

**EXHIBIT**

**"A"**

**CONSENT AND DEVELOPMENT AGREEMENT**

**AMONG**

**CITY OF ROUND ROCK, TEXAS,**

**KB HOME LONE STAR, INC.,**

**AND**

**ROUND ROCK MUNICIPAL UTILITY DISTRICT NO. 1**

## CONSENT AND DEVELOPMENT AGREEMENT

This CONSENT AND DEVELOPMENT AGREEMENT (this “Agreement”) is entered into by and among the **City of Round Rock, Texas**, a home-rule city located in Williamson County, Texas (the “City”), **KB Home Lone Star Inc.**, (the “Developer”) a Texas corporation, and **Round Rock Municipal Utility District No. 1** (the “District”), a municipal utility district to be created by the 86<sup>th</sup> Texas Legislature, which will join this Agreement as set forth below and after such joinder shall become a party to this Agreement.

### RECITALS

WHEREAS, the Developer owns or has an option to purchase approximately 356 acres of land to be located within the corporate boundaries of the City after creation of the District (the “Property”); and

WHEREAS, the Property is more particularly described by metes and bounds on the attached **Exhibit A**, and its boundaries are depicted on the concept plan attached as **Exhibit B** (“Concept Plan”); and

WHEREAS, the Developer intends to develop the Property as a master-planned, residential community that will include park and recreational facilities to serve the community; and

WHEREAS, the Property will be developed in phases under a master development plan, and the Developer and the City wish to enter into this Agreement, which is intended to encourage innovative and comprehensive master-planning of the Property, provide certainty of regulatory requirements throughout the term of this Agreement and result in a high-quality development for the benefit of the present and future residents of the City and the Property; and

WHEREAS, the Developer has presented the City with a petition to create a Municipal Utility District (the “District”) on the Property; and

WHEREAS, the purposes of the proposed District include designing, constructing, acquiring, installing, conveying to the City, and financing water, wastewater, streets, drainage, and other public improvements within its boundaries as authorized by the Texas Constitution and Texas Water Code and the enabling legislation to serve the area within its boundaries (collectively, the “District Improvements”);

WHEREAS, construction of the District Improvements will occur in phases (as determined by the District and the Developer) in accordance with this Agreement, the applicable ordinances of the City, Chapters 49 and 54, Texas Water Code, as amended, the applicable chapter of the Special District Local Laws Code specific to the District, the rules and regulations of the TCEQ, as amended, and applicable state and federal regulations (collectively, the “Applicable Regulations”);

WHEREAS, the City and Developer intend that the Reimbursable Costs of the District Improvements will be paid from the net proceeds of Bonds issued by the District or other revenues of the District in accordance with this Agreement, the applicable rules and regulations of the TCEQ, as amended, and the applicable requirements of the Texas Attorney General's Office, as amended;

WHEREAS, the District is authorized to enter into this Agreement pursuant to the provisions of Texas law, including but not limited to, Chapters 49 and 54, Texas Water Code, as amended, Chapter 791, Texas Government Code, as amended, and Section 552.014, Texas Local Government Code, as amended; and

WHEREAS, the City is a municipal corporation operating under a home-rule City Charter adopted under the laws of the State of Texas and pursuant to which the City has the authority to enter into and perform its obligations under this Agreement including, but not limited to, the ownership and operation of the District Improvements;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, the Parties contract as follows.

## **ARTICLE I DEFINITIONS**

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

Additional Property means any other land acquired by the Developer and made subject to this Agreement pursuant to Section 9.05 hereof.

Agreement means this Consent and Development Agreement among the Parties.

Bond means bonds, notes, or other obligations or indebtedness that are issued or incurred by the District under the District's borrowing power.

City means the City of Round Rock, Texas, a home-rule city located in Williamson County, Texas.

City Objection is defined in Section 7.02(b).

City Manager means the City Manager of the City.

Commission or TCEQ means the Texas Commission on Environmental Quality or its successor agency.

Conceptual Development Plan means the concept plan for the Property attached as **Exhibit B**, as amended from time to time in accordance with this Agreement.

County means Williamson County, Texas.

Developer means KB Home Lone Star, Inc., a Texas corporation, or its successors and assigns under this Agreement.

District means Round Rock Municipal Utility District No. 1, a political subdivision of the State of Texas to be created over the Property, with the consent of the City, as provided in this Agreement.

District Improvements means water, wastewater, streets, drainage, and other public improvements within the boundaries of the District, as authorized by the Texas Constitution and Texas Water Code to serve the area within the District boundaries.

Effective Date of this Agreement means the \_\_\_\_ day of \_\_\_\_\_. 2019.

McNutt Creek C5 means the wastewater collection line shown on **Exhibit C** that will be connected to the District's wastewater collection system.

McNutt Interceptor means the City wastewater interceptor system which will transport wastewater generated by customers located within the District to the wastewater treatment plant.

Property means approximately 356 acres of land to be located within the City's corporate boundaries, as described by metes and bounds on **Exhibit A**.

Reimbursable Costs means costs paid or incurred to construct District Improvements that are eligible for reimbursement from the net proceeds of Bonds issued in accordance with this Agreement or other funds and the rules and regulations of the TCEQ, as amended, including in addition to costs of construction, but not limited to, the following:

- (i) surveying costs;
- (ii) cost of soils and materials testing;
- (iii) engineering fees related to the District Improvements;
- (iv) advertising and other costs associated with public bidding and award of construction contracts;
- (v) costs of required easements and rights-of-way; and
- (vi) other costs or fees paid or incurred in connection with the creation and operation of the District.

Road Projects means any road projects that the District is authorized to undertake pursuant to Article XVI, Section 59 of the Texas Constitution, as amended, and Chapters 49 and 54, Texas Water Code, as amended, or otherwise pursuant to any authority granted to the District by special act of the Texas Legislature.

Treatment Plant: The Brushy Creek East regional wastewater treatment plant.

## **ARTICLE II**

### **CREATION OF DISTRICT AND EXECUTION OF AGREEMENTS**

**Section 2.01.**      **Consent to Creation of District.** The City acknowledges receipt of Developer's request, in accordance with Section 54.016, Texas Water Code and Section 42.042, Texas Local Government Code, for creation of the District, including powers from Article III, Section 52 of the Texas Constitution. On the Effective Date of this Agreement, the City has approved the resolution substantially similar to the form attached as **Exhibit D** consenting to the inclusion of the Property within the proposed District and the creation of the District.

**Section 2.02.**      **District Execution of Agreement.** The Developer and the City intend that this Agreement shall be binding upon the District from and after the date the District executes a joinder to this Agreement in substantially the same form as set forth in **Exhibit E**, attached hereto and made a part hereof. The District shall execute such joinder at the time of its organizational meeting.

