CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE AND DEVELOPMENT AGREEMENT (PROJECT HERCULES)

between
THE CITY OF SAN MARCOS, TEXAS
and
DAIMLER TRUCK NORTH AMERICA LLC

This Chapter 380 Economic Development Incentive and Development Agreement (this "**Agreement**") is entered into between the City of San Marcos, Texas, a Texas home-rule municipal corporation (the "**City**"), and Daimler Truck North America LLC, a Delaware limited liability company registered to do business in the State of Texas (the "**Company**"). The City and the Company may be referred to collectively as the "**Parties**" or individually as a "**Party**." This Agreement is approved by the City Council on the Approval Date and becomes effective on the Effective Date, each as defined in Article 2.

ARTICLE 1
RECITALS

Section 1.01 The Company is a manufacturer of medium- and heavy-duty commercial trucks.

Section 1.02 The Company has contracted with the Developer to purchase approximately 611 acres of land located in Caldwell County, Texas, described in **Exhibit "B"** (the "**Project Site**"), of which approximately 375 acres are located within the extraterritorial jurisdiction of the City (the "**ETJ**") and approximately 236 acres are located in the unincorporated area of the County outside the ETJ, and intends to develop the Project Site for the construction and operation of a new medium- and heavy-duty commercial truck original equipment manufacturing facility in furtherance of its business purposes.

Section 1.03 The Company intends to make a Capital Investment in real property improvements and tangible personal property on the Project Site, and to create Jobs at the Project Site, as set forth in Article 3.

Section 1.04 Section 86.003 of the San Marcos City Code (the "**City Code**") provides that applications for service connections to or extension of City water or wastewater lines to serve property located outside the City limits will be granted only with the approval of the City Council and must be accompanied by a written request for annexation of the applicant's property, and the City Council, by approving this Agreement, approves the extension of City wastewater service to the Project Site under that section and accepts the Company's covenant in Section 6.03 to request annexation of the Project Site, on the terms and at the time stated there, as the written request for annexation required by that section.

Section 1.05 The Company seeks: (a) the provision of City wastewater service to the Project Site during construction of its manufacturing facility prior to annexation and continuing

after annexation; (b) a predictable and coordinated regime for the review, permitting; and inspection of construction on the Project Site prior to annexation and continuing thereafter; and (c) financial and other incentives to facilitate the Company's construction and operation of its new manufacturing facility on the Project Site.

Section 1.06 The Company is committed to incorporating sustainable and environmentally responsible building practices into the design, construction, and operation of its manufacturing facility.

Section 1.07 The Parties further acknowledge that the Company's proposed use of the Project Site does not involve the installation of a Data Center, and that no Data Center, and no power generation facility serving a Data Center, will be constructed on the Project Site.

Section 1.08 The City desires to provide wastewater service to the Project Site and to bring the Company's business operations to the City, because doing so will benefit the City by creating new jobs, by expanding the City's ad valorem tax base upon annexation of the Project Site and the improvements and tangible personal property located on it, and by stimulating business and commercial activity in the City.

Section 1.09 The City is authorized by Chapter 380, Texas Local Government Code, to establish and administer programs, including programs for making grants of public money and providing personnel and services of the City, to promote state or local economic development and to stimulate business and commercial activity in the City, and, for that purpose, a municipality includes an area that is in its extraterritorial jurisdiction. Tex. Loc. Gov't Code § 380.001(a).

Section 1.10 The City is authorized by Subchapter G of Chapter 212, Texas Local Government Code ("**Subchapter G**"), and by Chapter 2, Article 4, Division 3 of the Development Code, to enter into a written contract with an owner of land located in the ETJ to, among other things, guarantee the continuation of the extraterritorial status of the land for a stated period, extend the City's planning authority over the land, authorize enforcement by the City of certain municipal land use and development regulations, provide for infrastructure, provide for annexation of the land and the terms of annexation, and specify the uses and development of the land before and after annexation. Tex. Loc. Gov't Code § 212.172(b).

Section 1.11 The Owned Land is currently subject to the City Development Agreement, and a portion of the Option Land is currently subject to the County Development Agreement. The City, the Developer, and the Company intend that, concurrently with the Effective Date, the Owned Land be released from the City Development Agreement on the terms of the City Development Agreement Release and the Option Land be released from the County Development Agreement on the terms of the County Development Agreement Release, incorporated herein as Exhibit F-2, so that this Agreement, together with the Interlocal Agreement and the New Development Agreement, will govern the development, annexation, and zoning of the Project Site.

Section 1.12 The City Council has determined that annexing the Project Site under the mutually agreed terms set forth in this Agreement and providing the economic development and other development incentives described in this Agreement will promote local economic development, stimulate business and commercial activity in the City, create new jobs, and expand

the City's ad valorem tax base; that this Agreement serves a predominantly public purpose; that the City retains sufficient control over the Grant Payments and the other City Incentives and Development Commitments, through the performance conditions, certifications, and remedies in this Agreement, to ensure that the public purpose is accomplished; and that the City receives a return benefit from the Company's performance under this Agreement. The Company has advised the City that the City Incentives and Development Commitments provided in this Agreement are a material inducement to its decision to locate the Project at the Project Site.

Section 1.13 For the reasons stated in these Recitals, which are incorporated into and made a part of this Agreement, and in consideration of the mutual benefits to and promises of the Parties set forth in this Agreement, the Parties agree as follows.

ARTICLE 2

DEFINITIONS

Section 2.01 "**Affiliate**" means, with respect to the Company, any entity that directly or indirectly controls, is controlled by, or is under common control with the Company.

Section 2.02 "**Annexation Effective Date**" means the date on which an ordinance of the City annexing the Project Site into the corporate limits of the City takes effect under Section 6.03.

Section 2.03 "**Annexation Petition**" means a petition requesting annexation of the Project Site under Section 43.0671, Texas Local Government Code, in the form attached as **Exhibit "H."**

Section 2.04 "**Approval Date**" means the date on which this Agreement has been approved by the City Council and executed by both Parties, as evidenced by the later of the dates set forth in the signature blocks below.

Section 2.05 "**Business**" means the business activities of the Company conducted on the Project Site, including the design, engineering, manufacture, assembly, testing, painting and finishing, fueling and charging, storage, and distribution of medium- and heavy-duty commercial trucks and related components, together with accessory office, research and development, training, warehousing, logistics, maintenance, utility, and information technology processing functions that support those operations.

Section 2.06 "**Capital Investment**" means expenditures by or on behalf of the Company or its Affiliates for real property improvements and tangible personal property (each as defined in Section 1.04, Texas Tax Code) located on the Project Site and used in the Business, including costs capitalized under generally accepted accounting principles, whether owned or leased, as evidenced by invoices, the Company's fixed-asset records, or appraisal district records, together with the Company's cost of acquiring the Project Site, which shall be counted once. Capital Investment in excess of the amount required for any milestone under Section 3.01 shall be credited toward each subsequent milestone.

Section 2.07 "**City Development Agreement**" means the Amended and Restated Development Agreement between the City and the Developer dated to be effective January 17, 2023, and recorded under Document No. 2023-001629 in the Official Public Records of Caldwell

County, Texas, as amended before the Approval Date and as amended by the City Development Agreement Release.

Section 2.08 "**City Development Agreement Release**" means the termination and release agreement between the City and the Developer, in recordable form and approved by the Company, that terminates the City Development Agreement as to the Owned Land and releases the Owned Land and the Company from any obligation under the City Development Agreement from and after the Closing Date, delivered at Closing under Section 12(e) of the Purchase Agreement, in the form attached as **Exhibit "F,"** and as further provided in Section 6.13. The land that remains subject to the City Development Agreement after the release may be described in the City Development Agreement Release by reference to the land described in Exhibit "A" to the City Development Agreement, less the Owned Land as described in **Exhibit "B"** (or, after an Owned Land Closing, **Exhibit "B-1"**), and no separate metes and bounds description of that remaining land is required.

Section 2.09 "**City Incentives and Development Commitments**" has the meaning given in Section 5.01.

Section 2.10 "**Closing**" means the closing of the Company's acquisition of fee simple title to the Project Site under the Purchase Agreement, as evidenced by the recording of a deed conveying the Project Site to the Company in the Official Public Records of Caldwell County, Texas.

Section 2.11 "**Completion Certificate**" means (a) a temporary or final certificate of occupancy for the Company's initial manufacturing facility on the Project Site issued by the City under the Permitting Process, or (b) if a certificate of occupancy is not issued for that facility within fifteen (15) business days after the Company's complete request for one under the Permitting Process, a certificate of substantial completion for that facility executed by the Company's architect or engineer of record and delivered to the City and the County.

Section 2.12 "**Compliance Certificate**" means the certificate described in Section 9.01 in the form attached as **Exhibit "D."**

Section 2.13 "**Construction Completion**" means the date on which construction of the Company's initial manufacturing facility and the related site improvements and infrastructure on the Project Site is substantially complete in accordance with the plans and specifications approved under the Permitting Process, such that the facility is capable of being occupied and used for its intended purpose, subject only to punch-list items that do not materially interfere with that use, as evidenced by the Completion Certificate. Subject to extension for a Force Majeure Event and for any delay described in clauses (i) through (iii) of Section 10.01, Construction Completion shall occur no later than December 31, 2030; if Construction Completion has not occurred by that date, as extended, Construction Completion shall be deemed to have occurred on that date for purposes of Section 6.03 and the definition of "Year 1."

Section 2.14 "**County**" means Caldwell County, Texas.

Section 2.15 "**County Development Agreement**" means the Development Agreement between the County and Earthship Corporation, a Delaware corporation, dated October 23, 2025,

and recorded in the Official Public Records of Caldwell County, Texas, covering a portion of the Option Land.

Section 2.16 "**County Development Agreement Release**" means the termination and release agreement between the County and the Developer, in recordable form and approved by the Company, that terminates the County Development Agreement and releases the Option Land and the Company from any obligation under the County Development Agreement from and after the Closing Date, delivered at Closing under Section 12(e) of the Purchase Agreement. "**New Development Agreement**" means the development agreement for the Project Site between the County and the Company, in a form approved by the Company in its sole discretion, delivered at Closing under Section 12(f) of the Purchase Agreement, under which the County permits development of the Project Site in accordance with the Caldwell County Development Ordinance with the variances and alternate standards stated in it, as amended from time to time.

Section 2.17 "**Data Center**" means a facility, the principal and primary use of which is housing a collection of computer servers and associated components, such as telecommunication, storage, and backup systems, that supply information primarily to single or multiple end users off-site, including cryptocurrency mining facilities, and may also be referred to as a server farm. Notwithstanding the foregoing, computing, server, data storage, and data processing facilities (including artificial-intelligence, connected-vehicle, and enterprise systems) that exclusively serve the Company and its Affiliates in the design, engineering, manufacturing, testing, logistics, or other operations of the Business, and that do not provide computing, data storage, or data processing services to any person other than the Company and its Affiliates, are accessory uses and shall not constitute a Data Center, provided that the floor area of those facilities does not exceed fifty percent (50%) of the combined floor area of the manufacturing facilities on the Project Site.

Section 2.18 "**Developer**" means Franklin Mountain San Marcos I, LP, a Texas limited partnership, the owner of the Owned Land as of the Approval Date, the seller of the Project Site to the Company under the Purchase Agreement, and the "Owner" under the City Development Agreement.

Section 2.19 "**Developer Infrastructure**" means the roadway, water, wastewater gravity line, lift station, force main, and drainage improvements that the Developer is obligated to design, permit, construct, complete, and, where applicable, dedicate to the City or another public entity under the Post Closing Seller Work Agreement, as described in Exhibit "B" to the Post Closing Seller Work Agreement and in the Opinion of Probable Construction Cost prepared by Kimley-Horn and Associates, Inc., dated September 3, 2026, referred to in it.

Section 2.20 "**Development Code**" means the San Marcos Development Code, as in effect on the date specified in the Development Standards, together with the technical manuals and standards of the City identified in the Development Standards, including the San Marcos Design Manual to the extent the Development Standards make it applicable to the Project Site.

Section 2.21 "**Development Standards**" means the development standards for the Project Site attached as Exhibit B to the Interlocal Agreement, and "**Permitting Process**" means the

permitting and review procedures for the Project Site attached as Exhibit C to the Interlocal Agreement.

Section 2.22 "**Effective Date**" means the date on which Closing occurs, provided that the Approval Date has occurred and the conditions in Section 4.05 have been satisfied or waived by the Company on or before that date; otherwise, the Effective Date is the date on which the last of those conditions is satisfied or waived.

Section 2.23 "**Force Majeure Event**" means any event or occurrence that is not within the reasonable control of the Party claiming it and that prevents or materially delays that Party from performing its obligations under this Agreement, including any act of God; act of a public enemy; war; riot; sabotage; blockade; embargo; tariffs or trade restrictions materially affecting the supply of equipment or materials; failure or inability to secure materials, supplies, or labor through ordinary sources by reason of shortages or priority; labor strike, lockout, or other labor or industrial disturbance (whether or not on the part of agents or employees of either Party); pandemic; civil disturbance; terrorist act; power outage; fire, flood, windstorm, hurricane, earthquake, or other casualty; any law, order, regulation, or other action of any governmental authority; any action, inaction, order, ruling, moratorium, regulation, statute, condition, or other decision of any governmental agency having jurisdiction over the Party, the Project, or the Party's operations; the failure of any governmental authority to timely issue any permit, plat, certificate, or approval required for the Project after submission of a complete application; and the failure of the Developer to complete the Developer Infrastructure, or of any utility provider to complete other infrastructure necessary to serve the Project Site, by the date on which the Company's construction schedule requires it. A Party may not claim a Force Majeure Event arising from its own breach, negligence, or willful misconduct. An act or omission of the Party claiming a Force Majeure Event, or of its governing body, officers, employees, departments, boards, or commissions, is not a Force Majeure Event as to that Party's obligations unless the act or omission (i) is of general applicability and does not single out, or apply disproportionately to, the Project, the Project Site, or the other Party, and (ii) is not undertaken, in whole or in part, to avoid, delay, or diminish performance under this Agreement, which conditions the Party claiming the Force Majeure Event will demonstrate; provided that a declaration of local disaster or emergency adopted in good faith in response to an event described in the first sentence of this Section 2.23 is not subject to those conditions. A Force Majeure Event does not include (a) a Party's lack of funds or financial inability to perform, (b) changes in market demand for, or the profitability of, the Company's products, which are addressed exclusively by Section 10.05 to the extent they constitute a Market Disruption Event, or (c) the City's failure to budget or appropriate funds, which is governed exclusively by Section 8.02 and Section 8.03.

Section 2.24 "**Grant Payments**" means the City's annual payments to the Company, once per calendar year, of an amount equal to the percentage shown in the table below for the applicable Year of Property Taxes, beginning with Property Taxes assessed for Year 1 and continuing for up to twenty (20) consecutive Years during the Term, with the amount of each Grant Payment calculated in accordance with the following formula (the "**Grant Payment Formula**"): Grant Payment = (A) the percentage shown in the table below for the applicable Year, multiplied by (B) the Property Taxes actually received by the City for that Year, which Property Taxes exclude the debt service portion of the City's tax rate (an example of the calculation appears in Section 4.03). "**Year 1**" means the first Tax Year for which the City levies ad valorem taxes on the Project Site

following the Annexation Effective Date, which, under Section 26.14, Texas Tax Code, is the Tax Year beginning on the first January 1 that occurs on or after the Annexation Effective Date; each succeeding Tax Year during the Term is numbered consecutively as Year 2 through Year 20 (each, a "**Year**").

Year	Performance obligations to be met	Company eligible to apply for Grant Payment equal to the following percentage of Property Taxes
1	The Company has delivered notice of Construction Completion and meets the applicable Capital Investment milestone under Section 3.01 and the applicable Jobs Milestone under Section 3.04 for the calendar year	75%
2	The Company meets the performance conditions related to Jobs and operation of the Business for the calendar year	75%
3	Same as Year 2	75%
4	Same as Year 2	75%
5	Same as Year 2	75%
6	Same as Year 2	70%
7	Same as Year 2	70%
8	Same as Year 2	70%
9	Same as Year 2	70%
10	Same as Year 2	70%
11	Same as Year 2	60%
12	Same as Year 2	60%
13	Same as Year 2	60%
14	Same as Year 2	60%
15	Same as Year 2	60%
16	Same as Year 2	55%
17	Same as Year 2	55%
18	Same as Year 2	55%
19	Same as Year 2	55%
20	Same as Year 2	55%

Property Taxes are paid in arrears, so the Grant Payment for a Year will be paid in the calendar year following that Year, as provided in Section 4.03. No Property Taxes are levied, and no Grant

Payments accrue, for any period before Year 1. The twenty (20) possible Grant Payments run consecutively from Year 1, subject to extension of the Term under Section 8.03, Section 10.04, and Section 10.05.

Section 2.25 "**HI District**" means the Heavy Industrial (HI) zoning district under the Development Code.

Section 2.26 "**Interlocal Agreement**" means the Interlocal Cooperative Agreement between the City and the County for the regulation of development within the Project Site, entered into under Chapter 791, Texas Government Code, and Chapters 212, 233, 242, and 245, Texas Local Government Code, in the form attached as **Exhibit "E,"** as amended from time to time in accordance with Section 6.08. "**2014 Interlocal Agreement**" means the Interlocal Cooperative Agreement between the County and the City for Subdivision Regulation within the Extraterritorial Jurisdiction of the City of San Marcos having an effective date of November 3, 2014.

Section 2.27 "**Job**" means a full-time or full-time-equivalent employment position held by an individual employed by the Company or an Affiliate, or by a staffing provider that reports the individual's wages on IRS Form W-2, whose primary place of work is the Project Site and whose position results from or is provided in connection with the Project, and which position provides:

(a) at least 2,080 hours of employment annually (including paid leave, paid holidays, and overtime hours), or the full-time equivalent thereof, determined by the hours for which the position is regularly scheduled on an annualized basis and not by the portion of the calendar year during which the position is filled, so that a position created, filled, or vacated during a calendar year is a Job on each quarter-end date on which it is filled and is counted as provided in Section 3.04; and,

(b) eligibility to participate in group health insurance (including dental coverage) and paid time off made available by the individual's employer to its full-time employees, in each case in accordance with that employer's generally applicable benefit plans and policies as in effect from time to time; for a position held by an individual employed by a staffing provider, this clause (c) refers to the staffing provider's plans and policies, and nothing in this Agreement requires the Company or an Affiliate to extend its benefit plans to any individual it does not employ.

Temporary, seasonal, intern, cooperative-education, and construction positions, and positions held for fewer than ninety (90) days in the calendar year, are not Jobs. The Wages paid for Jobs are the subject of the Average Wage Commitment in Section 3.08, which is measured in the aggregate for all Jobs and is not a condition of any position's status as a Job.

Section 2.28 "**Market Disruption Event**" has the meaning given in Section 10.05.

Section 2.29 "**Outside Date**" means December 31, 2027, as that date may be extended by written agreement of the Parties.

Section 2.30 "**Permitted Uses**" and "**Prohibited Uses**" have the meanings given in Section 6.12 and **Exhibit "J."**

Section 2.31 "**Project**" means the development and operation of the Business on the Project Site, including each phase and expansion of the Business on the Project Site, the addition of real and personal property subject to ad valorem property taxes, and the creation and maintenance of Jobs.

Section 2.32 "**Project Site**" means the approximately 611 acres of land described by metes and bounds and depicted in **Exhibit "B"** attached to and incorporated into this Agreement for all purposes, consisting of the approximately 320 acres owned by the Developer as of the Approval Date (the "**Owned Land**") and the approximately 291 acres that the Company has contracted to purchase from the Developer under the Purchase Agreement, subject to the Developer's acquisition of that land before Closing (the "**Option Land**"), each as identified in Exhibit "B," and subject to reduction to the Owned Land upon an Owned Land Closing as provided in Section 6.19. The final boundaries of the Project Site shall be confirmed by the survey obtained by the Company under the Purchase Agreement and by any final plat of the Project Site. Upon the Company's written request accompanied by the survey or recorded plat, the City Manager is authorized to administratively update Exhibit "B" (or, after an Owned Land Closing, Exhibit "B-1") to conform its legal description to the survey or plat without further action of the City Council, provided that the update does not add land that was not included in the Project Site on the Approval Date.

Section 2.33 "**Property Taxes**" means the City's share of the maintenance and operations portion of ad valorem taxes (*see* Section 4.03), excluding penalties, interest, and collection costs, actually received by the City from the tax collector for the City on the value of (a) all materials, supplies, equipment, inventory, and other tangible personal property attributable to the Business on the Project Site and (b) all real property and real property improvements on the Project Site, in each case for a Tax Year, computed without deduction for any amount the City may be obligated to pay to any other person under any revenue-sharing or similar agreement. "**Tax Year**" has the meaning given in Section 1.04, Texas Tax Code.

Section 2.34 "**Purchase Agreement**" means the Real Estate Purchase Agreement between the Developer, as seller, and the Company, as purchaser, as amended, together with the construction and development agreement between the Developer and the Company delivered at Closing under Section 13(c) of that agreement (the "**Post Closing Seller Work Agreement**") and the Seller's Work and Escrow Holdback Agreement among the Developer, the Company, and the Title Company delivered at Closing under Section 13(d) of that agreement (the "**Escrow Holdback Agreement**").

Section 2.35 "**Services Agreement**" means the written agreement for the provision of services required by Section 43.0672, Texas Local Government Code, in the form attached as **Exhibit "I."**

Section 2.36 "**Statutory Disclosure**" means the written disclosure required by Section 212.172(b-1) and Section 43.005, Texas Local Government Code, in the form attached as **Exhibit "G."**

Section 2.37 "**Tax Abatement Agreements**" means, collectively, Tax Abatement Agreement No. 1 and Tax Abatement Agreement No. 2 between the County and the Company under Chapter 312, Texas Tax Code as each may be amended.

Section 2.38 "**Term**" means the term of this Agreement under Section 11.17.

Section 2.39 "**Title Company**" means Corridor Title Insurance Company, 133 W. San Antonio St., Suite 100, San Marcos, Texas 78666, as escrow agent under the Purchase Agreement, or any successor escrow agent designated by the Company.

Section 2.40 Interpretation. The words "include," "includes," and "including" are deemed to be followed by "without limitation." References to a statute, code, ordinance, or regulation refer to that enactment as in effect on the Approval Date, except where this Agreement provides otherwise and except that references to Chapter 43 and Chapter 245, Texas Local Government Code, and to Subchapter G include any successor provisions. Headings are for convenience only. Each Party participated in drafting this Agreement, and no rule of construction against the drafter applies.

ARTICLE 3

COMPANY'S PRIMARY OBLIGATIONS

Section 3.01 Minimum Capital Investment. The Company shall make a cumulative minimum Capital Investment on the Project Site of not less than the amounts set forth below on or before the applicable milestone deadline, subject to extension as provided in Section 10.01, Section 10.04, and Section 10.05:

Category	Milestone 1 (no later than December 31, 2029)	Milestone 2 (no later than December 31, 2030)	Milestone 3 (no later than December 31, 2031)
Buildings and real property improvements	$118,000,000	$236,000,000 (cumulative)	$354,000,000 (cumulative)
Machinery, equipment, and other tangible personal property	$115,000,000	$230,000,000 (cumulative)	$345,000,000 (cumulative)
Total of the two categories above	$233,000,000	$466,000,000 (cumulative)	$699,000,000 (cumulative)
Land acquisition cost (counted once)	The purchase price paid by the Company for the Project Site under the Purchase Agreement, to be certified to the City within thirty (30) days after Closing	Not applicable	Not applicable

Each Capital Investment milestone is satisfied if the Company's cumulative Capital Investment in the two categories combined equals or exceeds the total shown for that milestone; the allocation between the categories is an estimate and may vary.

Section 3.02 No Data Center or Power Generation for a Data Center. No Data Center, and no facility specifically providing power to a Data Center, will be allowed or constructed on the Project Site.

Section 3.03 Operation of Business. The Company shall begin operation of the Business on the Project Site on or before December 31, 2030 (the "**Operation Date**"), subject to extension for a Force Majeure Event and as provided in Section 10.01 and Section 10.05, as evidenced by the commencement of commercial production following issuance of the Completion Certificate, and shall thereafter operate the Business on the Project Site for the duration of the Term; provided that temporary cessations for retooling, repair, casualty, model changeover, or similar ordinary-course reasons shall not breach this Section.

