DEVELOPMENT AND CONSENT AGREEMENT

AMONG

CITY OF ELGIN, TEXAS,

HARRIS & STRAUB, LLC

AND

ELGIN MUNICIPAL UTILITY DISTRICT NO. 1 and
ELGIN MUNICIPAL UTILITY DISTRICT NO. 2

DEVELOPMENT AND CONSENT AGREEMENT

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This Development and Consent Agreement ("Agreement") is entered into by and between the **City of Elgin, Texas**, a home-rule city located in Bastrop County, Texas, with extraterritorial jurisdiction extending into Travis County, Texas (the "City") and **Harris & Straub, LLC**, a Texas limited liability company (the "Developer"). The **Elgin Municipal Utility District No. 1 and Elgin Municipal Utility District No. 2** (collectively, the "District"), each of which is a municipal utility district to be created, will join this Agreement as set forth below and after such joinder shall become a party to this Agreement.

INTRODUCTION

The Developer owns or controls 385.9 acres of land described on **Exhibit A**, attached hereto and made a part hereof.

The Developer intends to develop the land set forth on **Exhibit A** as a master-planned, mixed-use residential community that will also include park and recreational facilities to serve the community. Because the Property, as hereinafter defined, constitutes a significant area that will be developed in phases under a master development plan, the Developer and the City wish to enter into this Agreement, which will provide an alternative to the City's typical regulatory process for development, encourage innovative and comprehensive master-planning of the Property, provide certainty of regulatory requirements throughout the term of this Agreement and result in a high-quality development for the benefit of the present and future residents of the City and the Property.

The Developer and the City intend that this Agreement shall be binding upon the District from and after the date the District executes a joinder to this Agreement in substantially the same form as set forth in **Exhibit B**, attached hereto and made a part hereof. The District shall execute such joinder at the time of its organizational meeting.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, the parties' contract as follows.

ARTICLE I
DEFINITIONS

Section 1.01 Definitions. In addition to the terms defined elsewhere in this Agreement or in the City's ordinances, the following terms and phrases used in this Agreement will have the meanings set out below:

Additional Property. Any property which is contiguous to the Property which Developer wishes to be added to the Property governed by this Agreement, not to exceed fifty (50) acres in the aggregate.

Agreement: This Consent Agreement between the City, Developer, and, upon joinder, the District.

City: The City of Elgin, Texas, a home-rule city located in Bastrop County, Texas, with extraterritorial jurisdiction extending into Travis County, Texas.

City Manager: The City Manager of the City.

Commission or TCEQ: The Texas Commission on Environmental Quality or its successor agency.

Concept Plan: The concept plan for the Property shown in **Exhibit C**, attached hereto and made a part hereof, and which may be amended from time to time in accordance with this Agreement.

County: Bastrop County, Texas.

Developer: Harris & Straub, LLC, or its successors and assigns under this Agreement.

District: Elgin Municipal Utility District No. 1 and Elgin Municipal Utility District No. 2, each a political subdivision of the State of Texas, to be created over the Property with the consent of the City, provided in this Agreement.

Effective Date: The date when one or more counterparts of this Agreement, individually or taken together, bear the signature of all parties.

Property: Approximately 385.9 acres of undeveloped land described on **Exhibit A**, being located in the City's extraterritorial jurisdiction, as well as any Additional Property that may be purchased by the Developer.

WWTP: City of Elgin Wastewater Treatment Plant No 1, located adjacent to the Property.

ARTICLE II
PROJECT DESCRIPTION AND JURISDICTION; DEVELOPER COMMITMENTS

Section 2.01 Project Description. The Developer proposes to construct a mixed-use, multi-phase project (the "Development") over the Property that is projected to include approximately 1,650 single family residential units, for a total of 1,650 living unit equivalents ("LUEs"). The Development will also include (i) approximately seven (7) acres of public parkland; (ii) approximately twenty-three (23) acres of open space located within the 100-year floodplain; (iii) approximately seventeen (17) acres of open space located outside the 100-year flood plain; (iv) approximately five (5) acres of private amenity space for residents thereof; and (v) approximately two (2) acres for a public safety services site..