**Section 2.03.**      **District Bonds.** If the District fails to approve, execute, and deliver this Agreement to the City as required by Section 2.02, and if the City does not terminate this Agreement, such failure shall constitute a material breach of this Agreement by the Developer and shall operate to prohibit the District from taking any actions to issue Bonds until the failure has been cured. The City shall have the right to enjoin the issuance of Bonds during any period in which such a material breach exists.

**Section 2.04.**      **Reimbursement Agreements.** If the District fails to approve, execute, and deliver this Agreement to the City as required by Section 2.02, and if the City has not terminated this Agreement, such failure shall constitute a material breach of this Agreement by the Developer and shall operate to prohibit Developer or any developer of the Property from entering into any reimbursement agreements with the District until the failure has been cured. The City shall have the right to enjoin the execution of such reimbursement agreements during any period in which such a material breach exists.

**Section 2.05.**      **Intent of Parties Related to Allocation Agreement.** Under Section 54.016(f), Texas Water Code, the City, as a City providing written consent for inclusion of land in a district, may provide for a contract designated as an "allocation agreement", to be entered into between the City and the District. The Parties acknowledge that the provision for an "allocation agreement" under Section 54.016(f) is at the City's discretion. The City confirms that it is intentionally not providing for an allocation agreement. The Parties agree that this Agreement does not constitute and will not be deemed to constitute an allocation agreement within the meaning of Section 54.016(f).

### **ARTICLE III WASTEWATER SERVICE**

**Section 3.01. City Wastewater Service.** The Property is located within the wastewater service area of the City. Wastewater treatment will be provided by the City through the McNutt Creek Interceptor System and the Brushy Creek Regional Wastewater Treatment Plant.

**Section 3.02. Connection to City's System.** The District agrees to connect its onsite wastewater collection system to the City's McNutt Creek C5 line at manhole No. 1922636, as shown on **Exhibit C.** The District shall be responsible for all costs of such connection, including easement acquisition, design, and construction of the connection up to the boundary lines of the Property. The design plans and construction of the connection shall be subject to the approval of the City.

**Section 3.03. Sizing.** The wastewater facilities shall be sized to provide continuous and adequate retail wastewater service to the Property as it is developed in phases. In the event the City requires any of the wastewater facilities to be oversized to serve customers located outside the boundaries of the Property, the City shall fund its pro-rata share (i.e. the number of connections located outside the Property ultimately to be served by such facilities as a percentage of the total number of connections to be served by such facilities) of the cost of construction of all such facilities which are oversized to serve areas outside the Property.

**Section 3.04. City Pass Through Use of Wastewater Mains.** It is understood and agreed among the Parties that the City may utilize District wastewater mains to provide wastewater service to City retail customers in areas adjacent to or near the Districts so long as there is adequate capacity provided during development for the full build-out of the Districts and the customers of the City to be served.

### **ARTICLE IV WATER SERVICE**

**Section 4.01. Water Utility Provider.** The Property is located within the water certificate of convenience and necessity ("CCN") held by Jonah Water Supply Corporation ("Jonah"). Retail water service to the Property shall be provided by Jonah. Developer shall provide an engineering report certifying that the Jonah Water System meets City code fire flow requirements prior to plat recordation.

### **ARTICLE V ROADWAY IMPROVEMENTS**

**Section 5.01. Conveyance of Right-of-Way.** The Developer will convey by warranty deed, one hundred feet (100') of right-of-way for the extension of County Road 112 ("CR 112") shown on the Concept Plan which bisects the Property. In addition to the conveyance previously stated, the Developer will convey by warranty deed, at no cost to the City, sixty-five (65') feet of right-of-way for "Collector Road B", depicted in the Concept Plan.

The parties acknowledge that the final location of certain roadways may be subject to minor changes based on the final right-of-way alignment.

**Section 5.02. Road Capacity CR 112 Extension.** The City's current roadway plan prescribes a MAD 6 road design for new roadway associated with a CR 112 extension. For the extension of CR 112, the Developer and the City agree on the design capacity of a MAD 4 road, as defined in the City of Austin Transportation Manual ("COATM"). The extension of CR 112 through the Property shall be constructed solely at Developer's cost and pursuant to the criteria prescribed by the Street Design Criteria in Section 1 of the Transportation Specifications adopted by the City, subject to variances for lane and sidewalk width agreed to by the parties in the final approved plans.

**Section 5.03. Construction of Collector Road B.** The City and the Developer agree that Collector Road B as shown in the Concept Plan will be constructed solely at Developer's cost with two (2) twenty foot (20') lanes with thirty-seven feet (37') of pavement. Except as stated above, the construction of Collector Road B shall be pursuant to the criteria prescribed by the Street Design Criteria in Section 1 of the Transportation Specifications adopted by the City, subject to variances for lane and sidewalk width agreed to by the parties in the final approved plans.

**Section 5.04. Roadway Impact Fees.** Due to Developer's commitments as stated in Sections 5.01, 5.02 and 5.03 above, the City and the Developer agree that the charge or assessment ("Roadway Impact Fee") imposed against new development pursuant to Ordinance No. 0-2019-0124, adopted by the City on March 14, 2019, shall not be owed to the City for any residential use within the development. The construction of these improvements and the dedication of the right-of-way are considered to be a full offset against said impact fees. However, the parties stipulate that the impact fees owed under Ordinance No. 0-2019-0124 shall still apply to any commercial use within the development.

**Section 5.05. Traffic Impact Analysis.** The City and the Developer agree that any other improvements necessary to address roadway impacts resulting from the development of the Property, including, but not limited to, installation of turn lanes and pro-rata shares of traffic signal installations, as determined by the Traffic Impact Analysis, will be the sole responsibility of the Developer.

## **ARTICLE VI EMERGENCY SERVICES**

**Section 6.01. Sole Provider of Emergency Services.** A portion of the Property is located within the Williamson County Emergency Services District No. 3 (the "ESD"). The parties intend for the City to become the sole provider of emergency services for the Property. The City agrees to complete all items in order to become the sole provider of emergency services for the Property pursuant to Tex. Health & Safety Code § 775.022 (the "ESD Act"), and will file the petition for disannexation of the Property from the ESD within fifteen (15) days of the completion of the annexation of the Property into the City. The parties agree that Developer will be responsible for monies owed as a result of the disannexation pursuant to Section 775.022(c) of

the ESD Act up to twenty thousand dollars (\$20,000) (the “Agreed Cost Cap Amount”) for the disannexation of the Property from the ESD. In the event the disannexation costs exceed the Agreed Cost Cap Amount, the parties will contribute in equal shares for any costs incurred pursuant to Section 775.022(c) of the ESD Act over the Agreed Cost Cap Amount, with such amounts due from each party at the time the amounts are due to the ESD. Any equipment purchased by the City from the District pursuant to Section 775.022(d) of the ESD Act shall be purchased and funded solely by the City in their discretion.

