Alejandra Reyna, Human Resources.

Michael Zajac, Lindsey Scheffler, and Susan Carrizales, Police.

Callie Meads and Laura Futujma Parks & Recreation.

Camryn Beddow, Pools Division.

Scott Whiteley, Animal Control.

Keith Pierce, Utility Maintenance.

2. Presentation Of The Proposed FY2021-22 City of Elgin Annual Operating Budget

Mr. Mattis presented the City of Elgin FY2021-22 Proposed Budget. He stated the budget is a zero-based, balanced budget. The primary goal of the city is to maintain existing service levels and the staff remains focused on enhancing services. Mr. Mattis stated there is no deficit spending or utilization of fund balance for operating expenses. The total appropriation of all funds is just over

$23 million dollars. Mr. Mattis stated this is the first proposed budget to exceed $20 million dollars. The General Fund ended last year with a strong operating surplus. The Development Services Department adopted fee increases so that existing taxpayers are no longer supplementing costs associated with new development. Mr. Mattis stated the City's overall financial picture is as strong as it has ever been. The City must now lower the debt portion of the tax rate by ~15% this year while recognizing it will have to immediately increase the tax rate next year to fund any new Capital Improvement Projects (CIP)/General Fund debt. The 2021 Certificates of Obligation (CO's) will necessitate a utility rate increase of $8 per month to the average residential customer. Mr. Mattis emphasized the city receives 1.0% of the 8.25% sales and use tax in support of operations and services. Mayor Ramirez stated he would like to pair the following Council Members together to go over the budget: Ms. Arreaga and Mr. Maldonado, Ms. Bega and Mr. Gibson III, Mr. Dennis and Mr. Callahan, Mayor Pro Tem Brashar and Mr. Ibis. Discussion followed.

3. Presentation Of the 3rd Quarter FY2020-2021 Investments

Mr. Mattis provided opening comments. Mr. Mattis invited Ms. Nauck to the podium. Ms. Nauck stated the CD line is a new requirement by the auditors.

4. Monthly Reports By Departments June 2021

Mr. Mattis stated that Elgin ISD made the decision to proceed with their own police department and is another byproduct of growth that the city is experiencing. Mr. Mattis invited Chief Noble to the podium. Chief Noble stated he met with the Director of Public Safety at Elgin ISD. The ISD's primary concern is needing assistance at Elgin Elementary School due to traffic violations rather than at the High School or Middle School. Discussion followed.

5. General Activity Report And/Or Project Update

There were no updates under this item.

CONSENT AGENDA

1. City Council Special Meeting Minutes – July 20, 2021

The item passed on the consent agenda.

2. A RESOLUTION OF CITY OF ELGIN TEXAS, DESIGNATING THE BASTROP COUNTY TAX ASSESSOR COLLECTOR TO CALCULATE AND CERTIFY THE TRUTH IN TAXATION (T-N-T) TAX RATES

The item passed on the consent agenda.

3. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE SUBMISSION OF A FEMA DR-4586 HAZARD MITIGATION ASSISTANCE GRANT APPLICATION TO THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT; COMMITMENT OF FUNDING; AND AUTHORIZING THE MAYOR OR CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICERS AND AUTHORIZED REPRESENTATIVES IN ALL MATTERS PERTAINING TO THE CITY'S

PARTICIPATION IN CONNECTION WITH THE FEMA DR-4586 HAZARD MITIGATION ASSISTANCE GRANT

The resolution was removed from the consent agenda and placed at the end of new business.

4. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC ENGINEERS INC. FOR PROFESSIONAL SERVICES AND CONTRACT ADMINISTRATION RELATED TO CRITICAL INFRASTRUCTURE AND GENERATOR UPGRADES, AND MAKING CERTAIN FINDINGS RELATED THERETO

The resolution was removed from the consent agenda and placed at the end of new business.

Mr. Ibis made a motion to approve the consent agenda. Mr. Dennis seconded the motion. All voted in favor. The motion carried.

NEW BUSINESS

1. AN ORDINANCE CHANGING THE NAME OF "HICKORY LANE" TO "BURR OAK DRIVE" WITHIN THE WOODLAWN SUBDIVISION; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS

Mr. Mattis and Mr. Harrell provided comments and answered questions of the Council. Mr. Maldonado made a motion to approve the resolution as presented. Ms. Bega seconded the motion. All voted in favor. The motion carried.

2. AN ORDINANCE GRANTING A SPECIFIC USE PERMIT FOR A MEDICAL FACILITY ON PROPERTY LOCATED AT 122 FISHER ST (0.484 ACRES OF LAND AND 9.19 ACRES OF LAND, LYING IN AND BEING SITUATED OUT OF THE THOMAS GARRETSON SURVEY, ABSTRACT 178), CITY OF ELGIN, BASTROP COUNTY, TEXAS; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS

Mr. Mattis stated the Planning and Zoning Commission recommends this ordinance with a five-year period for the permit. Mr. Harrell stated he answered questions from the public and that nobody expressed opposition to this permit. Mr. Dennis made a motion to approve the ordinance as presented. Ms. Arreaga seconded the motion. All voted in favor. The motion carried.

3. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS, AUTHORIZING THE SUBMISSION OF A FEMA DR-4586 HAZARD MITIGATION ASSISTANCE GRANT APPLICATION TO THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT; COMMITMENT OF FUNDING; AND AUTHORIZING THE MAYOR OR CITY MANAGER TO ACT AS THE CITY'S EXECUTIVE OFFICERS AND AUTHORIZED REPRESENTATIVES IN ALL

MATTERS PERTAINING TO THE CITY'S PARTICIPATION IN CONNECTION WITH THE FEMA DR-4586 HAZARD MITIGATION ASSISTANCE GRANT

Mr. Mattis stated this item is a formality to submit a grant application. This grant is focused to install an emergency generator at the Water Treatment Plant. Discussion followed. Mr. Ibis made a motion to approve the resolution as presented. Mr. Maldonado seconded the motion. All voted in favor. The motion carried.

4. A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH TRC ENGINEERS INC. FOR PROFESSIONAL SERVICES AND CONTRACT ADMINISTRATION RELATED TO CRITICAL INFRASTRUCTURE AND GENERATOR UPGRADES, AND MAKING CERTAIN FINDINGS RELATED THERETO

Mr. Mattis provided comments. Mr. Dennis made a motion to approve the resolution as presented. Ms. Bega seconded the motion. All voted in favor. The motion carried.

EXECUTIVE SESSION

The City Council may announce that it will adjourn the public meeting at any time during the meeting and convene in Executive Session pursuant to Chapter 551 of the Texas Government Code to discuss any matter as specifically listed on the agenda and/or as permitted by Chapter 551 of the Texas Government Code.

Mayor Ramirez stated there was no executive session this evening.

ANNOUNCEMENTS

Ms. Miller stated the city is celebrating 150 years next year. She asked the Council Members to make recommendations for committee members and to email her the names, emails, and phone numbers, including Mr. Mattis and Mayor Ramirez on the email.

ADJOURNMENT

Mayor Ramirez adjourned the meeting at 7:36 p.m.

_____
Ron M. Ramirez, Mayor

ATTEST:

_____
Jennifer Stubbs, City Secretary

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:

Consideration of Request to use City Hall grounds and parking lots for the Relay for Life event on Saturday, September 18, 2021, from 10:00 a.m. to midnight, and waive fees associated with event.

DEPARTMENT: Community Services

ATTACHMENTS:

PROPOSED ACTION:

Consider Request to use City Hall grounds and parking lots for the Relay for Life event on Saturday, September 18, 2021, from 10:00 a.m. to midnight, and waive fees associated with event.

FINANCE APPROVAL:

Signature: _____ **Date:**_____

BACKGROUND:

Relay for Life is a community fundraising effort associated with the American Cancer Society. The Elgin Relay for Life volunteer group requests to use the library and city hall grounds and parking lots for the event Saturday September 18. Rental fees for the Parking lots are $200. The noise ordinance does not need to be waived. This is a commercially zoned property and can have amplified sound. until 1am Saturday nights.

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☐ **Staff will provide brief comments and answer questions on this item at the meeting.**
☑ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

Good evening,

Relay For Life of Elgin/Bastrop County, is a community event designed to offer emotional support to those currently fighting or who have fought cancer, to remember those stolen too soon by this stupid disease, and to fight back by supporting the mission of the American Cancer Society. We are indeed fortunate and blessed in Elgin to have had the support of the City since the first Relay For Life event held in Elgin in 2005. Our community has cumulatively raised over $1,000,000 toward the eradication of cancer and in support of research and patient services through the ACS.

This year, we hope to move the event downtown - to City Hall!

Towards that goal, we respectfully request that we might have permission to use the City Hall and Library grounds and related parking lots on Saturday, September 18, 2021 from 10 am to midnight for the Relay For Life of Elgin/Bastrop County event. The event itself will run from 4-10 pm, but the expanded time frame is requested to facilitate set-up and breakdown.

We also request that the fees for said usage be waived and - although we will wrap up the event itself at 10 pm - that the noise ordinance be waived as well.

HOPE is COMING! We thank you for your support and hope to see you September 18, 2021. If you'd like to form a team, let us know and we'll be happy to help! www.relayforlife.org/elgintx

Thank you.

Krista Lee Marx and Kayla Russell
Event Lead, Elgin
Event Support, Bastrop

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE MAYOR TO EXECUTE THE TRINITY RANCH WASTEWATER SERVICE AGREEMENT WITH THE ELGIN MUNICIPAL UTILITY DISTRICT NO. 1 AND MAKING CERTAIN FINDINGS RELATED THERETO

DEPARTMENT: City Manager

ATTACHMENTS: (1) Resolution and (2) Elgin MUD No. 1 Wastewater Service Agreement

PROPOSED ACTION: Approval of the Resolution authorizing a wastewater service agreement with BTR Development, Inc., and the Elgin Municipal Utility District (MUD) No. 1 for the Trinity Ranch development as described; and routine direction to staff, if any.

FINANCE APPROVAL:

Signature: _____ **Date:**_____

BACKGROUND:

Discussed at previous meetings; BTR Development, Inc. intends to develop 380+ acres of land (the combined acreage of Elgin Municipal Utility District No. 1 and No. 2) within the City's ETJ as the "Trinity Ranch" residential development.

The Council previously approved a Development and Consent Agreement, that is binding upon BTR Development, Inc. and the associated Elgin MUD No. 1. Said Agreement included a commitment on the part of the City to consent to the creation of the MUD in exchange for various commitments made by the developers.

An integral part of the BTR Development/Elgin MUD No. 1. Development Agreement is the provision of wastewater services by the City. The proposed wastewater service agreement provides greater specificity as to the terms and conditions of both parties as it relates to said services.

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☑ **Staff will provide brief comments and answer questions on this item at the meeting.**
☐ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE MAYOR TO EXECUTE THE TRINITY RANCH WASTEWATER SERVICE AGREEMENT WITH THE ELGIN MUNICIPAL UTILITY DISTRICT NO. 1 AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, the City Council has approved and authorized a Development and Consent Agreement with BTR Development, Inc., and the Elgin Municipal Utility District No. 1 (MUD) to construct a residential development project currently known as Trinity Ranch; and,

WHEREAS, the Elgin Municipal Utility District No. 1 includes 230.4 ("the Property") more particularly described within "Exhibit "A", attached hereto; and,

WHEREAS, under the terms of the proposed agreement, the City shall manage, treat, and dispose of wastewater that residents of the Elgin Municipal Utility District No. 1 generate; and

WHEREAS, the City, BTR Development, Inc., and the Elgin Municipal Utility District No. 1 desire to enter into this Agreement in order to establish rights and obligations with respect to wastewater service to the Property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS THAT:

Section 1. Findings. The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Authorization. The Mayor is hereby authorized to execute the *Wastewater Service Agreement* with BTR Development, Inc. and the Elgin Municipal Utility District No. 1, a copy of said agreement being attached hereto and marked Exhibit A; and made part of this Resolution as if copied verbatim herein.

Section 3. Open Meetings. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. Effective Date. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 17th day of August, 2021

_____
RON M. RAMIREZ, Mayor
City of Elgin, Texas

ATTEST:

_____
JENNIFER STUBBS, City Secretary

WASTEWATER SERVICE AGREEMENT

THE STATE OF TEXAS §
§
COUNTIES OF BASTROP §
AND TRAVIS §

This Wastewater Service Agreement (this "Agreement") is made and entered into by and between BTR Development, Inc. (the "Developer"); the City of Elgin, Texas (the "City"); and Elgin Municipal Utility District No. 1 (the "District"). Bastrop Trinity Investors, LLC (the "Owner") joins in this Agreement for the purpose of evidencing its consent to this Agreement. The Developer, the City, and the District may be referred to herein each as a "Party" or collectively as the "Parties".

