

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS ACCEPTING AND APPROVING A SERVICE AND ASSESSMENT PLAN AND ASSESSMENT ROLL FOR THE WHITECAP PUBLIC IMPROVEMENT DISTRICT IMPROVEMENT AREA #1; MAKING A FINDING OF SPECIAL BENEFIT TO THE PROPERTY IN THE DISTRICT; LEVYING ASSESSMENTS AGAINST PROPERTY WITHIN THE DISTRICT AND ESTABLISHING A LIEN ON SUCH PROPERTY; PROVIDING FOR THE METHOD OF ASSESSMENT AND THE PAYMENT OF THE ASSESSMENTS IN ACCORDANCE WITH CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED; PROVIDING PENALTIES AND INTEREST ON DELINQUENT ASSESSMENTS; PROVIDING FOR SEVERABILITY; APPROVING AND AUTHORIZING THE EXECUTION OF A REIMBURSEMENT AGREEMENT RELATING TO IMPROVEMENT AREA #1 OF THE WHITECAP PUBLIC IMPROVEMENT DISTRICT NO. 1; RESOLVING ALL MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on April 7, 2022 a petition was submitted and filed with the City Secretary (the “City Secretary”) of the City of Corpus Christi, Texas (the “City”) pursuant to the Public Improvement District Assessment Act, Chapter 372, Texas Local Government Code, as amended (the “PID Act”), requesting the creation of a public improvement district within the City; and

WHEREAS, the petition satisfied the requirements of the PID Act because it contained the signatures of: (1) the owners of taxable property representing more than fifty percent of the appraised value of taxable real property liable for assessment within the District, as determined by the then current ad valorem tax rolls of Nueces County Appraisal District, and (2) the record owners of real property liable for assessment who (A) constitute more than fifty percent of all record owners of property that is liable for assessment under the proposal, or (B) own taxable real property that constitutes more than fifty percent of the area of all taxable property within the District that is liable for assessment; and

WHEREAS, on May 17, 2022, after due notice, the City Council of the City (the “City Council”) held a public hearing in the manner required by law on the advisability of the public improvements and services described in the petition as required by Section 372.009 of the PID Act, and on May 17, 2022 made the findings required by Section 372.009(b) of the PID Act and, by Resolution No. 032761 (the “Authorization Resolution”) adopted by a majority of the members of the City Council, authorized and created the Whitecap Public Improvement District No. 1 (the “District”) in accordance with its finding as to the advisability of the authorized improvements relating to the District (the “Authorized Improvements”); and

WHEREAS, the City filed the Authorization Resolution with the Nueces County Clerk in Nueces County real property records, as required by law; and

WHEREAS, no written protests regarding the creation of the District from any owners of record of property within the District were filed with the City Secretary, within 20 days after the adoption of the Authorization Resolution; and

WHEREAS, on January 23, 2024, the Council adopted a resolution accepting the preliminary service and assessment plan, including a proposed assessment roll the District (the "Proposed Assessment Roll"), calling for a public hearing to consider an ordinance levying assessments against benefitted property within the District (the "Assessments"), authorizing and directing the City Secretary of the City to file the Proposed Assessment Roll and make such assessment roll available for public inspection, authorizing and directing the City Secretary of the City to publish notice of a public hearing to consider the levying of the Assessments against the property within the District (the "Levy and Assessment Hearing"), authorizing and directing the mailing of notice of the Levy and Assessment Hearing to owners of property liable for assessment, and directing related action; and

WHEREAS, the City Secretary filed the Proposed Assessment Roll and made the same available for public inspection; and

WHEREAS, the City Secretary, pursuant to Section 372.016(b) of the PID Act, published notice of the Levy and Assessment Hearing on January 28, 2024 in the *Corpus Christi Caller-Times*, a newspaper of general circulation in the City; and