## **ARTICLE VII AUTHORITY TO ISSUE BONDS**

**Section 7.01.**     **Authority to Issue Bonds.** The District may issue Bonds only as permitted by this Agreement. The District may reimburse a Developer for expenditures authorized by Commission rules and regulations, if applicable, and this Agreement; however, the purposes for which the District may issue Bonds are restricted to:

(a) The purchase, construction, acquisition, repair, extension, and improvement of land, easements, works, improvements, facilities, plants, equipment, and appliances (including capacity or contract rights to capacity in any of the foregoing) necessary to:

(1) Provide a water supply for municipal uses, domestic uses, and commercial purposes;

(2) Collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state (other than solid waste, as defined in the City’s Code of Ordinances);

(3) Gather, conduct, divert, and control local storm water or other local harmful excesses of water;

(4) Design, acquire, construct, and finance Road Projects; and

(5) Develop and maintain park and recreational facilities, subject to the applicable limitations of Section 49.461-49.466, Texas Water Code, or as permitted under Section 54.201, Texas Water Code;

(b) Refunding any outstanding Bonds, provided such refunding Bonds satisfy the terms and conditions of this Agreement;

(c) Paying organizational, administrative, and operating costs during creation and construction periods and interest thereon, subject to the applicable limitations of Section 49.155, Texas Water Code; and

(d) Paying other expenses authorized by Section 49.155, Texas Water Code.



**Section 7.02. City Submittals; Objections.**

(a) The District agrees to give written notice to the City of its intention to issue Bonds as follows:

(1) If the District intends to issue Bonds that require TCEQ approval, the District will provide notice of same to the City Manager and City Attorney concurrently with the District's submittal of each application to the TCEQ for approval of issuance of Bonds, which notice shall include:

A. A copy of the District's application to the TCEQ, including the amount of Bonds proposed for issuance, a general description of the projects to be funded by the Bonds, the engineering report, the projected debt service schedule, the projected District debt service tax rate after the closing date of the Bonds, and the projected final maturity date of the Bonds;

B. Written certification by the District's financial advisor that the Bonds, when issued, will meet the existing economic feasibility guidelines established by TCEQ for districts issuing bonds in Williamson County; and

C. Written certification by the District that the District is in compliance in all material respects with the terms and conditions of this Agreement.

(2) If the District intends to issue Bonds that do not require TCEQ approval (*e.g.*, Bonds for Road Projects or refunding Bonds), the District will provide notice of same to the City Manager and City Attorney at least forty-five (45) days prior to pricing of the Bonds, which notice shall include:

A. The amount of Bonds proposed for issuance, a general description of the projects to be funded by the Bonds or Bonds to be refunded by such Bonds, the engineering report (if applicable), the projected debt service schedule, the projected District debt service tax rate after the closing date of the Bonds, and the projected final maturity date of the Bonds; and

B. Written certification by the District that the District is in compliance in all material respects with the terms and conditions of this Agreement.

(3) Within five (5) days after pricing of any Bonds and no less than fourteen (14) days before the closing date of such Bonds, the District shall provide the City with the following information:

A. If TCEQ approval is required, a copy of the TCEQ order approving the Bonds;

B. A description of the District Improvements to be funded by the Bonds, if applicable;

- C. The amount of Bonds being proposed for issuance;
- D. A debt service schedule for the Bonds;
- E. The proposed District debt service tax rate after the closing date of the Bonds;
- F. A savings schedule for any refunding Bonds; and
- G. Written certification by the District that the District is in compliance in all material respects with the conditions set forth in this Agreement, including without limitation the information necessary to evidence compliance with the requirements of Section 7.04.

(b) The City may object to a Bond application or to the issuance of a series of Bonds for the sole reason that a Developer or the District is in default of any provision of this Agreement. If the City objects to a Bond application or issuance due to such a default (a “City Objection”), the City shall have a period of thirty (30) days after receiving the information required by Sections 7.02(a)(1) or 7.02(a)(2), as applicable, and a period of ten (10) days after receiving the information required by Section 7.02(a)(3) within which to notify the District of the City Objection. If the City timely objects to a Bond application or issuance due to such a default, the Bond application and issuance will be delayed until such time as the default is cured. If the City fails to object to a Bond application or issuance within such periods specified herein, the City shall be deemed to have waived all objections. If the City objects to a Bond application or issuance, such City Objection must: (a) be in writing; (b) be given to the District; (c) be signed by the City Manager or the City Manager’s designee; and (d) specifically identify the applicable provision of the Consent Ordinance or this Agreement as to which the District or the Developer is in default. If a City Objection is timely given to the District with respect to a specific Bond application or issuance of Bonds, the City and the District shall cooperate to resolve the City Objection within a reasonable time, and the Bond application or issuance of Bonds to which the City Objection applies shall be delayed until the City Objection has been cured or waived by written agreement.

(c) Within thirty (30) days after the closing date of a series of Bonds, the District shall deliver to the City Manager a copy of the final official statement for such series of Bonds and a copy of any report on reimbursable costs required by the rules of the TCEQ. The District shall send a copy of any material event notices filed under applicable federal securities laws or regulations to the City Manager within thirty (30) days after filing such notices with the applicable federal agency. If the City requests any additional information regarding any issue of District Bonds, the District will promptly provide any such information to the City.

**Section 7.03. Bond Limit Amount.** The total amount of Bonds issued by the District, excluding refunding Bonds, shall not exceed \$48,000,000 unless otherwise approved by the City.

**Section 7.04. Terms and Conditions of Bonds.**

(a) Bonds, including refunding Bonds, issued by the District shall, unless otherwise agreed to by the City, comply with the following requirements:

(1) No individual series of Bonds will be issued with a term which exceeds 25 years from the closing date of such series of Bonds;

(2) The Bonds (other than refunding Bonds and Bonds sold to a federal or state agency) shall only be sold after the taking of public bids therefor (unless current law changes to permit otherwise), and no Bonds shall be sold for less than ninety-seven percent (97%) of par, provided that the net effective interest rate on Bonds so sold, taking into account any discount or premium as well as the interest rate borne by such Bonds, shall not exceed 2% above the highest average interest rate reported by the Daily Bond Buyer in its weekly "20 Bond Index" during the 30-day period next preceding the date notice of the sale of the Bonds is given (or, if the Daily Bond Buyer ceases to exist, a comparable publication reporting average bond interest rates);

(4) The District shall reserve the right to redeem its Bonds not later than the tenth (10<sup>th</sup>) anniversary of the closing date of such Bonds, without premium;

(5) No variable rate Bonds shall be issued by the District;

(6) No Bonds (other than refunding Bonds) shall be issued by the District subsequent to the fifteenth (15<sup>th</sup>) anniversary of the Effective Date of this Agreement;

(7) Any refunding Bonds must provide for a minimum of three percent (3%) present value savings and, further, must provide that the latest maturity of the refunding Bonds may not extend beyond the latest maturity of the refunded Bonds; and

(8) Capitalized interest shall not exceed three years interest.