Section 2.02 Additional Property. To the extent the Developer, its successor or assign, or an affiliated entity of the Developer, acquires Additional Property from time to time, Developer shall provide notice to the City of such acquisition, accompanied by a legal description, and such Additional Property shall (i) be considered a part of the Property and subject to this Agreement, without the necessity of amending this Agreement, and (ii) be subject to and developed in accordance with the specifications of this Agreement. Upon such acquisition, Developer may cause to be recorded in Travis County records a memorandum of this Agreement, incorporating the description of the Additional Property affected.

Section 2.03 Master Development Fee.

(a) Master Development Fee. As consideration for this Agreement, Developer agrees to pay the City a "Master Development Fee" of $2,097,600, partially payable from or concurrently with the proceeds of bonds issued by the District and partially in annual cash installments as provided for in Subsection 2.03(c) below. The District, however, shall not be obligated to issue bonds and shall not issue bonds until such time as the assessed value of the Property supports such issuance and the District's financial advisor advises the District that issuing bonds is economically feasible.

(b) Master Development Fee Payments. The Master Development Fee will be made in installments. After the District issues its first series of bonds, ten percent (10%) of the bond reimbursements received by the Developer shall be paid to the City within ten (10) days of receipt of same. Thereafter, the Developer shall continue to pay to the City ten percent (10%) of the bond reimbursement received by Developer for each successive bond issuance. Each installment of the Master Development Fee will be paid by Developer to the City within ten (10) days of Developer's receipt of the reimbursement. Once the City has received the entire balance of the Master Development Fee, no further payments from District bond issuances shall be due to the City. Regardless of the timing of the District's bond issuances or timing of payment by the Developer of the Master Development Fee installments, no interest shall be do or owing on the Master Development Fee amount of $2,097,600.

(c) Advance Payments. The initial $300,000 of the Master Development Fee shall not be paid from bond proceeds, but shall be paid in three (3) annual cash installments of $100,000 each. The first installment will be payable within thirty (30) days after the City approves the construction plans for the subdivision improvements required for the first subdivision plat

submitted by Developer for approval. The two (2) subsequent $100,000 payments shall be due and owing on the same day of each year thereafter. Each $100,000 payment shall be credited against the $2,097,600 Master Development Fee. These advance payments shall be in place of the initial $300,000 payments that would be made from or concurrently with bond proceeds, such that the Developer shall not be required to pay the ten percent (10%) payment described in Subsection 2.03(b) on the initial $3,000,000 of bonds issued.

ARTICLE III
WATER AND WASTEWATER SERVICE

3.01 Water Utility Provider. The Property is located within the water certificate of convenience and necessity ("CCN") held by Aqua Water Supply Corporation ("Aqua"). Retail water service to the Property shall be provided by Aqua. Notwithstanding the above, retail water service may be provided by the City if the portion of the Aqua CCN covering the Property is transferred to the City or state law permits the City the right to assume such jurisdiction.

3.02 Wastewater Service. The City shall be the retail wastewater treatment service provider to the Development. As retail service provider, the City shall operate, maintain, and repair all components of the WWTP and offsite wastewater system. The City may contract with Aqua so that Aqua may provide wastewater billing services within the District with Aqua's water billing services. The rates charged by the City within the Development shall be the same as the rates charged by the City to its in-city customers. The City agrees to enter into a retail wastewater treatment service agreement with the District with the following terms:

(a) The City will provide or contract for the provision of retail wastewater utility services to the District sufficient to serve the land uses shown on the Concept Plan. The rates charged by the City may be reviewed and adjusted by the City annually, based on a cost of service study performed by the City. In any event, this Agreement does not prevent District customers from appealing the wastewater rates pursuant to §13.043, Texas Water Code.

(b) The City will receive, treat and dispose of, or shall contract for the treatment and disposal of, all sewage generated by customers within the District. 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. The City may limit service to the District in the same manner and to the same extent that service is limited inside the City limits.

(c) The District will have guaranteed reservation and ownership of capacity in the City's wastewater utility system as set forth elsewhere in this Agreement.

(d) If necessary, the Developer will provide easements within the area of the District for all District master meters in accordance with City Ordinance requirements. Master meters shall be installed to measure District wastewater flows. In the event wastewater mains enter the District from other City service areas, master meters will be installed at both ends of the system serving the District so that the differential flows will be measured to determine flows from District

customers. The Developer and/or District shall not be required to provide easements outside the area of the District.

(e) Developer will provide the City a "Utility Plan" for review and approval by the City showing the preliminary routing and sizing of the facilities to be constructed to extend wastewater services to the Development prior to the commencement of any construction or development as part of the preliminary plat application.