Section 3.04 Job Creation. The Company shall create Jobs at the Project Site in accordance with the following ramp schedule (each, a "**Jobs Milestone**"), subject to extension as provided in Section 10.01, Section 10.04, and Section 10.05: (a) at least 800 Jobs no later than December 31, 2030; (b) at least 1,600 Jobs no later than December 31, 2031; (c) at least 2,400 Jobs no later than December 31, 2032; and (iv) at least 3,200 Jobs no later than December 31, 2033 (the period ending December 31, 2033, the "**Ramp Period**"). Beginning January 1, 2034, and for the remainder of the Term (the "**Maintenance Period**"), the Company shall maintain not fewer than 3,200 Jobs (the "**Maintenance Threshold**") at the wage rate described in Exhibit A and as provided in Section 2.27. The number of Jobs for a calendar year is the average of the number of Jobs on the last day of each calendar quarter of that year. In connection with the creation of Jobs, the Company will, during the Term, make good faith and commercially reasonable efforts to recruit in the City and to advertise openings for Jobs through local job fairs, local media, and job websites and publications, and will collaborate with the City and with local and regional workforce and education partners, such as Texas State University, local and area community colleges, and local and area public school districts, to establish related workforce training, education, and hiring opportunities for residents of the City. Local recruitment is not a condition to any Grant Payment.

Section 3.05 Non-Discrimination. The Company will maintain, and will use commercially reasonable efforts to enforce, employment policies that prohibit unlawful discrimination in the hiring and employment of persons in connection with the Business on the basis of race, creed, color, national origin, sex, disability, or any other characteristic for which protection is available under applicable local, state, and federal anti-discrimination laws.

Section 3.06 Compliance with Laws. In performing its obligations under this Agreement, the Company shall comply in all material respects with all applicable local, state, and federal laws, regulations, and ordinances and will undertake reasonable corrective actions as may be required by applicable laws, regulations, lawful governmental orders, and directives related to any non-compliance. The Company further agrees to the following:

(a) **Environmental Reporting.** The Company shall provide written notice to the City of any final environmental enforcement action by a governmental department or

agency relating to the Project Site that imposes a fine or requires material remediation, within thirty (30) days after the Company's receipt of the final action.

(b) **Construction Worker Safety.** The Company will comply, and will require its general contractors and any other construction contractor engaged directly by the Company to perform construction work on the Project Site to comply, with applicable standards of the Occupational Safety and Health Administration, and will require those contractors to maintain a written construction safety program consistent with industry practice in the United States.

(c) **Serious Incident Notification.** The Company shall provide written notice to the City of serious construction-related incidents on the Project Site, including fatalities and serious injuries, within thirty (30) days after any such incident, subject to applicable law and legitimate confidentiality protections.

(d) **Contractor Accountability and Insurance.** The Company shall require each general contractor and any other construction contractor engaged directly by the Company to perform construction work on the Project Site to communicate applicable safety requirements to its subcontractors, employees, visitors, and invitees, to address material safety deficiencies, and to maintain required insurance documentation. Nothing in this Section 3.06 makes the Company responsible for the acts or omissions of subcontractors of any tier that the Company does not engage directly.

Section 3.07 Social Services Contribution. For each of calendar years 2027, 2028, and 2029, the Company will make a contribution of Fifty Thousand and No/100 Dollars ($50,000.00) to the City (each, a "**Social Services Contribution**") to be used to support local social services organizations and programs serving the community. The Company may make each such Social Services Contribution on any date during the applicable calendar year that the Company selects, and the Company will give the City reasonable advance notice of the date selected. The City shall determine the allocation of such funds to eligible social service organizations through its Human Services Advisory Board allocation process, in accordance with the City's applicable policies and procedures. Beginning in calendar year 2030, any Social Services Contribution will be made in accordance with the Company's Daimler Truck Cares program, as that program is in effect from time to time, including its eligibility criteria, application procedures, funding amounts, and timing, and the City and local social services organizations serving the community may seek support under that program on the same basis as other eligible applicants. Except for the contributions for calendar years 2027, 2028, and 2029, the Company has no obligation to make any contribution in any particular amount or at any particular time under this Section 3.07.

Section 3.08 Average Wage Commitment. The Company's commitment as to the Wages paid for Jobs, and the consequence of a shortfall, are as follows:

(a) **Defined Terms**. "Wages" means all cash compensation reportable in Box 1 of IRS Form W-2, including base pay, overtime, shift differentials, commissions, and bonuses, and excluding the value of benefits. "Average Wage" for a calendar year means the arithmetic average of the annualized Wages of all Jobs for that calendar year, determined as follows: the Wages of a Job that is filled for less than the full calendar year,

including a Job filled successively by more than one individual during the year, shall be annualized by dividing the Wages paid for the Job during the year by the hours paid for the Job and multiplying the quotient by 2,080, so that partial-year employment neither increases nor decreases the average; and positions that are not Jobs under Section 2.27 are excluded from the Average Wage. "Minimum Average Annual Wage" means, for each calendar year through December 31, 2033, the amount stated in Exhibit "A," and, for each calendar year thereafter, that amount as adjusted on January 1, 2034, and on January 1 of every fifth year thereafter, by the percentage change, if any, in the Consumer Price Index for All Urban Consumers (CPI-U), South Region, published by the United States Bureau of Labor Statistics, over the preceding five-year period, provided that no single adjustment shall exceed ten percent (10%).

(b) **Commitment**. For each Year, the Company shall pay, or cause to be paid, Wages such that the Average Wage for the calendar year that is that Year is not less than the Minimum Average Annual Wage for that calendar year. The Average Wage is measured in the aggregate for all Jobs, and no minimum wage applies to any individual Job.

(c) **Wage Compliance Threshold**. If the Average Wage for a Year is not less than ninety percent (90%) of the Minimum Average Annual Wage for that Year (the "Wage Compliance Threshold"), the Company shall be deemed to have satisfied this Section 3.07 for that Year, and the Grant Payment for that Year shall not be reduced on account of the Average Wage.

(d) **Proportionate Reduction**. If the Average Wage for a Year is less than the Wage Compliance Threshold, the Grant Payment for that Year, as determined under Section 2.24 before any reduction under Section 10.01, shall be multiplied by the lower of (i) the Wage Compliance Ratio for that Year and (ii) if the Grant Payment for that Year is also subject to proportional reduction under Section 10.01 for a shortfall in Jobs, the fraction determined under Section 10.01; the two reductions are alternative and not cumulative. "Wage Compliance Ratio" means the Average Wage for the Year divided by the Minimum Average Annual Wage for that Year, expressed as a decimal fraction rounded to four places and not exceeding 1.0000. Nothing in this clause (d) entitles the Company to a Grant Payment for a Year for which no Grant Payment is due under Section 10.01.

(e) **Sole Remedy; Single Year; No Effect on Jobs**. A shortfall in the Average Wage for a Year affects only the Grant Payment for that Year, does not cause the forfeiture of any Grant Payment for any other Year, does not require the repayment of any Grant Payment, and does not reduce the number of Jobs for any purpose of this Agreement. In no event shall a shortfall in the Average Wage constitute a default or non-compliance under Section 10.01 or a basis for termination of this Agreement, and the City's sole remedy for a shortfall shall be the reduction of the Grant Payment for that Year as provided in clause (d). If the Average Wage for a Year is less than the Wage Compliance Threshold, the Company shall state in the Compliance Certificate for that Year the reasons for the shortfall and any measures it intends to take, and shall confer with the City in good faith regarding those measures at the City's request; the Company's statement and conferring are not conditions of any Grant Payment, and no measure stated or discussed shall become an obligation of the Company unless set forth in a written amendment of this Agreement.

(f) **Illustration**. For illustration only: if the Minimum Average Annual Wage for a Year is $58,240.00 and the Average Wage for that Year is $56,000.00, the Average Wage is 96.15 percent of the Minimum Average Annual Wage, the Wage Compliance Threshold is satisfied, and the Grant Payment for that Year is not reduced on account of the Average Wage; if the Average Wage for that Year is instead $53,000.00, the Wage Compliance Ratio is 0.9100, and the Grant Payment otherwise due for that Year is multiplied by 0.9100.

ARTICLE 4

GRANT PAYMENTS AND OTHER CITY OBLIGATIONS

Section 4.01 Grant Payments. Subject to the other terms and conditions of this Agreement and the Company's compliance with this Agreement, the City will make Grant Payments to the Company in the manner set forth in this (d). The Grant Payments are made under a program established by the City under Chapter 380, Texas Local Government Code, and Article III, Section 52-a of the Texas Constitution, and, because this Agreement is a contract under Subchapter G, the program is a program authorized by the legislature under Article III, Section 52-a of the Texas Constitution.

Section 4.02 Payment Period for Grant Payments. Beginning with Year 1, the City shall make up to twenty (20) annual Grant Payments to the Company. The initial Grant Payment will be based upon Property Taxes received by the City for Year 1, and the City shall make up to nineteen (19) additional annual Grant Payments for Year 2 through Year 20.

Section 4.03 Time for Payment of Grant Payments. Grant Payments will be made by the City in the calendar year immediately following the Year for which the Property Taxes upon which the Grant Payment amount is based are assessed and subsequently received by the City. By way of example, if Construction Completion occurs and the Annexation Effective Date falls on or before December 31, 2030, the Project Site will be included on the City's appraisal roll for the 2031 Tax Year, which will be Year 1; the 2031 tax bill will be issued in October 2031; and, if the Company pays it on or before December 31, 2031, and submits the Compliance Certificate for 2031 on or before October 1, 2032, under Section 9.01, the City will make the Grant Payment for Year 1 in 2032 within thirty (30) days after the last of the conditions below is satisfied. Using the City's tax rate for the 2026 Tax Year adopted by Ordinance No. 2026-38 of $0.6515 per $100 of taxable value, of which $0.5126 is the maintenance and operations rate and $0.1389 is the debt service rate, a taxable value of $100,000,000.00 would produce total City ad valorem taxes of $651,500.00, of which the maintenance and operations portion of $512,600.00 would constitute the Property Taxes on which the Grant Payment is based, and the Grant Payment for Year 1 at seventy-five percent (75%) would be $384,450.00. Property Taxes for a Year that are paid after December 31 of that Year but before they become delinquent remain Property Taxes received for that Year, and the Grant Payment for that Year remains payable as provided below. The City shall not be required to make a Grant Payment for a Year unless and until:

(a) the Company has submitted the Compliance Certificate for that Year and the information required under Article 9 necessary to verify its compliance with this Agreement;

(b) the Property Taxes for that Year have been received by the City from the tax collector for the City; and

(c) funds have been appropriated by the City Council for the purpose of making Grant Payments under this Agreement as part of the City's budget and appropriations process, as provided in Section 4.04 and Section 8.02.

Provided the foregoing conditions have been satisfied and the Company is otherwise in compliance with this Agreement, the City shall pay to the Company the Grant Payment due within thirty (30) days after the last to occur of the events in clauses (a), (b), and (c). A Grant Payment not paid when due bears interest as provided in Chapter 2251, Texas Government Code.

Section 4.04 Budgeting Covenant. The City Manager shall include the full amount of each Grant Payment projected to become due during the ensuing fiscal year in the initial proposed budget submitted to the City Council for that fiscal year. The Parties acknowledge that the City Council retains its full legislative discretion over the appropriation of funds, and nothing in this Section 4.04 limits that discretion; the Parties nonetheless anticipate that the Grant Payments will be considered as part of the City's ordinary budget process on the same basis as the City's other economic development agreements and contractual obligations of a similar nature. The City shall provide the Company written notice within ten (10) days after the City Council adopts any budget that does not appropriate the full amount of any Grant Payment, together with a statement of the reasons for the non-appropriation, including whether the City's other economic development agreements of a similar nature were funded in that budget, and the Company shall thereupon have the remedies set forth in Section 8.03.

Section 4.05 Approval of Concurrent Agreements; Conditions. The Parties acknowledge that this Agreement is one of a set of related instruments and that the obligations of the Parties under this Agreement, other than this Section 4.05, Section 4.06, Section 4.07, Section 6.02, and Article 11, are conditioned upon the following:

(a) **City Development Agreement Release.** Concurrently with the City Council's consideration of this Agreement, the City Council will consider approval of the City Development Agreement Release, as negotiated with the Developer and approved by the Company, which releases the Owned Land from the City Development Agreement in its entirety as provided in Section 6.13. Upon its approval and execution by the City and the Developer, the City Development Agreement Release shall be attached to this Agreement as Exhibit "F" and recorded as provided in Section 6.15.

(b) **Interlocal Agreement.** Concurrently with the City Council's consideration of this Agreement, the City Council will consider approval of the Interlocal Agreement in the form attached as Exhibit "E," as negotiated with and agreed to by the County, which establishes the standards and processes for the review, permitting, and inspection of development on the Project Site and the respective responsibilities and services of the City and the County in relation to the New Development Agreement. The Interlocal Agreement provides that, as to the Owned Land, its standards and processes supersede the 2014 Interlocal Agreement to the extent of any conflict. The Company is not a party to the Interlocal Agreement, and nothing in this Agreement imposes on the Company any

obligation under the Interlocal Agreement or binds the County, except that the Company shall develop the Project Site in accordance with the Development Standards and the Permitting Process as provided in Section 6.07 and Section 6.08. The Company's obligation to develop the Project Site in accordance with the Development Standards is a direct obligation of the Company to the City under this Agreement, enforceable by the City as provided in Section 6.07 and Section 11.12, and the County's application of the Development Standards to the Project Site is secured by the Interlocal Agreement and the New Development Agreement. Upon its approval and execution by the City and the County, a fully executed copy of the Interlocal Agreement shall be attached to this Agreement as Exhibit "E."

(c) **County Development Agreements.** The Commissioners Court of the County shall have approved, and the County and the Company shall have executed, the New Development Agreement, and the County Development Agreement Release shall have been approved and executed by the County and the Developer. The Company shall use commercially reasonable efforts to obtain, and the City shall support, those approvals.

(d) **Closing.** Closing shall have occurred on or before the Outside Date.

If the conditions in clauses (a), (b), and (d) have not been satisfied or waived in writing by the Company on or before the Outside Date, either Party may terminate this Agreement by written notice to the other Party, and neither Party shall have any further obligation under this Agreement. The condition in clause (c) may be waived only by the Company.

Section 4.06 Execution; Escrow Pending Closing. Within five (5) business days after the Approval Date, the City shall deliver a fully executed counterpart of this Agreement, of the City Development Agreement Release, and of the Statutory Disclosure to the Title Company, to be held in escrow and released to the Company at Closing under escrow instructions consistent with this Section 4.06. The Company's execution of this Agreement before Closing is given in its capacity as the contract purchaser of the Project Site, and, upon Closing, the Company shall be the landowner for all purposes of Subchapter G and this Agreement. The Developer has joined in this Agreement, by the Joinder and Consent of Developer attached to this Agreement, solely to acknowledge receipt of the Statutory Disclosure, to consent to the City's entry into this Agreement with respect to the Project Site, and to agree that this Agreement may be recorded against the Project Site upon the Effective Date; the Developer assumes no obligation under this Agreement.

Section 4.07 Pre-Closing Matters. The following provisions apply from the Approval Date, whether or not Closing has occurred.

(a) **Applications Before Closing.** Before Closing, applications for the Project may be filed with the City under the Permitting Process by the Developer, as owner of the Owned Land, with the written authorization of the Company, or by the Company with the written consent of the Developer as owner, and the City shall accept, review, and act on those applications as if they had been filed by the Company as owner. Each such application gives the City fair notice of the Project and the nature of the permit sought within the meaning of Section 245.002(a-1), Texas Local Government Code, vests the Project as provided in Section 6.01, and, together with every approval issued on it, inures

to the benefit of the Company from Closing without re-filing, re-review, or additional fee. The Developer's authorization of filings in its name is given in the Joinder and Consent of Developer attached to this Agreement.

(b) **City Undertakings Effective from the Approval Date.** The obligations of the City under Section 4.06, this Section 4.07, Section 6.02, and Section 9.03, and the City's obligations under Section 4.05 and Section 5.03 to support the approval of the Interlocal Agreement, the City Development Agreement Release, the County Development Agreement Release, and the Tax Abatement Agreements, are effective and binding on the City from the Approval Date, and the City shall not amend, rescind, or suspend the ordinance approving this Agreement before the Outside Date except with the written consent of the Company or upon a termination of this Agreement under Section 10.09.

(c) **Bring-Down at Closing; Closing Ratification.** At Closing, the City shall deliver the Statutory Disclosure, together with this Agreement in the form approved by the City Council, to the Company and to any Owner designated under Section 11.03(d), as the owner of the Project Site, and the Company and any Owner shall execute and deliver to the City a Closing Ratification and Owner Joinder in the form attached as **Exhibit "K"** (the "**Closing Ratification**"), which (i) acknowledges receipt of the Statutory Disclosure on the date of Closing, (ii) approves, ratifies, and confirms this Agreement as the landowner for purposes of Subchapter G, (iii) identifies the Project Site as the land described in Exhibit "B" or, upon an Owned Land Closing, the Owned Land described in Exhibit "B-1," and (iv) joins any Owner as a Party. The Closing Ratification shall be recorded with this Agreement under Section 6.15.

ARTICLE 5

OTHER INCENTIVES

Section 5.01 Comprehensive Statement of City Incentives. The incentives, services, and development commitments to be provided by the City under this Agreement are those expressly identified in this Agreement and in **Exhibit "C"** (collectively, the "**City Incentives and Development Commitments**"), which is incorporated into this Agreement. Nothing in this Agreement obligates the City to approve a permit, plat, zoning request, development plan, or other application that does not satisfy applicable legal requirements as modified by this Agreement, the Development Standards, and the Permitting Process; provided, however, that the City shall not unreasonably withhold, condition, or delay any approval that satisfies those requirements, subject to any legislative discretion lawfully retained by the City Council.

Section 5.02 Wastewater Capacity Reservation. The City confirms that it has, and shall reserve for the Project for the Term, wastewater collection and treatment capacity of not less than three hundred (300) living unit equivalents ("**LUEs**"), corresponding to a peak wastewater demand of approximately 300,000 gallons per day on the assumption, adopted by the Parties for purposes of this Agreement, that one LUE of wastewater service equals 1,000 gallons per day, as further described in the will-serve letter attached as part of Exhibit "C." The reserved capacity shall be allocated to the Project Site from the 2,108 LUEs of wastewater service confirmed for the land covered by the City Development Agreement under Section 1.07(D)(3) of the City Development Agreement, and the City Development Agreement Release shall include the release by the

Developer, as the party to the City Development Agreement entitled to that capacity, of its claim to the allocated LUEs in favor of the Project Site. The reservation of capacity under this Section 5.02 constitutes a permit under Chapter 245, Texas Local Government Code, within the meaning of Section 245.001(1) of that chapter.

Section 5.03 Assistance with Other Incentives. If requested by the Company, the City will provide assistance to and will cooperate with the Company in connection with, and will timely provide written support for, any application submitted by the Company for state or federal grants, loans, tax incentives, or special designations in support of the Project, whether for its initial phase or for any later phase or expansion of the Project, including the Texas Enterprise Fund (Section 481.078, Texas Government Code), the Texas Enterprise Zone Program (Chapter 2303, Texas Government Code), and the Tax Abatement Agreements, and, where the applicable program requires action by the City, the City will nominate the Project or the Company, adopt any required resolution or ordinance, or submit the application on the Company's behalf, subject to any legislative discretion lawfully retained by the City Council. The City shall not oppose, and shall not request a contested-case hearing on, any application by the Company for a permit from the Texas Commission on Environmental Quality or the United States Environmental Protection Agency that is consistent with the Project as described in this Agreement.

Section 5.04 No Official Action Under Section 312.402(c), Texas Tax Code. The Parties acknowledge that the Tax Abatement Agreements abate only taxes imposed by the County and that the City's incentive to the Company consists of the Grant Payments and the other City Incentives and Development Commitments. Nothing in this Agreement, in any ordinance or resolution approving it, or in any resolution of the City Council supporting the Tax Abatement Agreements constitutes official action by the City expressing an intent to enter into an agreement to abate City taxes on the Project Site upon annexation or to be bound by the terms of the Tax Abatement Agreements after annexation within the meaning of Section 312.402(c), Texas Tax Code, and the City shall not take any such official action without the Company's prior written consent.

ARTICLE 6

ANNEXATION AND DEVELOPMENT

Section 6.01 Subchapter G Contract; Chapter 245 Permit. This Agreement is a contract under Subchapter G, and each covenant in this Article 6 rests on the authority granted by Section 212.172(b), Texas Local Government Code, as follows: the City's agreement not to annex the Project Site before the Annexation Effective Date under Section 6.03 rests on Section 212.172(b)(1); the extension of the City's planning authority and the City's enforcement of the Development Standards and the Permitting Process under Section 6.07 rest on Section 212.172(b)(2), (b)(3), and (b)(4); the provisions for wastewater and other infrastructure under Section 6.10 and Section 6.11 rest on Section 212.172(b)(5); the environmental provisions of the Development Standards rest on Section 212.172(b)(6); the provisions for annexation and its terms under Section 6.03 and (h) rest on Section 212.172(b)(7); the provisions specifying the uses and development of the Project Site before and after annexation under Section 6.05 and Section 6.12 rest on Section 212.172(b)(8); and the remaining provisions of this Agreement, including the Grant Payments and the City Incentives and Development Commitments, are other lawful terms and considerations the Parties consider appropriate under Section 212.172(b)(9). This Agreement

constitutes a permit under Chapter 245, Texas Local Government Code, issued by the City for the Project. Every phase of the Project, including each expansion of the Business on the Project Site with the City's consent, is authorized while the Project Site remains outside the corporate limits of the City, and this sentence is the express provision to the contrary contemplated by Section 2.4.3.3(D) of the Development Code. The City acknowledges that the Company has given the City fair notice of the Project and the nature of the permits sought, and that the Company's rights under Chapter 245 as against the City accrue on October 2, 2026, the date on which the application for this Agreement was filed with the City under Section 2.4.3.2 of the Development Code, which application is the original application for the first permit in the series of permits required for the Project within the meaning of Section 245.002(a) and (b), Texas Local Government Code, or, if earlier, on the date of the first application filed with the City for the Project.

Section 6.02 Statutory Disclosure. The City delivered the Statutory Disclosure to the Company and to the Developer, as the owner of the Owned Land, on November 24, 2026, at the time the City made its offer to enter into this Agreement and, concurrently, a written offer of this Agreement in the form considered by the City Council. A copy of the Statutory Disclosure, with the acknowledgments of receipt executed by the Company and the Developer, is attached as Exhibit "G." The Option Land is outside the ETJ on the date of the City's offer and becomes subject to this Agreement only upon its acquisition by the Company or an Owner and its inclusion in the ETJ under Section 6.03(f). The City shall deliver the Statutory Disclosure to the owner of the Project Site, including the Option Land, at Closing as provided in Section 4.07(c), and to the owner of any Option Land added after an Owned Land Closing as provided in Section 6.19(c). The Parties acknowledge that the Statutory Disclosure was provided in accordance with Section 212.172(b-1) and Section 43.005, Texas Local Government Code, and that this Agreement is not void under Section 212.172(b-2) or Section 43.005(b) of that code.

Section 6.03 Annexation. The Parties agree to the annexation of the Project Site on the following terms:

(a) **No Annexation Before the Annexation Petition.** The City guarantees the continuation of the extraterritorial status of the Owned Land and, from its inclusion in the ETJ under clause (f), of the Option Land, and shall not annex the Project Site or any part of it, before the Company delivers the Annexation Petition under clause (b), except as provided in Section 6.06. The consent to annexation recorded in Section 1.08(B) of the City Development Agreement does not apply to the Project Site, as confirmed in the City Development Agreement Release, and the Company is not bound by any annexation application filed by the Developer.

(b) **Annexation Petition.** The Company shall deliver the Annexation Petition to the City within thirty (30) days after the later of (i) Construction Completion and (ii) the date on which the City has completed the preliminary zoning steps described in Section 6.05(b). The Company's obligation to deliver the Annexation Petition, and the continued effectiveness of the Annexation Petition, are conditioned on (A) the City's execution of the Services Agreement; (B) the absence of any uncured default by the City under this Agreement; (C) the continued effectiveness of (d); and (D) the Interlocal Agreement, or the protections provided in Section 6.08 in its place, remaining in effect. If any of the foregoing conditions is not satisfied or ceases to be satisfied, the Company may withdraw

the Annexation Petition by written notice to the City at any time before adoption of the annexation ordinance, provided that the Company has first given the City written notice of the condition that is not satisfied and the City has been given sixty (60) days after receipt of such notice to cure. Any withdrawal under this clause is not a default by the Company.