WHEREAS, the Developer is a Texas corporation; and

WHEREAS, the City is a home-rule municipality located in Bastrop County, Texas, with extraterritorial jurisdiction extending into Travis County, Texas; and

WHEREAS, the District is a municipal utility district operating pursuant to Chapters 49 and 54 of the Texas Water Code; and

WHEREAS, the Owner is a Texas limited liability company and the current fee simple owner of 230.382 acres of land more particularly described on Exhibit "A", attached hereto and made a part hereof (together with any property annexed into the District, the "Property"); and

WHEREAS, the Property is located within the extraterritorial jurisdiction of the City; and

WHEREAS, the Parties anticipate that the Property will have approximately 1,038 connections; and

WHEREAS, the Developer intends to develop the Property in phases; and

WHEREAS, the Developer and the City have entered into a Development and Consent Agreement dated August 6, 2020 ("Development Agreement") that provides, among other things, that the City will manage, treat and dispose of wastewater that the residents of the Property generate; and

WHEREAS, the Parties have determined that it is in the best interest of the Parties to allow the City to manage, treat and dispose of wastewater that residents of the Property generate; and

WHEREAS, pursuant to the Development Agreement, the District and/or Developer on behalf of the District and the City shall construct a wastewater line and related infrastructure ("Wastewater Line") necessary to connect the Property to the City's wastewater treatment plant to enable the City to provide wastewater service to the Property;

WHEREAS, the City has previously adopted the wholesale wastewater service rates attached hereto as Exhibit "B" (the "Wholesale Rates"); and

WHEREAS, the Parties hereto desire to enter into this Agreement in order to set out the rights and obligations of the Parties hereto with respect to wastewater service to the Property.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, for and in consideration for the mutual promises hereinafter expressed, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties agree and contract as follows:

1. Off-Site Wastewater Facilities Design, Construction, and Financing.

   The responsibility and timing for the design, construction, and financing of the wastewater treatment plant expansion, Wastewater Line, and related appurtenances lying outside the boundaries of the Property necessary to serve the Property (collectively, the "Off-Site Wastewater Facilities") are more specifically set forth in the Development Agreement. The Parties agree and affirm that the design, construction, and financing of the Off-Site Wastewater Facilities shall be performed in accordance with the Development Agreement.

2. Interior Improvements.

   (a) The District and/or the Developer on behalf of the District shall be responsible for the design, engineering, permitting, construction, and financing of all wastewater improvements lying within the boundaries of the Property (the "Interior Improvements"). All Interior Improvements shall be engineered and designed by a Texas Licensed Professional Engineer in accordance with the applicable specifications of governmental agencies having jurisdiction.

   (b) The City shall have the right to inspect all phases of the construction of the Interior Improvements at the City's sole cost and expense. The District and/or the Developer on behalf of the District shall give written notice to the City of the date on which construction is scheduled to begin so that the City may advise its consulting engineer.

   (c) Upon completion of the Interior Improvements, the District shall own and maintain the Interior Improvements as long as the District is the retail wastewater service provider. Upon annexation of the District, the District shall convey the Interior Improvements to the City for operation and maintenance and the City will become the retail wastewater service provider. The District shall own an undivided interest in the capacity of the City's System (defined below) up to the capacity designed for the provision of wastewater service to the Developer and/or the District and the payment of associated costs of said facilities by the Developer and/or the District.

3. Permanent Service to the Property.

(a) After the Developer's completion and dedication of the Wastewater Line to the City, the City shall provide continuous and adequate wholesale wastewater service to the Property sufficient (i) to serve the land uses shown on the Concept Plan attached to the Development Agreement, and (ii) to fulfill the requirements of any applicable rule or regulation of the Public Utility Commission of Texas or the Texas Commission on Environmental Quality and all duly adopted rules and regulations of the City, subject to payment of the monthly services charges based upon the Wholesale Rates set forth in this Agreement.

(b) Once the Wastewater Line is constructed, the City will receive, treat and dispose of, or shall contract for the treatment and disposal of, all sewage generated by customers within the Property. The City will maintain an adequate wastewater treatment capacity at all times to serve the customers within the District at the same level these services are provided within the City.

(c) The District acknowledges that wastewater entering the City's wastewater system (the "City's System") from the wastewater system lying within the Property and being operated and maintained by the District, including the Interior Improvements (the "District's System"), originating from any source whatsoever must be given treatment and handling whether or not its source is revenue-producing for the District. Therefore, the District will pay for all wastewater entering the City's System from the District's System, including infiltration and inflow, at the Wholesale Rates. It is the District's responsibility to undertake reasonably prudent measures to minimize infiltration and inflow to the Interior Improvements.

(d) The Wholesale Rates, as reflected in Exhibit "B" hereto, charged by the City for service within the Property shall be the same as those rates charged by the City to its in-city wholesale wastewater customers. Such rates may be reviewed and adjusted annually by the City, based on a cost of service study performed by the City and as allowed by applicable law. However, nothing in this provision or elsewhere in this Agreement or the Development Agreement shall be interpreted to prevent the District's customers from appealing the wastewater rates pursuant to §13.043, Texas Water Code.

(e) The District shall have guaranteed reserved capacity and shall fully own capacity in the Off-Site Wastewater Facilities sufficient to serve the needs of the Property, currently estimated to be 0.186 million gallons per day, but subject to such increase as may be required based upon final density of the development in the Property.

(f) Condition of Wastewater Delivered.

(i) The District will operate and maintain the District's System to ensure that wastewater delivered to the City's System will have a pH factor between six and eleven and otherwise be in a condition that complies with the requirements of Chapter 42, Article III, Division 5 of the City's Code of Ordinances (the "Code") in existence on the Effective Date. If wastewater delivered from the District's System to the City's System fails to meet the specified standards and the City's Utilities Director determines that the addition of oxidizing chemicals or another reasonable method of pretreatment of wastewater or operation of the District's System is necessary in order for wastewater delivered to be non-injurious to the City's System, then the District will install facilities or implement methods of operation and maintenance to meet the standards and render wastewater from the District non-injurious to the City's System. Such facilities or methods shall be agreed upon by the City and the District's engineer. The District shall not be required to install facilities or employ methods that far exceed industry standards for wastewater pretreatment, given the nature and volume of wastewater being processed.

(ii) Should the wastewater entering the City's System from the District's System be found to be in violation of the applicable provisions of the Code, and should such violation be found to be the direct and sole source of injury to the City's System, the District shall pay for the reasonable, actual cost to repair the City's System. The City shall bear the burden of proving both the Code violation and that such violation was the sole and direct cause of the damage to the City's System.

(iii) If the District fails to implement measures required for protection of the City's system and the wastewater entering the City's System from the District's System is found to be in violation of the Code, the City may require the District to implement an operation and maintenance plan to ensure that flows received from the District are non-injurious to the City's System.

(g) Industrial Discharges and Prohibited Wastes.

(i) The District and the City acknowledge that both the City and District have the authority under federal and state law to establish:

(1) types and quantities of discharges that are prohibited for entry into their systems;

(2) discharge prohibitions for certain substances, as may be amended from time to time;

(3) pretreatment, permitting, monitoring, and other requirements for persons who discharge prohibited substances; and

(4) measures to protect the District's System and the City's System.

(ii) To the extent authorized by law, the District will ensure that all persons or entities lawfully connected to its system and discharging wastewater into the District's System abide by the applicable provisions in the Code, including any permitting requirements set forth therein.

(iii) To the extent authorized by law, the District will enact and enforce rules that are at least as stringent as those adopted by the City and will take reasonable steps to require customers connected to the District's System to comply with the District's regulations. The City will give written notice to the District of any future ordinance changes governing the pretreatment, monitoring, or discharge of wastewater containing industrial waste or other prohibited waste, and those changes will become applicable to wastewater discharges into the District's System that ultimately discharge into the City's System sixty (60) days after the delivery of the notice to the District.

(iv) The District will seek injunctive or other appropriate relief to prohibit wastewater discharges when the District's engineer becomes aware that such discharges will damage or pass through the City's System without adequate treatment, interfere with the treatment system, or otherwise pose an imminent danger to public health or when the specific person or industry is not making sufficient progress toward implementing an approved pretreatment system.

(v) During the term of this Agreement, the District will provide the City with copies of all relevant monitoring data and pretreatment enforcement actions under this Subsection 3(g) within thirty (30) days of written request by the City.

(vi) This Agreement does not limit, modify, restrict, or otherwise alter the responsibility or authority of the City to enforce its ordinances governing the pretreatment, monitoring and discharge of wastewater containing industrial waste or other prohibited waste, as amended, with respect to the District when and as such action is deemed necessary by the City's Utilities Director.

(h) Sampling and Testing.

(i) The District agrees that the City may, at its option and expense, sample wastewater discharges within the District's System at:

(1) the site of discharge;

(2) the point of entry; and

(3) other locations as required for the purpose of determining the source, type, and strength of discharge.

Any damages done to the District's System or to the property of the District or third parties during the course of the City's sampling under this Subsection 3(h) will be immediately and fully repaired or replaced by the City.

(ii) The District will make necessary arrangements and provide assistance to the City in obtaining lawful access to sampling points within areas served by District.

(iii) The District will disconnect any of its individual customers found in violation of allowable discharges or any of its individual customers who refuse access for the purpose of sampling from the District's System in accordance with applicable regulations of the District and of the City.

(iv) In addition to other samples taken and tests made on an as required basis, the City will regularly take 24-hour composite samples of wastewater discharges at the point of entry no less frequently than semiannually. The City will be solely responsible for the costs of sampling and testing at the point of entry.

(v) The City will provide the District with a copy of the results of each sample test within thirty (30) days of the date of taking of the sample.

(i) Construction and Testing Criteria for District Sewer Connections.

(i) The District will require that all sewer connections in the District's System be constructed with a permanent type material, be carefully bedded to prevent over-stressing of the material, and utilize a joint that will provide a permanent, water-tight connection. The District shall provide the City with reports from trench backfill density tests performed in conjunction with construction related to the District's System within thirty (30) days of written request of same. The District agrees that the installation will pass an air test performed in accordance with applicable A.S.T.M. Standard and done under the supervision of the District's authorized representative at the time of installation, at the District's or its customer's expense. Each building lateral that interconnects private property to the public sewer will be excluded from this air test requirement.

(ii) The District is responsible for the physical connection of each service line to the local wastewater facility, which will not be left to the discretion of the plumber or contractor unless the plumber or contractor is under the direct supervision of, or their work is inspected by, the District's authorized representative.

(iii) The District will require that all future trunk sewer lines added to the District's System be built in accordance with applicable State of Texas and City criteria, including, at the City's option and at the District's expense, infiltration/leakage testing at the time of installation to assure the standards are met. All manholes constructed by the District related to the District's System after the Effective Date shall be epoxy coated and vacuum tested.

(iv) The District will maintain reasonable supervision and maintenance of the District's System to prevent contamination, such as roof drains or any other means by which surface drainage could enter the District's System and then discharge to the City's System.

(v) Connections made to the District's System after the Effective Date will be made using only materials permitted by the Code in existence at the time such connection is made. The District will inspect all connections to the District's System in accordance with its own rules and regulations in order to insure compliance with its rules and regulations.

(vi) The District will conduct deflection tests on all wastewater lines and stations indicated on the plans for the District's System, as such plans may be amended.

(vii) If the District fails to enact and enforce regulations governing connections to the District's System, the City may, after notice to the District in writing of the specific violation and the District's failure to correct the violation within thirty (30) days or, if the violation cannot reasonably be expected to be corrected within thirty (30) days, to begin to correct the violation and diligently pursue the corrective action, restrict or limit wastewater flows to the extent the City deems reasonably necessary to protect the City's System from damage.

4. Further Representations of the Parties.

(a) It is understood and agreed that the obligation of the City to provide wastewater service in the manner contemplated by this Agreement is subject to the issuance by the Texas Commission on Environmental Quality and all other governmental agencies having jurisdiction of all permits, certificates or approvals required to provide lawful service, if any. In such respect, the City agrees to apply for and diligently pursue any permits, certificates, or approvals required to lawfully provide wholesale wastewater service to the Property. Should the City fail to obtain timely any approvals required to serve the Property, the Developer may, at its option, and in addition to any other remedies available to it pursuant to applicable law, terminate this Agreement.