WHEREAS, the City Secretary, pursuant to Section 372.016(c) of the PID Act, mailed the notice of the Levy and Assessment Hearing to the last known address of the owners of the property liable for the Assessments; and

WHEREAS, on February 13, 2024 the City Council convened the Levy and Assessment Hearing and all persons who appeared, or requested to appear, in person or by their attorney, were given the opportunity to contend for or contest the Assessment Roll (as defined below), and the proposed assessments, and to offer testimony pertinent to any issue presented on the amount of the assessments, the allocation of the Actual Costs of the Authorized Improvements (as defined in the Service and Assessment Plan) to be undertaken for the benefit of the property located within the District, the purposes of the Assessments, the special benefits of the Assessments, and the penalties and interest on annual installments and on delinquent annual installments of the Assessments; and

WHEREAS, the City Council finds and determines that the Whitecap Public Improvement District Improvement Area #1 Service and Assessment Plan, substantially in the form attached hereto as **Exhibit A** (the "Service and Assessment Plan"), and which is incorporated herein for all purposes, should be approved and that the Assessments for the Assessed Property (as defined in the Service and Assessment Plan) should be levied as provided in this Ordinance and the Service and Assessment Plan and the assessment roll attached thereto as Exhibit F (the "Assessment Roll"); and

WHEREAS, the City Council further finds that there were no objections or evidence submitted to the City Secretary in opposition to the Service and Assessment Plan, the allocation of the Actual Costs of the Authorized Improvements as described in the Service and Assessment Plan, the Assessment Roll, and the levy of the Assessments, all as described in the Service and Assessment Plan; and

WHEREAS, the owner (the “Landowner”), of one hundred percent (100%) of the privately-owned and taxable property located within the District to be assessed pursuant to this Ordinance, has acknowledged, consented and confirmed the right, power, and legislative authority of the City Council of the City to: (i) create the District; (ii) adopt this Assessment Ordinance, including the Service and Assessment Plan, (iii) make determinations and findings as to special benefits conferred by the Authorized Improvements, and (iv) levy of Assessments against benefitted property within the District owned by the Landowner; and

WHEREAS, the City desires to approve the “PID Reimbursement Agreement - Whitecap Public Improvement District” by and between the City and Ashlar Interests, LLC, a Texas limited liability company, relating to Improvement Area #1 of the District (the “Reimbursement Agreement”); and

WHEREAS, the Reimbursement Agreement is a “reimbursement agreement” authorized by Section 372.023(d)(1) of the Act; and

WHEREAS, the City Council closed the Levy and Assessment Hearing, and, after considering all written and documentary evidence presented at the hearing, including all written comments and statements filed with the City, determined to proceed with the adoption of this Ordinance in conformity with the requirements of the PID Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

Section 1. Terms.

Terms not otherwise defined herein, including the preambles to this Ordinance, have the meanings ascribed thereto as set forth in the Service and Assessment Plan.

Section 2. Findings.

The findings and determinations set forth in the preambles hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section. The City Council hereby finds, determines, and ordains, as follows:

- (a) The apportionment of the Actual Costs of the Authorized Improvements (as reflected in the Service and Assessment Plan and Exhibit B attached thereto) and the Annual Collection Costs (as reflected in the Service and Assessment Plan) is fair and reasonable, reflects an accurate presentation of the special benefit each assessed parcel

of the Assessed Property will receive from the construction of the Authorized Improvements identified in the Service and Assessment Plan, and is hereby approved;

(b) The Service and Assessment Plan (i) covers a period of at least five years, (ii) defines the annual indebtedness and projected costs for the Authorized Improvements, (iii) includes a copy of the notice form required by Section 5.014 of the Texas Property Code, as amended, and (iv) and will be reviewed and updated annually;

(c) The Service and Assessment Plan apportions the Actual Costs of the Authorized Improvements to be assessed against the Assessed Property in the District and such apportionment is made on the basis of special benefits accruing to the Assessed Property because of the Authorized Improvements;