(f) All offsite facilities constructed in support of the Development will be conveyed to the City for ownership, operation and maintenance. The City will accept these offsite facilities for operation and maintenance upon completion of construction and delivery of the required one-year maintenance bonds. All internal facilities within the Development will be conveyed to the District for ownership, operation and maintenance.

(g) At its sole discretion, the City may cost participate in the construction of any major offsite utility infrastructure it deems warranted and appropriate.

(h) Developer will diligently attempt to obtain the donation of all easements necessary for the construction of the major offsite utility infrastructure shown on the approved Utility Plan. If the Developer is unable to obtain all required offsite easements, the City will acquire, with the prior written consent of the Developer, the easements, utilizing its power of eminent domain, if necessary, at Developer's expense. Developer will be responsible for construction of the offsite facilities as growth within the Development requires these facilities.

The wastewater treatment service agreement may include other standard terms contained in City retail wastewater treatment service agreements that are not in conflict with the terms set forth in this Agreement.

3.03 Wastewater Treatment Plant Capacity Reservation

The City will expand the capacity of the WWTP as required to serve the Development and in accordance with the Concept Plan. Developer and/or District will pay a portion of the City's cost for the initial expansion of the capacity of the WWTP, which portion shall be represented by a fraction, the numerator of which is the number of LUEs required by the Development at the time of payment, and the denominator of which is the total number of LUEs enabled by the total initial expansion of the capacity of the WWTP (the "WWTP Capacity Reservation Fees"), on a one LUE-per-lot basis. The first WWTP Capacity Reservation Fee shall be paid by Developer in connection with the recordation of the first subdivision plat for the Development based on the number of lots described in such plat. Thereafter, subsequent WWTP Capacity Reservation Fees shall be paid to the City solely from or concurrently with the proceeds of bonds issued in connection with the Development resulting in reimbursements to Developer (i.e. for construction, geotechnical and engineering expenditures advanced by Developer for public infrastructure improvements on the Property). The amount of WWTP Capacity Reservation Fees payable upon bond reimbursement will be based upon the number of platted lots associated with the expenses reimbursed to

Developer by such bond issuance. The City acknowledges that the Developer is relying on service being available to the Property and agrees that wastewater service will be made available to the Development as required by Developer.

ARTICLE IV
CONCEPT PLAN

Section 4.01 Phased Development. Developer intends to develop the Property in phases. Portions of the Property not under active development may remain in use as income-producing agricultural lands or as open space land.

Section 4.02 Concept Plan; Exceptions. The City hereby confirms (i) that it approves the Concept Plan and (ii) that the Concept Plan complies with the City's General Plan, as amended. The City approves the land uses, densities, exceptions, roadway alignments and widths and other matters shown on the Concept Plan and confirms that the Concept Plan has been approved by all required City departments, boards and commissions. The City acknowledges that the Development is a large project that will be developed over a number of years. As such, the City agrees that the Developer may implement the Development with minor changes to the Concept Plan without returning to the City for additional approval. The Developer shall provide to the City a copy of the engineering study that determines the location of the 100-year floodplain for the Property as of the date of the study.

Section 4.03 Development Review and Approval; Moratorium.

(a) City Review of Development. It is the parties' mutual intention that the City will have the sole responsibility for review and approval of all construction plans, development plans, preliminary plans, and subdivision plats within the Property.

(b) Moratorium. The parties acknowledge that the construction and funding of the utility and other improvements contemplated herein represent a significant investment by the Developer in the City's infrastructure. In exchange for this investment, the City agrees that any moratorium the City may impose on development or construction, whether it be imposed through the non-issuance of building permits or otherwise, shall not apply to the Property.

Section 4.04 Term of Approvals. Except as provided below, the approval of the Concept Plan set forth in Section 4.02 above will be effective for the term of this Agreement. Such Concept Plan approval will be deemed to have expired if no final plats of the Property or a portion thereof are recorded during such period of time.