(c) **City Annexation Process.** Upon receipt of the Annexation Petition, the City shall proceed with annexation of the Project Site under Subchapter C-3, Chapter 43, Texas Local Government Code, including Sections 43.0671 through 43.0673, and shall use all lawful efforts to cause the Annexation Effective Date to occur no later than December 31 of the calendar year in which Construction Completion occurs, provided Construction Completion occurs early enough in that year to complete annexation under the applicable statutory timelines; if it does not, the City shall use all lawful efforts to cause the Annexation Effective Date to occur as soon as those timelines permit, and in any event before the following March 1. The City shall (i) publish and post notice of, and hold, the public hearing required by Section 43.0673; (ii) give, within the period required for the hearing notice under Section 43.0673, the written notice required by Section 43.9051, Texas Local Government Code, to the County, to each emergency services district, and to each other public entity located in or providing services to the Project Site, describing the Project Site, any financial impact of the annexation on that entity, and any proposal of the City to abate, reduce, or limit that impact, and use good-faith efforts to resolve any such proposal with the entity before adopting the annexation ordinance; (iii) annex the entire width of each County road abutting the Project Site and the adjacent right-of-way as required by Section 43.106, Texas Local Government Code, on the written request of the County or after the notice procedure of Section 43.1055 of that code; and (iv) adopt the annexation ordinance at or promptly after the public hearing.

(d) **Timing of the Annexation Effective Date.** Because Section 26.14, Texas Tax Code, prohibits a taxing unit from imposing a tax on property annexed after January 1 of a Tax Year, the Parties shall cooperate so that the Annexation Effective Date occurs on or before December 31 of the intended Tax Year, and the Company may, by written notice delivered with the Annexation Petition, request that the annexation ordinance specify an effective date within the window permitted by law. If the Annexation Effective Date does not occur by December 31 of the calendar year in which Construction Completion occurs for reasons not caused by the Company, the Term shall be extended so that the Company may receive up to twenty (20) Grant Payments beginning with Year 1 as defined in Section 2.24.

(e) **Cooperation; No Annexation by Plat.** The Company shall cooperate with and timely provide all information, documentation, consents, and other materials reasonably necessary to complete annexation. The recording of any plat of the Project Site is at the Company's discretion and shall not trigger or authorize annexation.

(f) **Option Land Not in the ETJ.** The Option Land is not in the ETJ on the Approval Date. The Company, as the owner of the Option Land from Closing, by this Agreement requests under Section 42.022(b), Texas Local Government Code, that the ETJ be expanded to include the Option Land and any other portion of the Project Site that is not then in the ETJ, each of which is contiguous to the ETJ, and the City accepts that request;

provided that (i) the request is effective only upon, and the expansion shall take effect on, the Effective Date, after this Agreement has become effective under Section 4.05; (ii) the request is withdrawn automatically, without further action, if this Agreement terminates under Section 10.09 before the Annexation Effective Date; (iii) the expansion subjects that portion, before annexation, only to this Agreement, the Development Standards, and the Permitting Process, as provided in Section 6.07; and (iv) that portion remains subject to release from the ETJ under Section 6.06. The City shall adopt any ordinance or resolution required to confirm the expansion within thirty (30) days after the Effective Date, and the expansion shall not be a basis for any annexation of that portion before the Company delivers the Annexation Petition.

(g) **Portion Within a Water District.** The Parties acknowledge that a portion of the Option Land lies within Cotton Center Municipal Utility District No. 1, that Section 43.071(b), Texas Local Government Code, restricts the annexation of part of a water or sewer district, and that the Company and the Developer have agreed under the Purchase Agreement to cooperate in good faith, before and after Closing, to cause that portion to be disannexed from the district. The Company may exclude from the Annexation Petition any portion of the Project Site that remains within the district when the Annexation Petition is delivered, and may deliver a supplemental Annexation Petition for that portion within ninety (90) days after its exclusion from the district, in which event that portion shall be annexed under clause (c) as part of the Project Site, the Property Taxes on that portion shall be included in the Grant Payment for each Year beginning with the first Tax Year for which the City levies ad valorem taxes on that portion, no separate Year 1, Year count, or Grant Payment schedule shall apply to that portion, and the Grant Payments with respect to the remainder of the Project Site shall not be affected. The City shall support the exclusion as provided in Exhibit "C."

(h) **Legally Nonconforming Status After Annexation.** Upon annexation of all or any portion of the Project Site, such annexed area shall be considered legally nonconforming and the allowed uses and standards under which the Business operates may continue to apply as provided under the City's standards for nonconforming uses and structures, including exclusive application of federal and state standards regarding air quality and emissions under Section 6.17.

Section 6.04 Services Agreement. The Parties have agreed on the form of the Services Agreement attached as Exhibit "I," which lists each service the City will provide to the Project Site on the Annexation Effective Date and a schedule for each service not then provided, as required by Section 43.0672, Texas Local Government Code. The City shall execute the Services Agreement in that form, completed as provided in Exhibit "I," within fifteen (15) days after receipt of the Annexation Petition and before adopting the annexation ordinance. The services listed in the Services Agreement shall be provided at the levels of service stated in it. The City's failure to provide a service listed in the Services Agreement within the period stated in it is a breach of this Agreement for which the remedies in Section 11.12 are available, and the Company shall also have the remedies provided by Chapter 43, Texas Local Government Code, including Sections 43.141, 43.142, and 43.148 of that code. The Parties acknowledge that, because the Company or an Owner will own all of the land in the annexed area, the Company constitutes "a majority of the property owners" of that area for purposes of Section 43.141(a), Texas Local Government Code. The form

of Services Agreement may be amended by mutual agreement of the Company and the City Manager of the City as necessary to comply with any change of law or to clarify the nature and extent of services provided.

Section 6.05 Zoning of the Project Site. The Company consents to and requests the zoning of the Project Site as provided in this Section 6.05, and this Agreement is deemed by the Parties to be both a consent to and a request for that zoning.

(a) **Sequence.** Notwithstanding Section 4.1.4.1(A) of the Development Code, the City shall, before the Company delivers the Annexation Petition, initiate the zoning case for the Project Site, complete the published and personal notices required by law for that case, and obtain the report and recommendation of the Planning and Zoning Commission, so that the City Council may consider the annexation ordinance and the ordinance zoning the Project Site to the HI District at the same meeting, with the annexation ordinance considered first and the zoning ordinance considered next in sequence, and with each ordinance approved on two readings at least seven days apart as the City Charter requires. The ordinance approving annexation will become effective only if the associated HI District zoning ordinance is approved.

(b) **Sequence.** Because Section 4.1.4.1(A) of the Development Code requires that the ordinance establishing zoning for newly annexed land be adopted after the annexation takes effect and as a separate action of the City Council, and because the City Charter requires that a zoning ordinance be approved on two separate readings at least seven days apart, the City shall, before the Company delivers the Annexation Petition, initiate the zoning case for the Project Site, complete the published and personal notices required by law for that case, and obtain the report and recommendation of the Planning and Zoning Commission, so that the first reading of the zoning ordinance may be held at the first regular City Council meeting after the Annexation Effective Date and the second reading concurrently or at the next regular meeting that is at least seven days later. Notwithstanding the foregoing, the Company may submit applications for annexation and zoning concurrently under a schedule that provides for annexation and zoning to be considered by the City Council at the same meeting with the annexation petition to be considered first and the annexation petition to be considered next in sequence. An ordinance approving annexation will become effective only if the associated HI zoning request is approved.

(c) **Interim Period; Agreement Governs Uses.** From the Annexation Effective Date until the effective date of the ordinance zoning the Project Site, and at all times after that date, the Permitted Uses and the Development Standards govern the use and development of the Project Site under Subchapter G, and the City shall not apply the regulations of the Future Development (FD) District, or of any zoning district other than the HI District as modified by this Agreement, to the Project.

Section 6.06 Failure to Annex; Release from ETJ; Continued Wastewater Service. If the City fails to annex the Project Site in accordance with Section 6.03 for reasons not caused by the Company, then, upon the Company's written request, the City shall promptly release the Project Site from the ETJ and shall take all actions required to effect the release under applicable

law, including, as applicable, Section 42.023 and Subchapter D, Chapter 42, Texas Local Government Code. Notwithstanding any such release, or any release of the Project Site from the ETJ under Subchapter D, Chapter 42, Texas Local Government Code, on the petition of any owner, the City shall continue to provide retail wastewater service to the Project Site on the terms set forth in Section 6.10 and Exhibit "C" for the remainder of the Term, the release shall not be a basis for the City to discontinue, condition, or reprice that service or to require the Company to submit any individualized out-of-city utility request, and the Parties acknowledge that such a release removes the Project Site from the ETJ, releases the City from obligation to pay annual Grant Payments, but does not terminate this Agreement, which remains binding on the Parties and their successors for the Term. The provisions of this Agreement identified in Section 11.17 survive any such release.

Section 6.07 Review, Permitting, and Inspection Under the Interlocal Agreement. The review and approval of plats, permit applications, and related plans for the Project Site, and the inspection of construction on the Project Site, shall be conducted in accordance with the Development Standards and the Permitting Process. Under Subchapter G, the Company agrees that the City may enforce, with respect to the Project Site before annexation, the municipal land use and development regulations identified in the Development Standards, including the City's building, fire, plumbing, mechanical, electrical, and energy conservation codes in the editions identified in the Development Standards (being, as of the Approval Date, the 2021 editions of the International Codes and the 2020 National Electrical Code adopted, with the City's amendments, by Ordinance No. 2023-09), in the same manner those regulations are enforced within the City's corporate limits, and the City agrees that it shall not apply to the Project Site before annexation any regulation that is not identified in the Development Standards. This Agreement provides for City building permits and certificates of occupancy for the Project Site within the meaning of Section 2.7.3.1(B) of the Development Code, and the City shall issue building permits and certificates of occupancy for the Project in accordance with the Permitting Process. The Parties acknowledge that Section 101.5.1 of the International Building Code, as added by Section 14.026 of the City Code, provides that a project located in the ETJ that will be provided water, wastewater, or electric utilities by the City is required to obtain a building permit and comply with applicable building code requirements, and agree that compliance with the Permitting Process satisfies that provision as to the Project. The Company's consent under this Section 6.07 is a contractual undertaking, given under Subchapter G, that is enforceable by the City as a matter of contract and under Section 212.003(c), Texas Local Government Code, and is not an acknowledgment that the City possesses regulatory authority over the Project Site before annexation apart from this Agreement and the Interlocal Agreement. All permit application fees paid to the City in connection with the Project shall be subject to the fee use described in Exhibit "C," and any such fees retained by the City may be used for the retention of third-party contractors, professionals, and consultants, and city staff, to assist or manage the processing and review of applications submitted, and inspections required, for the Project, or to supplement the review of other projects by third-party professionals in order to free City staff capacity for the Project. Any permit application fees remaining after payment of any third parties shall be retained by the City.

Section 6.08 Compliance with the Interlocal Agreement; Protection of the Company. The Company shall develop the Project Site and complete all phases of construction on the Project Site in accordance with the Development Standards and the Permitting Process. The City shall not terminate the Interlocal Agreement and shall not agree to any amendment of the Interlocal Agreement that would apply to the Project Site and would increase the Company's obligations,

delay the review or approval of the Company's applications, or diminish the Company's rights, without the Company's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, the City shall take all action necessary on its part to cause the Interlocal Agreement to terminate as to the Project Site, and shall consent to and support the termination of the New Development Agreement, on the fifth (5th) anniversary of the date on which the City makes the first Grant Payment, and the City Manager shall execute any instrument reasonably required to evidence those terminations; the Interlocal Agreement and the New Development Agreement shall each provide for that termination. If the Interlocal Agreement is terminated by the County or otherwise ceases to apply to the Project Site before the Annexation Effective Date, the Development Standards and the Permitting Process as in effect immediately before the termination shall continue to govern applications filed by or on behalf of the Company for the Project Site as between the City and the Company, to the fullest extent permitted by law, including Chapter 245, Texas Local Government Code, and the City shall continue to perform the functions allocated to it under the Permitting Process. After the Annexation Effective Date, the Project Site shall be subject to the applicable ordinances of the City and applicable law, as modified by Section 6.09, Section 6.12, and the Development Standards, including the provisions of those ordinances relating to the continuation of legally non-conforming uses and building standards.

Section 6.09 Recognition of Approvals; Vested Rights; Continuation of Use.

(a) **Recognition of Pre-Annexation Approvals.** Every approved plat, permit, plan approval, inspection, certificate of occupancy, Completion Certificate, and County approval issued or performed for the Project Site before the Annexation Effective Date shall be recognized by the City on and after the Annexation Effective Date without re-review, re-inspection, or additional fee. Each certificate of occupancy issued under the Permitting Process, including the Completion Certificate, shall remain effective as a certificate of occupancy issued by the City on and after the Annexation Effective Date. All improvements constructed in compliance with the Development Standards and the Permitting Process are conforming uses and structures under the ordinances of the City and may be repaired, replaced, modified, and expanded in accordance with the Development Standards.

(b) **Vested Rights.** This Agreement is a permit under Chapter 245, Texas Local Government Code, for the Project, which includes all phases and expansions of the Business on the Project Site, and the Company's rights under that chapter as against the City accrue as provided in Section 6.01. Because rights under Chapter 245 accrue only as against the regulatory agency with which an application is filed, the City acknowledges that applications filed with the City under the Permitting Process, and this Agreement itself, vest the Project as against the City and that applications filed with the County are not required to do so. For each category of permit or regulation exempted from Chapter 245 by Section 245.004 of that chapter, including a permit described in Section 245.004(1) (a permit at least two years old for a building intended for human occupancy issued under uniform building, fire, electrical, plumbing, or mechanical codes), fees imposed in conjunction with development permits (Section 245.004(6)), and regulations for utility connections (Section 245.004(8)), the standards identified in the Development Standards and in Exhibit "C" shall apply to the Project for the Term as a matter of contract, and any

later-adopted standard in those categories shall apply only to new construction on the Project Site commenced after the later standard takes effect and only to the extent the later standard is applied uniformly within the City.

(c) **Continuation of Use.** The uses and development of the Project Site authorized by this Agreement were planned for the Project Site more than ninety (90) days before the Annexation Effective Date, and the Company will have filed with the City, before the institution of annexation proceedings, a completed application for the initial authorization required for each such use. The City acknowledges that Section 43.002, Texas Local Government Code, applies to the uses and development of the Project Site contemplated in and authorized by this Agreement, and that, as to the storage and use of hazardous substances and flood control, which are excepted from that section by Section 43.002(c), the standards set forth in the Development Standards and the permits issued to the Project by the Texas Commission on Environmental Quality and the United States Environmental Protection Agency shall govern the Project Site after annexation as a matter of contract.

Section 6.10 Wastewater Service. The City Council's approval of this Agreement constitutes (a) its approval, under Section 86.003(a) of the City Code, of the connection and extension of City wastewater service to the Project Site; (b) its acceptance of the Company's covenant in Section 6.03, and of the form of Annexation Petition attached as Exhibit "H," as the written request for annexation required by Section 86.003(a) and (b) of the City Code, with the Annexation Petition to be delivered as provided in Section 6.03, so that no annexation of the Project Site may occur before its delivery; (c) if the Company purchases water for the Project Site from a retail public utility other than the City, the variance under Section 86.002(c) of the City Code permitting the extension of the City wastewater system to a customer that does not purchase City water; and (d) the City's acknowledgment that this Agreement, together with the Company's application for wastewater service, gives the City fair notice of the Project within the meaning of Section 86.001 of the City Code. No separate out-of-city utility connection or extension application is required for the Project Site. Before connecting the Project Site to the City wastewater system, the Company shall plug, in accordance with applicable law, any water well on the Project Site that is not retained for a lawful use approved by the City, as contemplated by Section 86.007 of the City Code, and the City Council waives that section to the extent of any well so retained. Upon completion and acceptance by the City of the wastewater components of the Developer Infrastructure (the wastewater gravity lines, the public lift station, and the force main to be dedicated to the City), which the City shall inspect and act upon within the periods provided in the Permitting Process and shall accept upon their completion in accordance with the City's standards, the City shall make retail wastewater service available to the Project Site, after annexation, as provided in Exhibit "C" and otherwise on the same basis that such service is available to other non-residential customers of the City, subject to the Company's compliance with the City's Code of Ordinances as modified by this Agreement. Wastewater impact fees for the Project shall be assessed at the rates in effect on March 19, 2019, which the City agrees, as a covenant of this Agreement and notwithstanding the release of the Project Site from the City Development Agreement, shall apply to the Project for the Term, and shall be assessed and collected as provided in Section 395.016, Texas Local Government Code. The Project Site is owned by the Developer pending its sale to the Company, and the City shall not be responsible for funding or constructing any public infrastructure, except as specifically provided in this Agreement

or in a separate agreement of the Parties. The Parties shall work in good faith with the Developer on the permitting and review of that infrastructure to support the Company's construction schedule. The City represents that the City's public wastewater lift station to which the Developer Infrastructure will connect, referred to in the Developer's cost estimate as the 2027 City of San Marcos lift station, will be completed and placed in service by the City no later than December 31, 2027, so that retail wastewater service is available to the Project Site when required by the Company's construction schedule, and that the City's wastewater system has, and will reserve for the Project, the capacity described in Section 5.02. If the City's lift station has not been placed in service by that date, or if for any other reason retail wastewater service through the City's system is not available to the Project Site when the Company's construction or operations schedule requires it, then, until service is available, (i) the City shall permit the Company to collect wastewater generated on the Project Site in temporary holding tanks and to have it transported by a transporter registered with the Texas Commission on Environmental Quality to a third-party wastewater treatment facility authorized to receive it, (ii) the Company shall be responsible for identifying, contracting with, and obtaining all necessary approvals from such third-party facility and all costs associated with the collection, temporary storage, handling, transportation, treatment and disposal of the wastewater generated on the Project Site. The City shall have no obligation to accept, receive, transport, treat or dispose of any wastewater generated on the Project Site during the period of interim service, or to pay or reimburse the Company for any costs associated with such interim service (iii) the Company shall obtain all permits, approvals and authorizations required by the City for the temporary holding tanks, wastewater collection, transportation, and disposal arrangements. The City shall process any applications for permits within the periods provided in the Permitting Process, provided that the Company has submitted complete applications and all information reasonably required by the City, and (iv) the period of unavailability is a delay described in clause (iii) of Section 10.01only to the extent such unavailability is directly attributable to the City's failure to perform its obligations under this Agreement and is not caused by the Company's acts or omissions or other circumstances for which the City is not responsible. The Company shall ensure that all wastewater is delivered only to facilities authorized and permitted to receive and treat or dispose of such wastewater. The Company shall be responsible for, and shall promptly remediate, any spills, releases, leaks, contamination, or other environmental damage arising out of or relating to the temporary storage, handling, transportation, treatment, or disposal of such wastewater, to the extent caused by the Company, its contractors, transporters, or other agents.. The Parties acknowledge that the Project Site lies entirely within the certificated area of Maxwell Special Utility District and Martindale Special Utility District for retail water service and is expected to receive retail water service from Maxwell Special Utility District, that the Developer Infrastructure includes the public water main to be dedicated to that district, and that the City's obligations under this Agreement do not include water service. The City shall not, without the Company's prior written consent, give notice of its intent to provide retail water service to, or apply for single certification of, all or any part of the Project Site under Section 13.255, Texas Water Code, or otherwise seek to decertify or displace the holder of the certificate of convenience and necessity for retail water service to the Project Site, and the Services Agreement shall provide for the continuity of retail water service to the Project Site after the Annexation Effective Date, provided by Maxwell Special Utility District. The Company shall comply with the City's industrial pretreatment requirements applicable to industrial customers generally, as in effect on the Approval Date.

Section 6.11 Oversizing. To the extent the City determines that public facilities or infrastructure are required beyond what is necessary to serve the Project Site and the Business, the City will coordinate with the Developer regarding the allocation of the cost of any oversizing of those facilities or infrastructure required by the Project, consistent with Section 3.5.2.11 of the Development Code, Section 86.002(a)(3) and (b)(2) of the City Code, and Subchapter C, Chapter 212, Texas Local Government Code. In no event shall the Company be required to provide, fund, or construct any oversized facilities or infrastructure, and no oversizing shall delay service to the Project Site.

Section 6.12 Permitted Uses and Prohibited Uses. The uses listed as Permitted Uses in Exhibit "J" are permitted on the Project Site before and after annexation, and the uses listed as Prohibited Uses in Exhibit "J" are prohibited on the Project Site, in each case under Subchapter G, and notwithstanding any restriction in the Development Code or other ordinance of the City. The Business, including each activity described in the definition of that term in Section 2.05, is a Permitted Use, and the storage, handling, and use of fuels, paints, solvents, lubricants, batteries, and other materials incidental to the Business, in compliance with applicable law and the permits issued to the Project, is an accessory Permitted Use and is not a Prohibited Use. Any use not listed in Exhibit "J" shall be classified under the Development Code's procedure for new and unlisted uses, provided that no use that is permitted by right in the HI District shall be treated as a Prohibited Use.

Section 6.13 Relationship to the City Development Agreement. Except as provided in the last sentence of this Section 6.13, from and after the Effective Date, the City Development Agreement shall not apply to the Project Site, and no provision of the City Development Agreement is preserved for the benefit or burden of the Project Site. The City Development Agreement Release shall (a) terminate the City Development Agreement as to, and release from it, the Owned Land and the Company; (b) confirm the release by the Developer, in favor of the Project Site, of the Developer's claim to the wastewater capacity reserved for the Project under Section 5.02; and (c) include the City's certification that the City Development Agreement is in full force and effect, that no default exists under it, and that the contingency in Section 5 of the City Development Agreement does not affect the Project Site. The matters for which the Project Site formerly relied on the City Development Agreement are provided for directly in this Agreement. In addition, the City shall not apply to the Project Site or the Project any moratorium on property development, or any limitation on the rate or timing of development approvals, except as required by state or federal law. The Developer's obligations to construct and dedicate the Developer Infrastructure are governed by the Post Closing Seller Work Agreement and secured by the Escrow Holdback Agreement. If the Company fails or refuses to petition for annexation of the Project Site in accordance with Section 6.03 for reasons not caused by the City, then the City Development Agreement Release shall lapse as to the Project Site, and the rights and benefits of the City Development Agreement applicable to the Owned Land, shall revert to their original terms and conditions for the benefit of the Project Site and the Company.

Section 6.14 Relationship to the County Development Agreement and the Tax Abatement Agreements. The City acknowledges that the Company intends to enter into the Tax Abatement Agreements with the County and that the County will designate the Project Site as a reinvestment zone under Section 312.401, Texas Tax Code, before the Annexation Effective Date. The City shall not designate the Project Site, or any area including it, as a reinvestment zone, a tax

increment reinvestment zone, or a transportation reinvestment zone, shall not create or include any portion of the Project Site in a public improvement district under Chapter 372, Texas Local Government Code, or any other district or assessment area, shall not levy any special assessment against the Project Site, and shall not take any other action that would impair the Tax Abatement Agreements, in each case without the Company's prior written consent, which the Company may withhold in its sole discretion. Annexation of the Project Site shall not be, and the City shall not assert that it is, a basis for modifying the Tax Abatement Agreements, which abate only taxes imposed by the County.

Section 6.15 Recording. Concurrent with the closing on the purchase under the Purchase Agreement, the Company shall direct the Title Company to record this Agreement in its entirety, including its Exhibits, together with the Closing Ratification, or a memorandum of this Agreement, in the Official Public Records of Caldwell County, Texas, as Subchapter G and Section 2.4.3.2(E)(14) of the Development Code require, and shall record the City Development Agreement Release in those records at the same time. The Company shall bear all recording fees and costs charged by the Caldwell County Clerk for recording this Agreement, its Exhibits, the Closing Ratification, and the City Development Agreement Release, whether paid by the Company as a closing cost through the Title Company or reimbursed by the Company to the City within thirty (30) days after the City delivers the County Clerk's receipt for those fees and costs.