(d) All of the Assessed Property in the District which is being assessed in the amounts shown in the Assessment Roll will be benefited by the Authorized Improvements as described in the Service and Assessment Plan, and each Assessed Property will receive special benefits during the term of the Assessments equal to or greater than the total amount assessed;

(e) The method of apportionment of the Actual Costs of the Authorized Improvements and Annual Collection Costs set forth in the Service and Assessment Plan results in imposing equal shares of the costs of the Authorized Improvements and Annual Collection Costs on property similarly benefited, and results in a reasonable classification and formula for the apportionment of the Actual Costs of the Authorized Improvements;

(f) The Service and Assessment Plan should be approved as the service plan and assessment plan for the District as described in Sections 372.013 and 372.014 of the PID Act;

(g) The Assessment Roll should be approved as the assessment roll for the Assessed Property within the District;

(h) The provisions of the Service and Assessment Plan relating to due and delinquency dates for the Assessments, interest on Annual Installments, interest and penalties on delinquent Assessments and delinquent Annual Installments, and procedures in connection with the imposition and collection of Assessments should be approved and will expedite collection of the Assessments in a timely manner in order to provide the services and improvements needed and required for the District; and

(i) A written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public for the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended, and this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered, and formally acted upon.

Section 3. Service and Assessment Plan.

The Service and Assessment Plan is hereby accepted and approved pursuant to Sections 372.013 and 372.014 of the PID Act as the service plan and the assessment plan for the District.

Section 4. Assessment Roll.

The Assessment Roll is hereby accepted and approved pursuant to Section 372.016 of the PID Act as the Assessment Roll of the District.

Section 5. Levy and Payment of Assessments for Costs of the Authorized Improvements.

(a) The City Council hereby levies an assessment on the Assessed Property (excluding Non-Benefited Property) located within the District, as shown and described in the Service and Assessment Plan and the Assessment Roll, in the respective amounts shown in the Assessment Roll, as a special assessment on the properties set forth in the Assessment Roll. The Assessments hereby levied shall be sufficient to pay the debt service on any bonds or other evidences of indebtedness that may be hereafter issued for the District and costs related thereto in accordance with the terms of the Service and Assessment Plan or that are otherwise authorized by the PID Act.

(b) The levy of the Assessments shall be effective on the date of execution of this Ordinance levying Assessments and strictly in accordance with the terms of the Service and Assessment Plan and the PID Act.

(c) The collection of the Assessments shall be as described in the Service and Assessment Plan and the PID Act.

(d) Each Assessment may be paid in a lump sum at any time or may be paid in Annual Installments pursuant to the terms of the Service and Assessment Plan.

(e) Each Assessment shall bear interest at the rate or rates specified in the Service and Assessment Plan, as the same shall be reviewed and updated annually.

(f) Each Annual Installment shall be collected each year in the manner set forth in the Service and Assessment Plan.

(g) The Annual Collection Costs for the Assessed Property shall be calculated and collected pursuant to the terms of the Service and Assessment Plan.

Section 6. Method of Assessment.

The method of apportioning the Actual Costs of the Authorized Improvements and Annual Collection Costs are set forth in the Service and Assessment Plan.

Section 7. Penalties and Interest on Delinquent Assessments.

Delinquent Assessments shall be subject to the penalties, interest, procedures, and foreclosure sales set forth in the Service and Assessment Plan and as allowed by law.

Section 8. Prepayments of the Assessments.

As provided in Section VI of the Service and Assessment Plan, the owner of any of the Assessed Property may prepay the Assessments levied by this Ordinance.

Section 9. Lien Priority.