Section 4.05 Amendments. Due to the fact that the Property comprises a significant land area and its development will occur in phases over a number of years, modifications to the Concept Plan may become desirable due to changes in market conditions or other factors. Variations of a preliminary plat or final plat from the Concept Plan that do not increase the overall density of development of the Property will not require an amendment to the Concept Plan. Minor changes to the Concept Plan, including minor modifications of street alignments, minor changes in lot lines, the designation of land for public or governmental uses, changes in lot sizes that do not result in

an increase in the overall density of development of the Property (including any increase in lot sizes resulting in a decrease in the total number of lots) or any change to a public use, including, but not limited to school use, will not require an amendment to the Concept Plan or City approval. Major changes to the Concept Plan must be consistent with the terms of this Agreement and will be subject to review and approval by the City, which will not be unreasonably withheld. Notwithstanding anything herein to the contrary, an increase of the unit count by up to five percent (5%) of the currently-planned count shall not require an amendment to the Concept Plan or additional City approval, regardless of the resulting increase in density of development. Such an increase of up to five percent (5%) of the currently-planned unit count shall result in an increase of the Master Development Fee provided for in Section 2.04 hereof of $1,600 per unit, payable as provided for in Section 2.04.

ARTICLE V
CREATION OF DISTRICT

Section 5.01 Consent to Creation of District. The City acknowledges that Developer intends to develop the Development in accordance with Section 54.016 of the Texas Water Code and Section 42.042 of the Texas Local Government Code, for creation of the District, including powers from Article III, Section 52 of the Texas Constitution. The City has entered into that certain Consent Agreement for Elgin Municipal Utility District No. 1 and Elgin Municipal Utility District No. 2 dated on or about November 4, 2003, as amended from time to time, providing for the creation of the District which District has been created prior to the date hereof. The City agrees to reasonably cooperate with Developer in establishing the effectiveness of such Consent Agreement for the District to the extent requested or required by any governmental entity or other party.

Section 5.02 Annexation. The City agrees that it will not annex the District or Development until: (i) all public infrastructure facilities (including but not limited to water, wastewater, roadway and drainage facilities) have been completed to serve 100% of the developable acreage served by the District, and (ii) Developer has been reimbursed by the District for all such costs in accordance with the rules of the Commission or other laws of the State of Texas.

ARTICLE VI
DEVELOPMENT MATTERS

Section 6.01 Generally. Developer will have the right to select the providers of CATV, gas, electric, telephone, telecommunications and all other utilities and services, including solid waste collection and recycling services, or to provide "bundled" utilities within the Property.

Section 6.02 Public Safety Services Site. Developer and the City will work together to determine the location of the approximately 2- acre public safety services site within the Development, which the parties will endeavor to locate in an early phase of the Development. Developer will, at the time of final platting the phase of the Development within which the Public Safety Site is located, convey the Public Safety Site to the City by warranty deed, at no cost to the City. The Public Safety Site shall be utilized exclusively in support of public safety services as to be determined by the City and shall not be re-sold. If construction has not commenced on a public

safety facility within five (5) years of transfer, the property shall revert back to the Developer for $1.00, unless otherwise mutually agreed to by the Parties.

Section 6.03 Permitted Variances to City Development Requirements. In order to facilitate the development of the Property, the City agrees to provide variances to certain development requirements set forth by City ordinance. No other action will be required on the part of the Developer to obtain such variances or initiate subdivision plat approvals that vary from the City's development requirements, to the extent any variance is in conformity with **Exhibit C**, attached hereto and made a part hereof.

Section 6.04 Support for Elgin Public Schools. As further consideration for this Agreement, Developer will also pay to the City an additional fee of $200 per single-family residential lot within the Development in general support of Elgin Public Schools, which based on the current Concept Plan would amount to $262,200. Such fee will be paid to the City, as a condition of the City's approval of each final plat for a portion of the Property, for each lot within such final plat, such payments ultimately being conveyed by the City to Elgin public schools for their general use.

Section 6.05 Transportation Improvements. Developer will provide a Traffic Impact Analysis (TIA) providing information on the projected traffic associated with the Development, particularly as it relates to Swenson Boulevard, Upper Elgin River Road, and Central Avenue. The TIA will consider impacts of the entire development based on the Concept Plan; and will identify any potential traffic operational problems or concerns and recommend appropriate actions to address such problems or concerns. The TIA will also consider the potential traffic to be generated by other undeveloped land in the area; and shall be consistent with city code requirements and the TxDOT Access Management Manual. In conjunction with any such Developer improvements, the City may, at its sole discretion, cost participate in the construction of any offsite transportation improvements not identified by the TIA as it deems warranted and appropriate. In the event Developer desires to make landscape improvements to the existing section of Swenson Boulevard (plantings, lighting, pedestrian path, wayfinding, etc.), Developer and the City will work together to allow for such improvements. It is anticipated, and hereby acknowledged by both the City and Developer, that significant improvements and/or upgrades to adjacent public roadways will be required in support of the Development. Developer and/or the District shall be responsible for their proportionate share (based upon the impact of the Development on such traffic patterns as described in the TIA) of the costs associated with the design, engineering, and construction of improvements identified by the TIA.