(b) Unless the prior approval of the City is obtained, such approval not to be unreasonably withheld, conditioned, or delayed, the Developer and/or the District shall not:

(1) construct or install additional wastewater lines or facilities to provide retail wastewater service to areas lying outside the Property;

(2) significantly increase the lands for which wastewater service is to be provided by the City pursuant to this Agreement; or

(3) knowingly connect or provide service to any person or entity within the Property who, in turn, sells wastewater service directly or indirectly to another person or entity.

(c) If necessary, the Developer and/or the District will provide easements within the Property for all master meters in accordance with Code requirements. Master meters shall be owned by the City and installed to measure the Property's wastewater flows. These meters will be calibrated on an annual basis at a time agreed by the City and the District. If the District requests meter calibration more often than the agreed annual time, then additional calibrations may be performed at the District's expense. In the event wastewater mains enter the Property from other City service areas, master meters will be installed at both ends of the system serving the Property so that the differential flows will be measured to determine flows from the District's customers. The Developer and/or the District shall not be required to obtain and/or provide easements outside the area of the Property.

5. Payments by the Developer.

The Parties acknowledge and agree that the Development Agreement contains arrangements for certain payments to be made by the Developer to the City, including the Master Development Fee and the Capacity Payment, as defined in the Development Agreement. In acknowledgment of such payments and in exchange for the other considerations herein, the Developer and/or the District shall not be required to make any payments in association with the wholesale wastewater services being provided by the City pursuant to this Agreement, except those that are customary to in-city wholesale wastewater customers and set forth in Exhibit "B" hereto.

6. Effect of Force Majeure.

In the event any Party is rendered unable by force majeure to carry out any of its obligations under this Agreement, in whole or in part, then the obligations of that Party, to the extent affected by the force majeure shall be suspended during the continuance of the inability; provided, however, that due diligence is exercised to resume performance at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the

Party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other Parties.

The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability of any Party, whether similar to those enumerated or otherwise, that are not within the control of the Party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement or strikes and lockouts shall be entirely within the discretion of the Party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing Party if the settlement is unfavorable to it in the judgment of the Party having the difficulty. Nothing in this Section 6 shall be interpreted to prohibit the Developer and/or the District from seeking alternative sources of wholesale wastewater service for the Property in the event of a force majeure.

7. Notices.

Any notice to be given hereunder by any Party to the other Parties shall be in writing and may be effected by personal delivery or by sending said notices by overnight delivery, registered or certified mail, return receipt requested, to the address of each contact of the Party being provided notice, as set forth below. Notice shall be deemed given when deposited with the United States Postal Service or overnight delivery carrier with sufficient postage affixed or payment provided. Any notice mailed to the Parties shall be addressed as follows:

CITY: City of Elgin
Attn: City Manager
PO Box 591
Elgin, Texas 78621

With Copy to: Sheets & Crossfield
Attn: Charlie Crossfield
309 E. Main Street
Elgin, Texas 78664-5264

DEVELOPER: BTR Development, Inc.
Attn: Joseph W. Straub
4408 Spicewood Springs Road
Austin, Texas 78759

With Copy to: Armbrust & Brown, PLLC
Attn: Kevin M. Flahive
100 Congress Avenue, Suite 1300
Austin, Texas 78701

DISTRICT: Elgin Municipal Utility District No. 1
c/o Armbrust & Brown, PLLC
Attn: Kevin M. Flahive
100 Congress Avenue, Suite 1300
Austin, Texas 78701

Any Party may change the address for notice to it by giving written notice of such change in accordance with the provisions of this paragraph.

8. Remedies.

(a) If the City defaults under this Agreement, the Developer and/or the District may enforce this Agreement by seeking damages and/or a writ of mandamus from any court of appropriate jurisdiction, or may give notice setting forth the event of default ("Notice") to the City. If the City fails to cure any default that can be cured by the payment of money ("Monetary Default") within 45 days from the date the City receives the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within 45 days of the date of the Notice, and thereafter to diligently pursue such cure to completion, the Developer may terminate this Agreement as to all of the Property owned by the Developer, or as to the portion of the Property affected by the default.

(b) If the Developer defaults under this Agreement, the City may enforce this Agreement by seeking specific performance from any court of appropriate jurisdiction, or the City may give Notice to the Developer. If the Developer fails to cure any Monetary Default within 45 days from the date it receives the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within 45 days of the date of the Notice, and thereafter to diligently pursue such cure to completion, the City may terminate this Agreement as to all of the Property owned by the Developer, or as to the portion of the Property affected by the default.

(c) If a Party defaults, the prevailing Party in the dispute will be entitled to recover its reasonable attorney's fees, expenses and court costs from the non-prevailing Party.

9. Effective Date.

This Agreement shall be effective from and after the date of due execution by each of the Parties (the "Effective Date").

10. Term.

This Agreement shall commence upon the Effective Date and shall continue in effect with the term of the Development Agreement. Upon expiration of the Development Agreement, this Agreement shall also terminate.

11. Third Parties.

It is the express intention of the Parties that the terms and conditions of this Agreement may be enforced by any Party, but not by any third party or alleged third-party beneficiary.

12. Multiple Originals.

This Agreement may be executed in multiple originals, any copy of which shall be considered to be an original.

13. Severability; Waiver. If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

14. Applicable Law and Venue. The interpretation, performance, enforcement and validity of this Agreement are governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Bastrop or Travis Counties, Texas.

15. Entire Agreement. This Agreement contains the entire agreement of the Parties. There are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement other than the Development Agreement. This Agreement can be amended only by written agreement signed by the Parties. This Agreement supersedes all other agreements between the Parties concerning the subject matter.

16. Amendment. No amendment of this Agreement shall be effective unless and until it is duly approved by each Party and reduced to a writing signed by the authorized representatives the Parties, respectively, which amendment shall incorporate this Agreement in every particular not otherwise changed by the amendment.

17. Exhibits, Headings, Construction and Counterparts. All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this

Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. The Parties acknowledge that each of them has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the parties.

18. Time. Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

19. Authority for Execution. The City certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with its City Charter and City ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreement of each entity executing on behalf of the Developer. The District certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the rules and regulations of the District.

20. Reimbursement. The Parties acknowledge and agree that the Developer may seek reimbursement for the costs of the Off-Site Wastewater Facilities and for other District facilities through the District pursuant to various provisions of the Texas Water Code and other statutory authorizations, and nothing contained in this Agreement is intended to interfere with any such reimbursement.

21. Assignability.

(a) This Agreement, and the rights of the Developer hereunder, may be assigned by the Developer, with the City's consent, to a subsequent developer of all or a portion of the Property. Any assignment will be in writing, specifically set forth the assigned rights and obligations and be executed by the proposed assignee. The City's consent to any proposed assignment will not be unreasonably conditioned, withheld or delayed. No consent, however, shall be required for (i) an assignment to any subsidiary, parent company, or other affiliate of the Developer, or (ii) the Developer's assignment of its interests in full to the District, if the Districts agrees to be

responsible for all assigned rights, privileges and obligations the Developer under this Agreement.

(b) This Agreement shall not be assigned by the City without the Developer's express prior written consent.

22. Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the heirs, successors and assigns of the Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF each of the Parties has caused this Agreement to be executed by its duly authorized representative in multiple copies, each of equal dignity, on the date or dates indicated below.

CITY OF ELGIN, TEXAS

By: _____
Ron M. Ramirez, Mayor

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF BASTROP §

This instrument was acknowledged before me on _____, 2021, by Ron M. Ramirez, Mayor of the City of Elgin, Texas, a home-rule city on behalf of said City.

_____
Notary Public Signature

(Seal)

ELGIN MUNICIPAL UTILITY DISTRICT NO. 1

By: _____
Christopher Peterson, President
Board of Directors

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2021, by Christopher Peterson, President of the Board of Directors of Elgin Municipal Utility District No. 1, a municipal utility district operating pursuant to Chapters 49 and 54 of the Texas Water Code, on behalf of said District.

_____
Notary Public Signature

BTR DEVELOPMENT, INC.,
a Texas corporation

By: _____
Joseph W. Straub, President

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2021, by Joseph W. Straub, President of BTR Development, Inc., a Texas corporation, on behalf of said corporation.

_____
Notary Public Signature

(Seal)

BASTROP TRINITY INVESTORS, LLC,
a Texas limited liability company

By: _____
James R. Harris, Manager

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2021, by James R. Harris, Manager of Bastrop Trinity Investors, LLC, a Texas limited liability company, on behalf of said limited liability company.

_____
Notary Public Signature

(Seal)

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT ____

Bastrop Trinity Investors, LLC
230.382 Acres
Job No. 6502-00

DESCRIPTION OF A 230.382 ACRE TRACT OF LAND

FIELD NOTES FOR A 230.382 ACRE TRACT OF LAND IN THE ELIZABETH STANDIFER SURVEY NO. 24, ABSTRACT NO. 59, SITUATED IN BASTROP COUNTY, TEXAS; BEING A PORTION OF A CALLED 384.406 ACRE TRACT OF LAND (TRACT 1) AS CONVEYED UNTO BASTROP TRINITY INVESTORS, LLC IN DOCUMENT NUMBER 201907584 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS, INCLUDING ALL OF LOT 138, BLOCK H, TRINITY RANCH PHASE 1, SECTION 1, AS RECORDED IN CABINET 5, SLIDE 65-A, OF THE PLAT RECORDS OF BASTROP COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3-inch steel fence post found on the east right-of-way line of County Road 127, aka Upper Elgin River Road, (R.O.W. ~ varies), on a northerly line of a called 103.11 acre tract of land as conveyed to Linda Jackson and Sheila Harrison in Volume 968, Page 194 of the Official Records of Bastrop County, Texas, at the southwest corner of said 384.406 acre tract, for the southwest corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, N 27°26'36" E, coincident with the common line of the 384.406 acre tract and said east right-of-way line, passing at a distance of 1,658.49 feet a 1/2-inch iron rod with a cap stamped "BGE INC" set at the southwest corner of said Lot 138 and continuing coincident with the common line of Lot 138 and said east right-of-way line a total distance of 2,626.19 feet to a 1/2-inch iron rod with a cap stamped "RJ SURVEYING" found at the common corner of Lot 138 and a called 18.08 acre tract of land as conveyed unto Paul Mogonye and Sandra Mogonye in Document Number 201515453 of the Official Public Records of Bastrop County, Texas, for the northwest corner of the herein described tract;

THENCE, S 62°46'05" E,, departing said right-of-way line, coincident with the common line of Lot 138 and said 18.08 acre tract, passing at a distance of 50.00 feet a 1/2-inch iron rod with a cap stamped "BGE INC" set at the common corner of Lot 138 and the 384.406 acre tract and continuing coincident with the common line of the 18.08 acre tract and the 384.406 acre tract a total distance of 1,303.44 feet to a 1/2-inch iron rod with a cap stamped "RJ SURVEYING" found at the common corner of the 384.406 acre tract and the 18.08 acre tract for a re-entrant corner of the herein described tract;

THENCE, N 27°19'40" E, coincident with the common line of the 384.406 acre tract and the 18.08 acre tract, passing at a distance of 594.83 feet a 1/2-inch iron rod with a cap stamped "J.E. GARON RPLS 4303" found at the common corner of the 18.08 acre tract and a called 13.577 acre tract of land as conveyed unto Charles Carroll Chambers and Joan Antoinette Eppright Chambers, Co-Trustees of the Charles and Joan Chambers Revocable Living Trust in Document Number 201702483 of the Official Public Records of Bastrop County, Texas, and continuing coincident with the common line of the 384.406 acre tract and said 13.577 acre tract, passing at a distance of 1,315.92 feet a 1/2-inch iron rod with a cap stamped "J.E. GARON RPLS 4303" found at the common corner of the 13.577 acre tract and a called 11.500 acre tract of land as

conveyed unto Cutberto V. Pineda and Julieta Arellano Pineda in Document Number 201701186 of the Official Public Records of Bastrop County, Texas, and continuing coincident with the common line of the 384.406 acre tract and said 11.500 acre tract a total distance of 1,638.55 feet to a 1/2-inch iron rod found on the south line of a remainder of a called 45.063 acre tract of land as conveyed unto Elgin Breeding Services in Volume 319, Page 257 and described in Volume 200, Page 249 of the Deed Records of Bastrop County, Texas, at the common corner of the 384.406 acre tract and the 11.500 acre tract for the northwest corner of the herein described tract;