The City Council and the Landowner intend for the obligations, covenants and burdens on the landowners of Assessed Property, including without limitation such Landowner's obligations related to payment of the Assessments and the Annual Installments thereof, to constitute covenants that shall run with the land. The Assessments and the Annual Installments thereof which are levied hereby shall be binding upon the Landowner, as the owner of Assessed Property, and its respective transferees, legal representatives, heirs, devisees, successors and assigns in the same manner and for the same period as such parties would be personally liable for the payment of ad valorem taxes under applicable law. The Assessments shall have lien priority as specified in the Service and Assessment Plan and the PID Act.

Section 10. Appointment of Administrator and Collector of Assessments.

(a) Appointment of Administrator.

The prior appointment of P3Works, LLC, is hereby confirmed and P3Works, LLC, is hereby designated as the initial Administrator of the Service and Assessment Plan and of Assessments levied by this Ordinance (the "Administrator"). The Administrator shall perform the duties of the Administrator described in the Service and Assessment Plan, in this Ordinance, and in any contract between the City and the Administrator. The Administrator's fees, charges and expenses for providing such service shall constitute Annual Collection Costs.

(b) Appointment of Temporary Collector.

The Administrator or its designee is hereby appointed and designated as the temporary collector of the Assessments (the "Collector"). The Collector shall serve in such capacity until such time as the City shall arrange for the Collector's duties to be performed by the Nueces County Tax Assessor and Collector, or another qualified collection agent selected by the City.

Section 11. Applicability of Tax Code.

To the extent not inconsistent with this Ordinance, and not inconsistent with the PID Act or the other laws governing public improvement districts, the provisions of the Texas Tax Code shall be applicable to the imposition and collection of Assessments by the City.

Section 12. Filing in Real Property Records.

The Reimbursement Agreement attached hereto as Exhibit B, is approved and the Mayor or City Manager is authorized to execute such Reimbursement Agreement on behalf of the City.

Section 13. Filing in Real Property Records.

The City Secretary is directed to cause a copy of this Ordinance, including the Service and Assessment Plan and the Assessment Roll, to be recorded in the real property records of Nueces County before February 26, 2024. The City Secretary is further authorized to similarly file or cause to be filed each Annual Service Plan Update approved by the City Council no later than the seventh day after the date the City Council approves such Annual Service Plan Update.

Section 14. Severability.

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance or the application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness, or invalidity or any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

Section 15. Effective Date.

This Ordinance shall take effect, and the levy of the Assessments, and the provisions and terms of the Service and Assessment Plan shall be and become effective upon passage and execution hereof.

PASSED AND ADOPTED on the ____ day of _____, 2024.

CITY OF CORPUS CHRISTI, TEXAS

Mayor

ATTEST:

City Secretary

APPROVED THIS ____ day of _____, 2024:

Miles Risley, City Attorney

(CITY SEAL)

THE STATE OF TEXAS §

COUNTY OF NUECES §

I, the undersigned, City Secretary of the City of Corpus Christi, Texas, do hereby certify that the above and foregoing is a true, full and correct copy of an Ordinance passed by the City Council of the City of Corpus Christi, Texas (and of the minutes pertaining thereto) on the ____ day of _____, 2024, authorizing an assessment ordinance and reimbursement agreement, which ordinance is duly of record in the minutes of said City Council, and said meeting was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Texas Government Code, Chapter 551.

EXECUTED UNDER MY HAND AND SEAL of said City, this the ____ day of _____, 2024.

City Secretary

(CITY SEAL)

The foregoing ordinance was read for the first time and passed to its second reading on this the ____ day of _____, 2024, by the following vote:

Paulette Guajardo	_____	Jim Klein	_____
Roland Barrera	_____	Mike Pusley	_____
Sylvia Campos	_____	Everett Roy	_____
Gil Hernandez	_____	Dan Suckley	_____
Michael Hunter	_____		

That the foregoing ordinance was read for the second time and passed finally on this the ____ day of _____, 2024, by the following vote:

Paulette Guajardo	_____	Jim Klein	_____
Roland Barrera	_____	Mike Pusley	_____
Sylvia Campos	_____	Everett Roy	_____
Gil Hernandez	_____	Dan Suckley	_____
Michael Hunter	_____		

PASSED AND APPROVED, this the ____ day of _____, 2024.