Section 6.16 Development Code Requirements. For purposes of Section 2.4.3.2(E) of the Development Code, the Parties agree that (a) the legal description of the Project Site is set forth in Exhibit "B"; (b) the land use plan identifying each authorized use, and its density and intensity, consists of Exhibit "J" and the Development Standards; (c) the proposed base zoning district for the Project Site following annexation is the HI District, as provided in Section 6.05; (d) the complete list of the Development Code standards that do not apply to the Project, and of the development application procedures that do not apply, is set forth in the Development Standards and the Permitting Process, respectively, each of which is incorporated into this Agreement for that purpose; (e) the schedule identifying the provider and the timing of each public facility and service, and the means of financing each public service, is set forth in Section 6.10, Exhibit "C," the Services Agreement, and, as to the infrastructure to be constructed by the Developer, the Post Closing Seller Work Agreement; (f) the schedule for annexing the Project Site, and the period during which the Project Site may not be annexed, are set forth in Section 6.03; (g) the Term, including all extensions, does not exceed forty-five (45) years, as provided in Section 11.17; and (h) the provisions for enforcement, amendment, recording, and binding effect on successors are set forth in Section 6.15, Section 11.02, Section 11.03, and Section 11.12. To the extent the Development Code requires any other provision in a development agreement, the City Council's approval of this Agreement constitutes a determination that this Agreement satisfies, or that the City Council has waived, that requirement as applied to the Project.

Section 6.17 State and Federal Permits; City Operating Regulations. The performance standards of Chapter 7, Article 4, Division 2 of the Development Code (noise, smoke and particulate matter, odorous matter, fire or explosive hazard material, and toxic and noxious matter) apply to the Project Site before and after the Annexation Effective Date only as modified by the Development Standards, which the Parties agree constitute the uses and development of the Project Site specified for the periods before and after annexation under Subchapter G. Nothing in this

Section limits the authority of the Texas Commission on Environmental Quality or the United States Environmental Protection Agency.

Section 6.18 County Regulation Before Annexation. The Parties acknowledge that, until the Annexation Effective Date, the Project Site is in the unincorporated area of the County and is subject to the County's regulations to the extent provided by law, as administered under the Interlocal Agreement and the New Development Agreement, which govern the County's standards and the functions retained by the County (the "**County-Retained Functions**") and are not restated in this Agreement. The City shall perform the review, permitting, and inspection functions allocated to it under the Interlocal Agreement for the Project Site, including those it performs on behalf of the County, in accordance with the Permitting Process, shall transmit each Application for a County-Retained Function to the County within the period provided in the Permitting Process, and shall not issue, on its own behalf or on behalf of the County, any requirement for the Project Site that is inconsistent with the Development Standards or the Permitting Process. The Company shall comply with the County-Retained Functions as administered under the Interlocal Agreement and the New Development Agreement, and the City agrees that compliance with the Development Standards and the Permitting Process, together with the County-Retained Functions, constitutes compliance with all City development regulations applicable to the Project Site before the Annexation Effective Date.

Section 6.19 Option Land; Owned Land Closing; Supplement.

(a) **Option Land.** The Project Site includes the Option Land, which the Company has contracted to purchase from the Developer under the Purchase Agreement and which lies outside the ETJ until its inclusion in the ETJ under Section 6.03(f). This Agreement binds the Option Land only from the date on which the Company or an Owner acquires title to it, and the Statutory Disclosure is delivered to its owner as provided in Section 6.02.

(b) **Owned Land Closing.** If, under the Purchase Agreement, Closing occurs as to the Owned Land only (an "**Owned Land Closing**"), then from and after Closing: (i) "Project Site" means the Owned Land; (ii) **Exhibit "B-1"** replaces Exhibit "B" for all purposes of this Agreement, and the City Manager shall conform the other Exhibits accordingly without further action of the City Council; (iii) the Annexation Petition, the Services Agreement, the City Development Agreement Release, and the Interlocal Agreement apply to the Owned Land only; (iv) the Company's obligations under Article 3 are unchanged, except that each date by which a milestone under Section 3.01 or Section 3.04 must be achieved is extended by the number of days, not to exceed one hundred eighty (180), by which the Company's construction schedule is delayed by re-planning the Project for the Owned Land, as certified by the Company in its next Compliance Certificate; and (v) at the Company's request, the Parties shall negotiate in good faith any further equitable adjustment of this Agreement that the configuration of the Project on the Owned Land requires, to be documented by an amendment under Section 11.02.

(c) **Supplement Adding Option Land.** If, after an Owned Land Closing, the Company or an Owner acquires fee simple title to all or any part of the Option Land, the Company may deliver to the City a supplement in the form attached as **Exhibit "L"** (a

"**Supplement**") describing the land acquired. The City Council, by its approval of this Agreement, approves the inclusion of the Option Land in the Project Site upon its acquisition by the Company or an Owner, and the City Manager is authorized and directed, within ten (10) business days, after receipt of a Supplement, to deliver the Statutory Disclosure to the Company or the Owner, as the owner of the land described in the Supplement, together with this Agreement, and thereafter to execute the Supplement on behalf of the City and record it in the Official Public Records of Caldwell County, Texas. From the date of recording, the land described in the Supplement is part of the Project Site for all purposes of this Agreement, including Article 6, and this Agreement binds and benefits that land as provided in Section 11.03(c).

(d) **No Effect on Grant Payments.** An Owned Land Closing does not reduce the Grant Payments, which are measured by the Property Taxes paid on whatever land and improvements then constitute the Project Site, and the addition of land under clause (c) of this Section does not require any amendment of (d).

Section 6.20 Transportation Impact Assessment. The City acknowledges that the Company is preparing a Transportation Impact Assessment for the Project to identify roadway and traffic mitigation improvements that may be needed to serve the Project Site. Upon its completion, the Company will provide a copy of the Transportation Impact Assessment to the City, and the City may consider its findings in the City's Master Thoroughfare Plan and related transportation planning efforts. The preparation and delivery of the Transportation Impact Assessment, and any findings or recommendations in it, do not create any obligation for the City or the Company under this Agreement to design, construct, fund, or contribute to the cost of any roadway or traffic improvement, and the allocation of responsibility for any such improvement, if any, will be determined under applicable law and any separate written agreement of the Parties. The Transportation Impact Assessment is not a condition to any City Incentive.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

Section 7.01 Representations of the Company. As of the Approval Date and the Effective Date, the Company represents to the City as follows:

(a) **Organization.** The Company is a limited liability company duly organized under the laws of the State of Delaware, validly existing and in good standing, and is registered to transact business in the State of Texas. The activities that the Company proposes to carry on at the Project Site may lawfully be conducted by the Company.

(b) **Authority.** The execution, delivery, and performance by the Company of this Agreement are within the Company's powers and have been duly authorized.

(c) **Valid and Binding Obligation.** This Agreement is the legal, valid, and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the rights or remedies of creditors generally and by general principles of equity.

(d) **No Defaults.** To the Company's current actual knowledge, the Company is not in default in the performance, observance, or fulfillment of any of the obligations, covenants, or conditions contained in any agreement or instrument to which it is a party or by which it or any of its property is bound that would have a material adverse effect on the Company's ability to perform under this Agreement.

Section 7.02 Representations of the City. As of the Approval Date and the Effective Date, the City represents to the Company as follows:

(a) The execution, delivery, and performance by the City of this Agreement are within the City's powers and have been duly authorized by the City Council at a meeting held in compliance with Chapter 551, Texas Government Code, after the initial authorization, the informational meeting with the Planning and Zoning Commission, the personal and published notices, and the public hearing required by Sections 2.4.3.2(C) and 2.4.3.5 of the Development Code, and the approving instrument recites those steps and that the Project has been approved by the City Council under the City's Economic Development Policy (Resolution No. 2013-185R, as amended through Resolution No. 2022-94R).

(b) This Agreement is the legal, valid, and binding obligation of the City, enforceable against the City in accordance with its terms, except as limited by applicable law.

(c) The Owned Land is located wholly within the ETJ; the Option Land is located in the unincorporated area of the County outside the ETJ and is contiguous to the ETJ; the Project Site is adjacent to the corporate limits of the City, or will be made adjacent through the annexation of right-of-way under Section 43.1055, Texas Local Government Code, concurrently with the annexation of the Project Site; and no portion of the Project Site is within the extraterritorial jurisdiction of any other municipality.

(d) The City delivered the Statutory Disclosure as described in Section 6.02.

(e) The City has adopted guidelines and criteria governing the City Incentives and Development Commitments to the extent required by law, and this Agreement complies with, or has been approved by the City Council as an exception to, the City's economic development incentive policy.

ARTICLE 8

PERSONAL LIABILITY OF PUBLIC OFFICIALS AND LIMITATIONS ON CITY OBLIGATIONS

Section 8.01 Personal Liability of Public Officials. No employee or elected official of the City shall be personally responsible for any liability arising under or growing out of the performance of that employee's or official's public duties within the scope of that employee's or official's authority in connection with this Agreement.

Section 8.02 Limitations on City Obligations. The Grant Payments and any other financial obligations of the City under this Agreement shall be paid solely from lawfully available

funds that have been budgeted and appropriated for each applicable fiscal year during the Term by the City as provided in this Agreement. The Grant Payments are measured by reference to, but are not payable from or secured by a pledge of, Property Taxes or any other ad valorem tax revenues of the City, and nothing in this Agreement creates a pledge of, lien on, or security interest in any ad valorem tax revenues of the City. The Parties intend that the program and Grant Payments under this Agreement constitute a program and grant under Article III, Section 52-a of the Texas Constitution that is not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes, and, accordingly, the City's obligations under this Agreement do not create a debt within the meaning of any constitutional or statutory provision. **Consequently, notwithstanding any other provision of this Agreement, the City shall have no obligation or liability to pay any Grant Payment unless the City budgets and appropriates funds to make that payment for the City's fiscal year in which the Grant Payment is payable under this Agreement, subject to** Section 4.04 **and** Section 8.03**.**

Section 8.03 Company Remedies for Non-Appropriation. If the City fails to budget, appropriate, or pay all or any portion of a Grant Payment when due, the Company may, at its option and by written notice to the City, elect one or more of the following, to the extent not inconsistent with one another, without penalty or other recourse by the City: (a) extend the Term until all twenty (20) Grant Payments contemplated by this Agreement have been made, with each unpaid Grant Payment recalculated and paid in an extension Year under the Grant Payment Formula using the percentage that applied to the Year for which it was not paid; (b) waive the Grant Payment for the applicable Year without waiving any future Grant Payment; (c) suspend the Company's performance obligations under Article 3 for the period of non-appropriation, without loss of eligibility for future Grant Payments; and (d) terminate this Agreement, subject to payment of any Grant Payment for which an appropriation has been made.

ARTICLE 9

INFORMATION

Section 9.01 Annual Compliance Certificate. Beginning in the calendar year following Year 1 and continuing each calendar year thereafter during the Term, the Company shall submit to the City, on or before October 1 of each such year, a Compliance Certificate for the preceding calendar year, signed by an authorized officer or employee of the Company, certifying that the Company is in full compliance with its obligations under this Agreement or, if not in full compliance, disclosing the nature of any non-compliance and the reasons for it, accompanied by (i) a summary payroll report (which may be redacted to remove personally identifiable information) showing the number of Jobs on the last day of each calendar quarter and the average annual Wages of all Jobs for the year, (ii) a copy of the Company's Texas Workforce Commission quarterly wage reports or comparable withholding documentation for the Project Site, and (iii) a summary of cumulative Capital Investment. After receiving a timely submitted Compliance Certificate, the City shall have thirty (30) days to notify the Company in writing of any questions concerning the information provided, and the Company shall respond within thirty (30) days thereafter. The City shall execute the City certification portion of the Compliance Certificate confirming the Company's compliance and the amount of the Grant Payment within sixty (60) days after the later of its receipt of the Compliance Certificate and the Company's response to any

questions. If the City does not timely notify the Company of questions or objections, the Compliance Certificate shall be deemed accepted.

Section 9.02 Review of Company Records. The City shall have the right to review (i) employment records of the Company, including employment-related tax records, (ii) the Company's building and site plans for the Project Site, to the extent the City has not already reviewed them before issuance of a certificate of occupancy, and (iii) tax assessment and payment records of the Company for the Project Site, in each case to the extent reasonably necessary to determine the Company's compliance with this Agreement. The City may also make on-site visits to the Project Site to verify that the Business is operating. Any review or visit shall occur at a reasonable time during the Company's regular business hours, upon at least fifteen (15) business days' prior written notice to the Company, not more than once per calendar year (except following a reported non-compliance), subject to the Company's reasonable safety, security, and confidentiality protocols, and, to the extent practicable, at a mutually agreed date and time. Subject to Section 9.03, the Company shall, to the extent reasonably possible, make records available in electronic form. Information, documents, and materials obtained by the City in connection with its review under this Section that do not constitute public information under, or that are excepted from disclosure by, Chapter 552, Texas Government Code, shall be treated as confidential information of the Company, and the City shall maintain their confidentiality to the extent permitted by applicable law. The Company shall not be required to disclose, permit the inspection or examination of, or discuss any document, information, or other matter that is not necessary to verify the Company's compliance with this Agreement and that (a) constitutes a trade secret or proprietary information, (b) is subject to a prohibition on disclosure under law or any binding agreement, or (c) is subject to the attorney-client or a similar privilege, employee privacy protections, or the attorney work product doctrine.

Section 9.03 Confidentiality. Subject to the requirements of Chapter 552, Texas Government Code (the "**Public Information Act**"), or the order of a court of competent jurisdiction, nothing in this Agreement requires the Company to disclose or make available to the City any information relating to its employees that would violate the privacy rights of its employees or applicable law, or to disclose or make available proprietary or other confidential information of the Company. The Parties acknowledge that the Public Information Act excepts from disclosure certain records, materials, and information, including records confidential by law (Section 552.101); social security numbers of living persons (Section 552.147); trade secrets and certain commercial or financial information (Section 552.110); and information relating to economic development negotiations (Section 552.131), and that Section 551.087, Texas Government Code, permitted the City Council to deliberate in closed session regarding the commercial and financial information received from the Company and the incentives offered. The City shall use adequate safeguards to maintain the security and confidentiality of all materials, communications, data, and information related to this Agreement or supplied by the Company in connection with this Agreement that may be subject to those exceptions. The Company acknowledges that this Agreement constitutes public information, that the City is required to submit information about this Agreement to the Comptroller of Public Accounts under Section 380.004, Texas Local Government Code, and that materials, communications, data, and information related to this Agreement may constitute public information subject to disclosure under the Public Information Act. The City may disclose this Agreement, the annual Compliance Certificates, and such portions of other materials as are required by law to be disclosed, provided

that the City shall (a) give the Company prompt written notice of any request for public information (other than a request for a copy of this Agreement or a Compliance Certificate, which the Company agrees may be released without notice) within a reasonably practicable time to allow the Company to seek a protective order or other remedy, (b) disclose only the information required to be disclosed under applicable law, and (c) cooperate with the Company in responding to any such request, although the City shall have no obligation to independently request or join in any request for a ruling from the Attorney General of Texas or to pursue any remedy sought by the Company with regard to asserted proprietary commercial or financial information or trade secrets. The City, without waiving its right to appeal, agrees to comply with any ruling of the Attorney General of Texas or order of a court recommending or requiring the redaction or withholding of information in response to a specific request for public information.

ARTICLE 10

DEFAULT, TERMINATION, AND REMEDIES

Section 10.01 Performance Shortfalls; Extensions; Notice and Cure. During the Maintenance Period, if the number of Jobs for a calendar year is below the Maintenance Threshold but not less than ninety percent (90%) of the Maintenance Threshold, the Grant Payment for that Year shall be reduced proportionally by multiplying it by a fraction, the numerator of which is the actual number of Jobs and the denominator of which is the Maintenance Threshold; if the number of Jobs is below ninety percent (90%) of the Maintenance Threshold, no Grant Payment shall be due for that Year. During the Ramp Period, if the number of Jobs for a calendar year is below the applicable Jobs Milestone, the Grant Payment for that Year, if any, shall be reduced proportionally in the same manner, using the applicable Jobs Milestone as the denominator. Any such shortfall affects only the Grant Payment for the Year in which it occurs and does not cause forfeiture of any Grant Payment for any other Year. In no event shall the Company's failure to satisfy any Jobs Milestone, Capital Investment milestone, or the Maintenance Threshold constitute a default or non-compliance under the remainder of this Section 10.01 or a basis for termination of this Agreement, and the City's sole remedy for any such failure shall be the reduction or withholding of the Grant Payment for the Year in which the failure occurs as provided in this paragraph. In addition to any extension for a Force Majeure Event, each milestone deadline under Section 3.01, Section 3.03, and Section 3.04, the outside date for Construction Completion under Section 2.13, and the Operation Date shall be extended day-for-day for any delay caused by (i) the failure of the City or the County to timely act on any permit, plat, certificate, or other approval required for the Project within the time provided in the Permitting Process, (ii) any delay in the annexation of the Project Site under Section 6.03 not caused by the Company, or (iii) any delay in the availability of wastewater or other City utility service to the Project Site, or in the completion of the Developer Infrastructure, beyond the dates on which the Company's construction schedule, as communicated to the City, requires that service or infrastructure, including any period by which the Developer's completion of the Developer Infrastructure extends beyond the Post Closing Completion Date or any Milestone Date under the Post Closing Seller Work Agreement. Except as otherwise provided in this Agreement, if at any time during the Term the Company is not in material compliance with its obligations under this Agreement, the City shall send written notice of the non-compliance to the Company. If the non-compliance is not cured within sixty (60) days after the Company's receipt of the notice or, if the non-compliance is not reasonably susceptible of cure within sixty (60) days, a cure is not begun within that sixty-day period and thereafter continuously and

diligently pursued to completion (in either event, a "**Cure**"), then the City may withhold the Grant Payment otherwise due for the Year in which the uncured non-compliance occurs or, if the non-compliance continues uncured for three (3) consecutive calendar years, terminate this Agreement. Upon a Cure by the Company, the Company will be eligible to receive Grant Payments in future Years (provided it is otherwise in compliance and subject to the other limitations of this Agreement) for the remainder of the Term. Except as provided above, a Grant Payment withheld by the City for a Year during which the Company was not in compliance shall be deemed forfeited. Except as to circumstances arising from a Force Majeure Event, a delay described in clauses (i) through (iii) above, or the City's failure to appropriate, the Term shall not be extended as a result of any cure period under this Section.

Section 10.02 Termination for Misrepresentation. Notwithstanding the notice and cure provisions of Section 10.01, the City may terminate this Agreement by written notice to the Company if the Company, its officers, or its signatories to this Agreement intentionally misrepresented any material fact or information (i) upon which the City relied in entering into this Agreement, (ii) upon which the City relied in making a Grant Payment to the Company, or (iii) as an inducement for the City to make a Grant Payment to the Company; provided that the City shall first give the Company written notice describing the asserted misrepresentation and thirty (30) days to respond, and no termination shall be effective if the Company demonstrates that the fact or information was not intentionally misrepresented or that the City did not rely on it.

Section 10.03 Other Remedies; Limitations. Upon breach of any obligation under this Agreement, in addition to any other remedy expressly set forth in this Agreement with respect to that breach, either Party may pursue the remedies available at law or in equity for breach of contract, including specific performance and injunctive relief, subject to Section 11.12. Neither Party shall be liable for special, incidental, consequential, indirect, punitive, or other similar damages, or lost profits, even if that Party or its agents have been advised of the possibility of those damages. In no event shall the City's aggregate liability for damages over the Term exceed the sum of (a) the Grant Payments that have been appropriated and remain unpaid, (b) any amount owed by the Company as a result of the City's failure to perform under this Agreement, including the increased cost of infrastructure as a result of delays or accelerations caused by the City, and (c) reasonable attorney's fees and interest as allowed by law; and in no event shall the Company's liability for damages under this Agreement exceed the amount of the Grant Payments received by the Company with respect to the period of the breach and reasonable attorney's fees and interest as allowed by law.

Section 10.04 Effect of Force Majeure Event. A Party shall not be deemed to be in breach, default, or violation of any term of this Agreement to the extent the Party's action, inaction, or omission is the result of a Force Majeure Event. The affected Party shall give written notice to the other Party within thirty (30) days after becoming aware of the Force Majeure Event. The Parties shall use commercially reasonable efforts to promptly resolve any Force Majeure Event that adversely and materially affects their performance under this Agreement. A Force Majeure Event suspends the affected Party's performance obligation for the duration of the event but does not excuse it, and each deadline, milestone, and the Term affected by the event shall be extended day-for-day for the duration of the Force Majeure Event.

Section 10.05 Market Disruption Event. A "**Market Disruption Event**" means a decline of twenty percent (20%) or more, measured over any period of four (4) consecutive calendar quarters against the corresponding four (4) calendar quarters of the immediately preceding year, in (i) North American Class 6 through Class 8 commercial truck production or retail sales, as reported by ACT Research or FTR Transportation Intelligence, or (ii) the Company's North American production volume of the products manufactured or to be manufactured at the Project Site, in each case as certified to the City by an officer of the Company together with the supporting data. If the Company delivers written notice of a Market Disruption Event to the City, together with that certification, within sixty (60) days after the end of the four-quarter period in which the decline is first measured, then (A) each milestone deadline under Section 3.01 and Section 3.04, the outside date for Construction Completion under Section 2.13, the Operation Date, and the dates by which the Jobs Milestones, the Capital Investment milestones, and the Maintenance Threshold must be achieved or maintained shall be extended by the duration of the Market Disruption Event, being the period beginning on the first day of the four-quarter period in which the decline is first measured and ending on the last day of the first subsequent calendar quarter as of which the decline, measured on a trailing four-quarter basis, no longer exists, plus a recovery period of up to twelve (12) months, and the Term shall be extended by the same period; (B) the Company shall not be entitled to a Grant Payment for any Year in which the applicable Jobs Milestone, Capital Investment milestone, or Maintenance Threshold is not met, and Section 10.01 shall govern the reduction or withholding of the Grant Payment for that Year; (C) the Company's failure to meet a milestone or threshold during the extension shall not constitute a default or a basis for termination of this Agreement; and (D) the aggregate of all extensions under this Section 10.05 shall not exceed thirty-six (36) months. A Market Disruption Event is not a Force Majeure Event, and Section 10.04 does not apply to it.

Section 10.06 Indemnification. The City shall not be obligated to pay any indebtedness or obligation of the Company. Except to the extent of the City's proportionate responsibility arising from the negligence, misconduct, or criminal activity of the City or its officials or employees, the Company shall indemnify, hold harmless, and defend the City, its elected officials, and its employees from liabilities arising from third-party claims to the extent caused by the negligence or willful misconduct of the Company in performing its obligations under this Agreement. This indemnity does not apply to any claim challenging the validity or enforceability of this Agreement or the legality of any approval, ordinance, resolution, or other action of the City relating to this Agreement or the Project. The Company has the right to take over and manage the defense of any claim for which the City seeks indemnification. The Company agrees to pay any judgment obtained against the City that results from the negligence or willful misconduct of the Company described in this Section. The Company's obligations under this Section are subject to the limitation of liability in Section 10.03.

Section 10.07 Offset and Overpayments. The City may deduct from any Grant Payment, as an offset, any verified overpayment to the Company and any delinquent and unpaid fees, charges, or taxes assessed by and owed to the City by the Company; provided that before offsetting any amount the City shall give the Company (a) advance written notice of the proposed offset and (b) sixty (60) days after receipt of that notice to remedy the situation giving rise to the offset or to provide evidence to the City, at the Company's expense, contesting the offset. No amount that the Company is contesting in good faith by appropriate proceedings shall be offset while the contest is pending.

Section 10.08 Change in Law. If any statute, constitutional provision, regulation, or judicial decision enacted, adopted, or rendered after the Approval Date (a "**Change in Law**") prevents or materially alters the annexation of the Project Site under Subchapter C-3, Chapter 43, Texas Local Government Code, the payment of the Grant Payments, the application of the Development Standards or the Permitting Process, or the recognition of approvals and vesting under Section 6.09, the Parties shall negotiate in good faith, for a period of not less than one hundred eighty (180) days after either Party gives notice of the Change in Law, an amendment to this Agreement that preserves, to the greatest extent lawful, the economic and regulatory benefits of this Agreement to each Party. During that period the Company's obligations under Article 3 and Section 6.03 are suspended, and if no amendment is executed by the end of that period the Company may terminate this Agreement by written notice without liability.

Section 10.09 Termination if Closing Does Not Occur. If the Company does not acquire title to the Project Site on or before the Outside Date, either Party may terminate this Agreement by written notice to the other, and the Parties shall have no further obligations under this Agreement. Upon any such termination, the Title Company shall return the escrowed counterparts to the Party that delivered them.