THENCE, S 62°45'43" E, coincident with the common line of the 384.406 acre tract and the remainder of said 45.063 acre tract, passing at a distance of 630.41 feet to a 1/2-inch iron rod with a cap stamped "BGE INC" set at the common corner of the remainder of the 45.063 acre tract and a called 1.455 acre tract of land (Tract 2) as conveyed unto Bastrop Trinity Investors, LLC in Document Number 201907584 of the Official Public Records of Bastrop County, Texas, and continuing coincident with the common line of the 384.406 acre tract and said 1.455 acre tract a total distance of 709.13 feet to a calculated point for the northeast corner of the herein described tract;

THENCE, departing said common line, over and across the 384.406 acre tract the following ten (10) courses:

1) S 28°46'02" W, a distance of 28.00 feet to a calculated point for an angle point of the herein described tract;

2) S 32°00'09" W, a distance of 170.50 feet to a calculated point for a point of curvature of the herein described tract;

3) Curving to the right, with a radius of 1,479.36 feet, an arc length of 23.30 feet, a central angle of 0°54'09", a chord bearing of S 32°27'14" W, and a chord distance of 23.30 feet to a calculated point for a point of tangency of the herein described tract;

4) S 32°54'18" W, a distance of 313.48 feet to a calculated point for a point of curvature of the herein described tract;

5) Curving to the left, with a radius of 370.00 feet, an arc length of 36.04 feet, a central angle of 5°34'54", a chord bearing of S 30°06'50" W, and a chord distance of 36.03 feet to a calculated point for a point of tangency of the herein described tract;

6) S 27°19'23" W, a distance of 407.35 feet to a calculated point for an angle point of the herein described tract;

7) S 12°48'35" E, a distance of 934.02 feet to a calculated point for an angle point of the herein described tract;

8) S 7°43'53" E, a distance of 651.51 feet to calculated point for an angle point of the herein described tract;

9) S 5°19'15" W, a distance of 443.78 feet to a calculated point for an angle point of the herein described tract;

10) S 38°33'49" E, a distance of 596.12 feet to a calculated point on the common line of the 384.406 acre tract and a called 97.876 acre tract of land as conveyed unto Terry M. Lindsey, MD and Leigh A. Lindsey in Document Number 201210308 of the Official Public Records of Bastrop County, Texas, for an easterly corner of the herein described tract;

THENCE, S 26°49'14" W, coincident with the common line of the 384.406 and said 97.876 acre tract, a distance of 1,403.78 feet to a 3-inch steel fence post found on the northeasterly line of a called 170.255 acre tract of land as conveyed unto Fred D. Hooper Jr. and Mary E. Hooper in Volume 174, Page 114 of the Deed of Trust Records of Bastrop County, Texas, at the common corner of the 384.406 acre tract and the 97.876 acre tract for the south corner of the herein described tract;

THENCE, N 62°14'34" W, coincident with the common line of the 384.406 acre tract and said 170.255 acre tract, a distance of 1,233.58 feet to a 1/2-inch iron rod found at the common corner of the 170.255 acre tract and the aforementioned 103.11 acre tract of land for an angle point of the herein described tract;

THENCE, N 62°01'42" W, coincident with the common line of the 384.406 acre tract and said 103.11 acre tract, a distance of 1,324.86 feet to a 60-D nail found in the top of a 0.5' x 0.6' wood post for an angle point of the herein described tract;

THENCE, N 63°10'18" W, continuing coincident with said common line, a distance of 1,109.90 feet to the **POINT OF BEGINNING** and containing 230.382 acres of land, more or less.

This description was prepared under 22 Texas Annotated Code 663.21 and reflects the results of an on the ground survey, and the assembly of instruments of record to describe the political boundary limits shown hereon and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared. A sketch accompanies this description.

I hereby certify that these notes were prepared from a survey made on the ground by employees of BGE, Inc. and are true and correct to the best of my knowledge. The Basis of Bearing recited herein is the Texas State Plane Coordinate System, Central Zone, NAD 83. A sketch accompanies this description.

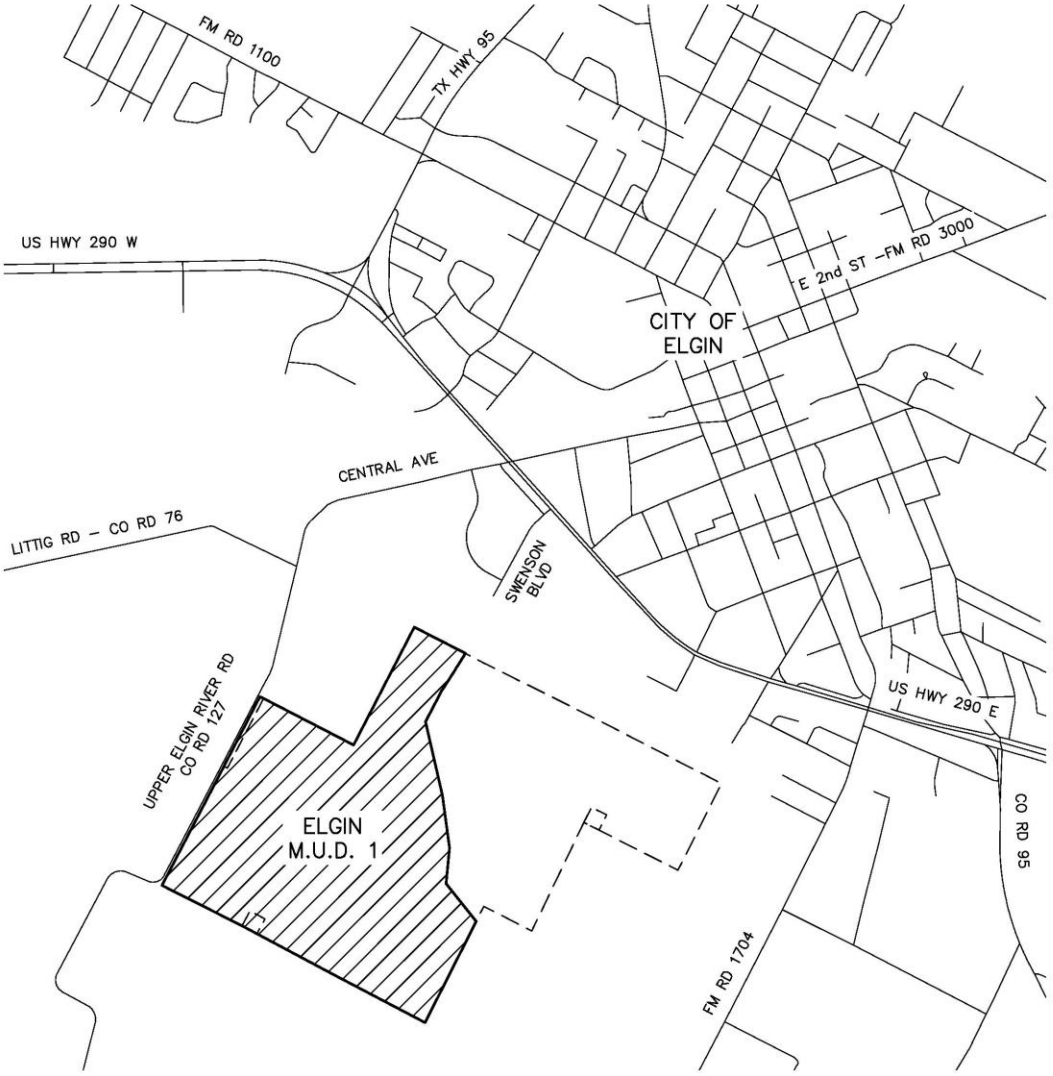
10/15/2020
Date

Dion P. Albertson RPLS No. 4963
BGE, Inc.
7330 San Pedro Ave, Suite 202
San Antonio TX 78216
Telephone: 210-581-3600
TBPLS Licensed Surveying Firm No. 10194490

Client: Harris-Struab
Date: October 15, 2020
Job No: 6502-00

G:\TXC\Projects\Harris_Straub\6502-00_Trinity_Ranch_Survey\04_Finals\Drawings\6502-01_MUD-1.dwg, 10/17/2020 9:46 AM, MCarney

LOCATION MAP TO ACCOMPANY LEGAL DESCRIPTION



N

NOT TO SCALE

BGE

BGE, Inc.
7330 San Pedro Ave., Suite 202, San Antonio, TX 78216
Tel: 210-581-3600 ● www.bgeinc.com
TBPLS Licensed Surveying Firm No. 10194490

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SCALE:

SHEET 5

OF 5

EXHIBIT "B"
CITY'S WHOLESALE WASTEWATER RATES

B-1. Wastewater Rates.

The rate that the City charges the District for wastewater service will be the wastewater rate established by ordinance from time to time by the Elgin City Council, as modified by certain credits set forth in this Article X.1.

B-2. Cost of Service.

The District agrees that the wastewater rates charged to the District shall be based upon the Base Rate and Volume Rate established for City Residential Users. As consideration for the assessment of City Residential User rates, the City agrees that total volume charges billed by the City to the District shall be reduced by the credits set forth as follows. The City agrees that no costs for billing, collecting or customer meter reading shall be included in the calculations for Residential User rates to the District. The City agrees that such costs will not be included in the District's rates.

B-3. Initial Service Period.

From the date of commencement of wastewater service to the District by the City through September 30, 2020 ("Initial Service Period"), the District shall pay a Base Charge of $23.98 per month for each sanitary sewer connection in the District. Additionally, the District shall pay a Volume Charge of $3.40 per thousand gallons of wastewater treated in the month, as metered during the City's normal billing cycle for the month. This Volume Charge is based on the following calculation; Total volume of wastewater metered divided by 1,000 multiplied by $3.37.

By way of illustration, if there are 250 sanitary sewer connections in the District during the initial service period, the monthly Base Charge will be 250 multiplied by $23.98 or $5,995.00.

The monthly Volume Charge during the initial service period will be $3.40 multiplied by the total volume of wastewater metered during the billing period divided by 1,000. Assuming an average volume of wastewater produced per connection of 5,500 gallons, the total volume of wastewater produced in the month for 250 connections would be 1,375,000 gallons divided by 1,000 times $3.40 for a total Volume charge of $4,633.75.

B-4. Remaining Contract Years.

Beginning October 1, 2020 and for the remaining Contract Term, the monthly Base Charge and Volume Rate will be calculated as follows:

Base Rate = Rate established by Ordinance for the fiscal year for City residential customers (Annual Wastewater related Debt Service / Number of Connections /12 months.)

Volume Rate = Rate established by Ordinance for the fiscal year for each 1,000 gallons of wastewater generated by City residential customers minus a percentage of Utility Billing costs allocable to wastewater customers.

EXAMPLE:

Base Rate = $23.98 per month per connection
250 Connections = **$5,995 per month**

Volume Rate = $4.01 per 1,000 gallons

(Utility Billing Costs allocable to Sewer Customers) / (Total Annual Wastewater System O&M Costs)

($125,722) / ($825,975) = 15.22%

15.22% x $4.01) = $0.61 adjustment

$4.01 – $0.61 = **$3.40 per 1,000 gallons of wastewater produced**

DRAFT

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE MAYOR TO EXECUTE THE TRINITY RANCH WASTEWATER SERVICE AGREEMENT WITH THE ELGIN MUNICIPAL UTILITY DISTRICT NO. 2 AND MAKING CERTAIN FINDINGS RELATED THERETO

DEPARTMENT: City Manager

ATTACHMENTS: (1) Resolution and (2) Elgin MUD No. 2 Wastewater Service Agreement

PROPOSED ACTION: Approval of the Resolution authorizing a wastewater service agreement with BTR Development, Inc., and the Elgin Municipal Utility District (MUD) No. 2 for the Trinity Ranch development as described;

FINANCE APPROVAL:

Signature: _____ **Date:**_____

BACKGROUND:

Discussed at previous meetings; BTR Development, Inc. intends to develop 380+ acres of land (the combined acreage of Elgin Municipal Utility District No. 1 and No. 2) within the City's ETJ as the "Trinity Ranch" residential development.

The Council previously approved a Development and Consent Agreement, that is binding upon BTR Development, Inc. and the associated Elgin MUD No. 2. Said Agreement included a commitment on the part of the City to consent to the creation of the MUD in exchange for various commitments made by the developers.

An integral part of the BTR Development/Elgin MUD No. 2. Development Agreement is the provision of wastewater services by the City. The proposed wastewater service agreement provides greater specificity as to the terms and conditions of both parties as it relates to said services.