**Section 7.05. Notification for Bond Reviews.** The District agrees to include, in each application to the TCEQ for the approval of the issuance of Bonds, the terms and conditions of Article VII of this Agreement. The Developer and the District each agree that it will not request reimbursement or authorization to reimburse any costs or expenses not authorized by this Agreement or the Development Agreement.

**Section 7.06. Limit of City's Liability.** Unless the City abolishes the District and assumes the assets and liabilities of the District, the Bonds or any other obligations of the District shall never become an obligation of the City. The City's obligations under this Agreement shall not extend beyond its obligations to operate and maintain the District Improvements after conveyance to the City and to use the District Improvements to serve the Land. Nothing herein will prevent the City from using District Improvements to serve customers outside of the District provided that there is sufficient capacity to serve the residents and customers within the District.

**Section 7.07. Expenses Not Eligible for Reimbursement.** The District and the Developer agree that the Bonds may not be used to finance any costs to be reimbursed by the City under the Development Agreement.

## **ARTICLE VIII DISSOLUTION OF DISTRICT**

**Section 8.01. Dissolution.** The City may dissolve the District at any time after the District has issued Bonds to finance Reimbursable Costs paid or incurred to construct the District Improvements that are required to serve full development of the Property. Upon dissolution of the District, the City shall assume the indebtedness and legal obligations of the District to the extent required by law. If the City does not dissolve the District, the Board shall dissolve the District within sixty (60) days after the maturity date of the last series of Bonds issued by the District.

## **ARTICLE IX CONCEPT PLAN**

**Section 9.01. Phased Development.** Developer intends to develop the Property in phases. Portions of the Property not under active development may remain in use as income-producing agricultural lands or as open space land.

**Section 9.02. Concept Plan; Exceptions.** The City hereby confirms (i) its approval of the Concept Plan, and (ii) that the Concept Plan complies with the City's General Plan, as amended. The City approves the land uses, densities, exceptions, roadway alignments and widths and other matters shown on the Concept Plan, and confirms that the Conceptual Development Plan has been approved by all required City departments, boards and commissions.

**Section 9.03. Term of Approvals.** Except as provided below, the Concept Plan will be effective for the term of this Agreement. Any preliminary subdivision plat or final subdivision plat that is consistent with the Concept Plan, applicable City ordinances and State law will be effective for the term of this Agreement. The Concept Plan will be deemed to have expired if no final plat of the Property is recorded for a period of ten (10) years or ten (10) years expires after the recordation of the last final plat.

**Section 9.04. Amendments.** Due to the fact that the Property comprises a significant land area and its development will occur in phases over a number of years, modifications to the Concept Plan may become desirable due to changes in market conditions or other factors. Variations of a preliminary plat or final plat from the Concept Plan that do not increase the overall density of development of the Property, will not require an amendment to the Concept Plan. Minor changes to the items depicted in **Exhibit B** or **Exhibit B-1**, including minor modifications of street alignments, minor changes in lot lines, the designation of land for public or governmental uses; changes in lot sizes that do not result in an increase in the overall density of development of the Property (including any increase in lot sizes resulting in a decrease in the total number of lots) or any change to a public use, including, but not limited to school use, will not require an amendment to the Concept Plan or City approval. Major changes to the

Concept Plan must be consistent with the terms of this Agreement and will be subject to review and approval by the City, which will not be unreasonably withheld.

**Section 9.05. Additional Property.** To the extent Developer, its successor or assign, or an affiliated entity of the Developer, acquires land contiguous to the District (“Additional Property”) subsequent to this Agreement, Developer shall provide notice to the City of such acquisition, accompanied by a legal description, and such Additional Property shall (i) be considered a part of the Property and subject to this Agreement, without the necessity of amending this Agreement, and (ii) be subject to and developed in accordance with the specifications of this Agreement. Upon such acquisition, Developer may cause to be recorded in Williamson County records a memorandum of this Agreement, incorporating the description of the Additional Property affected.

**Section 9.06. Exterior Wall Materials.** The exterior wall materials for all residential properties within the District shall be a minimum 75% stone, brick, or stucco. No more than 50% shall be stucco. Up to 25% of the exterior wall finish may be fiber cement siding (excluding flat, unarticulated panels).. An alternative wall finish consisting of 100% stucco may be permitted only in conjunction with a tile roof. The use of materials such as wood shingles, wood siding, and architectural steel or metal shall be limited to accent features. Accessory buildings not exceeding 150 square feet in gross floor area are exempt from the percentage and material requirements listed above.

## **ARTICLE X AUTHORITY**

**Section 10.01. Authority.** This Agreement is entered into, in part, under the statutory authority of Section 402.104, *Texas Local Government Code* and Section 212.172 of the *Texas Local Government Code*, which authorizes the City to make written contracts with the Developers of land establishing lawful terms and considerations that the parties agree to be reasonable, appropriate, and not unduly restrictive of business activities. The parties intend that this Agreement authorize certain land uses and development on the Property; provide for the uniform review and approval of plats and development plans for the Property; provide exceptions to certain ordinances; and provide other terms and consideration.

## **ARTICLE XI TERM, ASSIGNMENT AND REMEDIES**

**Section 11.01. Term.** The term of this Agreement shall commence on the Effective Date and (unless terminated pursuant to ARTICLE II) shall continue until the District is dissolved in accordance with ARTICLE VIII.

**Section 11.02. Termination and Amendment by Agreement.** This Agreement may be terminated or amended as to all of the Property at any time by mutual written consent of the City and Developer and, following creation of the District, the District, and may be terminated or

amended only as to a portion of the Property by the mutual written consent of the City and the Developers of the portion of the Property affected by the amendment or termination and, following creation of the District, the District containing such portion of the Property. In the event the District is not created by special act of the 86<sup>th</sup> Legislature, the City and Developer agree that this Agreement shall be void ab initio and shall have no force and effect.

**Section 11.03. Assignment.**

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

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

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

**Section 11.04. Remedies.**

(a) If the City defaults under this Agreement, Developer may enforce this Agreement by seeking damages and/or a writ of mandamus from a Williamson County District Court, or may give notice setting forth the event of default ("Notice") to the City. If the City fails to cure any default that can be cured by the payment of Money ("Monetary Default") within 45 days from the date the City receives the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within 45 days of the date of the Notice, and thereafter to diligently pursue such cure to completion, Developer may terminate this Agreement as to all of the Property owned by Developer, or as to the portion of the Property affected by the default; however, any such remedy will not revoke the City's consent to the creation of the District.