ARTICLE 11

MISCELLANEOUS

Section 11.01 Entire Agreement; Order of Precedence. This Agreement, including the Recitals and the Exhibits, contains the entire agreement between the Parties with respect to the transactions contemplated by it and supersedes all prior proposals, term sheets, and negotiations between them. The Parties intend that this Agreement, the Interlocal Agreement, and the City Development Agreement, as modified by the City Development Agreement Release, be read together as an integrated framework for the Project. In the event of a conflict among them as applied to the Project Site, (a) the Interlocal Agreement, including the Development Standards and the Permitting Process, shall control as to the standards and processes for the review, permitting, and inspection of development on the Project Site; (b) the City Development Agreement, as modified by the City Development Agreement Release, shall control as to the Developer's infrastructure obligations, which, as provided in Section 6.13, are governed as to the Project Site by the Post Closing Seller Work Agreement and do not bind the Company; and (c) this Agreement shall control as to the Grant Payments, the City Incentives and Development Commitments, annexation, zoning, the Permitted Uses and Prohibited Uses, vested rights and the recognition of approvals, and wastewater service to the Company, and as to any other matter.

Section 11.02 Amendments. This Agreement may be amended, altered, or terminated only by a written instrument signed by both Parties and, in the case of the City, approved by the City Council, except for the administrative updates expressly authorized by Section 2.32 and Exhibit "D."

Section 11.03 Assignment; Successors; Lenders. Except as provided in this Section 11.03, the Company may not assign its rights or delegate its duties under this Agreement, in whole or in part, without the prior written consent of the City, which shall not be unreasonably withheld, conditioned, or delayed, and the City shall respond to any request for consent within thirty (30) days after receipt of the request and the information reasonably necessary to evaluate it, failing

which consent is deemed given. Nothing in this Agreement restricts the Company from engaging contractors to perform construction or operational services.

(a) **Permitted Assignments.** The Company may assign this Agreement, in whole or in part, without the City's consent (i) to an Affiliate; (ii) to a successor by merger, consolidation, or acquisition of all or substantially all of the Company's assets or of the Project; (iii) to a purchaser of all or substantially all of the Project Site that assumes the Company's obligations under this Agreement; and (iv) as collateral to any lender, trustee, or agent providing financing for the Project (a "**Mortgagee**"), provided that the Company gives written notice of the assignment to the City at least thirty (30) days before it occurs and, in the case of clauses (i) through (iii), the assignee assumes the Company's obligations under this Agreement in writing. Upon an assignment and assumption under clauses (i) through (iii), the Company is released from the obligations assumed.

(b) **Mortgagee Protections.** If the Company has given the City written notice of the name and address of a Mortgagee, the City shall give that Mortgagee a copy of each notice of default given to the Company, the Mortgagee shall have the right (but not the obligation) to cure any default within the cure period afforded the Company plus thirty (30) days, and the City shall not terminate this Agreement during that period if the Mortgagee is diligently pursuing a cure. A Mortgagee that acquires the Project Site by foreclosure or deed in lieu of foreclosure, and any purchaser from the Mortgagee, shall take subject to and with the benefit of this Agreement upon assuming the Company's obligations in writing.

(c) **Binding Effect; Covenants Running with the Land.** This Agreement binds and benefits the Parties and their respective successors and assigns for the Term, as provided in Subchapter G. The provisions of Article 6 touch and concern the Project Site, run with the land, and bind and benefit each successive owner of the Project Site or any part of it.

(d) **Designated Owner.** The Company may designate an Affiliate to acquire fee simple title to the Project Site at Closing (an "**Owner**") by written notice to the City given not later than ten (10) days before Closing. The Owner shall join this Agreement at Closing by executing the Closing Ratification, upon which the Owner becomes a Party and the landowner for all purposes of Subchapter G; the Company and the Owner shall be jointly and severally liable for the obligations of the Company under this Agreement; references in this Agreement to the Company as the owner of the Project Site, including in Article 6, the Annexation Petition, and the Services Agreement, include the Owner; the City shall deliver the Statutory Disclosure to the Owner at Closing as provided in Section 4.07(c); the Grant Payments shall be paid to the Company unless the Company directs otherwise in writing; and a conveyance of all or part of the Project Site between the Company and the Owner, or between either of them and another Affiliate that joins this Agreement in the same manner, is a Permitted Assignment under clause (a) of this Section.

Section 11.04 Waiver. No term or condition of this Agreement shall be deemed to have been waived, and no estoppel shall arise to enforce any provision of this Agreement, except by written instrument of the Party charged with the waiver or estoppel.

Section 11.05 Notices. Any notice, statement, or communication required or permitted under this Agreement shall be in writing and shall be delivered by hand, by reputable overnight courier, or by certified mail, return receipt requested, with a copy by email, and shall be deemed delivered when received at the address of the recipient Party set forth below or at such other address as the recipient Party may designate by notice:

If to the City: City of San Marcos, Texas, 630 East Hopkins Street, San Marcos, Texas 78666, Attention: City Manager; with a copy to: City of San Marcos, Texas, 630 East Hopkins Street, San Marcos, Texas 78666, Attention: City Attorney.

If to the Company: Daimler Truck North America LLC, 4555 North Channel Avenue, Portland, Oregon 97217, Attention: Legal Department; with a copy to: Nelson Mullins Riley & Scarborough LLP, 1111 Bagby Street, Suite 2100, Houston, Texas 77002, Attention: Dustin R. Webber.

Section 11.06 Applicable Law and Venue. This Agreement is made under and shall be construed and interpreted in accordance with the laws of the State of Texas, without regard to its conflict-of-laws rules. Venue for any adjudication of a claim arising under this Agreement shall lie in the state courts located in Caldwell County, Texas, or, if jurisdiction is appropriate in federal court, in the United States District Court for the Western District of Texas, Austin Division, and no matter related to this Agreement may be transferred to another federal district.

Section 11.07 Severability; Reformation. If any provision of this Agreement is held illegal, invalid, or unenforceable under present or future law, the remainder of this Agreement shall not be affected, and the Parties intend that, in lieu of the illegal, invalid, or unenforceable provision, there be added to this Agreement a provision that is legal, valid, and enforceable and as similar in terms to the affected provision as possible, and that any court adjudicating a claim under this Agreement reform the affected provision to the minimum extent necessary to make it enforceable.

Section 11.08 Third Parties. This Agreement does not benefit or create any right or cause of action in or on behalf of any person other than the City, the Company, and their permitted successors and assigns, except that (a) the indemnification obligations of the Company inure to the benefit of the indemnitees named in Section 10.06, (b) a Mortgagee may enforce Section 11.03(b), and (c) the Developer may enforce the City Development Agreement Release in accordance with its terms. The County is not a third-party beneficiary of this Agreement.

Section 11.09 No Joint Venture. Nothing in this Agreement creates a partnership, joint venture, or joint enterprise between the Parties or appoints either Party as an agent of the other for any purpose. Except as otherwise specifically provided in this Agreement, neither Party assumes any liability of the other for the acts or obligations of the other.

Section 11.10 Statutory Verifications. To the extent Chapters 2271, 2274, and 2276, Texas Government Code, apply to this Agreement, the Company verifies that it (a) does not boycott Israel and will not boycott Israel during the Term, within the meaning of Chapter 2271; (b) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the Term, within the meaning of Chapter 2274; and (c) does not boycott energy

companies and will not boycott energy companies during the Term, within the meaning of Chapter 2276.

Section 11.11 Prohibited Contracts with Listed Companies. Section 2252.152, Texas Government Code, prohibits the City from entering into a governmental contract with a company that is identified on a list prepared and maintained under Section 2252.153 or Section 2270.0201 (formerly Sections 806.051 and 807.051), Texas Government Code. The Company certifies that, as of the Approval Date, it is not identified on any such list.

Section 11.12 Waiver of Immunity; Statutory Remedies. This Agreement is a contract within the meaning of Section 212.172(a)(2), Texas Local Government Code, and, as provided by Section 212.172(i) of that code, the City waives immunity from suit for the purpose of adjudicating a claim for breach of this Agreement. As provided by Section 212.172(j) of that code, actual damages, specific performance, or injunctive relief may be granted in an adjudication brought against the City for breach of this Agreement, and the total amount of money awarded is limited to the balance due and owed by the City under this Agreement as it may be amended, any amount owed by the Company as a result of the City's failure to perform under this Agreement, subject to Section 10.03, reasonable attorney's fees, and interest as allowed by law, including interest as calculated under Chapter 2251, Texas Government Code; damages may not include consequential damages, except as expressly allowed under Section 212.172(j)(2), or exemplary damages. For purposes of Section 212.172(j)(1), each Grant Payment for which funds have been appropriated, and each fee or charge collected from the Company in excess of the amounts fixed by this Agreement, Exhibit "C," or the Development Standards, is a balance due and owed by the City under this Agreement. To the extent Subchapter I, Chapter 271, Texas Local Government Code, applies to this Agreement, the City's immunity from suit is also waived to the extent provided by that subchapter. Except as provided in this Section 11.12 and as otherwise provided by applicable law, the City, in entering into this Agreement, does not waive its immunity from suit, and nothing in this Agreement waives any immunity of the City to suit or liability in tort. Nothing in this Section 11.12 is an acknowledgment by the Company that the City acts in a governmental, rather than a proprietary, capacity in entering into or performing this Agreement, and nothing in this Agreement limits any right or remedy available to the Company under the common-law distinction between governmental and proprietary functions.

Section 11.13 Public Subsidy Certification; Interested Parties. In accordance with Chapter 2264, Texas Government Code, the Company certifies that it does not and will not knowingly employ an undocumented worker, as that term is defined in Section 2264.001 of that code. If, after receiving a Grant Payment or other public subsidy under this Agreement, the Company, or a branch, division, or department of the Company, is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company shall repay the amount of the public subsidy received, with simple interest at the rate of five percent (5%) per annum from the date the subsidy was received, not later than the 120th day after the date the City notifies the Company of the violation, and this sentence constitutes the agreement regarding the rate and terms of interest required by Section 2264.053 of that code. Because this Agreement requires action by the City Council, Section 2252.908, Texas Government Code, requires the Company to submit a disclosure of interested parties on the form prescribed by the Texas Ethics Commission with the signed Agreement unless an exception applies; the Company represents that it is a wholly owned subsidiary of a publicly traded business entity and is therefore excepted under Section

2252.908(c)(4), and, if that exception is determined not to apply, the Company shall submit the disclosure within ten (10) business days after the City's written request.

Section 11.14 Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which is an original and all of which constitute one instrument, and signatures delivered by electronic means, including portable document format and electronic signature platforms, are effective as originals.

Section 11.15 Estoppel Certificates. Within fifteen (15) business days after written request by the Company, a Mortgagee, or a prospective assignee, the City shall deliver a certificate stating whether this Agreement is in full force and effect, whether it has been amended, whether to the City's knowledge any default exists under it, the number of Grant Payments made and remaining, and any other factual matter reasonably requested.

Section 11.16 Dispute Resolution. Before commencing an adjudication of a claim under this Agreement, other than an action for injunctive relief to prevent irreparable harm, the Party asserting the claim shall give the other Party written notice describing the claim, the representatives of the Parties responsible for the Project shall meet within fifteen (15) days after the notice, and, if the claim is not resolved at that meeting, the City Manager and an executive officer of the Company shall meet within thirty (30) days after the notice. If the claim remains unresolved sixty (60) days after the notice, either Party may proceed with an adjudication. Nothing in this Section tolls any contractual or statutory deadline.

Section 11.17 Term; Survival. The Term of this Agreement commences on the Effective Date and continues until December 31 of the Year in which the last of the twenty (20) Grant Payments is earned, as that date may be extended under Section 6.03(d), Section 8.03, Section 10.04, and Section 10.05, unless this Agreement is sooner terminated in accordance with its terms; provided that the total duration of this Agreement, including all extensions, shall not exceed forty-five (45) years from the Effective Date, as required by Subchapter G. The Company's obligation to submit the Compliance Certificate for the last Year of the Term and the City's obligation to make the Grant Payment for that Year survive the expiration of the Term until satisfied. The provisions of Section 6.05, Section 6.06, Section 6.09, Section 6.10, Section 6.12, Section 6.17, Section 9.03, Section 10.03, Section 10.06, and this Article 11 survive the expiration or termination of this Agreement and any annexation of or release of the Project Site from the ETJ, and, as provided by Subchapter G, annexation of the Project Site does not invalidate the enforceability of this Agreement or infringe on the rights of a Party to adjudicate a claim arising under it.

Section 11.18 Comptroller Reporting; Website Link. The City shall submit the information required by Section 380.004, Texas Local Government Code, and Section 403.0246, Texas Government Code, to the Comptroller of Public Accounts not later than the 14th day after the date the City enters into, amends, or renews this Agreement, and shall provide on its website a direct link to the location of the agreement information on the Comptroller's website.

Section 11.19 Further Assurances. Each Party shall execute and deliver such further instruments, and take such further actions, as may be reasonably necessary to carry out the intent of this Agreement, including the execution of the Services Agreement, consents to the Tax Abatement Agreements, and any instrument required to record or give notice of this Agreement.

Section 11.20 Authority of City Manager. The City Manager is authorized to execute on behalf of the City the Services Agreement, estoppel certificates, administrative updates authorized by this Agreement, the Compliance Certificate acknowledgments, and the other instruments contemplated by this Agreement that do not require action of the City Council under applicable law.

EXECUTED by the Parties to be approved as of the Approval Date and effective as of the Effective Date.

CITY OF SAN MARCOS, TEXAS,
a Texas home-rule municipal corporation

By: _____
Name: Stephanie Reyes
Title: City Manager
Date: _____

ATTEST:

_____
Elizabeth Trevino, City Clerk

APPROVED AS TO FORM:

_____
Samuel J. Aguirre, City Attorney

DAIMLER TRUCK NORTH AMERICA LLC,
a Delaware limited liability company

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

JOINDER AND CONSENT OF DEVELOPER

Franklin Mountain San Marcos I, LP, a Texas limited partnership (the "**Developer**"), the owner of the Owned Land as of the Approval Date and the seller of the Project Site to the Company under the Purchase Agreement, joins in the foregoing Chapter 380 Economic Development Incentive and Development Agreement (the "**Agreement**") solely to (a) acknowledge that it received the Statutory Disclosure attached to the Agreement as Exhibit "G" on the date stated in its acknowledgment; (b) consent to the City's entry into the Agreement with respect to the Project Site, and to the recording of the Agreement against the Project Site upon the Effective Date; (c) confirm that, upon the Effective Date, the City Development Agreement Release governs the relationship between the City Development Agreement and the Project Site; (d) authorize the filing of applications for the Project in its name before Closing with the written authorization of the Company, as provided in Section 4.07(a) of the Agreement, and the assignment of those applications and the approvals issued on them to the Company at Closing; and (e) acknowledge Section 6.19 of the Agreement. The Developer assumes no obligation under the Agreement, and nothing in this Joinder and Consent amends the Purchase Agreement.

FRANKLIN MOUNTAIN SAN MARCOS I, LP,
a Texas limited partnership
By: Scarborough San Marcos GP LLC, a Texas limited liability company, its general partner

By: _____
Name: Ryan Burkhardt
Title: Manager
Date: _____

EXHIBIT "A"
Wages Schedule and Primary Job Categories

Minimum Average Annual Wage

The minimum average annual wage for all Jobs, measured in the aggregate for each calendar year as provided in Section 2.27(b) of the Agreement, is **$64,989.00**, subject to adjustment as provided in that clause. No minimum wage applies to any individual Job; temporary, seasonal, intern, cooperative-education, construction, and short-tenure positions are excluded from the count of Jobs and from the average under Section 2.27(b).

Primary Job Categories

The Project is expected to enable the Company to increase its capacity to satisfy long-term growth projections and serve its customers. At peak employment, the Company anticipates approximately 4,000 full-time W-2 Jobs, comprised of regionally hired production workers, assemblers, technicians, engineers, and management personnel, with most of the Jobs expected to fall within the Semi-Skilled Trades and Skilled Trades categories:

Semi-Skilled Trades – Example positions: production helpers, team assemblers, and maintenance and repair workers.

Skilled Trades – Example positions: millwrights, machinists, inspectors, testers, and sorters.

Administrative / Other Management – Example positions: facilities managers and engineers.

The categories and example positions above are illustrative only, do not constitute a commitment as to the number or proportion of positions in any category, and do not limit the positions that qualify as Jobs under Section 2.27 of the Agreement.

EXHIBIT "B"
Project Site
Legal Description and Depiction

The Project Site consists of approximately 611 acres of land situated in the William Pettus Survey, Abstract No. 21, Caldwell County, Texas, being:

1. approximately 320 acres owned by the Developer as of the Approval Date (the Owned Land), located within the extraterritorial jurisdiction of the City of San Marcos, Texas, and within the TriTexas Logistics Park, being a portion of the 1,213.119-acre tract described as Tract One in Exhibit "A" to the City Development Agreement; and

2. approximately 237 acres adjacent to the Owned Land (the Option Land), located in the unincorporated area of Caldwell County, Texas, outside the extraterritorial jurisdiction of the City of San Marcos, Texas, consisting of (i) approximately 73 acres owned as of the Approval Date by Proto-Land Fund I, L.P., a Delaware limited partnership, an affiliate of Earthship Corporation, a Delaware corporation (the "**Earthship Tract**"), (ii) approximately 163.6 acres that Earthship Corporation is under contract to acquire from its current owner (the "**Walton Tract**"),

3. (iii) approximately 54.4 acres that Earthship Corporation is under contract to acquire from its current owner (the "**McCulloch Tract**"), located within the extraterritorial jurisdiction of the City of San Marcos, all of which the Company has contracted to purchase from the Developer under the Purchase Agreement, subject to the Developer's acquisition of that land before Closing, all as more particularly described by metes and bounds in the survey to be prepared under the Purchase Agreement and inserted below before recording, and as depicted on the map that follows.

A METES AND BOUNDS DESCRIPTION OF A
611.000 ACRE TRACT OF LAND

BEING a 611.000-acre (26,615,160 square feet) tract of land in the William Pettus Survey, Abstract No. 21, Caldwell County, Texas; and containing the following tracts of land:

- a portion of that certain 660.503-acre tract described in instrument to Franklin Mountain San Marcos I, LP, recorded in Document No. 2021-008765, Official Public Records of Caldwell County, Texas (OPRCC),
- all that certain 1.55-acre tract described in instrument to Caldwell County, recorded in Volume 34, Page 312, Deed Records of Caldwell County, Texas (DRCC),
- a portion of that certain 98.806-acre tract described in instrument to Proto-Land GP LLC, recorded in Document No. 2026-008134, OPRCC,
- a portion of that certain 111.57-acre tract described in instrument to Henry Jr. and Barbara McCulloch, recorded in Volume 504, Page 634, OPRCC,
- all that certain 9.40-acre tract described in instrument to Henry Jr. and Barbara McCulloch, recorded in Document No. 2018-000301, OPRCC,
- a portion of that certain 573.65-acre tract called Tract 1, described in instrument to Walton Texas, LP, recorded in Volume 524, Page 599, and Volume 523, Page 710, OPRCC;

and being more particularly described as follows:

BEGINNING at an 8-inch corner wood post found on the westerly boundary of said 660.503-acre tract, marking the north corner of that certain 132.794-acre tract described in instrument to Franklin Mountain San Marcos I, LP, recorded in Document No. 2022-004832, OPRCC, and the southeast corner of that certain 213.68-acre tract called Tract 3, described in instrument to Franklin Mountain San Marcos I, LP, recorded in Document No. 2021-007604, OPRCC;

THENCE, along the common boundary of said 213.68-acre tract and said 660.503-acre tract, the following two (2) calls:

1. North 16°07'35" West, 819.98 feet to a ½-inch iron rod with cap stamped "KHA" set for corner;
2. North 13°47'23" West, 654.71 feet to a ½-inch iron rod found marking the southeast corner of Austin Street also known as Mill Road (width by occupation);

THENCE, North 10°04'40" West, 165.96 feet along the common boundary of said Austin Street and said 660.503-acre tract to a 2-inch metal fence post found marking the south corner of that certain 49.82-acre tract called Tract 1, described in instrument to James and Rocco Moses and Richard Lawrence, recorded in Document No. 136822, OPRCC;



10/27/2026

JOHN G. MOSIER
REGISTERED PROFESSIONAL
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EXHIBIT OF A 611.000 ACRE TRACT OF LAND
WILLIAM PETTUS SURVEY,
ABSTRACT NO. 21,
CALDWELL COUNTY, TEXAS

Kimley»Horn
10101 Reunion Place, Suite 400, San Antonio, Texas 78216 FIRM # 10115500
Tel. No. (210) 541-9166 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MRH	JGM	10/27/2026	065097000	1 OF 6

HOWARD, MICHAEL 10/27/2026 3:59 PM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\611.000 ACRE TRACT.DWG

A METES AND BOUNDS DESCRIPTION CONTINUED

THENCE, North 48°42'37" East, 1728.64 feet along the common boundary of said 49.82-acre tract and said 660.503-acre tract to a point for corner on the north boundary of a 100-foot-wide utility easement as shown on an ALTA survey by CTLS dated 10/14/21, described in instrument to Texas Public Utilities Company, Taylor-Hunter Transmission Line, recorded in Volume 105, Page 221, Volume 105, Page 472, and Volume 105, Page 217, and to Lower Colorado River Authority (LCRA), in Volume 284, Page 370, all in the OPRCC; said point bears North 48°42'37" East, 52.58 feet from a 3/8-inch iron pipe found marking the east corner of said 49.82-acre tract;

THENCE, over and across said 660.503-acre tract, the following two (2) calls:

1. South 88°30'09" East, 1916.42 feet along said 100-foot-wide utility easement to a point for corner;
2. South 42°21'24" East, 2455.64 feet to a ½-inch iron rod with cap stamped "UDG 2433" found marking a common corner of that certain 87.92-acre tract described in instrument to Walton Texas, LP, recorded in Document No. 113576, OPRCC, and aforesaid 98.806-acre tract;

THENCE, South 42°21'24" East,

- for a distance of 1258.08 feet along the common boundary of said 87.92-acre tract and said 98.806-acre tract to a steel post found marking a southwest corner of said 87.92-acre tract and an interior corner of said 98.806-acre tract,
- over and across said 98.806-acre tract for a distance of 1071.39 feet to the northwesterly boundary of aforesaid 111.57-acre tract,
- for a distance of 1552.66 feet over and across said 111.57-acre tract to a point for corner on the northwesterly boundary of State Highway Number 142 (140-foot right-of-way), recorded in Volume 107, Page 325, DRCC,
- for a **total distance of 3882.13 feet**; said point bears North 48°42'07" East, 23.51 feet from an iron pin found marking the south corner of that certain 26.267-acre tract described in instrument to Herman Hoffman Jr., recorded in Document No. 122519, OPRCC;

THENCE, along said State Highway Number 142, the following four (4) calls:

1. South 48°49'53" West, 1266.97 feet to a brass TXDOT disc found marking the east corner of aforesaid 9.40-acre tract;
2. South 48°45'38" West, 265.68 feet to a brass TXDOT disc found marking the south corner of said 9.40-acre tract and a southeast corner of aforesaid 1.55-acre tract;
3. South 48°49'04" West, 1360.09 feet to a brass TXDOT disc found at the beginning of a curve;
4. In a southwesterly direction along a tangent curve to the left, having a radius of 11535.15 feet, a chord of South 47°47'33" West, 412.81 feet, a central angle of 02°03'02", and an arc length of 412.83 feet to a point for corner;

EXHIBIT OF A 611.000 ACRE TRACT OF LAND
WILLIAM PETTUS SURVEY,
ABSTRACT NO. 21,
CALDWELL COUNTY, TEXAS

SURVEYOR'S SEAL AND SIGNATURE ON SHEET 1

Kimley»Horn
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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MRH	JGM	10/27/2026	065097000	2 OF 6

HOWARD, MICHAEL 10/27/2026 3:59 PM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\611.000 ACRE TRACT.DWG

A METES AND BOUNDS DESCRIPTION CONTINUED

THENCE, North 41°22'47" West, 3887.55 feet over and across said 573.65-acre tract to a point for corner with the common boundary of aforesaid 660.503-acre tract;

THENCE, South 48°55'05" West, 1393.78 feet along the common boundary of said 573.65-acre tract and said 660.503-acre tract to a ½-inch iron rod with orange cap found marking the south corner of said 660.503-acre tract and the southeast corner of aforesaid 132.794-acre tract;

THENCE, along the common boundary of said 660.503-acre tract and said 132.794-acre tract, the following ten (10) calls:

1. North 12°19'27" West, 294.27 feet to a ½-inch iron rod with cap stamped "KHA" set for corner;
2. North 00°29'08" East, 227.76 feet to a ½-inch iron rod with orange cap found for corner;
3. North 36°29'58" West, 285.03 feet to a ½-inch iron rod with cap stamped "KHA" set for corner;
4. North 56°31'24" West, 234.85 feet to a ½-inch iron rod with orange cap found for corner;
5. North 50°24'12" West, 99.77 feet to a ½-inch iron rod with orange cap found for corner;
6. North 27°14'34" West, 102.53 feet to a ½-inch iron rod with orange cap found for corner;
7. North 22°46'26" West, 255.44 feet to a ½-inch iron rod with orange cap found for corner;
8. North 43°47'05" East, 190.39 feet to a ½-inch iron rod with cap stamped "KHA" set for corner;
9. North 39°18'59" West, 241.63 feet to a ½-inch iron rod found for corner;
10. North 26°29'13" West, 668.36 feet to the **POINT OF BEGINNING**, and containing 611.000 acres of land in Caldwell County, Texas. The basis of this description is the Texas State Plane Coordinate System, South Central Zone (FIPS 4204) (NAD'83). All distances are on the Surface and shown in U.S. Survey Feet. The Combined Surface to Grid Scale Factor is 0.9998700168. This description was generated on 10/27/2026 at 1:34 PM, based on geometry in the drawing file K:\SNA_Survey\065097000-Project Hercules\Dwg\Exhibits\611.000 acre tract.dwg, in the office of Kimley-Horn and Associates in San Antonio, Texas.