ATTEST:

Rebecca Huerta
City Secretary

Paulette Guajardo
Mayor

EXHIBIT A

Service and Assessment Plan

EXHIBIT B

Reimbursement Agreement

**PID Reimbursement Agreement
Whitecap Public Improvement District No. 1**

This PID Reimbursement Agreement (this "Agreement") is entered into by Ashlar Interests, LLC (the "Developer") and the City of Corpus Christi Texas (the "City"), to be effective _____, 20__, (the "Effective Date"). The Developer and the City are individually referred to as a "Party" and collectively as the "Parties."

SECTION 1. RECITALS

- 1.1 WHEREAS, capitalized terms used in this Agreement shall have the meanings given to them in Section 2;
- 1.2 WHEREAS, unless otherwise defined: (1) all references to "sections" shall mean sections of this Agreement; (2) all references to "exhibits" shall mean exhibits to this Agreement which are incorporated as part of this Agreement for all purposes; and (3) all references to "ordinances" or "resolutions" shall mean ordinances or resolutions adopted by the City Council;
- 1.3 WHEREAS, the Developer is a Texas limited liability company;
- 1.4 WHEREAS, the City is a Texas home-rule municipality;
- 1.5 WHEREAS, on May 17, 2022, the City Council passed and approved the PID Creation Resolution authorizing the creation of the PID pursuant to the Act, covering approximately 242.011 contiguous acres within the City's corporate limits, which land is described in the PID Creation Resolution;
- 1.6 WHEREAS, on February 20, 2024, the City Council passed and approved an Assessment Ordinance related to Improvement Area #1 of the PID;
- 1.7 WHEREAS, the City Council expects to pass and approve additional Assessment Ordinances related to other phases of development in the PID in the future as such phases are developed;
- 1.8 WHEREAS, each Assessment Ordinance approves the SAP, including each Assessment Roll attached thereto;

1.9 WHEREAS, the SAP identifies Authorized Improvements to be designed, constructed, and installed by or at the direction of the Parties that confer a special benefit on the Assessed Property;

1.10 WHEREAS, the SAP sets forth the Actual Costs of the Authorized Improvements;

1.11 WHEREAS, the Assessed Property is being developed in phases or "Improvement Areas;"

1.12 WHEREAS, this Agreement shall apply to all Improvement Areas and no additional reimbursement agreement shall be required for Improvement Areas to be developed in the future following the initial phase of development constituting "Improvement Area #1";

1.13 WHEREAS, the SAP determines and apportions the Actual Costs of the Authorized Improvements to the Assessed Property, which Actual Costs represent the special benefit that the Authorized Improvements confer upon the Assessed Property as required by the Act;

1.14 WHEREAS, in each Assessment Ordinance the City levied or expects to levy a portion of the Actual Costs of the Authorized Improvements as Assessments against the Assessed Property in the amounts set forth on the Assessment Roll(s);

1.15 WHEREAS, Assessments, including the Annual Installments thereof, are or will be due and payable once levied as described in the SAP;

1.16 WHEREAS, Assessments, including the Annual Installments thereof, shall be billed and collected by the City or its designee;

1.17 WHEREAS, the Parties agree the City's obligations to reimburse the Developer for Actual Costs of Authorized Improvements constructed for the benefit of any Improvement Area are: (1) contingent upon the City levying Assessments against property within such Improvement Area benefitting from the Authorized Improvements, (2) payable solely from the Assessments, including the Annual Installments of such Assessments, collected from Assessed Property within such Improvement Area, and (3) not due and owing unless and until the City actually adopts an Assessment Ordinance levying such Assessments;