(b) If Developer defaults under this Agreement, the City may enforce this Agreement by seeking specific performance from any court of appropriate jurisdiction, or the City may give Notice to Developer. If Developer fails to cure any Monetary Default within 45 days from the date it receives the Notice, or fails to commence the cure of any default specified in the Notice that is not a Monetary Default within 45 days of the date of the Notice, and thereafter to diligently pursue such cure to completion, the City may terminate this Agreement; however, any such remedy will not revoke the City's consent to the creation of the District.

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

**Section 11.05. Cooperation.**

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

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

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

**ARTICLE XII  
MISCELLANEOUS PROVISIONS**

**Section 12.01. Notice.** Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement, or (iv) by confirmed facsimile with a confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or 3 days after the date of mailing. Notice given in any other manner will be effective only when received. For purposed of notice, the addresses of the parties will, until changed as provided below, be as follows:

CITY: City of Round Rock  
221 East Main Street  
Round Rock, Texas 78664  
Attn: City Manager

With Required Copy to: Stephan L. Sheets  
Sheets & Crossfield  
309 E. Main Street  
Round Rock, Texas 78664-5264

DEVELOPER: KB Home Lone Star, Inc.,  
10800 Pecan Park  
Austin, Texas 78750  
Attention: Patrick Murphy

With Required Copy to: Ross Martin  
Winstead PC  
500 Winstead Building  
2728 N. Harwood Street  
Dallas, Texas 75201

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

**Section 12.02. Severability.** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.

**Section 12.03. Waiver.** Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

**Section 12.04. Limited Waiver of Immunity.** The Parties are entering into this Agreement in reliance upon its enforceability. Consequently, the City unconditionally and irrevocably waives all claims of sovereign and governmental immunity they may have (including, but not limited to, immunity from suit) to the extent, but only to the extent, that a waiver is necessary to enforce specific performance of this Agreement (including all of the remedies provided under this Agreement) and to give full effect to the intent of the Parties under this Agreement. Notwithstanding the foregoing, the waiver contained herein shall not waive any immunities that the City may have with respect to claims of injury to persons or property, which claims shall be subject to all of their respective immunities and to the provisions of the Texas



Tort Claims Act. Further, the waiver of immunity herein is not enforceable by any party not a Party to this Agreement or any party that may be construed to be a third party beneficiary to this Agreement.

**Section 12.05. Applicable Law and Venue.** The interpretation, performance, enforcement and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Williamson County, Texas.

**Section 12.06. Entire Agreement.** This Agreement contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the parties. This Agreement supersedes all other agreements between the parties concerning the subject matter.

**Section 12.07. Exhibits, Headings, Construction and Counterparts.** All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. The parties acknowledge that each of them has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the parties.

**Section 12.08. Time.** Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

**Section 12.09. Authority for Execution.** The City certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with its City Charter and City ordinances. Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the articles of incorporation and bylaws or partnership agreement of each entity executing on behalf of Developer.

**Section 12.10. Force Majeure.** If, by reason of force majeure, either party is rendered unable, in whole or in part, to carry out its obligations under this Agreement, the party whose performance is so affected must give notice and the full particulars of such force majeure to the other party within a reasonable time after the occurrence of the event or cause relied upon,

and the obligation of the party giving such notice, will, to the extent it is affected by such force majeure, be suspended during the continuance of the inability but for no longer period. The party claiming force majeure must endeavor to remove or overcome such inability with all reasonable dispatch.

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

**Section 12.11. Amendment.** This Agreement may be amended only with the written consent of all Parties and with approval of the governing bodies of the City and the District.

**Section 12.12. Interpretation.** The Parties acknowledge that each Party and, if it so chooses, its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto. As used in this Agreement, the term “including” means “including without limitation” and the term “days” means calendar days, not business days. Wherever required by the context, the singular shall include the plural, and the plural shall include the singular. Each defined term herein may be used in its singular or plural form whether or not so defined.

**Section 12.13. No Third-Party Beneficiary.** This Agreement is solely for the benefit of the Parties, and neither the City, the District nor the Developer intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than the City, the District and Developer.

**Section 12.14. Counterpart Originals.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

**Section 12.15. Exhibits.** The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

- |             |  |
|-------------|--|
| Exhibit A   | Metes and Bounds Description of the Property |
| Exhibit B   | Concept Plan                                 |
| Exhibit B-1 | Lot Plan with Boundary Roads and Arterials   |
| Exhibit C   | McNutt Creek C5                              |
| Exhibit D   | Form of Consent Resolution of the City       |

Exhibit E      Form of District Joinder

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

(SIGNATURE PAGES FOLLOW)

**CITY OF ROUND ROCK**

By: \_\_\_\_\_  
Craig Morgan, Mayor

Date: \_\_\_\_\_

THE STATE OF TEXAS       §  
  §  
COUNTY OF WILLIAMSON   §

This instrument was acknowledged before me on \_\_\_\_\_, 2019, by Craig Morgan, Mayor of the City of Round Rock, a home-rule city on behalf of said City.

\_\_\_\_\_  
Notary Public Signature

(Seal)

**KB HOME LONE STAR, INC.,**  
a Texas corporation

By: \_\_\_\_\_  
\_\_\_\_\_, its \_\_\_\_\_  
Date: \_\_\_\_\_

THE STATE OF TEXAS           §  
  §  
COUNTY OF WILLIAMSON   §

      This instrument was acknowledged before me on \_\_\_\_\_, 2019, by  
\_\_\_\_\_, \_\_\_\_\_ of KB Home Lone Star, Inc., a Texas  
corporation on behalf of said corporation.

\_\_\_\_\_  
Notary Public Signature

(Seal)

**EXHIBIT "A"**  
**DESCRIPTION OF PROPERTY**

**TRACT A-1**

BEING ALL OF THAT CERTAIN 64.513 ACRE TRACT OF LAND OUT OF AND PART OF THE HENRY MILLARD SURVEY, ABSTRACT NUMBER 452, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED AS BEING ALL OF TRACT A: TRACT I, THAT CERTAIN 64.508 ACRE TRACT OF LAND CONVEYED TO CREEK BEND LAND HOLDINGS, LLC RECORDED IN DOCUMENT NUMBER 2009047398, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS (O.P.R.W.C.TX.), SAID 64.513 ACRE TRACT OF LAND, BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a ½" iron rod found for the northwestern corner of that certain remainder of 196.96 acre tract of land conveyed to Stephen Pritchard Trust and Nancy K.P. Ohlendorf Family Trust in Volume 1980, Page 972, Deed Records, Williamson County, Texas (D.R.W.C.TX.), also being the southwestern corner of that certain remainder of 104.6 acre tract of land conveyed to Michael and Nancy Ohlendorf recorded in Document Number 2011085212 (O.P.R.W.C.TX.), and also being in the eastern right-of-way line of County Road 110 (R.O.W. varies),