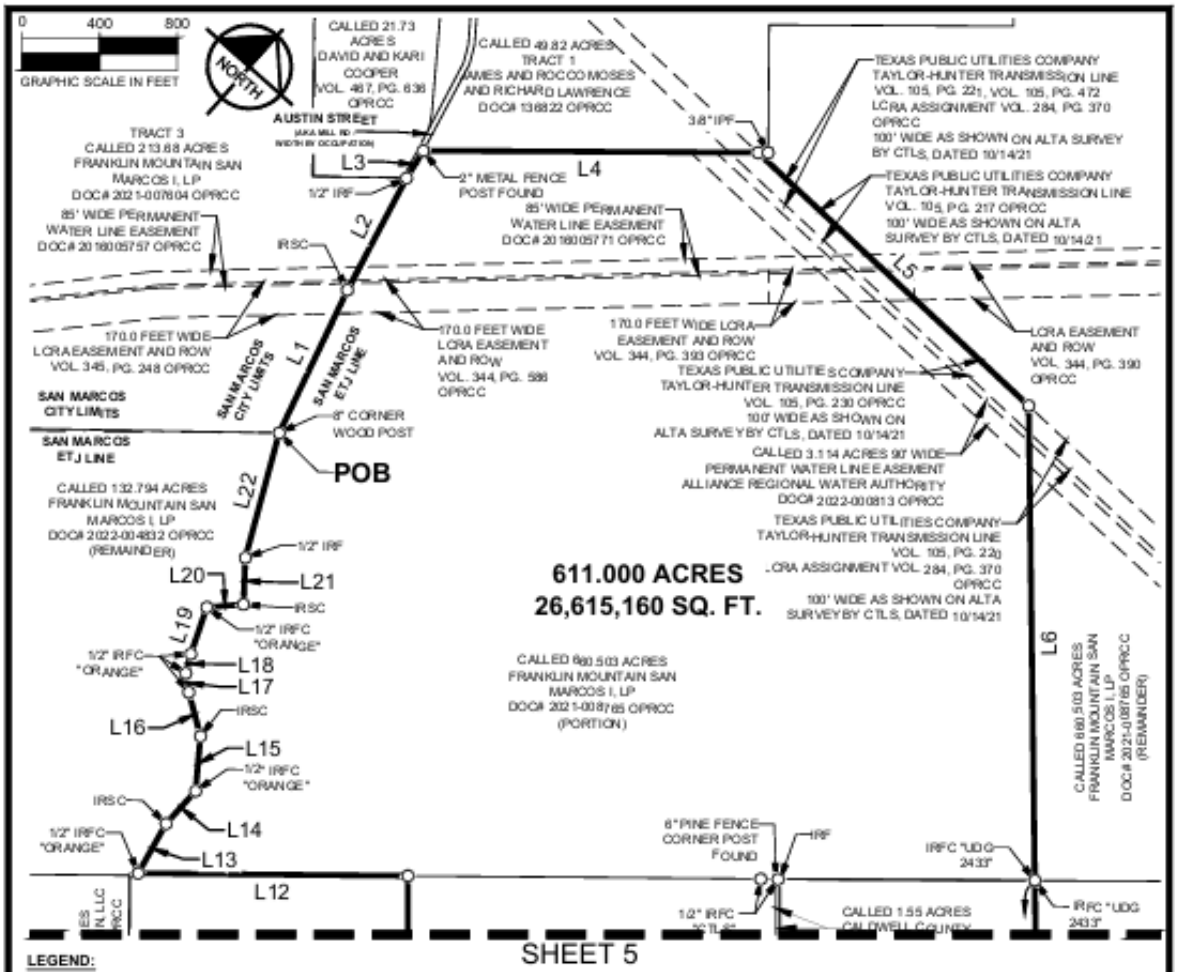
EXHIBIT OF A 611.000 ACRE TRACT OF LAND
WILLIAM PETTUS SURVEY,
ABSTRACT NO. 21,
CALDWELL COUNTY, TEXAS

SURVEYOR'S SEAL AND SIGNATURE ON SHEET 1

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MRH	JGM	10/27/2026	065097000	3 OF 6

HOWARD, MICHAEL 10/27/2026 3:59 PM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\611.000 ACRE TRACT.DWG



LEGEND:

MONUMENTS ARE AT GRADE UNLESS OTHERWISE NOTED
POB = POINT OF BEGINNING
IRSC = 1/2" IRON ROD W/ "KHA" CAP SET
NS = MAG NAIL W/SHINER STAMPED "KHA" SET
IRF = IRON ROD FOUND
IRFC = IRON ROD FOUND (W/CAP STAMPED "_____")
IPF = IRON PIPE FOUND
CM = TxDOT TYPE I CONCRETE MONUMENT
BD = TxDOT TYPE II BRASS DISC
AD = TxDOT TYPE III ALUMINUM DISC
O = GEOMETRIC BREAK UNLESS OTHERWISE NOTED
DRCC = DEED RECORDS OF CALDWELL COUNTY, TEXAS
OPRCC = OFFICIAL PUBLIC RECORDS OF CALDWELL COUNTY, TEXAS

SURVEYOR'S CERTIFICATION: THIS LEGAL DESCRIPTION IS BASED ON A FIELD SURVEY BY KIMLEY-HORN PERSONNEL. NO TITLE RESEARCH WAS PROVIDED IN THE PREPARATION OF THIS EXHIBIT. NO IMPROVEMENTS ARE SHOWN. ALL EXISTING EASEMENTS MAY NOT BE SHOWN. THIS IS NOT A LAND TITLE SURVEY.

GEODETIC NOTE: THE BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (FIPS 4204) (NAD'83), AS DETERMINED BY THE GLOBAL POSITIONING SYSTEM (GPS). ALL DISTANCES SHOWN HEREON ARE ON THE SURFACE. THE COMBINED SURFACE TO GRID SCALE FACTOR FOR THE PROJECT IS 0.9998700168. THE UNIT OF LINEAR MEASUREMENT IS U.S. SURVEY FEET.

SURVEYOR'S SEAL AND SIGNATURE ON SHEET 1

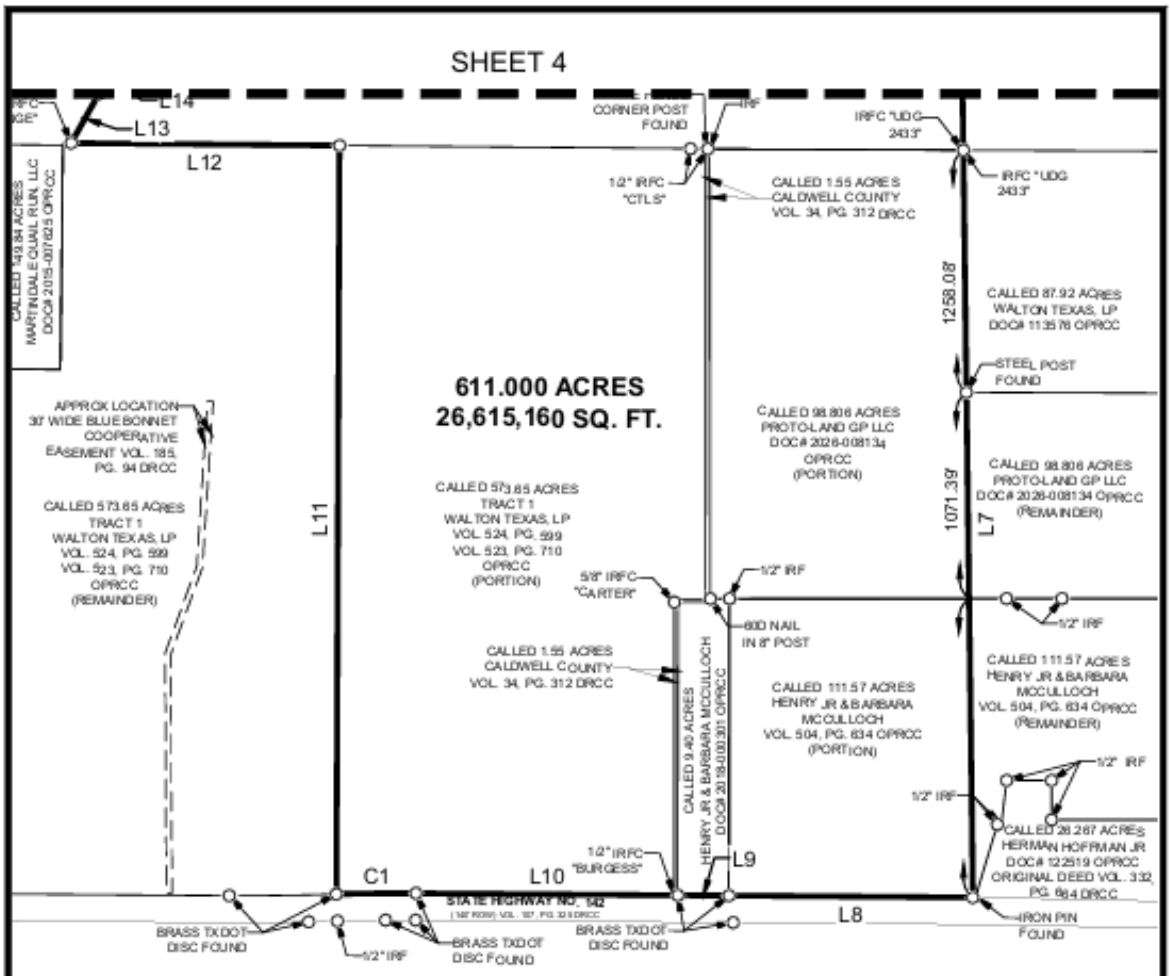
EXHIBIT OF A 611.000 ACRE TRACT OF LAND

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 800'	MRH	JGM	10/27/2026	065097000	4 OF 6

HOWARD, MICHAEL 10/27/2026 3:59 PM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\611.000 ACRE TRACT.DWG



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SURVEYOR'S SEAL AND SIGNATURE ON SHEET 1

EXHIBIT OF A 611.000 ACRE TRACT OF LAND

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
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HOWARD, MICHAEL 10/27/2026 3:59 PM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\611.000 ACRE TRACT.DWG

LINE TABLE		
NO.	BEARING	LENGTH
L1	N16°07'35"W	819.98'
L2	N13°47'23"W	654.71'
L3	N10°04'40"W	165.96'
L4	N48°42'37"E	1728.64'
L5	S88°30'09"E	1916.42'
L6	S42°21'24"E	2455.64'
L7	S42°21'24"E	3882.13'
L8	S48°49'53"W	1286.97'
L9	S48°45'38"W	265.68'
L10	S48°49'04"W	1360.09'
L11	N41°22'47"W	3887.55'
L12	S48°55'05"W	1393.78'
L13	N12°19'27"W	294.27'
L14	N00°29'08"E	227.76'
L15	N36°29'58"W	285.03'
L16	N56°31'24"W	234.85'
L17	N50°24'12"W	99.77'
L18	N27°14'34"W	102.53'
L19	N22°46'26"W	255.44'
L20	N43°47'05"E	190.39'
L21	N39°18'59"W	241.63'
L22	N26°29'13"W	668.36'

CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	2°03'02"	11535.15'	412.83'	S47°47'33"W	412.81'

SURVEYOR'S SEAL AND SIGNATURE ON SHEET 1

EXHIBIT OF A 611.000 ACRE TRACT OF LAND

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 800'	MRH	JGM	10/27/2026	065097000	6 OF 6

HOWARD, MICHAEL 10/27/2026 3:59 PM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\611.000 ACRE TRACT.DWG

EXHIBIT "B-1"
Owned Land
Legal Description and Depiction of the Project Site upon an Owned Land Closing

Upon an Owned Land Closing under Section 6.19, the Project Site consists of the approximately 320 acres of land situated in the William Pettus Survey, Abstract No. 21, Caldwell County, Texas, within the extraterritorial jurisdiction of the City of San Marcos, Texas, owned by the Developer as of the Approval Date, being a portion of the 1,213.119-acre tract described as Tract One in Exhibit "A" to the City Development Agreement, as more particularly described by metes and bounds in the survey to be prepared under the Purchase Agreement and inserted below, and as depicted on the map that follows.

A METES AND BOUNDS DESCRIPTION OF A 319.589 ACRE TRACT OF LAND

BEING a 319.589 acre (13,921,283 square feet) tract of land in the William Pettus Survey, Abstract No. 21, Caldwell County, Texas; and being a portion of that certain 660.503 acre tract described in instrument to Franklin Mountain San Marcos I, LP, recorded in Document No. 2021-008765, Official Public Records of Caldwell County, Texas (OPRCC); and being more particularly described as follows:

BEGINNING at a 1/2-inch bent iron rod found on the westerly boundary of said 660.503 acre tract, marking the north corner of that certain 132.794 acre tract described in instrument to Franklin Mountain San Marcos I, LP, recorded in Document No. 2022-004832, OPRCC, and the southeast corner of that certain 213.68 acre tract called Tract 3, described in instrument to Franklin Mountain San Marcos I, LP, recorded in Document No. 2021-007604, OPRCC;

THENCE, along the common boundary of said 213.68 acre tract and said 660.503 acre tract, the following two (2) calls:

1. North 16°07'35" West, 819.98 feet to a 1/2-inch iron rod with cap stamped "KHA" set for corner;
2. North 13°47'23" West, 654.71 feet to a 1/2-inch iron rod found marking the southeast corner of Austin Street also known as Mill Road (width by occupation);

THENCE, North 10°04'40" West, 165.96 feet along the common boundary of said Austin Street and said 660.503 acre tract, to a 2-inch metal fence post found marking the south corner of that certain 49.82 acre tract called Tract 1, described in instrument to James and Rocco Moses and Richard Lawrence, recorded in Document No. 136822, OPRCC;

THENCE, North 48°42'37" East, 1,728.64 feet along the common boundary of said 49.82 acre tract and said 660.503 acre tract, to a point for corner on the north boundary of a 100-foot-wide utility easement as shown on an ALTA survey by CTLS dated 10/14/21, described in instrument to Texas Public Utilities Company, Taylor-Hunter Transmission Line, recorded in Volume 105, Page 221, Volume 105, Page 472, and Volume 105, Page 217, and to Lower Colorado River Authority (LCRA), in Volume 284, Page 370, all in the OPRCC; said point bears North 48°42'37" East, 52.58 feet to a 3/8-inch iron pipe found marking the east corner of said 49.82 acre tract;

THENCE, over and across said 660.503 acre tract, the following two (2) calls:

1. South 88°30'09" East, 1,916.42 feet along said 100-foot-wide utility easement to a point for corner;
2. South 42°21'24" East, 2,455.64 feet departing the north boundary of said 100-foot-wide utility easement to a 1/2-inch iron rod with cap stamped "UDG 2433" found marking the west corner of that certain 87.92 acre tract described in instrument to Walton Texas, LP, recorded in Document No. 113576, OPRCC, and the north corner of that certain 98.806 acre tract described in instrument to Proto-Land GP LLC, recorded in Document No. 2026-008134, OPRCC;

THENCE, South 48°37'42" West, 1,327.01 feet along the common boundary of said 98.806 acre tract and said 660.503 acre tract, to a 1/2-inch iron rod with cap stamped "CTLS" found for the northwest corner of that certain 1.55-acre tract described in instrument to Caldwell County, recorded in Volume 34, Page 312, Deed Records of Caldwell County, Texas (DRCC), and the north corner of that certain 573.65 acre tract described in instrument to Walton Texas, L.P., recorded in Volume 524, Page 599, and Volume 523, Page 710, OPRCC;

THENCE, South 48°54'59" West, 3306.10 feet along the common boundary of said 660.503 acre tract and said 573.65 acre tract to a 1/2-inch iron rod with orange cap found marking the southeast corner of aforesaid 132.794 acre tract;

THENCE, along the common boundary of said 660.503 acre tract and said 132.794 acre tract, the following ten (10) calls:

1. North 12°19'27" West, 294.27 feet to a 1/2-inch iron rod with cap stamped "KHA" set for corner;
2. North 00°29'08" East, 227.76 feet to a 1/2-inch iron rod with orange cap found for corner;
3. North 36°29'58" West, 285.03 feet to a 1/2-inch iron rod with cap stamped "KHA" set for corner;
4. North 56°31'24" West, 234.85 feet to a 1/2-inch iron rod with orange cap found for corner;
5. North 50°24'12" West, 99.77 feet to a 1/2-inch iron rod with orange cap found for corner;
6. North 27°14'34" West, 102.53 feet to a 1/2-inch iron rod with orange cap found for corner;
7. North 22°46'26" West, 255.44 feet to a 1/2-inch iron rod with orange cap found for corner;
8. North 43°47'05" East, 190.39 feet to a 1/2-inch iron rod with cap stamped "KHA" set for corner;
9. North 39°18'59" West, 241.63 feet to a 1/2-inch bent iron rod found for corner;
10. North 26°29'13" West, 668.36 feet to the **POINT OF BEGINNING**, and containing 319.589 acres of land in Caldwell County, Texas. The basis of this description is the Texas State Plane Coordinate System, South Central Zone (FIPS 4204) (NAD'83). All distances are on the Surface and shown in U.S. Survey Feet. The Combined Surface to Grid Scale Factor is 0.9998700168. This description was generated on 11/7/2026 at 7:51 AM, based on geometry in the drawing file K:\SNA_Survey\065097000-Project Hercules\Dwg\Exhibits\319.589 acre tract.dwg, in the office of Kimley-Horn and Associates in San Antonio, Texas.



John G. Mosier

JOHN G. MOSIER
REGISTERED PROFESSIONAL
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GREG.MOSIER@KIMLEY-HORN.COM

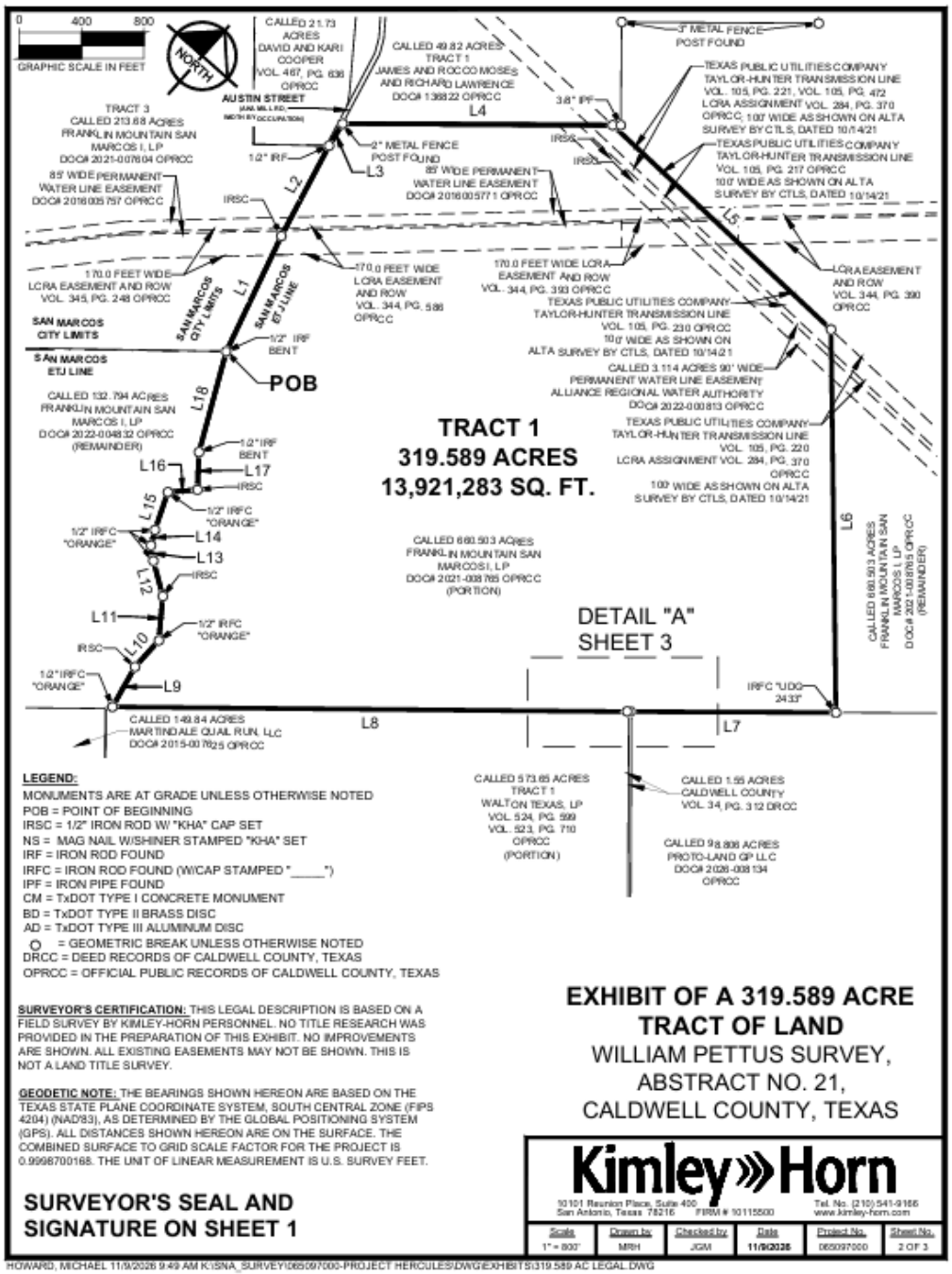
11/9/2026

EXHIBIT OF A 319.589 ACRE TRACT OF LAND
WILLIAM PETTUS SURVEY, ABSTRACT NO. 21, CALDWELL COUNTY, TEXAS

Kimley»Horn
10101 Reunion Place, Suite 400, San Antonio, Texas 78216 FIRM # 10115500 Tel. No. (210) 541-9166 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MRH	JGM	11/9/2026	065097000	1 OF 3

HOWARD, MICHAEL 11/9/2026 9:49 AM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\319.589 AC LEGAL.DWG



LEGEND:

MONUMENTS ARE AT GRADE UNLESS OTHERWISE NOTED
POB = POINT OF BEGINNING
IRSC = 1/2" IRON ROD W/ "KHA" CAP SET
NS = MAG NAIL W/SHINER STAMPED "KHA" SET
IRF = IRON ROD FOUND
IRFC = IRON ROD FOUND (W/CAP STAMPED "_____")
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CM = TxDOT TYPE I CONCRETE MONUMENT
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DRCC = DEED RECORDS OF CALDWELL COUNTY, TEXAS
OPRCC = OFFICIAL PUBLIC RECORDS OF CALDWELL COUNTY, TEXAS

SURVEYOR'S CERTIFICATION: THIS LEGAL DESCRIPTION IS BASED ON A FIELD SURVEY BY KIMLEY-HORN PERSONNEL. NO TITLE RESEARCH WAS PROVIDED IN THE PREPARATION OF THIS EXHIBIT. NO IMPROVEMENTS ARE SHOWN. ALL EXISTING EASEMENTS MAY NOT BE SHOWN. THIS IS NOT A LAND TITLE SURVEY.