ARTICLE VII
PARK AND RECREATIONAL AMENITIES

Section 7.01 Parkland. The Developer agrees that the public park and public open space land shown on the Concept Plan will be dedicated to the District or another governmental agency. The City agrees that Developer will receive a 100% credit for such dedication against the City's parkland dedication requirements, to the extent such requirements apply to the Property now or in the future, and the City further agrees that no additional parkland dedication or park fees will be required.

ARTICLE VIII
AUTHORITY AND VESTING OF RIGHTS

Section 8.01 Authority. This Agreement is entered into, in part, under the statutory authority of Section 402.104, Texas Local Government Code and Section 212.172 of the *Texas Local Government Code*, which authorizes the City to make written contracts with the owners of land establishing lawful terms and considerations that the parties agree to be reasonable, appropriate, and not unduly restrictive of business activities. The parties intend this Agreement to guarantee the continuation of the extraterritorial status of portions of the Property as provided in this Agreement; authorize certain land uses and development on the Property; provide for the uniform review and approval of plats and development plans for the Property; provide exceptions to certain ordinances; and provide other terms and consideration, including the continuation of land uses and zoning after annexation of the Property. A memorandum of this Agreement may be filed by the Developer in the real property records of Travis County covering the Property.

Section 8.02 Vesting of Rights. The Concept Plan submitted by Developer as an exhibit to this Agreement constitutes an application by Developer for the subdivision and development of the Property, and initiates the subdivision and development permit process for the Property. The City acknowledges that Developer has vested authority to develop the Property in accordance with this Agreement subject to any limitations contained in Chapter 245, Texas Local Government Code. Except as otherwise provided in this Agreement, the City rules, regulations and official policies applicable to the development of the Property (the "Applicable Rules") during the term of this Agreement will be those City ordinances, regulations, and official policies (collectively, "City Rules") in force and as interpreted by the City by policy or practice as of the date of this Agreement (the "Vesting Date"), which is the date on which the first application was filed with the City for development of the Development. No City Rules adopted after the Vesting Date, whether by means of an ordinance, initiative, referendum, resolution, policy, order or otherwise, are or will be applicable to the Project, unless otherwise provided in this Agreement or applicab1e state law, or the application is agreed to, in writing, by Developer and the City. For the term of this Agreement, the development and use of the Development will be controlled by the terms of this Agreement and the Applicable Rules. If there is any conflict between the Applicable Rules and the terms of this Agreement, the terms of this Agreement will control. In consideration of Developer's agreements hereunder, the City agrees that it will not, during the term of this Agreement, impose or attempt to impose: (a) any moratorium on building or development within the Development; or (b) any land use or development regulation that limits the rate or timing of land use approvals, whether affecting preliminary plats, final plats, site plans, building permits, certificates of occupancy or other necessary approvals, within the Development. The preceding sentence does not apply to temporary moratoriums uniformly imposed throughout the City due to an emergency constituting imminent threat to the public health or safety, however, any such a moratorium may continue only during the duration of the emergency.

ARTICLE IX
TERM, ASSIGNMENT AND REMEDIES

Section 9.01 Term. The term of this Agreement will commence on the Effective Date and continue for twenty (20) years thereafter, unless terminated on an earlier date under other provisions of this Agreement or by written agreement of the City and Developer. Upon the expiration of twenty (20) years, this Agreement shall automatically renew for a term of fifteen (15) additional years, then again for a term of ten (10) additional years, so long as neither party to this Agreement is in material default under this Agreement and unless, prior to the expiration of the then-current term, Developer gives City written notice of its intent not to extend this Agreement.

Section 9.02 Termination and Amendment by Agreement. This Agreement may be terminated or amended as to all of the Property at any time by mutual written consent of the City and Developer and, following joinder of the District, the District, and may be terminated or amended only as to a portion of the Property by the mutual written consent of the City and the owners of the portion of the Property affected by the amendment or termination and, following creation of the District, the District containing such portion of the Property.