THENCE, with the common boundary line of said remainder of 196.96 acre tract and said County Road, S21°29'00"E, a distance of 210.29 feet to a point for the northwestern corner and the POINT OF BEGINNING of the herein described tract,

THENCE, with the common boundary line of said 64.504 acre tract and said remainder of 196.96 acre tract, the following seven (7) courses and distances, numbered 1 through 7,

1. N68°00'19"E, passing at a distance of 0.30 feet, a ½" iron rod found, continuing for a total of 696.23 feet to a point,
2. N09°35'20"W, a distance of 95.12 feet to a ½" iron rod found,
3. N81°24'19"E, a distance of 329.97 feet to a ½" iron rod found,
4. S02°42'11"E, a distance of 17.58 feet to a ½" iron rod found,
5. N68°02'31"E, a distance of 1429.27 feet to a ½" iron rod found for the northeastern corner of said 64.504 acre tract,
6. S22°04'24"E, a distance of 1099.73 feet to a ½" iron rod found at a fence corner, and
7. S66°33'19"W, a distance of 2773.39 feet to a point for the southwestern corner of said 64.508 acre tract, also being in the eastern right-of-way line of said County, Road 110,

THENCE, with the common boundary line of said 64.508 acre tract and said County Road 110, the following two (2) courses and distances, Numbered 1 and 2,

1. N21°30'28"W, a distance of 953.75 feet to a ½" iron rod found,
2. N21°29'00"W, a distance of 209.69 feet to the POINT OF BEGINNING and containing 64.513 acres of land.

TRACT A-2

BEING ALL OF THAT CERTAIN 55.176 ACRE TRACT OF LAND OUT OF AND PART OF THE HENRY MILLARD SURVEY, ABSTRACT NUMBER 452, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF TRACT A: TRACT II, THAT CERTAIN REMAINDER OF 55.34 ACRE TRACT OF LAND CONVEYED TO LONE MOUNTAIN PROPERTIES, LLC RECORDED IN DOCUMENT NUMBER 2009005145, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS (O.P.R.W.C.TX.), SAID 55.176 ACRE TRACT OF LAND, BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

TRACT 1:

BEGINNING, at a ½" iron rod found for the most northerly northwestern corner of said remainder of 55.34 acre tract, also being the northeastern corner of that certain remainder of 34.70 acre tract of land (Tract 1) conveyed to Henry Development, LTD, recorded in Document Number 2004089842 (O.P.R.W.C.TX.), and also being at a point of curvature for a curve to the left in the southern right-of-way line of University Boulevard (200' R.O.W.), and the POINT OF BEGINNING for the herein described tract,

THENCE, with the common boundary line of said remainder of 55.35 acre tract and said University Boulevard, the following two (2) courses and distances, numbered 1 and 2,

8. With said curve to the left, having a radius of 8563.00 feet, an arc length of 450.41 FEET, and whose chord bears N70°08'55"E, a distance of 450.36 feet to a capped iron rod found stamped "J S COALTER", and
9. N68°38'27"E, a distance of 1514.12 feet to a 5/8" iron rod found, being the northeastern corner of said remainder of 55.34 acre tract, also being the northwestern corner of that certain remainder of 60 acre tract of land conveyed to Audell Payne in Volume 456, Page 486, Deed Records, Williamson County, Texas,

THENCE, with the common boundary line of said remainder of 55.34 acre tract and said remainder of 60 acre tract, the following two (2) courses and distances, Numbered 1 and 2,

1. S21°47'47"E, a distance of 903.92 feet to a 3/8" iron rod found, and
2. N63°45'30"E, a distance of 87.68 feet to a 3/8" iron rod found, being an exterior corner in the eastern boundary line of said remainder of 55.34, also being the northwest corner of that certain 75 acre tract of land conveyed to Veterans Land Board recorded in Volume 781, Page 247, Deed Records Williamson County, Texas,

THENCE, with the common boundary line of said remainder of 55.34 acre tract and said 75 acre tract, S21°35'40"E, a distance of 268.79 feet to a ½" iron rod found, being the southeastern corner of said remainder of 55.34 acre tract, also being the northeastern corner of that certain remainder of 104.6 acre tract conveyed to Michael and Nancy Ohlendorf recorded in Document Number 2011085212 (O.P.R.W.C.TX.),

THENCE, with the common boundary line of said remainder of 55.34 acre tract and said remainder of 104.6 acre tract, S68°34'49"W, a distance of 2056.46 feet to a point, being the southwestern corner of said remainder of 55.34 acre tract, also being the southeastern corner of that certain 0.07 acre tract of land (Tract II) conveyed to Henry Development, LTD. recorded in Document Number 2017045283 (O.P.R.W.C.TX.),

THENCE, with said common boundary line of said remainder of 55.34 acre tract, said 0.07 acre (Tract II), that certain 0.18 acre tract of land (Tract I) conveyed to Henry Development record in said Document Number 2017045283, that certain 0.14 acre tract of land conveyed to Henry Development, LTD. in Document Number 2017074516 (O.P.R.W.C.TX.), and said remainder of 34.70 acre tract (Tract I), the following four (4) courses and distances, numbered 1 through 4,

1. N21°27'32"W, a distance of 104.85 feet to a ½" iron rod found,
2. N19°57'22"W, a distance of 30.33 feet to a ½" iron rod found,
3. N22°42'01"W, a distance of 29.77 feet to a ½" iron rod found, and
4. N21°32'01"W, a distance of 1014.31 feet to the POINT OF BEGINNING and containing 53.237 acres of land.