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☑ **Staff will provide brief comments and answer questions on this item at the meeting.**
☐ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ELGIN, TEXAS AUTHORIZING THE MAYOR TO EXECUTE THE TRINITY RANCH WASTEWATER SERVICE AGREEMENT WITH THE ELGIN MUNICIPAL UTILITY DISTRICT NO. 2 AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, the City Council has approved and authorized a Development and Consent Agreement with BTR Development, Inc., and the Elgin Municipal Utility District No. 2 (MUD) to construct a residential development project currently known as Trinity Ranch; and,

WHEREAS, the Elgin Municipal Utility District No. 2 includes 154.02 ("the Property") more particularly described within "Exhibit "A", attached hereto; and,

WHEREAS, under the terms of the proposed agreement, the City shall manage, treat, and dispose of wastewater that residents of the Elgin Municipal Utility District No. 2 generate; and

WHEREAS, the City, BTR Development, Inc., and the Elgin Municipal Utility District No. 2 desire to enter into this Agreement in order to establish rights and obligations with respect to wastewater service to the Property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS THAT:

Section 1. Findings. The following recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Authorization. The Mayor is hereby authorized to execute the *Wastewater Service Agreement* with BTR Development, Inc. and the Elgin Municipal Utility District No. 2, a copy of said agreement being attached hereto and marked Exhibit A; and made part of this Resolution as if copied verbatim herein.

Section 3. Open Meetings. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. Effective Date. This Resolution shall take effect immediately upon passage.

PASSED AND ADOPTED this 17th day of August, 2021

_____
RON M. RAMIREZ, Mayor
City of Elgin, Texas

ATTEST:

_____
JENNIFER STUBBS, City Secretary

WASTEWATER SERVICE AGREEMENT

THE STATE OF TEXAS §
§
COUNTIES OF BASTROP §
AND TRAVIS §

This Wastewater Service Agreement (this "Agreement") is made and entered into by and between BTR Development, Inc. (the "Developer"); the City of Elgin, Texas (the "City"); and Elgin Municipal Utility District No. 2 (the "District"). Bastrop Trinity Investors, LLC (the "Owner") joins in this Agreement for the purpose of evidencing its consent to this Agreement. The Developer, the City, and the District may be referred to herein each as a "Party" or collectively as the "Parties".

WHEREAS, the Developer is a Texas corporation; and

WHEREAS, the City is a home-rule municipality located in Bastrop County, Texas, with extraterritorial jurisdiction extending into Travis County, Texas; and

WHEREAS, the District is a municipal utility district operating pursuant to Chapters 49 and 54 of the Texas Water Code; and

WHEREAS, the Owner is a Texas limited liability company and the current fee simple owner of 154.020 acres of land more particularly described on Exhibit "A", attached hereto and made a part hereof (together with any property annexed into the District, the "Property"); and

WHEREAS, the Property is located within the extraterritorial jurisdiction of the City; and

WHEREAS, the Parties anticipate that the Property will have approximately 693 connections; and

WHEREAS, the Developer intends to develop the Property in phases; and

WHEREAS, the Developer and the City have entered into a Development and Consent Agreement dated August 6, 2020 ("Development Agreement") that provides, among other things, that the City will manage, treat and dispose of wastewater that the residents of the Property generate; and

WHEREAS, the Parties have determined that it is in the best interest of the Parties to allow the City to manage, treat and dispose of wastewater that residents of the Property generate; and

WHEREAS, pursuant to the Development Agreement, the District and/or Developer on behalf of the District and the City shall construct a wastewater line and related infrastructure ("Wastewater Line") necessary to connect the Property to the City's wastewater treatment plant to enable the City to provide wastewater service to the Property;

WHEREAS, the City has previously adopted the wholesale wastewater service rates attached hereto as Exhibit "B" (the "Wholesale Rates"); and

WHEREAS, the Parties hereto desire to enter into this Agreement in order to set out the rights and obligations of the Parties hereto with respect to wastewater service to the Property.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, for and in consideration for the mutual promises hereinafter expressed, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the Parties agree and contract as follows:

1. Off-Site Wastewater Facilities Design, Construction, and Financing.

   The responsibility and timing for the design, construction, and financing of the wastewater treatment plant expansion, Wastewater Line, and related appurtenances lying outside the boundaries of the Property necessary to serve the Property (collectively, the "Off-Site Wastewater Facilities") are more specifically set forth in the Development Agreement. The Parties agree and affirm that the design, construction, and financing of the Off-Site Wastewater Facilities shall be performed in accordance with the Development Agreement.

2. Interior Improvements.

   (a) The District and/or the Developer on behalf of the District shall be responsible for the design, engineering, permitting, construction, and financing of all wastewater improvements lying within the boundaries of the Property (the "Interior Improvements"). All Interior Improvements shall be engineered and designed by a Texas Licensed Professional Engineer in accordance with the applicable specifications of governmental agencies having jurisdiction.

   (b) The City shall have the right to inspect all phases of the construction of the Interior Improvements at the City's sole cost and expense. The District and/or the Developer on behalf of the District shall give written notice to the City of the date on which construction is scheduled to begin so that the City may advise its consulting engineer.

   (c) Upon completion of the Interior Improvements, the District shall own and maintain the Interior Improvements as long as the District is the retail wastewater service provider. Upon annexation of the District, the District shall convey the Interior Improvements to the City for operation and maintenance and the City will become the retail wastewater service provider. The District shall own an undivided interest in the capacity of the City's System (defined below) up to the capacity designed for the provision of wastewater service to the Developer and/or the District and the payment of associated costs of said facilities by the Developer and/or the District.

3. Permanent Service to the Property.

(a) After the Developer's completion and dedication of the Wastewater Line to the City, the City shall provide continuous and adequate wholesale wastewater service to the Property sufficient (i) to serve the land uses shown on the Concept Plan attached to the Development Agreement, and (ii) to fulfill the requirements of any applicable rule or regulation of the Public Utility Commission of Texas or the Texas Commission on Environmental Quality and all duly adopted rules and regulations of the City, subject to payment of the monthly services charges based upon the Wholesale Rates set forth in this Agreement.

(b) Once the Wastewater Line is constructed, the City will receive, treat and dispose of, or shall contract for the treatment and disposal of, all sewage generated by customers within the Property. The City will maintain an adequate wastewater treatment capacity at all times to serve the customers within the District at the same level these services are provided within the City.

(c) The District acknowledges that wastewater entering the City's wastewater system (the "City's System") from the wastewater system lying within the Property and being operated and maintained by the District, including the Interior Improvements (the "District's System"), originating from any source whatsoever must be given treatment and handling whether or not its source is revenue-producing for the District. Therefore, the District will pay for all wastewater entering the City's System from the District's System, including infiltration and inflow, at the Wholesale Rates. It is the District's responsibility to undertake reasonably prudent measures to minimize infiltration and inflow to the Interior Improvements.

(d) The Wholesale Rates, as reflected in Exhibit "B" hereto, charged by the City for service within the Property shall be the same as those rates charged by the City to its in-city wholesale wastewater customers. Such rates may be reviewed and adjusted annually by the City, based on a cost of service study performed by the City and as allowed by applicable law. However, nothing in this provision or elsewhere in this Agreement or the Development Agreement shall be interpreted to prevent the District's customers from appealing the wastewater rates pursuant to §13.043, Texas Water Code.

(e) The District shall have guaranteed reserved capacity and shall fully own capacity in the Off-Site Wastewater Facilities sufficient to serve the needs of the Property, currently estimated to be 0.124 million gallons per day, but subject to such increase as may be required based upon final density of the development in the Property.

(f) Condition of Wastewater Delivered.

(i) The District will operate and maintain the District's System to ensure that wastewater delivered to the City's System will have a pH factor between six and eleven and otherwise be in a condition that complies with the requirements of Chapter 42, Article III, Division 5 of the City's Code of Ordinances (the "Code") in existence on the Effective Date. If wastewater delivered from the District's System to the City's System fails to meet the specified standards and the City's Utilities Director determines that the addition of oxidizing chemicals or another reasonable method of pretreatment of wastewater or operation of the District's System is necessary in order for wastewater delivered to be non-injurious to the City's System, then the District will install facilities or implement methods of operation and maintenance to meet the standards and render wastewater from the District non-injurious to the City's System. Such facilities or methods shall be agreed upon by the City and the District's engineer. The District shall not be required to install facilities or employ methods that far exceed industry standards for wastewater pretreatment, given the nature and volume of wastewater being processed.

(ii) Should the wastewater entering the City's System from the District's System be found to be in violation of the applicable provisions of the Code, and should such violation be found to be the direct and sole source of injury to the City's System, the District shall pay for the reasonable, actual cost to repair the City's System. The City shall bear the burden of proving both the Code violation and that such violation was the sole and direct cause of the damage to the City's System.

(iii) If the District fails to implement measures required for protection of the City's system and the wastewater entering the City's System from the District's System is found to be in violation of the Code, the City may require the District to implement an operation and maintenance plan to ensure that flows received from the District are non-injurious to the City's System.

(g) Industrial Discharges and Prohibited Wastes.

(i) The District and the City acknowledge that both the City and District have the authority under federal and state law to establish:

(1) types and quantities of discharges that are prohibited for entry into their systems;

(2) discharge prohibitions for certain substances, as may be amended from time to time;

(3) pretreatment, permitting, monitoring, and other requirements for persons who discharge prohibited substances; and

(4) measures to protect the District's System and the City's System.

(ii) To the extent authorized by law, the District will ensure that all persons or entities lawfully connected to its system and discharging wastewater into the District's System abide by the applicable provisions in the Code, including any permitting requirements set forth therein.

(iii) To the extent authorized by law, the District will enact and enforce rules that are at least as stringent as those adopted by the City and will take reasonable steps to require customers connected to the District's System to comply with the District's regulations. The City will give written notice to the District of any future ordinance changes governing the pretreatment, monitoring, or discharge of wastewater containing industrial waste or other prohibited waste, and those changes will become applicable to wastewater discharges into the District's System that ultimately discharge into the City's System sixty (60) days after the delivery of the notice to the District.

(iv) The District will seek injunctive or other appropriate relief to prohibit wastewater discharges when the District's engineer becomes aware that such discharges will damage or pass through the City's System without adequate treatment, interfere with the treatment system, or otherwise pose an imminent danger to public health or when the specific person or industry is not making sufficient progress toward implementing an approved pretreatment system.

(v) During the term of this Agreement, the District will provide the City with copies of all relevant monitoring data and pretreatment enforcement actions under this Subsection 3(g) within thirty (30) days of written request by the City.

(vi) This Agreement does not limit, modify, restrict, or otherwise alter the responsibility or authority of the City to enforce its ordinances governing the pretreatment, monitoring and discharge of wastewater containing industrial waste or other prohibited waste, as amended, with respect to the District when and as such action is deemed necessary by the City's Utilities Director.

(h) Sampling and Testing.

(i) The District agrees that the City may, at its option and expense, sample wastewater discharges within the District's System at:

(1) the site of discharge;

(2) the point of entry; and

(3) other locations as required for the purpose of determining the source, type, and strength of discharge.

Any damages done to the District's System or to the property of the District or third parties during the course of the City's sampling under this Subsection 3(h) will be immediately and fully repaired or replaced by the City.

(ii) The District will make necessary arrangements and provide assistance to the City in obtaining lawful access to sampling points within areas served by District.

(iii) The District will disconnect any of its individual customers found in violation of allowable discharges or any of its individual customers who refuse access for the purpose of sampling from the District's System in accordance with applicable regulations of the District and of the City.

(iv) In addition to other samples taken and tests made on an as required basis, the City will regularly take 24-hour composite samples of wastewater discharges at the point of entry no less frequently than semiannually. The City will be solely responsible for the costs of sampling and testing at the point of entry.

(v) The City will provide the District with a copy of the results of each sample test within thirty (30) days of the date of taking of the sample.

(i) Construction and Testing Criteria for District Sewer Connections.

(i) The District will require that all sewer connections in the District's System be constructed with a permanent type material, be carefully bedded to prevent over-stressing of the material, and utilize a joint that will provide a permanent, water-tight connection. The District shall provide the City with reports from trench backfill density tests performed in conjunction with construction related to the District's System within thirty (30) days of written request of same. The District agrees that the installation will pass an air test performed in accordance with applicable A.S.T.M. Standard and done under the supervision of the District's authorized representative at the time of installation, at the District's or its customer's expense. Each building lateral that interconnects private property to the public sewer will be excluded from this air test requirement.

(ii) The District is responsible for the physical connection of each service line to the local wastewater facility, which will not be left to the discretion of the plumber or contractor unless the plumber or contractor is under the direct supervision of, or their work is inspected by, the District's authorized representative.

(iii) The District will require that all future trunk sewer lines added to the District's System be built in accordance with applicable State of Texas and City criteria, including, at the City's option and at the District's expense, infiltration/leakage testing at the time of installation to assure the standards are met. All manholes constructed by the District related to the District's System after the Effective Date shall be epoxy coated and vacuum tested.