Section 9.03 Assignment.

(a) This Agreement, and the rights of Developer hereunder, may be assigned by 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 an assignment to any subsidiary, parent company, or other affiliate of Developer.

(b) If Developer assigns its rights and obligations hereunder as to all or a portion of the Property, then the rights and obligations of any assignee and Developer will be severable, and Developer will not be liable for the nonperformance of the assignee and vice versa. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, but will not impede development activities of any performing developer as a result of that nonperformance.

(c) This Agreement is not intended to be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases a fully developed and improved lot within the Property.

Section 9.04 Remedies.

(a) If the City defaults under this Agreement, Developer 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, Developer may terminate this Agreement as to all of

the Property owned by Developer, or as to the portion of the Property affected by the default; however, any such remedy will not revoke the City's consent to the creation of the District.

(b) If 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 Developer. If 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 Developer, or as to the portion of the Property affected by the default; however, any such remedy will not revoke the City's consent to the creation of the District.

(c) If either 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.

Section 9.05 Cooperation.

(a) The City and Developer each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder.

(b) The City agrees to cooperate with Developer in connection with any waivers or approvals Developer may desire from Travis County in order to avoid the duplication of facilities or services in connection with the development of the Property.

(c) In the event of any third-party lawsuit or other claim relating to the validity of this Agreement or any actions taken hereunder, Developer and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution in their respective rights and obligations under this Agreement.

ARTICLE X
LIMITED PURPOSE ANNEXATION

Section 10.01. Developer and/or the District agree to enter into a Strategic Partnership Agreement with the City pursuant to Section 43.0751 of the Texas Local Government Code, which will allow the City to annex for limited purposes any commercial property within the District.

ARTICLE XI
MISCELLANEOUS PROVISIONS

Section 11.01 Notice. Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement, or (iv) by confirmed facsimile with a confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or 3 days after the date of mailing. Notice given in

any other manner will be effective only when received. For purposed of notice, the addresses of the parties will, until changed as provided below, be as follows:

CITY:	City of Elgin PO Box 591 Elgin, Texas 78621 Attn: City Manager
With Required Copy to:	Charlie Crossfield Sheets & Crossfield 309 E. Main Street Elgin, Texas 78664-5264
DEVELOPER:	Harris & Straub, LLC Joseph Straub 4408 Spicewood Springs Road Austin, TX 78759

The parties may change their respective addresses to any other address within the United States of America by giving at least five (5) days' written notice to the other party. Developer may, by giving at least five (5) days' written notice to the City, designate additional parties to receive copies of notices under this Agreement.

Section 11.02 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.

Section 11.03 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 County, Texas.

Section 11.04 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. 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.

Section 11.05 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.

Section 11.06 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.

Section 11.07 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. 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 Developer.

Section 11.08 Force Majeure. If, by reason of force majeure, either party is rendered unable, in whole or in part, to carry out its obligations under this Agreement, the party whose performance is so affected must give notice and the full particulars of such force majeure to the other party within a reasonable time after the occurrence of the event or cause relied upon, and the obligation of the party giving such notice, will, to the extent it is affected by such force majeure, be suspended during the continuance of the inability but for no longer period. The party claiming force majeure must endeavor to remove or overcome such inability with all reasonable dispatch.

The term "force majeure" means Acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas, or of any court or agency of competent jurisdiction or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, vandalism, explosions, breakage or accidents to machinery, pipelines or canals, or inability on the part of a party to perform due to any other causes not reasonably within the control of the party claiming such inability.

Section 11.09 Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A – Legal Description of Property
Exhibit B – Joinder of District
Exhibit C – Concept Plan

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the dates indicated below.

(signatures on the following page)

CITY OF ELGIN, TEXAS

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

THE STATE OF TEXAS §
§
COUNTY OF BASTROP §

This instrument was acknowledged before me on _____, 2019, by _____, _____ of the City of Elgin, Texas, a home-rule city on behalf of said City.

_____
Notary Public Signature

(Seal)

HARRIS & STRAUB, LLC

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

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2019, by _____ on behalf of HARRIS & STRAUB, LLC.

_____
Notary Public Signature

(Seal)

EXHIBIT A
LEGAL DESCRIPTION

[attached]

EXHIBIT B
JOINDER OF DISTRICT

[attached]

EXHIBIT C
CONCEPT PLAN

[attached]