1.18 WHEREAS, Assessment Revenue from the collection of Assessments, including the Annual Installments thereof, shall be deposited (1) as provided in the applicable Indenture if PID Bonds secured by such Assessments are issued, or (2) into the PID Reimbursement Fund if no such PID Bonds are issued or none of such PID Bonds remain outstanding;

1.19 WHEREAS, Bond Proceeds shall be deposited as provided in the applicable Indenture;

1.20 WHEREAS, a PID Project Fund related to each series of PID Bonds shall only be used in the manner set forth in the applicable Indenture;

1.21 WHEREAS, this Agreement is a "reimbursement agreement" authorized by Section 372.023(d)(1) of the Act;

1.22 WHEREAS, the foregoing RECITALS: (1) are part of this Agreement for all purposes; (2) are true and correct; (3) create obligations of the Parties (unless otherwise stated therein or in the body of this Agreement), and (4) each Party has relied upon such Recitals, each of which are incorporated as part of this Agreement for all purposes, in entering into this Agreement; and

1.23 WHEREAS, all resolutions and ordinances referenced in this Agreement (e.g., the PID Creation Resolution, Development Agreement, and each Assessment Ordinance), together with all other documents referenced in this Agreement (e.g., the SAP and each Indenture), are incorporated as part of this Agreement for all purposes as if such resolutions, ordinances, and other documents were set forth in their entirety in or as exhibits to this Agreement.

NOW THEREFORE, for and in consideration of the mutual obligations of the Parties set forth in this Agreement, the Parties agree as follows:

SECTION 2. DEFINITIONS

2.1 "Act" is defined as Chapter 372, Texas Local Government Code, as amended.

2.2 "Actual Costs" are defined in the SAP.

2.3 "Administrator" is defined in the SAP.

2.4 "Agreement" is defined in the introductory paragraph.

2.5 "Annual Collection Costs" are defined in the SAP.

2.6 "Annual Installment" is defined in the SAP.

2.7 "Applicable Laws" means the Act and all other laws or statutes, rules, or regulations of the State of Texas or the United States, as the same may be amended, by which the City and its powers, securities, operations, and procedures are, or may be, governed or from which its powers may be derived.

- 2.8 "Assessed Property" is defined in the SAP.
- 2.9 "Assessment" is defined in the SAP.
- 2.10 "Assessment Ordinance" is defined in the SAP.
- 2.11 "Assessment Revenue" means the revenues actually received by or on behalf of the City from any one or more of the following: (1) an Assessment levied against Assessed Property, or Annual Installment payment thereof, including any interest on such Assessment or Annual Installment during any period of delinquency, (2) a Prepayment, and (3) foreclosure proceeds.
- 2.12 "Assessment Roll" is defined in the SAP.
- 2.13 "Authorized Improvements" are defined in the SAP.
- 2.14 "Bond Proceeds" mean the proceeds derived from the issuance and sale of [a series of] PID Bonds that are deposited and made available to pay Actual Costs in accordance with the applicable Indenture.
- 2.15 "Certificate for Payment" means a certificate (substantially in the form of Exhibit A or as otherwise approved by the Developer and the City Representative) executed by a representative of the Developer and approved by a City Representative, delivered to a City Representative (and/or, if applicable, to the trustee named in any applicable Indenture), specifying the work performed and the amount charged (including materials and labor costs) for Actual Costs, and requesting payment of such amount from the appropriate fund or funds. Each certificate shall include supporting documentation in the standard form for City construction projects and evidence that each Authorized Improvement (or its completed segment) covered by the certificate has been inspected by the City.
- 2.16 "Change Order" is defined in Section 3.12.
- 2.17 "City" is defined in the introductory paragraph.
- 2.18 "City Council" means the governing body of the City.
- 2.19 "City Representative" means any person authorized by the City Council to undertake the actions referenced herein.
- 2.20 "Closing Disbursement Request" means a request in the form of Exhibit B or as otherwise approved by the Parties.