GEODETIC NOTE: THE BEARINGS SHOWN HEREON ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE (FIPS 4204) (NAD/83), AS DETERMINED BY THE GLOBAL POSITIONING SYSTEM (GPS). ALL DISTANCES SHOWN HEREON ARE ON THE SURFACE. THE COMBINED SURFACE TO GRID SCALE FACTOR FOR THE PROJECT IS 0.9998700168. THE UNIT OF LINEAR MEASUREMENT IS U.S. SURVEY FEET.

SURVEYOR'S SEAL AND SIGNATURE ON SHEET 1

EXHIBIT OF A 319.589 ACRE TRACT OF LAND

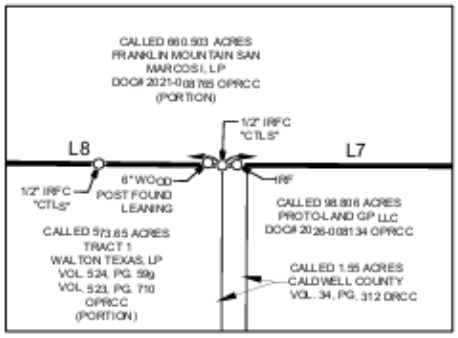
WILLIAM PETTUS SURVEY, ABSTRACT NO. 21, CALDWELL COUNTY, TEXAS

Kimley»Horn
10101 Reunion Place, Suite 400 San Antonio, Texas 78216 FIRM # 10115500 Tel. No. (210) 541-9166 www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 800'	MRH	JGM	11/9/2026	065097000	2 OF 3

HOWARD, MICHAEL 11/9/2026 9:49 AM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\319.589 AC LEGAL.DWG

LINE TABLE		
NO.	BEARING	LENGTH
L1	N16°07'35"W	819.98'
L2	N13°47'23"W	654.71'
L3	N10°04'40"W	165.96'
L4	N48°42'37"E	1728.64'
L5	S88°30'09"E	1916.42'
L6	S42°21'24"E	2455.64'
L7	S48°37'42"W	1327.01'
L8	S48°54'59"W	3308.10'
L9	N12°19'27"W	294.27'
L10	N00°29'08"E	227.76'
L11	N36°29'58"W	285.03'
L12	N56°31'24"W	234.85'
L13	N50°24'12"W	99.77'
L14	N27°14'34"W	102.53'
L15	N22°46'26"W	255.44'
L16	N43°47'05"E	190.39'
L17	N39°18'59"W	241.63'
L18	N26°29'13"W	668.36'



DETAIL "A" SCALE: 1" = 100'

EXHIBIT OF A 319.589 ACRE TRACT OF LAND
WILLIAM PETTUS SURVEY,
ABSTRACT NO. 21,
CALDWELL COUNTY, TEXAS

SURVEYOR'S SEAL AND SIGNATURE ON SHEET 1

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MRH	JGM	11/03/2026	065097000	3 OF 3

HOWARD, MICHAEL 11/3/2026 9:49 AM K:\SNA_SURVEY\065097000-PROJECT HERCULES\DWG\EXHIBITS\319.589 AC LEGAL.DWG

EXHIBIT "C"
City Incentives and Development Commitments

This Exhibit "C" sets forth the City Incentives and Development Commitments referred to in Section 5.01 of the Agreement. Capitalized terms have the meanings given in the Agreement. Each commitment below is a contractual obligation of the City under the Agreement, enforceable as provided in Section 11.12, except where the commitment is expressly stated to be a matter for the City's consideration or evaluation.

Part I. Incentives and Commitments Under Section 5.01

1. **Workforce Development.** Workforce development, job fair, and educational partnerships. The City will provide in-kind support for the Company's recruiting and training efforts, including, for example, no-cost use of City training rooms and meeting facilities, job fair support, and access to educational and training facilities, in coordination with City and regional workforce and education partners, including Texas State University, Austin Community College, Workforce Solutions Rural Capital Area, and local and area public school districts.

2. **Permit Application Fees.** All permit application fees paid to the City in connection with the Project shall be subject to the following fee use provisions: (i) The City may retain and use such fees to pay for the retention of third-party contractors, professionals, city staff, and consultants to assist with or manage the processing and review of applications submitted, and inspections required, for the Project; (ii) The City may also use such fees to retain third-party professionals to supplement the review and processing of applications and inspections for other projects, thereby freeing City staff capacity to support the timely processing, review, and inspection of the Project; and (iii) The City shall have discretion in determining the appropriate allocation and use of such fees for these purposes to meet the Company's construction schedule. **Nothing in this Section shall be construed to require the City to waive, credit, or refund any properly assessed permit application fees paid in connection with the Project.** The City shall engage those third-party providers within fifteen (15) business days after the Company's request. This section does not apply to impact fees (which are governed by Section 6.10 of the Agreement), to utility capacity, tap, meter, or connection charges, or to fees payable to the County. Fees payable to the County are governed by the Interlocal Cooperative Agreement between the City of San Marcos and Caldwell County for regulation of development within the Hercules Tract located in Caldwell County, including land within the extraterritorial jurisdiction of the City of San Marcos and land in unincorporated Caldwell County outside the extraterritorial jurisdiction.

3. **Project Ombudsperson.** Within fifteen (15) days after the Approval Date, the City shall designate in writing a project ombudsperson, who shall be an employee or contractor of the City with authority to coordinate among all City departments and to direct the City's third-party consultants, and who shall serve as the Company's single point of contact for, and shall facilitate, all City permitting, plan review, inspection, utility, annexation, and zoning matters for the Project, including coordination with the County's designated representative under the Interlocal Agreement. The designation shall continue from the Approval Date through the later of (i) issuance of the final certificate of occupancy for the Company's initial manufacturing facility on the Project Site and (ii) the effective date of the ordinance zoning the Project Site under Section

6.05 of the Agreement, and thereafter during the permitting and construction of any subsequent phase or expansion of the Project. The City shall notify the Company in writing within ten (10) business days after any change in the designated ombudsperson and shall promptly designate a qualified replacement. Nothing in this paragraph authorizes the City's ombudsperson to act on behalf of the County; the County's retained functions, and the County's representative, are identified in the Interlocal Agreement.

4. **Infrastructure Assistance Grant.** Consistent with the City's Economic Development Policy (Resolution No. 2013-185R, as amended through Resolution No. 2022-94R), the City shall provide, as approved by the City Council in approving this Agreement, an infrastructure assistance grant of Fifty Thousand Dollars ($50,000.00) to be applied, at the Company's election, to fee waivers or to the cost of improving or extending electric, water, or wastewater lines within the City's service area serving the Project Site, payable within thirty (30) days after the Company's written request accompanied by evidence of the eligible cost.

5. **Expedited Permitting.** The City shall review and act on applications for the Project within the timelines established by the Permitting Process and shall coordinate with the County to expedite any County action required for the Project under the Interlocal Agreement.

6. **Wastewater Rate.** As provided in Section 6.10 of the Agreement, retail wastewater service to the Project Site shall be provided, before and after annexation, at the following rates per 1,000 gallons of metered wastewater flow (or, if the Company's wastewater is not separately metered, of metered water consumption less documented consumptive use), for the calendar years shown:

Rate period	**Rate per 1,000 gallons**	**Basis**
From the commencement of retail wastewater service through the Rate Hold Date	$4.64	Negotiated volumetric rate stated in the City's November 5, 2026, schedule, held constant through the Rate Hold Date
First calendar year after the Rate Hold Date	$5.11	Fixed
Second through sixth calendar years after the Rate Hold Date	$5.13	Fixed
Seventh calendar year after the Rate Hold Date and each calendar year thereafter through the end of the Term	Prior year rate × 1.035, rounded to the nearest cent	Annual escalator of three and one-half percent (3.5%), compounded, subject to the parity limitation below

The "**Rate Hold Date**" is the later of (i) December 31, 2029, and (ii) the last day of the first full calendar year following the Operation Date; by way of illustration, if the Operation Date occurs on December 31, 2030, the Rate Hold Date is December 31, 2031, the $4.64 rate applies through 2031, the $5.11 rate applies for 2032, the $5.13 rate applies for 2033 through 2037, and the escalator first applies for 2038. In no event shall the volumetric rate payable by the Company for any period exceed the lowest volumetric wastewater rate then charged by the City to any class

of its non-residential wastewater customers under its rate ordinance (the "**Parity Rate**"; as of the Approval Date, the rate ordinance is Ordinance No. 2026-40, under which the volumetric rate for flow above the minimum-charge allowance is $9.34 per 1,000 gallons inside the City and $11.67 per 1,000 gallons outside the City), and once the Company's volumetric rate equals the Parity Rate, each subsequent increase in the Company's rate shall not exceed the percentage increase applied to the Parity Rate for the same period. Because the City's rate ordinance in effect on the Approval Date contains no industrial rate class, the City shall adopt by ordinance, before the date retail service begins, any rate class or contract rate necessary to implement this paragraph. Monthly base or meter charges, and surcharges for discharges exceeding the parameters of the City's generally applicable industrial pretreatment requirements (including the City's chemical oxygen demand surcharge), apply at the rates generally applicable to the City's non-residential wastewater customers. The rates in this paragraph apply before and after annexation, notwithstanding the City's separate outside-City rate classes, and are not conditioned on annexation of the Project Site; they continue to apply upon any release of the Project Site from the ETJ as provided in Section 6.06 of the Agreement.

7. **Supplier Attraction Program.** The City shall establish, within one hundred eighty (180) days after the Effective Date, a supplier attraction program for suppliers to the Project that may include property tax rebates under Chapter 380, Texas Local Government Code, site and infrastructure assistance of up to Fifty Thousand Dollars ($50,000.00) in fee waivers and infrastructure assistance per eligible supplier, and workforce training support, subject to the eligibility criteria of the program, which shall be no less favorable than the criteria of the City's Economic Development Policy. The program shall be available during all phases of the Project and thereafter as supply chain vendors locate in the City or its extraterritorial jurisdiction.

8. **Right-of-Way Contribution for William Pettus Road.** To support the extension and expansion of William Pettus Road, and subject to applicable governmental approvals, the City will obtain an appraisal of, and will consider in good faith a substantially reduced cost of approximately nine (9) acres of City-owned property (Caldwell Appraisal District Property ID R35983 and R121633) as a right-of-way contribution to the William Pettus Road improvement project, subject to state and federal regulatory approval.

9. **Nomination for Texas Enterprise Zone Program.** The City has elected to participate in the Texas Enterprise Zone Program under Chapter 2303, Texas Government Code, by Ordinance No. 2011-42, and the local incentives offered under this Agreement are the same on the Approval Date as those outlined in that ordinance. If requested by the Company, the City shall adopt, at the first regular City Council meeting for which notice can lawfully be given after the request, the ordinance required by Subchapter F, Chapter 2303, Texas Government Code, nominating the Project as an enterprise project, and shall submit the nomination to the Texas Economic Development Bank, subject to eligibility and approval by the Office of the Governor.

10. **Transportation Reinvestment Zone.** A transportation reinvestment zone under Subchapter E, Chapter 222, Texas Transportation Code, is a potential financing mechanism for improvements to William Pettus Road. The City will evaluate, in coordination with Hays County and the County, whether a transportation reinvestment zone that excludes the Project Site, or that includes the Project Site with the Company's prior written consent under Section 6.14 of the Agreement, can assist in financing those improvements.

11. **Future Transit Stop.** The City will evaluate in good faith the creation of a new fare-free transit stop serving the Project Site, within the City's transit service area and in coordination with the Company, subject to state and federal regulatory approval, as applicable, and shall complete its evaluation and report its conclusions to the Company in writing no later than the Operation Date under Section 3.03 of the Agreement. The Company shall reserve space on the Project Site for a future transit facility or park-and-ride as provided in the Development Standards.

12. **San Marcos Regional Airport Access.** The City will consider a request by the Company for a corporate hangar or ground lease at the San Marcos Regional Airport, on the City's standard terms for comparable tenants, subject to Federal Aviation Administration approval and the City's grant assurances.

13. **Wastewater Will-Serve Letter.** The City's will-serve letter dated September 22, 2026, confirming the City's ability and intent to provide wastewater service to the Project Site for up to approximately 300,000 gallons per day of wastewater associated with the Project, and the anticipated completion of the City's approximately 4 million gallon per day peak wet weather flow lift station by the end of calendar year 2027, is attached to this Exhibit "C" as Schedule C-1. The capacity reserved for the Project for the Term is provided in Section 5.02 of the Agreement, and the City acknowledges the ramp in average daily wastewater flow set forth in the Post Closing Seller Work Agreement, from approximately 5,000 gallons per day in 2028 to approximately 300,000 gallons per day in 2034 and thereafter, as the basis for the phased availability of the reserved capacity and agrees that the ramp is not a material change in phasing, timing, or wastewater demand for purposes of the will-serve letter. Interim service by temporary holding tanks and hauling while City service is unavailable is governed by Section 6.10 of the Agreement. As between the City and the Company, if any condition or statement in the will-serve letter, including any condition relating to annexation, infrastructure or oversizing costs, or the connection point, is inconsistent with the Agreement, the Agreement controls. If the updated will-serve letter requested from the City on November 10, 2026, is delivered before the Effective Date, it shall replace the letter dated September 22, 2026, as Schedule C-1.

14. **Special District and Certificate Matters.** Upon the Company's request, the City shall consent to, and shall not oppose, (i) the exclusion from Cotton Center Municipal Utility District No. 1 of any portion of the Project Site under Subchapter J, Chapter 49, Texas Water Code, and (ii) the release of the Project Site from any water or sewer certificate of convenience and necessity, other than the City's, to the extent necessary for the City to provide wastewater service to the Project Site, and the City shall execute any consent or joinder reasonably required for those purposes within fifteen (15) business days after request.

Part II. Support Under Section 5.03

1. **Texas Enterprise Fund.** As part of the Company's application to the Texas Enterprise Fund under Subchapter E, Chapter 481, Texas Government Code, the City shall submit a letter of support and any documentation requested by the Office of the Governor within ten (10) business days after the Company's request, and the City Manager is authorized to execute any local-government certification required for the application.

2. **Road Improvements.** Upon the Company's request, the City shall provide letters of support and advocacy to the County, Hays County, the Texas Department of Transportation, the Capital Area Metropolitan Planning Organization, and the SH 130 Concession Company LLC for road improvements to State Highway 142, State Highway 80, Farm-to-Market Road 1984, Loop 110, William Pettus Road, State Highway 130, and the other roadways that support ingress, egress, and overall connectivity to the Project Site, and shall include those improvements in the City's transportation planning requests.

Schedule C-1. Wastewater Will-Serve Letter

September 22, 2026

Project Hercules

Re: City of San Marcos Wastewater Utility Will-Serve Letter for Project Hercules

Dear Project Hercules Team:

The City of San Marcos, Texas appreciates the opportunity to work with you and your client regarding Project Hercules. We are excited about the potential for this project to locate in San Marcos and look forward to working collaboratively with your team to support its successful development in our community.

This letter serves as a formal confirmation that the City of San Marcos, Texas has received your request for wastewater utility service for Project Hercules at the location disclosed by your client as described in **Exhibit B. Project Site Description with Map** of the **Chapter 380 Economic Development Incentive Agreement**. Based on the information provided by you and your client as of the date of this letter, the City of San Marcos has the ability and intends to provide wastewater service to the proposed project site, subject to the conditions below.

Wastewater Utility Service:

The proposed project site is currently within the City of San Marcos's Certificate of Convenience and Necessity (CCN) for wastewater service. The City has the right and ability to provide retail wastewater service to the client, subject to satisfaction of terms found in Chapter 380 Economic Development Incentive Agreement, including annexation of the proposed project site under ARTICLE VI ANNEXATION & DEVELOPMENT, as approved by the City Council.

Based on the wastewater demand information provided to date, the City has the ability to serve up to approximately 300,000 gallons per day (GPD) of wastewater associated with the proposed project, subject to review and approval of the proposed wastewater utility layout, connection requirements, and compliance with all applicable City standards.

The City is committed to working closely with the client and/or developer to facilitate timely review of required wastewater improvement plans and to coordinate the necessary utility-related processes in support of the project's targeted in-service date.

As you are aware, the City of San Marcos is currently completing an approximately 4 million gallon per day (MGD) peak wet weather flow (PWWF) wastewater lift station, which will be able to serve this area. The current anticipated completion date for that project is the end of calendar year 2027. The City will continue to coordinate its utility planning and development review processes with the Project Hercules team as the project advances.

City of San Marcos | 630 E Hopkins | San Marcos, TX 78666 | P: 512.393.8000 | F: 855.246.9100 SanMarcosTX.gov

Other General Conditions of Service:

1. *Permits, easements, and rights-of-way*. All required permits, easements, and rights-of-way must be secured by the client and/or developer at their sole expense, or as otherwise agreed to by the parties.

2. *Infrastructure and development costs*. The client and/or developer is responsible for procuring and funding all professional and construction services necessary for the design and construction of any required infrastructure extensions, upgrades, improvements, or oversizing identified by the City of San Marcos.

3. *Applicable requirements*. Service availability is contingent upon compliance with all applicable federal, state, and local laws, ordinances, regulations, policies, and City utility requirements.

4. *Connection point*. The City will determine the appropriate connection point and connection requirements through the utility design and review process in consultation with the client and/or developer. This letter does not guarantee a specific connection point at the property frontage.

5. *Project changes*. This confirmation is based upon the information provided by the client and/or developer as of the date of this letter. Material changes to Project Hercules, including changes in site configuration, development intensity, wastewater demand, phasing, or anticipated timing, may require the City to reevaluate wastewater service availability and associated requirements.

6. *Nature of this confirmation*. This letter is intended to confirm the City's current ability and intent to provide wastewater service based on the information available as of the date of this letter. It does not, by itself, constitute a utility service agreement, development agreement, annexation agreement, or other contractual commitment by the City. Any such agreements or commitments will be subject to the City's applicable processes and required approvals.

The City of San Marcos values the opportunity to partner with the Project Hercules team and is committed to working collaboratively and expeditiously with you as the project moves forward. We recognize the significance of this opportunity for our community and look forward to doing our part to help make Project Hercules a successful addition to San Marcos.

If you have any questions or require further coordination, please contact Helen Ramirez, Director of Economic and Local Business Development, at HRamirez@sanmarcostx.gov. We look forward to working with you and your team toward the successful completion of your project.

Sincerely,

Stephanie Reyes, MPA, ICMA-CM
City Manager

EXHIBIT "D"
Form of Annual Compliance Certificate
(The City Manager may approve amendments to this form consistent with the terms of the Agreement.)

ANNUAL COMPLIANCE CERTIFICATE

This Annual Compliance Certificate (this "**Certificate**") is delivered by Daimler Truck North America LLC (the "**Company**") under the Chapter 380 Economic Development Incentive and Development Agreement (Project Hercules) between the City of San Marcos, Texas (the "**City**") and the Company, effective as of _____ (the "**Agreement**"). Capitalized terms used but not defined in this Certificate have the meanings given in the Agreement. This Certificate covers calendar year 20____ ("**Year ____**"), and the Grant Payment requested is Grant Payment number _____ of the twenty (20) authorized under (d) of the Agreement.

I. Company Certification

In accordance with Section 2.27, Section 3.01, Section 3.04, and Section 9.01 of the Agreement, the undersigned, an authorized officer or employee of the Company, certifies to the City that:

1. The Company has constructed and is operating, or causing to be operated, a medium- and heavy-duty commercial truck manufacturing facility on the Project Site at [_____ address], San Marcos, Texas, and has made cumulative Capital Investment of $_____ on the Project Site as of December 31, 20____, consisting of $_____ in buildings and real property improvements, $_____ in machinery, equipment, and other tangible personal property, and $_____ in land acquisition cost, which [satisfies] [does not satisfy] the applicable milestone under Section 3.01 of the Agreement.

2. The number of Jobs at the Project Site on the last day of each calendar quarter of Year ____ was: March 31: _____; June 30: _____; September 30: _____; December 31: _____; for an average of _____ Jobs for the year, which [satisfies] [does not satisfy] the applicable Jobs Milestone or Maintenance Threshold under Section 3.04 of the Agreement.

3. The average annual Wages of all Jobs for Year ____, measured as provided in Section 2.27(b) of the Agreement, was $_____, which [satisfies] [does not satisfy] the minimum average annual wage in Exhibit "A" to the Agreement, as adjusted.

4. Each Job provided eligibility for the benefits described in Section 2.27(c) of the Agreement.

5. [The Company is in full compliance with its obligations under the Agreement.] [The Company is not in full compliance with the following obligations, for the following reasons, and proposes the following cure: _____.]

6. Attached are (i) a summary payroll report (redacted to remove personally identifiable information), (ii) the Company's Texas Workforce Commission quarterly wage

reports or comparable withholding documentation for the Project Site, and (iii) a summary of cumulative Capital Investment.

II. City Certification

In accordance with Section 4.03 of the Agreement, the City certifies to the Company that:

1. The City has received ad valorem taxes for Year ____ from the tax collector for the City (currently the Caldwell Appraisal District) with respect to the Project Site in the amount of $_____, of which the maintenance and operations portion, constituting the Property Taxes, is $_____;

2. The Grant Payment for Year ____ is $_____, computed under the Grant Payment Formula as _____% of Property Taxes received[, as adjusted under Section 10.01 of the Agreement];

3. The funds for the Grant Payment have been appropriated by the City Council as part of the City's ordinary budget and appropriations process or through a subsequent appropriation; and

4. The City shall pay the Grant Payment to the Company within thirty (30) days after the date of the City's execution below.

EXECUTED in duplicate originals to be effective as of the later of the dates below.

FOR THE COMPANY:
DAIMLER TRUCK NORTH AMERICA LLC

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

FOR THE CITY:
CITY OF SAN MARCOS, TEXAS

By: _____
Name:
Title: City Manager
Date: _____

EXHIBIT "E"
Interlocal Agreement

The Interlocal Cooperative Agreement between the City and the County for the regulation of development within the Project Site, in the form approved by the City Council and the Commissioners Court of the County, together with its exhibits, is attached following this page. [**Attach fully executed Interlocal Agreement.]**

EXHIBIT "F"
City Development Agreement Release

The City Development Agreement Release, in the form approved by the City Council and the Company, is attached following this page.

EXHIBIT "G"
Statutory Disclosure
Sections 212.172(b-1) and 43.005, Texas Local Government Code

To: Daimler Truck North America LLC, contract purchaser of the Project Site
Franklin Mountain San Marcos I, LP, owner of the Owned Land
From: City of San Marcos, Texas
Date: November 24, 2026
Re: Offer to enter into the Chapter 380 Economic Development Incentive and Development Agreement (Project Hercules) (the "**Agreement**")

The City of San Marcos, Texas (the "**City**") is offering to enter into the Agreement, a copy of which accompanies this disclosure, with Daimler Truck North America LLC (the "**Company**"), which has contracted to purchase the approximately 611 acres described in Exhibit "B" to the Agreement (the "**Project Site**") from Franklin Mountain San Marcos I, LP (the "**Developer**"), the owner of approximately 320 acres of the Project Site (the "**Owned Land**"), which is to acquire the remaining approximately 291 acres (the "**Option Land**") from its current owners before Closing under its agreement with the Company. The Owned Land is located in the City's extraterritorial jurisdiction. The Option Land is located in the unincorporated area of Caldwell County outside the City's extraterritorial jurisdiction; the Agreement provides that it will be included in the City's extraterritorial jurisdiction, at the Company's request, when the Company acquires it, and that this disclosure will be delivered again to the Company, as the owner of the Project Site, at that time. This disclosure is addressed to the Company, as the prospective owner, and to the Developer, as the present owner of the Owned Land. The Agreement is a contract under Subchapter G, Chapter 212, Texas Local Government Code, and it contains the landowner's agreement to request annexation of the Project Site. Sections 212.172(b-1) and 43.005, Texas Local Government Code, require the City, at the time it makes this offer, to provide the landowner with the following written disclosure.

1. **Statement that the landowner is not required to enter into the agreement. You are not required to enter into the Agreement.** Neither the Company nor the Developer is required to enter into the Agreement, and the Agreement is voluntary.