#### TRACT 2:

BEGINNING, at a ½" iron rod found for the most westerly northwestern corner of said remainder of 55.34 acre tract acre tract, being in the eastern right-of-way line of County Road 110 (R.O.W. varies), and also being the southwestern corner of that certain 2.07 acre tract of land conveyed (Tract 2) to Henry Development, LTD. recorded in Document Number 2004089842 (O.P.R.W.C.TX.), and being the northwestern corner and the POINT OF BEGINNING for the herein described tract,

THENCE, with the common boundary line of said remainder of 55.34 acre tract and said 2.07 acre tract, N68°32'30"E, passing at 2766.90 feet a capped iron rod found for the southwest corner of that certain 0.14 acre tract of land conveyed to Henry Development LTD. recorded in Document Number 2017074513 (O.P.R.W.C.TX.) and continuing for a total distance of 2796.42 feet to a capped iron rod found, being the southwest corner of that certain 0.18 acre tract of land (Tract I) conveyed to Henry Development, LTD. and the northwest corner of that certain 0.07 acre tract of land (Tract II) both conveyed to Henry Development LTD. recorded in Document Number 2017045283 (O.P.R.W.C.TX.), and being a southeast corner of said 0.14 acre tract,

THENCE, with the common boundary line of said remainder of 55.34 acre tract and said 0.07 acre tract, S21°20'56"E, a distance of 30.40 feet to a point, being the southwestern corner of said 0.07 acre tract, also being in the northern boundary line of that certain remainder of 104.6 acre tract conveyed to Michael and Nancy Ohlendorf in Document Number 2011085212 (O.P.R.W.C.TX.),

THENCE, with the common boundary line of said remainder of 55.34 acre tract and said remainder of 104.6 acre tract, S68°33'00"W, a distance of 2796.45 feet to a ½" iron rod found, being the southwestern corner of said remainder of 55.34 acre tract, also being the northwestern



corner of said remainder of 104.6 acre tract, and also being in the eastern right-of-way line of said County, Road 110,

THENCE, with the common boundary line of said remainder of 55.34 acre tract and said County, Road 110, N21°16'34"W, a distance of 30.00 feet to the POINT OF BEGINNING and containing 1.939 acres of land.

TRACT 1 – 53.237 ACRES

TRACT 2 – 1.939 ACRES

TOTAL – 55.176 ACRES

TRACT B-II

BEING ALL OF THAT CERTAIN 104.256 ACRE TRACT OF LAND OUT OF AND PART OF THE HENRY MILLARD SURVEY, ABSTRACT NUMBER 452, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED AS BEING A PORTION OF TRACT B: TRACT II, THAT CERTAIN REMAINDER OF 104.6 ACRE TRACT OF LAND CONVEYED TO MICHAEL AND NANCY OHLENDORF RECORDED IN DOCUMENT NUMBER 2011085212, OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS (O.P.R.W.C.TX.), SAID 104.256 ACRE TRACT OF LAND, BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a ½" iron rod found for the northwestern corner of said remainder of 104.6 acre tract, also being the southwestern corner of that certain remainder of 55.34 acre tract of land conveyed to Lone Mountain Properties, LLC, and also being in the eastern right-of-way line, and also being the northwestern corner and the POINT OF BEGINNING for the herein described tract,

THENCE, with the common boundary line of said remainder of 104.6 acre tract, said remainder of 55.34 acre tract, that certain 0.07 acre tract (Tract II) of land conveyed to Henry Development, LTD. in Document Number 2017045283 (O.P.R.W.C.TX.), N68°34'04"E, and that certain remainder of 55.34 acres of land conveyed to Lone Mountain Properties, LLC. in Document Number 2009005145 (O.P.R.W.C.TX.), a distance of 4957.79 feet to a ½" iron rod found, being the northeastern corner of said remainder of 104.6 acre tract, also being the southeastern corner of said remainder of 55.34 acre tract and also being in the western boundary line of that certain 75.00 acre tract of land conveyed to Veterans Land Board in Volume 781, Page 247, Deed Records, Williamson County, Texas,

THENCE, with the common boundary line of said 104.6 acre tract and said 75.00 acre tract, S21°26'17"E, a distance of 913.49 feet to a ½" iron rod found, being the southeastern corner of

the herein described tract, also being the northeastern corner of that certain remainder of 196.96 acre tract of land conveyed to Stephen Pritchard Trust and Nancy K.P. Ohlendorf Family Trust in Volume 1980, Page 972 Deed Records, Williamson County, Texas,

**THENCE**, with the common boundary line of said remainder of 104.6 acre tract and said remainder of 196.96 acre tract, S68°30'29"W, a distance of 4957.11 feet to a ½" iron rod found, being the southwestern corner of said remainder of 104.6 acre tract, also being the northwestern corner of said remainder of 196.96 acre tract, and also being in the eastern right-of-way line of said County Road 110,

**THENCE**, with the common boundary line of said remainder of 104.6 acre tract and said County Road 110, the following two (2) courses and distances, numbered 1 and 2,

1. N21°29'00"W, a distance of 909.64 feet to a ½" iron rod found, and
2. N21°16'34"W, a distance of 9.02 feet to the **POINT OF BEGINNING** and containing 104.256 acres of land.

### **TRACT B-III**

**BEING ALL OF THAT CERTAIN 132.423 ACRE TRACT OF LAND OUT OF AND PART OF THE HENRY MILLARD SURVEY, ABSTRACT NUMBER 452, SITUATED IN WILLIAMSON COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED AS BEING ALL OF TRACT B: TRACT III, THAT CERTAIN REMAINDER OF 196.96 ACRE TRACT OF LAND CONVEYED TO STEPHEN PRITCHARD TRUST AND NANCY K.P. OHLENDORF FAMILY TRUST RECORDED IN VOLUME 1980, PAGE 972, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS (O.P.R.W.C.TX.), SAID 132.423 ACRE TRACT OF LAND, BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING**, at a ½" iron rod found for the northwestern corner of said remainder of 196.96 acre tract, also being the southwestern corner of that certain remainder of 104.6 acre tract of land conveyed to Michael and Nancy Ohlendorf recorded in Document Number 2011085212 (O.P.R.W.C.TX.), and also being in the eastern right-of-way line of County Road 110 (R.O.W. varies), and the **POINT OF BEGINNING** for the herein described tract,

**THENCE**, with the common boundary line of said remainder of 196.96 acre tract and said remainder of 104.6 acre tract, N68°30'29"E, a distance of 4957.11 feet to a ½" iron rod found, being the northeastern corner of said 196.96 acre tract, also being the southeastern corner of said remainder of 104.6 acre tract, and also being in the eastern boundary line of that certain 75.00 acre tract of land conveyed to the Veterans Land Board in Volume 781, Page 247, Deed Records, Williamson County, Texas,

**THENCE**, with the common boundary line of said remainder of 196.96 acre tract and said 75.00 acre tract, S21°30'03"E, a distance of 1332.40 feet to a point, being the southeastern corner of said remainder of 196.96 acre tract, also being the northeastern corner of that certain 72.099 acre

tract of land conveyed to Eleanor, Jacob, and Dorothea Olson in Volume 595, Page 131, Deed Records, Williamson County, Texas, and also being the southeastern corner of the herein described tract,

THENCE, with the common boundary line of said remainder of 196.96 acre tract and said 72.099 acre tract, S68°30'08"W, a distance of 1252.61 feet to a ½" iron rod found, being an angle point in the southern boundary line of said remainder of 196.96 acre tract, also being the northwest corner of said 72.099 acre tract, and also being the northeast corner of that certain 22.31 acre tract of land conveyed to SEDC Devco Inc. recorded in Document Number 2015089805 (O.P.R.W.C.TX.),