- 2.21 "Commitment" is defined in Section 3.10.
- 2.22 "Cost Underrun" is defined in Section 3.11.
- 2.23 "County" is defined in the SAP.
- 2.24 "Default" is defined in Section 4.8.1.
- 2.25 "Delinquent Collection Costs" are defined in the SAP.
- 2.26 "Developer" is defined in the introductory paragraph.
- 2.27 "Developer Advances" mean advances made by the Developer to pay Actual Costs.
- 2.28 "Developer Improvement Account" means an account of the PID Project Fund which may be created and established under the applicable Indenture (and segregated from all other funds contained in the PID Project Fund) into which the City deposits, or directs the applicable trustee to deposit, any funds received from the Developer as required under such Indenture.
- 2.29 "Development Agreement" is defined in the SAP.
- 2.30 "Effective Date" is defined in the introductory paragraph.
- 2.31 "Failure" is defined in Section 4.8.1.
- 2.32 "Improvement Area" is a phase of development defined and described by metes and bounds in the SAP..
- 2.33 "Improvement Area #1" is defined in the SAP.
- 2.34 "Indenture" means the applicable trust indenture pursuant to which PID Bonds are issued.
- 2.35 "Maturity Date" is the date one year after the last Annual Installment is collected.
- 2.36 "Party" and "Parties" are defined in the introductory paragraph.
- 2.37 "PID" is defined as the Whitecap Public Improvement District No. 1, created by the PID Creation Resolution.
- 2.38 "PID Bonds" are defined in the SAP.
- 2.39 "PID Creation Resolution" is defined as Resolution No. 032761 passed and approved by the City Council on May 17, 2022, and recorded in the official public records of Nueces County, Texas, as Instrument No. 2022024701 on May 20, 2022.

2.40 "PID Pledged Revenue Fund" means, collectively, the fund established by the City under each applicable Indenture (and segregated from all other funds of the City) into which the City deposits Assessment Revenue securing PID Bonds issued and still outstanding.

2.41 "PID Project Fund" means, collectively, the fund, including all accounts created within such fund, established by the City under each applicable Indenture (and segregated from all other funds of the City) into which the City deposits Bond Proceeds in the amounts and as described in the applicable Indenture.

2.42 "PID Reimbursement Fund" means the fund, including all accounts created within such fund to designate Assessment Revenues collected from each Improvement Area, to be established by the City under this Agreement (and segregated from all other funds of the City) held by the City or the City's designee into which the City deposits Assessment Revenue if not deposited into the PID Pledged Revenue Fund.

2.43 "Prepayment" is defined in the SAP.

2.44 "Reimbursement Agreement Balance" is defined in Section 3.3.

2.45 "SAP" is defined as the *Whitecap Public Improvement District Service and Assessment Plan* approved February 20, 2024, as part of the Assessment Ordinance adopted by the City Council on February 20, 2024 and recorded in the official public records of Nueces County, Texas as Instrument No. _____ on _____, 20____, as the same may be updated or amended by City Council action in accordance with the Act.

2.46 "Transfer" and "Transferee" are defined in Section 4.11.

SECTION 3. FUNDING AUTHORIZED IMPROVEMENTS

3.1 Fund Deposits. Until PID Bonds payable from Assessment Revenue collected from a specific Improvement Area of the development are issued, the City shall bill, collect, and immediately deposit into the PID Reimbursement Fund all Assessment Revenue consisting of: (1) revenue collected from the payment of Assessments (including pre-payments and amounts received from the foreclosure of liens but excluding costs and expenses related to collection); and (2) revenue collected from the payment of Annual Installments (excluding Annual Collection Costs and Delinquent Collection Costs). Unless and until PID Bonds payable from Assessment Revenue collected from a specific Improvement Area of the development are issued, funds in the PID Reimbursement Fund shall be

deposited into a segregated account relating to the Improvement Area from which such Assessment Revenue was collected and such funds shall only be used to pay Actual Costs of the Authorized Improvements benefitting that Improvement Area or all or any portion of the Reimbursement Agreement Balance related to that Improvement Area in accordance with this Agreement.