(iv) The District will maintain reasonable supervision and maintenance of the District's System to prevent contamination, such as roof drains or any other means by which surface drainage could enter the District's System and then discharge to the City's System.

(v) Connections made to the District's System after the Effective Date will be made using only materials permitted by the Code in existence at the time such connection is made. The District will inspect all connections to the District's System in accordance with its own rules and regulations in order to insure compliance with its rules and regulations.

(vi) The District will conduct deflection tests on all wastewater lines and stations indicated on the plans for the District's System, as such plans may be amended.

(vii) If the District fails to enact and enforce regulations governing connections to the District's System, the City may, after notice to the District in writing of the specific violation and the District's failure to correct the violation within thirty (30) days or, if the violation cannot reasonably be expected to be corrected within thirty (30) days, to begin to correct the violation and diligently pursue the corrective action, restrict or limit wastewater flows to the extent the City deems reasonably necessary to protect the City's System from damage.

4. Further Representations of the Parties.

(a) It is understood and agreed that the obligation of the City to provide wastewater service in the manner contemplated by this Agreement is subject to the issuance by the Texas Commission on Environmental Quality and all other governmental agencies having jurisdiction of all permits, certificates or approvals required to provide lawful service, if any. In such respect, the City agrees to apply for and diligently pursue any permits, certificates, or approvals required to lawfully provide wholesale wastewater service to the Property. Should the City fail to obtain timely any approvals required to serve the Property, the Developer may, at its option, and in addition to any other remedies available to it pursuant to applicable law, terminate this Agreement.

(b) Unless the prior approval of the City is obtained, such approval not to be unreasonably withheld, conditioned, or delayed, the Developer and/or the District shall not:

(1) construct or install additional wastewater lines or facilities to provide retail wastewater service to areas lying outside the Property;

(2) significantly increase the lands for which wastewater service is to be provided by the City pursuant to this Agreement; or

(3) knowingly connect or provide service to any person or entity within the Property who, in turn, sells wastewater service directly or indirectly to another person or entity.

(c) If necessary, the Developer and/or the District will provide easements within the Property for all master meters in accordance with Code requirements. Master meters shall be owned by the City and installed to measure the Property's wastewater flows. These meters will be calibrated on an annual basis at a time agreed by the City and the District. If the District requests meter calibration more often than the agreed annual time, then additional calibrations may be performed at the District's expense. In the event wastewater mains enter the Property from other City service areas, master meters will be installed at both ends of the system serving the Property so that the differential flows will be measured to determine flows from the District's customers. The Developer and/or the District shall not be required to obtain and/or provide easements outside the area of the Property.

5. Payments by the Developer.

The Parties acknowledge and agree that the Development Agreement contains arrangements for certain payments to be made by the Developer to the City, including the Master Development Fee and the Capacity Payment, as defined in the Development Agreement. In acknowledgment of such payments and in exchange for the other considerations herein, the Developer and/or the District shall not be required to make any payments in association with the wholesale wastewater services being provided by the City pursuant to this Agreement, except those that are customary to in-city wholesale wastewater customers and set forth in Exhibit "B" hereto.

6. Effect of Force Majeure.

In the event any Party is rendered unable by force majeure to carry out any of its obligations under this Agreement, in whole or in part, then the obligations of that Party, to the extent affected by the force majeure shall be suspended during the continuance of the inability; provided, however, that due diligence is exercised to resume performance at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the

Party whose contractual obligations are affected thereby shall give notice and full particulars of the force majeure to the other Parties.

The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability of any Party, whether similar to those enumerated or otherwise, that are not within the control of the Party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement or strikes and lockouts shall be entirely within the discretion of the Party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing Party if the settlement is unfavorable to it in the judgment of the Party having the difficulty. Nothing in this Section 6 shall be interpreted to prohibit the Developer and/or the District from seeking alternative sources of wholesale wastewater service for the Property in the event of a force majeure.

7. Notices.

Any notice to be given hereunder by any Party to the other Parties shall be in writing and may be effected by personal delivery or by sending said notices by overnight delivery, registered or certified mail, return receipt requested, to the address of each contact of the Party being provided notice, as set forth below. Notice shall be deemed given when deposited with the United States Postal Service or overnight delivery carrier with sufficient postage affixed or payment provided. Any notice mailed to the Parties shall be addressed as follows:

CITY: City of Elgin
Attn: City Manager
PO Box 591
Elgin, Texas 78621

With Copy to: Sheets & Crossfield
Attn: Charlie Crossfield
309 E. Main Street
Elgin, Texas 78664-5264

DEVELOPER: BTR Development, Inc.
Attn: Joseph W. Straub
4408 Spicewood Springs Road
Austin, Texas 78759

With Copy to: Armbrust & Brown, PLLC
Attn: Kevin M. Flahive
100 Congress Avenue, Suite 1300
Austin, Texas 78701

DISTRICT: Elgin Municipal Utility District No. 2
c/o Armbrust & Brown, PLLC
Attn: Kevin M. Flahive
100 Congress Avenue, Suite 1300
Austin, Texas 78701

Any Party may change the address for notice to it by giving written notice of such change in accordance with the provisions of this paragraph.

8. Remedies.

(a) If the City defaults under this Agreement, the Developer and/or the District may enforce this Agreement by seeking damages and/or a writ of mandamus from any court of appropriate jurisdiction, or may give notice setting forth the event of default ("Notice") to the City. If the City fails to cure any default that can be cured by the payment of money ("Monetary Default") within 45 days from the date the City receives the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within 45 days of the date of the Notice, and thereafter to diligently pursue such cure to completion, the Developer may terminate this Agreement as to all of the Property owned by the Developer, or as to the portion of the Property affected by the default.

(b) If the Developer defaults under this Agreement, the City may enforce this Agreement by seeking specific performance from any court of appropriate jurisdiction, or the City may give Notice to the Developer. If the Developer fails to cure any Monetary Default within 45 days from the date it receives the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within 45 days of the date of the Notice, and thereafter to diligently pursue such cure to completion, the City may terminate this Agreement as to all of the Property owned by the Developer, or as to the portion of the Property affected by the default.

(c) If a Party defaults, the prevailing Party in the dispute will be entitled to recover its reasonable attorney's fees, expenses and court costs from the non-prevailing Party.

9. Effective Date.

This Agreement shall be effective from and after the date of due execution by each of the Parties (the "Effective Date").

10. Term.

This Agreement shall commence upon the Effective Date and shall continue in effect with the term of the Development Agreement. Upon expiration of the Development Agreement, this Agreement shall also terminate.

11. Third Parties.

It is the express intention of the Parties that the terms and conditions of this Agreement may be enforced by any Party, but not by any third party or alleged third-party beneficiary.

12. Multiple Originals.

This Agreement may be executed in multiple originals, any copy of which shall be considered to be an original.

13. Severability; Waiver. If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

14. Applicable Law and Venue. The interpretation, performance, enforcement and validity of this Agreement are governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Bastrop or Travis Counties, Texas.

15. Entire Agreement. This Agreement contains the entire agreement of the Parties. There are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement other than the Development Agreement. This Agreement can be amended only by written agreement signed by the Parties. This Agreement supersedes all other agreements between the Parties concerning the subject matter.

16. Amendment. No amendment of this Agreement shall be effective unless and until it is duly approved by each Party and reduced to a writing signed by the authorized representatives the Parties, respectively, which amendment shall incorporate this Agreement in every particular not otherwise changed by the amendment.

17. Exhibits, Headings, Construction and Counterparts. All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this

Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. The Parties acknowledge that each of them has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the parties.

18. Time. Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

19. Authority for Execution. The City certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with its City Charter and City ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreement of each entity executing on behalf of the Developer. The District certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the rules and regulations of the District.

20. Reimbursement. The Parties acknowledge and agree that the Developer may seek reimbursement for the costs of the Off-Site Wastewater Facilities and for other District facilities through the District pursuant to various provisions of the Texas Water Code and other statutory authorizations, and nothing contained in this Agreement is intended to interfere with any such reimbursement.

21. Assignability.

(a) This Agreement, and the rights of the Developer hereunder, may be assigned by the Developer, with the City's consent, to a subsequent developer of all or a portion of the Property. Any assignment will be in writing, specifically set forth the assigned rights and obligations and be executed by the proposed assignee. The City's consent to any proposed assignment will not be unreasonably conditioned, withheld or delayed. No consent, however, shall be required for (i) an assignment to any subsidiary, parent company, or other affiliate of the Developer, or (ii) the Developer's assignment of its interests in full to the District, if the Districts agrees to be

responsible for all assigned rights, privileges and obligations the Developer under this Agreement.

(b) This Agreement shall not be assigned by the City without the Developer's express prior written consent.

22. Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the heirs, successors and assigns of the Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF each of the Parties has caused this Agreement to be executed by its duly authorized representative in multiple copies, each of equal dignity, on the date or dates indicated below.

CITY OF ELGIN, TEXAS

By: _____
Ron M. Ramirez, Mayor

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF BASTROP §

This instrument was acknowledged before me on _____, 2021, by Ron M. Ramirez, Mayor of the City of Elgin, Texas, a home-rule city on behalf of said City.

_____
Notary Public Signature

(Seal)

ELGIN MUNICIPAL UTILITY DISTRICT NO. 2

By: _____
Christopher Peterson, President
Board of Directors

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2021, by Christopher Peterson, President of the Board of Directors of Elgin Municipal Utility District No. 2, a municipal utility district operating pursuant to Chapters 49 and 54 of the Texas Water Code, on behalf of said District.

_____
Notary Public Signature

BTR DEVELOPMENT, INC.,
a Texas corporation

By: _____
Joseph W. Straub, President

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on _____, 2021, by Joseph W. Straub, President of BTR Development, Inc., a Texas corporation, on behalf of said corporation.

_____
Notary Public Signature

(Seal)

BASTROP TRINITY INVESTORS, LLC,
a Texas limited liability company

By: _____
James R. Harris, Manager

Date: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2021, by James R. Harris, Manager of Bastrop Trinity Investors, LLC, a Texas limited liability company, on behalf of said limited liability company.

_____
Notary Public Signature

(Seal)

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

DESCRIPTION OF A 154.020 ACRE TRACT OF LAND

FIELD NOTES FOR A 154.020 ACRE TRACT OF LAND IN THE ELIZABETH STANDIFER SURVEY NO. 24, ABSTRACT NO. 59, SITUATED IN BASTROP COUNTY, TEXAS; BEING OUT OF A CALLED 384.406 ACRE TRACT (TRACT 1) AS CONVEYED UNTO BASTROP TRINITY INVESTORS, LLC IN DOCUMENT NUMBER 201907584 OF THE OFFICIAL PUBLIC RECORDS OF BASTROP COUNTY, TEXAS; AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 3-inch steel fence post found at the most northerly corner of a called 97.876 acre tract of land as conveyed unto Terry M. Lindsey, MD and Leigh A. Lindsey in Document Number 201210308 of the Official Public Records of Bastrop County, Texas, at the westerly south re-entrant corner of said 384.406 acre tract for a re-entrant corner and **POINT OF BEGINNING** of the herein described tract;

THENCE, S 26°49'14" W, coincident with the common line of the 384.406 acre tract and said 97.876 acre tract, a distance of 206.94 feet to a calculated point for the southwest corner of the herein described tract;

THENCE, departing said common line, over and across the 384.406 acre tract, the following ten (10) courses:

1) N 38°33'49" W, a distance of 596.12 feet to a calculated point for an angle point of the herein described tract;

2) N 5°19'15" E, a distance of 443.78 feet to a calculated point for an angle point of the herein described tract;

3) N 7°43'53" W, a distance of 651.51 feet to a calculated point for an angle point of the herein described tract;

4) N 12°48'35" W, a distance of 934.02 feet to a calculated point for an angle point of the herein described tract;

5) N 27°19'23" E, a distance of 407.35 feet to a calculated point for a point of curvature of the herein described tract;

6) Curving to the right, with a radius of 370.00 feet, an arc length of 36.04 feet, a central angle of 5°34'54", a chord bearing of N 30°06'50" E, and a chord distance of 36.03 feet to a calculated point for a point of tangency of the herein described tract;
7) N 32°54'18" E, a distance of 313.48 feet to a calculated point for a point of curvature of the herein described tract;

8) Curving to the left, with a radius of 1,479.36 feet, an arc length of 23.30 feet, a central angle of 0°54'09", a chord bearing of N 32°27'14" E, and a chord distance 23.30 feet to a calculated point for a point of tangency of the herein described tract;

9) N 32°00'09" E, a distance of 170.50 feet to a calculated point for an angle point of the herein described tract;