THENCE, with the common boundary line of said remainder of 196.96 acre tract and said 22.31 acre tract, the following two (2) courses and distances, numbered 1 and 2,

1. S12°52'51"W, a distance of 17.02 feet to a ½" iron rod found, and
2. S68°23'05"W, a distance of 1224.09 feet to a capped iron rod found, being the northwest corner of said 22.31 acre tract, also being an interior corner on the south line of said remainder of 196.96 acre tract,

THENCE, with the common boundary corner of said remainder of 196.96 acre tract and said 22.31 acre tract, S21°37'15"E, a distance of 776.54 feet to a ½" iron rod found, being a southeast corner of said remainder of 196.96 acre tract, also being the southwest corner of said 22.31 acre tract, and also being the northeast corner of the remainder of that certain 34.74 acre tract of land conveyed to SEDC Devco Inc. recorded in Document Number 2015089800 (O.P.R.W.C.TX.), and also being the northeastern corner of that certain 100 acre tract conveyed to Fred Liardon in Volume 131, Page 131, (D.R.W.C.TX.),

THENCE, with a south line of said remainder of 196.96 acre tract and the north line of said 100 acre tract, S68°37'33"W, a distance of 2472.34 feet to a ½" iron rod found, being the southwest corner of said remainder of 196.96 acre tract, also being the northwest corner of said remainder of 34.74 acre tract, also being in the northern boundary line of said 100 acre tract, and also being in the east right-of-way line of said County Road 110, from which a ½" iron rod found for the southwest corner of said remainder of 34.74 acre tract bears S21°20'42"E, a distance of 616.07 feet,

THENCE, with the common boundary line of said remainder of 196.96 acre tract and said County Road 110, N21°30'28"W, a distance of 746.93 feet to a point, being the southwestern corner of that certain 64.508 acre tract of land conveyed to Creek Bend Holdings, LLC. in Document Number 2009047398 (O.P.R.W.C.TX.),

THENCE, with the common boundary line of said remainder of 196.96 acre tract and said 64.508 acre tract, the following seven (7) courses and distances, numbered 1 through 7,

1. N66°33'19"E, a distance of 2473.39 feet to a ½" iron rod found,
2. N22°04'24"W, a distance of 1099.73 feet to a ½" iron rod found,
3. S68°02'31"W, a distance of 1429.27 feet to a ½" iron rod found,

4. N02°42'11"W, a distance of 17.58 feet to a ½" iron rod found,
5. S81°24'19"W, a distance of 329.97 feet to a ½" iron rod found,
6. S09°35'20"E, a distance of 95.12 feet to a point, and
7. S68°00'19"W, passing at 695.93 feet a ½" iron rod found and continuing for a total distance of 696.23 feet to a point, being the northwestern corner of said 64.528 acre tract, also being an exterior corner in the western boundary line of said remainder of 196.96 acre tract, and also being in the eastern right-of-way line of said County, Road 110,

THENCE, with the common boundary line of said remainder of 196.96 acre tract and said County Road 110, N21°29'00"W, a distance of 210.29 feet to the **POINT OF BEGINNING** and containing 132.423 acres of land.

**EXHIBIT “B”  
CONCEPT PLAN**





# **EXHIBIT "B-1"** **LOT PLAN WITH BOUNDARY ROADS AND ARTERIALS**







**EXHIBIT “D”**  
**FORM OF CONSENT RESOLUTION OF THE CITY**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS, CONSENTING TO THE CREATION OF A MUNICIPAL UTILITY DISTRICT TO BE KNOWN AS ROUND ROCK MUNICIPAL UTILITY DISTRICT NO. 1**

WHEREAS, the City of Round Rock has received a Petition for Consent to Include Land In A Municipal Utility District, dated \_\_\_\_\_, a copy of which is attached hereto as Exhibit “A”; and

WHEREAS, the City wishes to evidence its support for the creation of the Round Rock Municipal Utility District (“District”) within its corporate boundaries by special act of the 86<sup>th</sup> Texas Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS:

SECTION 1. All of the matters and facts set forth in the preamble hereof are true and correct.

SECTION 2. The “Petition for Consent to Include Land In a Municipal Utility District” (the “Petition”) relative to 356 acres of land is attached hereto as Exhibit “A” and made a part hereof for all purposes.

SECTION 3. The City Council of the City of Round Rock, Texas hereby grants its consent to and permission for the creation of the District by special act of the 86<sup>th</sup> Texas Legislature or through other means within its corporate boundaries which is described more fully as Tract 1 in the field notes attached to Exhibit “A” of the Petition, and the Mayor and City Secretary are hereby authorized to execute any documents necessary to effectuate this Resolution

SECTION 4. That this resolution take effect immediately from and after its passage.

DULY RESOLVED by the City Council of the City of Round Rock, Texas, on the \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

---

Mayor, Craig Morgan

ATTEST:

APPROVED:

---

City Secretary

---

City Attorney

*[Petition for Consent to be attached as exhibit to final Consent Resolution]*

**EXHIBIT “E”  
FORM OF DISTRICT JOINDER**

**JOINDER AGREEMENT**

THIS JOINDER AGREEMENT (the “Joinder Agreement”), dated as of \_\_\_\_\_, 2019, is executed by ROUND ROCK MUNICIPAL UTILITY DISTRICT NO. 1 (“District”), in connection with that certain Consent Agreement (the “Consent Agreement”) entered into by and between the CITY OF ROUND ROCK, TEXAS, a home rule city located in Williamson County, Texas (the “City”) and KB HOME LONE STAR, INC., a Texas corporation, dated effective as of \_\_\_\_\_, 201\_. Capitalized terms used herein but not otherwise defined herein shall have the definitions provided in the Development Agreement.

In accordance with Section 2.02 of the Consent Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated herein for all purposes, the District executes this Joinder Agreement in order to become a Party to the Consent Agreement. Accordingly, the District hereby agrees as follows with City and Owner:

1. The District acknowledges and confirms that it has received a copy of the Consent Agreement and the schedules and exhibits thereto.

2. The District hereby acknowledges, agrees, and confirms that, by its execution of this Joinder Agreement, the District shall automatically be deemed to be a Party to the Consent Agreement, and shall have all of the rights and obligations of the District with regard to property within the District thereunder as if it had originally executed the Consent Agreement. The District hereby ratifies, as of the date hereof, and agrees to be bound by all of the terms, provisions and conditions contained in the Consent Agreement applicable to it to the same effect as if it were an original Party thereto.

3. This Joinder Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas, and exclusive venue shall lie in Williamson County, Texas.

IN WITNESS WHEREOF, the District has caused this Joinder Agreement to be duly executed by its authorized officer as of the day and year first above written.

**ROUND ROCK MUNICIPAL UTILITY  
DISTRICT NO. 1**

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_