2. **Authority under which the City may annex the land, with references to relevant law.** The City is a home-rule municipality. The Owned Land is located in the City's extraterritorial jurisdiction, the Option Land will be included in it as described above, and no part of the Project Site is within the corporate limits of the City. The City may annex the Project Site only as authorized by Chapter 43, Texas Local Government Code, and by Section 2.03 of Article II of the City Charter, which authorizes the City Council, by ordinance, to provide for the annexation of additional territory in accordance with applicable state annexation laws. The provisions of Chapter 43 under which the City may annex the Project Site are: (i) Subchapter C-3, Chapter 43 (Sections 43.0671 through 43.0673), which permits the City to annex an area if each owner of land in the area requests the annexation; (ii) Subchapter C-4, Chapter 43 (Sections 43.0681 and following), which permits the City to annex an area with a population of less than 200 only with the consent of the area's registered voters and, where the voters do not own more than 50 percent of the land in the area, of its landowners, obtained by petition; (iii) Subchapter C-5, Chapter 43 (Sections 43.0691 and following), which permits the City to annex an area with a

population of 200 or more only after an election in the area and, in the same circumstance, a landowner petition; and (iv) Section 43.0116 and Subchapter C-1, Chapter 43, which permit the City to annex an area that the City Council has designated as an industrial district under Section 42.044, Texas Local Government Code, after the expiration of the industrial district contract or as that contract provides. The Project Site has not been designated as an industrial district. In addition, under Section 43.106, Texas Local Government Code, a municipality that annexes territory abutting a county road must also annex the entire width of the county road and the adjacent right-of-way on both sides of the road.

3. **Plain-language description of the annexation procedures applicable to the land.** Because the Project Site will be in the City's extraterritorial jurisdiction when annexation is requested and, after the Company's purchase, the Company will be the only owner of land in the Project Site, the City expects to annex the Project Site under Subchapter C-3, Chapter 43, on the Company's request, in the following steps. First, each owner of land in the area (after the purchase, the Company) signs and delivers to the City a written request for annexation; the Agreement provides that the Company will deliver that request after construction of its initial manufacturing facility is complete and the other conditions in Section 6.03 of the Agreement are met, and that the Company may withdraw the request before the annexation ordinance is adopted if those conditions are not met. Second, before the City may annex, the City and the owner must negotiate and sign a written agreement that lists each service the City will provide on the effective date of the annexation and a schedule for each service that will not be provided on that date; the City is not required to provide a service that is not included in that agreement (Section 43.0672). Third, the City must give written notice of the proposed annexation to the County, to each emergency services district, and to each other public entity that is located in or provides services to the area, describing the area, any financial impact of the annexation on that entity, and any proposal the City has to abate, reduce, or limit that impact (Section 43.9051). Fourth, the City must publish notice of a public hearing in a newspaper of general circulation in the City and in the area, and post the notice on the City's website, on or after the 20th day but before the 10th day before the hearing, and the City Council must hold one public hearing on the annexation (Section 43.0673). Fifth, the City Council adopts an ordinance annexing the area; under the City Charter and City practice, the ordinance is approved on two readings and takes effect on final adoption unless the ordinance specifies a later effective date. Sixth, at the same meeting at which it considers the annexation ordinance, and immediately after it, the City Council considers, on two readings at least seven days apart, an ordinance establishing the HI District zoning of the annexed land, and under the Agreement the annexation ordinance takes effect only if that zoning ordinance is approved; until that ordinance takes effect the land is zoned Future Development (FD), subject to the terms of the Agreement. Seventh, the City files the annexation ordinance and a map of the annexed area with the Comptroller of Public Accounts and the County, and the land becomes subject to City ad valorem taxes beginning with the first January 1 that occurs on or after the effective date of the annexation (Section 26.14, Texas Tax Code).

4. **Whether the procedures require the landowner's consent. Yes.** Each of the annexation procedures described above requires the consent of the owner of the land (or, for the procedures under Subchapters C-4 and C-5, the consent of the area's registered voters and, where applicable, its landowners), except that an area designated as an industrial district may be annexed on the expiration of the industrial district contract or as that contract provides. The Project Site has not been designated as an industrial district, and the City may not annex the Project Site without

the consent of its owner. The Agreement contains the Company's agreement, as owner of the Project Site after its purchase, to request annexation of the Project Site on the terms, at the time, and subject to the conditions stated in Section 6.03 of the Agreement.

5. **Statement regarding the City's waiver of immunity to suit.** By entering into the Agreement, which is a contract under Subchapter G, Chapter 212, Texas Local Government Code, the City waives its immunity to suit for the purpose of adjudicating a claim for breach of the Agreement, as provided by Section 212.172(i), Texas Local Government Code. In an adjudication brought against the City for breach of the Agreement, actual damages, specific performance, or injunctive relief may be granted, and the total amount of money that may be awarded is limited to the balance due and owed by the City under the Agreement, any amount owed by the Company as a result of the City's failure to perform under the Agreement (including compensation for the increased cost of infrastructure as a result of delays or accelerations caused by the City), reasonable attorney's fees, and interest as allowed by law; damages may not include consequential damages, except as expressly allowed by Section 212.172(j)(2), or exemplary damages (Section 212.172(j) and (k)). The City does not waive its immunity from suit or liability in tort.

This disclosure is provided at the time the City makes its offer to enter into the Agreement. The City requests that each addressee acknowledge receipt below.

CITY OF SAN MARCOS, TEXAS

By: _____
Name: Stephanie Reyes
Title: City Manager
Date: _____

Acknowledgment of Receipt

Each of the undersigned acknowledges that it received this Statutory Disclosure, together with a copy of the proposed Agreement, on the date set forth below, and that the disclosure was provided before the undersigned executed, consented to, or authorized the application for the Agreement.

DAIMLER TRUCK NORTH AMERICA LLC

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

FRANKLIN MOUNTAIN SAN MARCOS I, LP,
a Texas limited partnership
By: Scarborough San Marcos GP LLC, a Texas limited liability company, its general partner

By: _____
Name: Ryan Burkhardt
Title: Manager
Date: _____

PROTO-LAND FUND I, L.P.,

a Delaware limited partnership

By: [_____], its general partner

By: _____

Name: _____

Title: _____

Date: _____

[WALTON TRACT OWNER],

a [_____]

By: _____

Name: _____

Title: _____

Date: _____

[MCCULLOCH TRACT OWNER],

a [_____]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "H"
Form of Annexation Petition
Request for Annexation under Section 43.0671, Texas Local Government Code

To: The Honorable Mayor and City Council
City of San Marcos, Texas
630 East Hopkins Street
San Marcos, Texas 78666
Date: _____, 20____

Daimler Truck North America LLC, a Delaware limited liability company (the "**Company**"), being the owner of all of the land described in Exhibit "A" to this petition and depicted on Exhibit "B" to this petition, consisting of approximately 611 acres located in Caldwell County, Texas, within the extraterritorial jurisdiction of the City of San Marcos, Texas (the "**City**") (the "**Area**"), requests that the City annex the Area into the corporate limits of the City for full purposes under Subchapter C-3, Chapter 43, Texas Local Government Code, and states as follows:

1. The Company is the sole owner of all land in the Area. No portion of the Area is owned by any other person. [The Area includes the entire width of the following County roads and the adjacent right-of-way abutting the Area, as to which the County's written request or consent under Section 43.1055 or Section 43.106, Texas Local Government Code, accompanies this petition: _____.]

2. This petition is delivered under Section 6.03 of the Chapter 380 Economic Development Incentive and Development Agreement (Project Hercules) between the City and the Company (the "**Agreement**"), and is subject to the conditions stated in that Section. The Company may withdraw this petition by written notice to the City at any time before the adoption of the annexation ordinance if any of those conditions is not satisfied, and this petition shall be deemed withdrawn, without further action, if the annexation ordinance has not been adopted by [_____].

3. The Company and the City have entered into the written agreement for the provision of services required by Section 43.0672, Texas Local Government Code, a copy of which is attached as Exhibit "C" to this petition.

4. The Company requests that the annexation ordinance specify an effective date of _____, 20____, [which is on or before December 31 of that year,] and that the City take the actions required by Sections 43.0673 and 43.9051, Texas Local Government Code, promptly after receipt of this petition.

5. The Company consents to and requests the zoning of the Area as provided in Section 6.05 of the Agreement. The annexation requested by this petition is to take effect only if the City Council approves the zoning of the Area to the HI District as provided in Section 6.05 of the Agreement.

6. The Company requests that the Area not be included in any other annexation, and that this petition be considered on its own.

7. [If an Owner holds title to the Area under Section 11.03(d) of the Agreement: _____, a _____ (the "**Owner**"), the record owner of the Area, joins in this petition as an owner of land in the Area under Section 43.0671, Texas Local Government Code, and makes each request and statement in this petition as to the Area.]

DAIMLER TRUCK NORTH AMERICA LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

[OWNER],
a _____ (if applicable)

By: _____
Name: _____
Title: _____

STATE OF _____§
§
COUNTY OF _____§

This instrument was acknowledged before me on _____, 20____, by _____, _____ of Daimler Truck North America LLC, a Delaware limited liability company, on behalf of the limited liability company.

_____
Notary Public in and for the State of _____

Exhibits to petition: A – Legal description of the Area; B – Map of the Area; C – Services Agreement.

EXHIBIT "I"
Form of Services Agreement
Written Agreement Regarding Services under Section 43.0672, Texas Local Government Code

This Agreement Regarding Provision of Services (this "**Services Agreement**") is entered into by the City of San Marcos, Texas, a Texas home-rule municipal corporation (the "**City**"), and Daimler Truck North America LLC, a Delaware limited liability company (the "**Company**") [, and _____, a _____ (the "**Owner**"), together with the Company], the owner of all of the land described in Exhibit "A" to this Services Agreement (the "**Area**"), under Section 43.0672, Texas Local Government Code, in connection with the Company's request that the City annex the Area under Subchapter C-3, Chapter 43, Texas Local Government Code, and under (h) of the Chapter 380 Economic Development Incentive and Development Agreement (Project Hercules) between the City and the Company (the "**Development Agreement**").

1. **Services Provided on the Effective Date.** On the effective date of the annexation of the Area (the "**Annexation Effective Date**"), the City shall provide the following services to the Area at a level comparable to the level of each service available in other parts of the City with topography, land use, and population density similar to the Area:

(a) police protection by the San Marcos Police Department, including routine patrol and response to calls for service;

(b) fire protection and fire prevention services by the San Marcos Fire Department, including fire suppression response, hazardous materials response at the level provided within the City, fire-code inspections under the Development Standards, and the issuance of operational permits required for the Company's continued operations, which the City shall issue on or before the Annexation Effective Date on the basis of inspections performed under the Permitting Process;

(c) emergency medical services through the City's emergency medical services provider on the same basis as provided within the City;

(d) solid waste collection as provided by a privately owned solid waste management service City approved provider that holds a valid commercial hauler permit;

(e) operation and maintenance of the City-owned wastewater collection facilities serving the Area, and retail wastewater service on the terms of the Development Agreement;

(f) no retail water service, the Area lying entirely within the certificated area of Maxwell Special Utility District and Martindale Special Utility District for retail water service; the City shall not take any action under Section 13.255, Texas Water Code, or otherwise, to provide retail water service to the Area or to displace that district as the retail water provider for the Area, except with the Company's prior written consent, subject to applicable state laws, as provided in Section 6.10 of the Development Agreement;

(g) operation and maintenance of public streets and roads in the Area that are dedicated to and accepted by the City, including the County roads annexed with the Area under Section 43.106, Texas Local Government Code, and of street lighting, traffic signals, and drainage facilities owned by the City in the Area;

(h) planning, zoning, building inspection, and code enforcement services, as modified by the Development Agreement, including the recognition of every permit, plat, plan approval, inspection, and certificate issued, by the City, for the Area before the Annexation Effective Date without re-review, re-inspection, or additional fee, unless modifications to the permit, plat, plan approval, inspection, and certificate issued is proposed;

(i) animal control, library, parks and recreation, and other general governmental services on the same basis as provided to other industrial areas of the City; and

(j) maintenance of any other publicly owned facility, building, or service located in the Area, if any.

2. **Schedule for Services Not Provided on the Effective Date.** The City does not own or operate any park, playground, swimming pool, or other public facility in the Area, and the Area is served by the wastewater facilities, streets, and drainage facilities constructed under the City Development Agreement and the Development Agreement. No additional capital improvement is required for the City to provide the services listed in Paragraph 1 on the Annexation Effective Date.

3. **Services Not Included.** The City is not required to provide a service that is not included in this Services Agreement. Tex. Loc. Gov't Code § 43.0672(c). Nothing in this Services Agreement reduces any obligation of the City under the Development Agreement.

4. **Remedies.** If the City fails to provide a service in accordance with this Services Agreement, the Company shall have the remedies provided by the Development Agreement and, to the extent available, by Chapter 43, Texas Local Government Code, including Sections 43.141, 43.142, and 43.148 of that code. The City acknowledges that, as the owner of all of the land in the annexed area, the Company may petition for disannexation under Section 43.141 if the City fails or refuses to provide a service within the period stated in this Services Agreement, only applicable to the services it directly provides, and that Section 43.141(b) applies if the City Council does not act on the petition within sixty (60) days.

5. **Binding Effect; Recording.** This Services Agreement binds and benefits the City and the Company and their successors and assigns, including each successive owner of land in the Area, and shall be recorded in the Official Public Records of Caldwell County, Texas, with the annexation ordinance.

CITY OF SAN MARCOS, TEXAS

By: _____
Name: Stephanie Reyes
Title: City Manager
Date: _____

DAIMLER TRUCK NORTH AMERICA LLC

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

[OWNER]
(if applicable)

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

EXHIBIT "J"
Permitted Uses and Prohibited Uses

This Exhibit "J" sets forth the Permitted Uses and the Prohibited Uses referred to in Section 6.12 of the Agreement. Except where otherwise indicated, a use listed below has the meaning given to it in the Development Code and the associated technical manuals when defined there, and otherwise its ordinary meaning. The Permitted Uses and Prohibited Uses apply before and after annexation under Subchapter G, and supersede, as to the Project Site, the Permitted Uses and Prohibited Uses in Exhibit D to the City Development Agreement.

Part I. Permitted Uses

The following uses are permitted on the Project Site:

1. The Business, including each activity described in the definition of that term in Section 2.05 of the Agreement, and each of the following accessory activities: the storage, handling, and use of fuels, batteries, paints, coatings, solvents, lubricants, compressed and industrial gases, and other materials incidental to the Business in compliance with applicable law and the permits issued to the Project; the on-site generation of compressed air, nitrogen, oxygen, hydrogen, and other industrial gases for use in the Business; the bulk storage and dispensing of fuels, and the charging of vehicles, for use in the Business and for vehicles manufactured, tested, serviced, or stored on the Project Site; the assembly, installation, testing, charging, and storage of batteries and battery packs for vehicles manufactured, serviced, or stored on the Project Site; paint, coating, and finishing operations; vehicle test tracks and proving-ground facilities; the outdoor storage, staging, and parking of vehicles, trailers, chassis, components, and materials; rail spurs, sidings, and loading facilities; truck terminals and freight facilities; and accessory structures, including tanks, silos, cooling towers, stacks, cranes, antennas, and substations, subject to the Development Standards and applicable Federal Aviation Administration requirements.

2. Manufacturing; Manufacturing Processes not Listed; Electronic Assembly/High Tech Manufacturing; Engine Repair/Motor Manufacturing, Re-Manufacturing and/or Repair; Machine Shop; Metal Fabrication Shop; Welding Shop; Plastic Products Molding/Reshaping; Laboratory Equipment Manufacturing; Furniture Manufacture; Cabinet Shop (manufacturing); and Sign Manufacturing.

3. Warehouse/Office and Storage; Distribution Center; Moving Storage Company; Terminal, truck, freight or rail; Railroad tracks, team, spur, loading or storage; Distribution and processing of construction materials; Vehicle Repair; and Airport Support and Related Services.

4. Offices (Professional); Call Service Center; Research Lab (non-hazardous); Communication Equipment (Installation and/or Repair); Security Systems Installation Company; Governmental Building or Use (municipal, state, or federal); Electrical Substation; Maintenance/Janitorial Service; and Philanthropic Organization.

5. Employee-serving accessory uses, including cafeterias, food service, and Caterer; Day Care Services; on-site occupational health and medical clinics; training and education facilities; fitness facilities; and retail sales of the Company's products and merchandise.

6. Accessory solar, battery storage, and backup power generation facilities serving the Business, and utility facilities serving the Project Site.

7. Every other use that is permitted by right in the HI District under the Development Code as it exists on the Approval Date and that is not listed as a Prohibited Use in Part II.

Part II. Prohibited Uses

The following uses and activities are expressly prohibited on the Project Site:

1. Acid manufacturing (other than as an incidental by-product or process chemical of the Business).

2. Gas manufacturing (other than the on-site generation of compressed air, nitrogen, oxygen, hydrogen, or other industrial gases for use in the Business).

3. Vehicle wrecking yard.

4. Junk yard, including storage, sorting, baling, or processing of rags.

5. Manufacturing of explosives, or the storage of hazardous materials or explosives, other than (i) fuels contained in vehicles, locomotives, or railcars; (ii) fuels, batteries, paints, coatings, solvents, lubricants, compressed and industrial gases, and other materials stored and used in the Business in compliance with applicable law and the permits issued to the Project; and (iii) wastes generated by the Business and accumulated on the Project Site pending lawful disposal.

6. Manufacturing or storage of fertilizer.

7. Manufacturing of carbon batteries (other than the assembly, installation, testing, charging, and storage of batteries and battery packs for vehicles manufactured, serviced, or stored on the Project Site).

8. Manufacturing of paint, lacquer, oil, turpentine, varnish, enamel, and similar products (other than the application of paints and coatings in the Business).

9. Manufacturing of rubber, glucose, or dextrin.

10. Manufacturing of paper or pulp.

11. Manufacturing or distillation of tar.

12. Monument or marble works.

13. Oil compounding and barreling plant.

14. Operation of a business that provides the services of disposal, storage, reduction, or incineration of solid or hazardous waste (including garbage, refuse, trash, sewage, offal, and dead animals), other than the lawful management of wastes generated by the Business.

15. Extraction or refining of petroleum or its products.

16. Distillation of bones.

17. Smelting of iron, tin, zinc, copper, or other ores.

18. Fat rendering.

19. Stockyards or slaughter of animals.

20. Cemeteries.

21. Labor camps.

22. Jails or honor farms.

23. Refining of fuel, and the retail sale to the public of fuel, liquefied petroleum, or flammable liquids; provided that the bulk storage and dispensing of fuels, and the charging of vehicles, for use in the Business and for vehicles manufactured, tested, serviced, or stored on the Project Site is a Permitted Use.

24. Manufacturing of cement, lime, and gypsum plaster.

25. Rock crushers (other than the temporary crushing of on-site materials during construction of the Project).

26. Sugar refining.

27. A Data Center, and any facility specifically providing power to a Data Center, including a cryptocurrency mining facility.

28. Sexually oriented businesses.

EXHIBIT "K"
Form of Closing Ratification and Owner Joinder
To be executed at Closing under Section 4.07(c) *and recorded with the Agreement*

CLOSING RATIFICATION AND OWNER JOINDER

This Closing Ratification and Owner Joinder (this "**Ratification**") is executed as of _____, 20____ (the "**Closing Date**") by Daimler Truck North America LLC, a Delaware limited liability company (the "**Company**") [, and _____, a _____ (the "**Owner**")], with respect to the Chapter 380 Economic Development Incentive and Development Agreement (Project Hercules) approved by the City Council of the City of San Marcos, Texas (the "**City**") on _____, 2026 and executed by the City and the Company (the "**Agreement**"). Capitalized terms used but not defined in this Ratification have the meanings given in the Agreement.

1. **Acquisition of Title; Project Site.** On the Closing Date, [the Company] [the Owner] acquired fee simple title to the Project Site by deed recorded under Document No. _____ of the Official Public Records of Caldwell County, Texas. The Project Site is [the land described in Exhibit "B" to the Agreement] [the Owned Land described in Exhibit "B-1" to the Agreement, an Owned Land Closing having occurred under Section 6.19 of the Agreement], as conformed to the survey attached as Annex 1.

2. **Statutory Disclosure.** [The Company] [The Owner] acknowledges that, on the Closing Date and before executing this Ratification, it received from the City, as the owner of the Project Site, the Statutory Disclosure attached to the Agreement as Exhibit "G," together with the Agreement in the form approved by the City Council, and that the Statutory Disclosure was also delivered to it on the date stated in its acknowledgment in Exhibit "G" at the time the City made its offer.

3. **Ratification and Approval as Landowner.** [The Company] [The Owner], as the owner of the Project Site, approves, ratifies, and confirms the Agreement for purposes of Subchapter G, agrees to be bound by the Agreement as the landowner, and confirms that the Agreement is in full force and effect as of the Closing Date, which is the Effective Date.

4. **Owner Joinder.** [The Owner joins the Agreement as a Party under Section 11.03(d) of the Agreement, is the landowner for all purposes of Subchapter G, and is jointly and severally liable with the Company for the obligations of the Company under the Agreement. The Company confirms its designation of the Owner under Section 11.03(d).] [Not applicable; the Company holds title.]

5. **Recording; Counterparts.** This Ratification shall be recorded with the Agreement under Section 6.15 of the Agreement, binds and benefits the Project Site as provided in Section 11.03(c) of the Agreement, and may be executed in counterparts.

DAIMLER TRUCK NORTH AMERICA LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

[OWNER],
a _____ (if applicable)

By: _____
Name: _____
Title: _____

ACKNOWLEDGED AND ACCEPTED, and the Statutory Disclosure delivered on the Closing Date as stated above:

CITY OF SAN MARCOS, TEXAS

By: _____
Name: Stephanie Reyes
Title: City Manager
Date: _____

STATE OF _____§
§
COUNTY OF _____§

This instrument was acknowledged before me on _____, 20____, by _____, _____ of Daimler Truck North America LLC, a Delaware limited liability company, on behalf of the limited liability company.

_____
Notary Public in and for the State of _____

[Acknowledgments of the Owner and of the City Manager in the same form.] Annex 1 – Survey and legal description of the Project Site.

EXHIBIT "L"
Form of Supplement Adding Option Land
To be used under Section 6.19(c) *after an Owned Land Closing*

SUPPLEMENT TO CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE AND DEVELOPMENT AGREEMENT (PROJECT HERCULES) (ADDITION OF OPTION LAND)

This Supplement (this "**Supplement**") is entered into as of _____, 20____ by the City of San Marcos, Texas, a Texas home-rule municipal corporation (the "**City**"), and Daimler Truck North America LLC, a Delaware limited liability company (the "**Company**") [, and _____, a _____ (the "**Owner**")], under Section 6.19(c) of the Chapter 380 Economic Development Incentive and Development Agreement (Project Hercules) between the City and the Company, effective _____, 20____ and recorded under Document No. _____ of the Official Public Records of Caldwell County, Texas (the "**Agreement**"). Capitalized terms used but not defined in this Supplement have the meanings given in the Agreement.

1. **Acquisition of Option Land.** On _____, 20____, [the Company] [the Owner] acquired fee simple title to the land described in Annex 1 to this Supplement (the "**Added Land**"), being [all] [a portion] of the Option Land, by deed recorded under Document No. _____ of the Official Public Records of Caldwell County, Texas.

2. **Statutory Disclosure; Authority.** The City delivered the Statutory Disclosure, together with the Agreement, to [the Company] [the Owner], as the owner of the Added Land, on _____, 20____, before this Supplement was executed, and [the Company] [the Owner] acknowledges its receipt. The City Council approved the inclusion of the Option Land in the Project Site by its approval of the Agreement, and the City Manager executes this Supplement under the authority of Section 6.19(c) of the Agreement.

3. **Addition to the Project Site.** From the date this Supplement is recorded, the Added Land is part of the Project Site for all purposes of the Agreement, including Article 6, and Exhibit "B-1" to the Agreement is amended to include the Added Land as described in Annex 1. [The Company] [The Owner], as the owner of the Added Land, approves the Agreement as to the Added Land for purposes of Subchapter G, and agrees that the Agreement binds and benefits the Added Land as provided in Section 11.03(c) of the Agreement.

4. **Recording; No Other Change.** The City shall record this Supplement in the Official Public Records of Caldwell County, Texas, within ten (10) days after its execution, at the Company's expense. Except as supplemented by this instrument, the Agreement is unchanged and remains in full force and effect.

CITY OF SAN MARCOS, TEXAS,
a Texas home-rule municipal corporation

By: _____
Name: Stephanie Reyes
Title: City Manager
Date: _____

DAIMLER TRUCK NORTH AMERICA LLC,
a Delaware limited liability company

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

[OWNER],
a _____ (if applicable)

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

[Acknowledgments in the form used in Exhibit "K."] Annex 1 – Legal description and depiction of the Added Land.