10) N 28°46'02" E, a distance of 28.00 feet to a calculated point on the common line of the 384.406 acre tract and a called 1.455 acre tract of land (Tract 2) as conveyed unto Bastrop Trinity Investors, LLC, in Document Number 201907584 of the Official Public Records of Bastrop County, Texas, for the northwest corner of the herein described tract;

THENCE, S 62°45'43" E, coincident with the common line of the 384.406 acre tract and said 1.455 acre tract, passing at a distance of 1.31 feet a 1/2-inch iron rod with a cap stamped "BGE INC" set at the common corner of the 1.445 acre tract and a remaining portion of a called 45.063 acre tract of land as conveyed unto Elgin Breeding Services in Volume 319, Page 257 and described in Volume 200, Page 249 of the Deed Records of Bastrop County, Texas, and continuing coincident with the common line of the 384.406 acre tract and a remaining portion of said 45.063 acre tract a total distance of 253.00 feet to a 1/2-inch iron pipe found at the common corner of the remaining portion of the 45.063 acre tract and a called 28.7345 acre tract of land as conveyed unto Wallace H. Cardwell and Ardeth M. Cardwell, Trustees of the Cardwell Living Trust in Volume 661, Page 576 of the Official Records of Bastrop County, Texas, for an angle point of the herein described tract;

THENCE, S 63°29'34" E, coincident with the common line of the 384.406 acre tract and said 28.7345 acre tract, passing at a distance of 1,323.67 feet the common corner of the 28.7345 acre tract and a called 4.85 acre tract of land (Tract "C") as conveyed unto the City of Elgin, Texas, in Document Number 201107471 and described in Document Number 200910849 both recorded in the Official Public Records of Bastrop County, Texas and continuing coincident with the common line of the 384.406 acre tract and said 4.85 acre tract a total distance of 1,474.13 feet to a 1/2-inch iron pipe found for an angle point of the herein described tract;

THENCE, S 62°54'43" E, continuing coincident with said common line, a distance of 381.77 feet to a 1/2-inch iron rod found at the common corner of the 4.85 acre tract and a called 11.476 acre tract of land (Tract "A") as conveyed unto the City of Elgin, Texas, in Document Number 201107471 of the Official Public Records of Bastrop County, Texas and described in Volume 871, Page 687 of the Official Records of Bastrop County, Texas, for an angle point of the herein described tract;

THENCE, S 62°40'05" E, coincident with the common line of the 384.406 acre tract and said 11.476 acre tract, a distance of 454.25 feet to a 1/2-inch iron rod found at the common corner of the 11.476 acre tract and a called 2.000 acre tract of land as conveyed unto Conrrado Jonse, III

and Lisa Jonse in Volume 423, Page 516 of the Official Records of Bastrop County, Texas, for an angle point of the herein described tract;

THENCE, S 62°54'26" E, coincident with the common line of the 384.406 acre tract and said 2.000 acre tract a distance of 294.42 feet to a 1/2-inch iron rod found at the common corner of the 2.000 acre tract and a called 1.457 acre tract of land (Tract 6) as conveyed unto Ronnie Jonse Sr. in Volume 7, Page 124 of the Deed Records of Bastrop County, Texas, for an angle point of the herein described tract;

THENCE, S 62°55'02" E, coincident with the common line of the 384.406 acre tract and said 1.457 acre tract, and a called 2.432 acre tract of land (Tract 5) as conveyed unto Gilbert Bega in said Volume 7, Page 124, a distance of 602.07 feet to a 1/2-inch iron rod found at the common corner of said 2.43 acre tract and a called 12.108 acre tract of land as conveyed unto the Elgin Latin Cemetery Association in Document Number 200909369 of the Official Public Records of Bastrop County, Texas, for an angle point of the herein described tract;

THENCE, S 62°36'14" E, coincident with the common line of the 384.406 acre tract and said 12.108 acre tract, a distance of 93.70 feet to a 3-inch steel fence post found at the common corner of the 384.406 acre tract and a called 19.304 acre tract as conveyed unto Israel Arreola and Rebeca Cortes in Document Number 201302809 and described in Volume 1907, Page 151 both recorded in the Official Public Records of Bastrop County, Texas, for the most easterly corner of the 384.406 acre tract and the herein described tract;

THENCE, S 26°42'45" W, coincident with the common line of the 384.406 acre tract and said 19.304 acre tract, passing at a distance of 625.83 feet the common corner of the 19.304 acre tract and the remainder of a called 77.28 acre tract of land as conveyed unto H.L. Neidig in Volume 150, Page 381 of the Deed Records of Bastrop County, Texas, and continuing coincident with the common line of the 384.406 acre tract and said remainder of the 77.28 acre tract a total distance of 1,199.23 feet to a 3-inch steel fence post found for a corner of the 384.406 acre tract and the herein described tract;

THENCE, N 63°02'59" W, coincident with the common line of the 384.406 acre tract and the remainder of said 77.28 acre tract, passing at a distance of 97.18 feet the common corner of the remainder of the 77.28 acre tract and a called 50 acre tract of land as conveyed unto Heine Neidig in Volume 160, Page 300 of the Deed Records of Bastrop County, Texas, and continuing coincident with the common line of the 384.406 acre tract and said 50 acre tract a total distance of 1,305.36 feet to a 3-inch steel fence post found at the common corner of the 384.406 acre tract and said 50 acre tract for a re-entrant corner of the herein described tract;

THENCE, S 25°39'44" W, continuing coincident with said common line, a distance of 1,488.86 feet to a 3-inch steel fence post found on the north line of the aforementioned 97.876 acre tract at the common corner of the 384.406 acre tract and the 50 acre tract for a corner of the herein described tract;

THENCE, N 62°53'36" W, coincident with the common line of the 384.406 acre tract and said 97.876 acre tract, a distance of 667.93 feet to the **POINT OF BEGINNING** and containing 154.020 acres of land, more or less.

This description was prepared under 22 Texas Annotated Code 663.21 and reflects the results of an on the ground survey, and the assembly of instruments of record to describe the political boundary limits shown hereon and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared. A sketch accompanies this description.

I hereby certify that these notes were prepared from a survey made on the ground by employees of BGE, Inc. and are true and correct to the best of my knowledge. The Basis of Bearing recited herein is the Texas State Plane Coordinate System, Central Zone, NAD 83. A sketch accompanies this description.

10/15/2020
Date

Dion P. Albertson RPLS No. 4963
BGE, Inc.
7330 San Pedro Ave, Suite 202
San Antonio TX 78216
Telephone: 210-581-3600
TBPLS Licensed Surveying Firm No. 10194490

Client: Harris-Struab
Date: October 15, 2020
Job No: 6502-00

EXHIBIT "B"
CITY'S WHOLESALE WASTEWATER RATES

B-1. Wastewater Rates.

The rate that the City charges the District for wastewater service will be the wastewater rate established by ordinance from time to time by the Elgin City Council, as modified by certain credits set forth in this Article X.1.

B-2. Cost of Service.

The District agrees that the wastewater rates charged to the District shall be based upon the Base Rate and Volume Rate established for City Residential Users. As consideration for the assessment of City Residential User rates, the City agrees that total volume charges billed by the City to the District shall be reduced by the credits set forth as follows. The City agrees that no costs for billing, collecting or customer meter reading shall be included in the calculations for Residential User rates to the District. The City agrees that such costs will not be included in the District's rates.

B-3. Initial Service Period.

From the date of commencement of wastewater service to the District by the City through September 30, 2020 ("Initial Service Period"), the District shall pay a Base Charge of $23.98 per month for each sanitary sewer connection in the District. Additionally, the District shall pay a Volume Charge of $3.40 per thousand gallons of wastewater treated in the month, as metered during the City's normal billing cycle for the month. This Volume Charge is based on the following calculation; Total volume of wastewater metered divided by 1,000 multiplied by $3.37.

By way of illustration, if there are 250 sanitary sewer connections in the District during the initial service period, the monthly Base Charge will be 250 multiplied by $23.98 or $5,995.00.

The monthly Volume Charge during the initial service period will be $3.40 multiplied by the total volume of wastewater metered during the billing period divided by 1,000. Assuming an average volume of wastewater produced per connection of 5,500 gallons, the total volume of wastewater produced in the month for 250 connections would be 1,375,000 gallons divided by 1,000 times $3.40 for a total Volume charge of $4,633.75.

B-4. Remaining Contract Years.

Beginning October 1, 2020 and for the remaining Contract Term, the monthly Base Charge and Volume Rate will be calculated as follows:

Base Rate = Rate established by Ordinance for the fiscal year for City residential customers (Annual Wastewater related Debt Service / Number of Connections /12 months.)

Volume Rate = Rate established by Ordinance for the fiscal year for each 1,000 gallons of wastewater generated by City residential customers minus a percentage of Utility Billing costs allocable to wastewater customers.

EXAMPLE:

Base Rate = $23.98 per month per connection
250 Connections = **$5,995 per month**

Volume Rate = $4.01 per 1,000 gallons

(Utility Billing Costs allocable to Sewer Customers) / (Total Annual Wastewater System O&M Costs)

($125,722) / ($825,975) = 15.22%

15.22% x $4.01) = $0.61 adjustment

$4.01 – $0.61 = **$3.40 per 1,000 gallons of wastewater produced**

DRAFT

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF THE ELGIN ECONOMIC DEVELOPMENT CORPORATION AND YERICO MANUFACTURING, INC AND AUTHORIZING THE MAYOR TO APPROVE THE AGREEMENT

DEPARTMENT: Economic Development

ATTACHMENTS: EDC Agreement with YERICO Manufacturing INC

PROPOSED ACTION: Approve the Economic Development Agreement

FINANCE APPROVAL:

Signature: _____ Date:_____

BACKGROUND:

YERICO will construct a new 20,000 sq. ft. building at an approximate cost of $1.5 million and install approximately $0.5 million in new equipment. Additionally, YERICO will employ 10 full-time employees with pay ranging from $15 to $20 per hour. In response to the YERICO investment the EDC will sell YERICO five acres of land in the Elgin Business Park III for $217,800

On August 10th the EDC unanimously approved the Economic Development Agreement at their board meeting.

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☑ **Staff will provide brief comments and answer questions on this item at the meeting.**
☐ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.

RESOLUTION NO.

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF ELGIN, TEXAS APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF THE ELGIN ECONOMIC DEVELOPMENT CORPORATION AND YERICO MANUFACTURING, INC AND AUTHORIZING THE MAYOR TO APPROVE THE AGREEMENT

WHEREAS, the City of Elgin, Texas (the "City") desires to grant certain incentives to YERICO Manufacturing INC (the "Developer") for the primary purpose of constructing approximately 20,000 square feet of new manufacturing space at a cost of approximately $1.5 million, install approximately $0.5 million in new equipment, hire approximately 10 new full time employees and locate on approximately 5 Acres within the City of Elgin, Texas; and

WHEREAS, the City has found and determined that the Economic Development Agreement will further the public interest and welfare and the potential economic benefits that will accrue to the City are consistent with the City's economic development objectives to increase sales and use tax revenues accruing to the City and attract additional jobs, and is necessary to promote or develop new business enterprises, and

WHEREAS, the Developer has project costs including new construction costs that will be beneficial to the City, and

WHEREAS, Developer will purchase Five Acres of land for $217,800;

WHEREAS, Developer will construct approximately 20,000 square feet of new manufacturing space and hire approximately ten new full time employees

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elgin, Texas:

1. That the above recitals are true and correct.
2. That the City hereby approves the Agreement between the City of Elgin Economic Development Corporation and YERICO Manufacturing, INC
3. That the Mayor is authorized to approve the Economic Development Agreement between the City of Elgin Economic Development Corporation and YERICO Manufacturing, INC

Adopted on this 17th day of August, 2021.

CITY OF ELGIN, TEXAS

_____
Ron Ramirez, Mayor

ATTEST:

_____
Jennifer Stubbs, City Secretary

ECONOMIC DEVELOPMENT AGREEMENT

BY AND BETWEEN CITY OF ELGIN, TEXAS ECONOMIC DEVELOPMENT CORPORATION AND YERICO MANUFACTURING, INC.

This Economic Development Agreement ("Agreement") is made by and between the CITY OF ELGIN, TEXAS ECONOMIC DEVELOPMENT CORPORATION (the "EDC") and YERICO MANUFACTURING, INC (the "Company").

RECITALS:

WHEREAS, the Company desires to expand its business in Elgin with (1) construct an approximately 20,000 square foot building on approximately five (5) acres in the Elgin Business Park III at an approximate appraised value of $1.5 million, and (2) and install approximately $0.5 million in new equipment. Additionally, the Company will employ approximately 10 full- time employees with pay ranging from$15 to $20 per hour.

WHEREAS, the Company has advised the EDC that contributing factors that would induce the Company to expand their business and construct their building in the City would be an agreement with the EDC to provide a performance-based economic development agreement to the Company to defray a portion of the construction costs to be incurred by the Company as a consequence of providing approximately 10 full- time employees and

WHEREAS, the EDC has found and determined that the expansion of the Company will further the public interest and welfare and the potential economic benefits that will accrue to the EDC are consistent with the EDC's economic development objectives to increase sales and use tax revenues accruing to the EDC and attract additional jobs, and is necessary to promote or develop new business enterprises, and

WHEREAS, the EDC is authorized by Chapter 501 et. seq of the Texas Local Government Code, to establish economic development programs and to provide grants for economic development, and

WHEREAS, the EDC and the Company desire to set forth in this Agreement the terms and conditions of the performance based economic development payments to be made to the Company, its successors and assigns.

AGREEMENT

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

ARTICLE I

PURPOSE AND INTERPRETATION

Objectives. The Company hereby agrees to fund certain costs associated with the construction of the new building and to comply with the terms and conditions of this Agreement.

Concept and Structure. As authorized by Chapter 501 of the Texas Local Government Code, as amended, the EDC will make certain performance-based economic development grant payments as set forth in Article III of this Agreement to the Company for the purpose of reimbursing the Project Costs incurred by the Company for the development of the Property.

ARTICLE II
DEFINITIONS

"Agreement" shall mean this agreement and all attachments hereto between the EDC and the Company.

"Land" shall mean approximately five (5) acres of land in the Elgin Business Park III

"EDC" shall mean the City of Elgin, Texas Economic Development Corporation

"Company" shall mean YERICO Manufacturing, INC or any successor thereto or assignee thereof under this Agreement.

"Project Costs" shall mean (i) cost of constructing a 20,000 sq. ft. building

"Project" shall mean (1) construction of approximately 20,000 square foot building on the Land at an approximate value of $1.5 million, and (2) and install an estimated $0.5 million in new equipment. Additionally, the Company will employ approximately 10 full- time employees with pay ranging from$15 to $20 per hour.

"State" shall mean the State of Texas.

ARTICLE III

A. **General Statement**. The duty of the EDC to make a land and financial grant to the Company for any purpose under this Agreement is limited in its entirety by the provisions of this Agreement. Any land sale made by the EDC pursuant to this Agreement shall be made pursuant to Chapter 501 of the Texas Local Government Code, as amended; and any other economic development or financing program authorized by applicable State law. No land or financial grant shall be made if the Company fails to materially comply with any terms and conditions of this Agreement, after being afforded an opportunity to cure, as stated herein.

B. **Land.** The EDC hereby agrees to sell five (5) acres, which is described as the approximate location of Lot 6 on EXHIBIT A attached("Land"). The Land will need to be platted.

C. **Purchase Price**. The Land will be sold for one dollar a sq. ft. or $217,800.

D. **Street and / or Utility Extensions**: The EDC will be responsible for extending a road, if required, to provide Company access to the Land. This extension may be a temporary road that is capable of handling construction trucks and equipment. The EDC shall deliver adequate domestic water and sanitary sewer to the site. The road/temporary road and the utility extensions shall be delivered to the site within a mutually agreeable timeframe following the closing of the Land, which timeframe will include an adequate time for the EDC to design and construct new infrastructure. The parties shall agree upon a required completion date for these extensions.

E. **Offsite Regional Storm Water Detention Facility and Water Quality Pond**: EDC shall, at its sole cost and expense, develop an Offsite Regional Storm Water Detention Facility and Water Quality Pond (the "Detention Facility") for the non-exclusive use by the Company. EDC shall design, construct, manage, keep, and maintain the Facility with no construction cost to Company. EDC and the Company shall enter into an "Offsite Regional Storm Water Detention Facility Use Agreement" (the "Detention Facility Agreement") for use of the Detention Facility. The Detention Facility Agreement shall include, access for run-off from the Site to the Detention Facility. Company shall be allowed to flow storm water to the Detention Facility via above ground drainage.

ARTICLE V.
COMPANY OBLIGATIONS

A. **General Statement.** The Land sale, as described above, are specifically conditioned upon the Company materially complying with all the terms and conditions of this Agreement, subject to an opportunity to cure, as stated herein. If the Company is in material default regarding any term or condition of this Agreement,and has failed to cure any default as required herein, the EDC has the right to purchase the Land back for the cost the Developer purchased the Land.

B. **Company Expansion.** The Company will (1)construct an approximately 20,000 square foot building on the Land at an approximate value of $1.5 million, and (2) and install approximately $0.5 million in new equipment. Additionally, the Company will employ approximately 10 full- time employees with pay ranging from$15 to $20 per hour.

C. **Expansion Timing** Company will contract a superintendent and or construction manager for building construction within (3) months of closing on property. Construction of the proposed building shall commence within (6) six months of signing the contract. The building should be completed within eighteen (18) months from the beginning of construction. A Certificate of Occupancy shall be issued by the City by July 2023. The design of the building will be approved by the Design Review Committee for the Business Park.

D. **Breach of Contract**. In the event Purchaser fails to substantially complete the building within eighteen (18) months of the effective date of the Contract, the Seller will have the option to reimburse the Purchaser the purchase price of the property and take ownership of the property. Purchaser specifically agrees to execute any and all documents needed to effectuate the re-conveyance. If the improvements to the property are substantially complete, over seventy percent (70%), following the eighteen (18) month time of construction the Seller will grant the Purchaser six (6) additional months to complete the improvements. If the improvements are not completed after the six -month extension the Seller will have the option to reimburse the Purchaser, the Purchase Price of the property plus sixty percent (60%) of the construction costs incurred to date. It is Purchaser's obligation to present to the EDC all invoices which are directly related to the actual construction of the building. The EDC, in its sole discretion, shall determine the validity of each invoice. Seller will take ownership of the property and all improvements. after payment of construction costs.. Improvements are complete when a certificate of occupancy is issued by the City of Elgin Building Department. These provisions shall survive closing.

ARTICLE VI.
PERSONAL LIABILITY OF PUBLIC OFFICIALS

To the extent permitted by State law, no employee of the EDC, or any EDC Board member or agent of the EDC, shall be personally responsible for any liability arising under or growing out of this Agreement.

ARTICLE VII LAW TO BE OBSERVED

The Company at all times shall observe and comply with all federal and state laws, local laws, ordinances, orders, and regulations of the federal, state, county, or City governments.

ARTICLE VIII INFORMATION

The Company shall, at such times and in such form as EDC may require, furnish periodic information concerning the status of the Company, and the performance of its obligations under this Agreement, and such other statements, certificates and approvals relative to the Company as may be requested in writing by the EDC.

ARTICLE IX FORCE MAJEURE

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 and the obligations of such Party, to the extent affected by the Force Majeure, shall be suspended during the continuance of the Force Majeure, and such Party shall use commercially reasonable efforts to remove or overcome such Force Majeure with all reasonable dispatch. In the event of unforeseeable third party delays or Force Majeure and upon a reasonable showing by the Company that it has immediately and in good faith commenced and is diligently and continuously pursuing the correction, removal or abatement of such delays by using its commercially reasonable efforts, EDC may consent to and excuse any such delays, which consent and excuse shall not be unreasonably withheld. Failure by the Company to use its commercially reasonable efforts as required in this paragraph shall be a default under this Agreement. In the event of a Force Majeure arising from a delay in the completion by the EDC or its contractors of public infrastructure improvements to the Company Property, the EDC rather than the Company will be responsible for correcting, removing or abating such delay, and the Company's performance will be automatically approved and excused.

ARTICLE X ADDRESS AND NOTICE

Any and all notices and communications under this Agreement shall be mailed by first-class mail, or delivered, to the Company at the following address:

YERICO Manufacturing
C/O IHN-Hong Min
619 Magonye Lane
Elgin, TX 78621

With a copy to:

Insert YERICO attorney name and address

Any and all notices and communications under this Agreement shall be mailed by first-class mail, or delivered, to the EDC at the following address:

Owen Rock
Elgin Economic Development Corporation
P.O. Box 591
Elgin, Texas 78621

With a copy to:

Charles Crossfield
Sheets & Crossfield, PC
309 East Main Street
Round Rock, Texas 78664

ARTICLE XI
APPLICABLE LAWS

THIS AGREEMENT IS MADE SUBJECT TO THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS AND IS PERFORMABLE BASTROP COUNTY, TEXAS. VENUE SHALL BE IN BASTROP COUNTY, TEXAS.

ARTICLE XII.
CAPTIONS

The captions at the beginning of the Articles of this Agreement are guides and labels to assist in locating and reading such Articles and, therefore, will be given no effect in construing this Agreement and shall not be restrictive of the subject matter of any Article, Section, or part of this Agreement.

ARTICLE XIII.
SUCCESSORS AND ASSIGNS

This Agreement shall bind and benefit the respective parties and their legal successors, and shall be assignable by the Company, in whole or in part to any party, upon written notice to the EDC.

ARTICLE XIV.
TERM

This Agreement shall become effective, and its initial term shall begin, upon the first day of the Company operating in the City and shall end, subject to the Article Ill, upon the earlier of (i) four (4) years after the first day of operations or (ii) until all the Project Costs have been paid in full.

ARTICLE XV.
AMENDMENT OR MODIFICATIONS

Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment, or modification only by the mutual written consent of the parties hereto.

ARTICLE XVI.
COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same instrument.

ARTICLE XVII
DEFAULT

A. Notice and Opportunity to Cure If either party defaults in its obligations under this Agreement, the other party must, prior to exercising a remedy available to that party due to the default, give written notice to the defaulting party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting party at least thirty (30) days from receipt of the notice to cure the default,

B. Remedies for Default. If either party defaults under this Agreement and fails to cure the default within the applicable cure period, the non-defaulting party will have all rights and remedies available under this Agreement, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement or to enforce the defaulting party's obligations under this Agreement by specific performance or writ of mandamus. In the event of default by the Company, in addition to the other remedies stated herein the EDC may cease making any EDC Grant Payments as referenced herein. In the event of a default by the EDC, the Company will be entitled to seek a writ of mandamus, in addition to seeking any other available equitable remedies. All equitable remedies available to a party will be cumulative and the pursuit of one remedy will not constitute an election of remedies or a waiver of the right to pursue any other equitable remedy.

DATED as of the day of , 2021.

(signatures on following pages)

YERICO MANUFACTURING, INC.

By:
IHN-Hong Min, CEO

ACKNOWLEDGMENT

THE STATE OF Texas §

§

COUNTY OF Travis §

This instrument was acknowledged before me on this the 9 day of the month of July, 2021, by IHN-Hong Min, President/Owner (Title), of YERICO MANUFACTURING, INC., known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of and on behalf of said entity and in the capacity and for the purposes and consideration therein expressed.

Signature

Printed Name Ihn Hong Min

Notary Public, State of Texas

VALERIE HILL
Notary Public, State Of Texas
Comm. Expires 03/12/2024
Notary ID# 1018813-8

CITY OF ELGIN, TEXAS, ECONOMIC DEVELOPMENT CORPORATION

By:
Owen Rock, Director

ACKNOWLEDGMENT

THE STATE OF §

§

COUNTY OF §

This instrument was acknowledged before me on this the day of the month of , 2021, by Owen Rock, {Title), of City of Elgin, Texas Economic Development Company, known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of and on behalf of said entity and in the capacity and for the purposes and consideration therein expressed.

Signature

Printed Name

Notary Public, State of

Elgin City Council Meeting
Agenda Item Executive Summary

ITEM:
Review and discussion of the proposed FY2021-22 Annual Budget and Property Tax Rate

DEPARTMENT: City Manager

ATTACHMENTS: None

PROPOSED ACTION: No Council action proposed or requested at this time, other than direction to staff, if any, as appropriate.

FINANCE APPROVAL:

Signature: _____ Date:_____

BACKGROUND:
This item is for general review and discussion of the proposed FY21-22 Annual Budget and associated Property Tax Rate for all city funds for the ensuing fiscal year, which begins October 1, 2021.

☐ **Staff will be making a detailed presentation on this agenda item at the meeting.**
☑ **Staff will provide brief comments and answer questions on this item at the meeting.**
☐ **This is a routine procedural item and no presentation is planned for the meeting.**

Councilmembers who have any detailed questions or would like to request additional information regarding this item are encouraged to contact the City Manager at their earliest convenience.