Once PID Bonds payable from Assessment Revenue collected from a specific Improvement Area of the development are issued, the City shall bill, collect, and immediately deposit all Assessment Revenue collected from that Improvement Area that secure such series of PID Bonds in the manner set forth in the applicable Indenture. The City shall also deposit Bond Proceeds and any other funds authorized or required by the applicable Indenture in the manner set forth in the applicable Indenture. Annual Installments shall be billed and collected by the City (or by any person, entity, or governmental agency permitted by law) in the same manner and at the same time as City ad valorem taxes are billed and collected. Funds in the PID Project Fund shall only be used in accordance with the applicable Indenture; provided that funds disbursed from the applicable PID Project Fund pursuant to Section 3.5 below shall be made first from Bond Proceeds held in the applicable accounts within such PID Project Fund until such accounts are fully depleted and then from the Developer Improvement Account of the applicable PID Project Fund, if applicable. Subject to Section 3.6 below, the Actual Costs of Authorized Improvements within each Improvement Area shall be paid from: (1) the Assessment Revenue collected solely from Assessments levied on the property within such Improvement Area benefitting from such Authorized Improvements and on deposit in the PID Reimbursement Fund; or (2) net Bond Proceeds or other amounts deposited in an account of the PID Project Fund created under an Indenture related to PID Bonds secured by Assessment Revenue collected solely from Assessments levied on benefitted property within such Improvement Area. The City will take and pursue all actions permissible under Applicable Laws to cause the Assessments to be collected and the liens related to such Assessments to be enforced continuously, in the manner and to the maximum extent permitted by the Applicable Laws, and, to the extent permitted by Applicable Laws, to cause no reduction, abatement or exemption in the Assessments for so long as any PID Bonds are outstanding or a Reimbursement Agreement Balance remains outstanding. The City shall determine or cause to be determined, no later than February 15 of each year whether any Annual Installment is delinquent. If such delinquencies exist, then the City will order and cause to be commenced as soon as practicable any and all appropriate and legally permissible actions to obtain such Annual Installment, and any delinquent charges and interest thereon, including diligently prosecuting an action to foreclose the

currently delinquent Annual Installment; provided, however, the City shall not be required under any circumstances to purchase or make payment for the purchase of the delinquent Assessment or the corresponding Assessed Property or to use any City funds, revenues, taxes, income, or property other than moneys collected from the Assessments for the payment of Actual Costs of Authorized Improvements under this Agreement. Once PID Bonds are issued, the applicable Indenture shall control in the event of any conflict with this Agreement.

3.2 Payment of Actual Costs. Subject to Section 3.6 below, if PID Bonds are not issued (or prior to such issuance) to pay Actual Costs of Authorized Improvements, the Developer may elect to make Developer Advances to pay Actual Costs. If PID Bonds are issued, the Bond Proceeds shall be used in the manner provided in the applicable Indenture; and, except as may be required under the Development Agreement and/or an applicable Indenture, the Developer shall have no obligation to make Developer Advances for the related Authorized Improvements, unless the Bond Proceeds, together with any other funds in the PID Project Fund or PID Reimbursement Fund, are insufficient to pay the Actual Costs of such Authorized Improvements, in which case the Developer shall make Developer Advances to pay the deficit. If Developer Advances are required in connection with the issuance of a series of PID Bonds, then such Developer Advances may be reduced by the amount of payments of Actual Costs of the Authorized Improvements (or portions thereof) to be financed by such PID Bonds that the Developer has previously paid if (1) the Developer submits to the City all information related to such costs that would be required by a Closing Disbursement Request at least five (5) days prior to the pricing date of such PID Bonds, and (2) the City approves such Actual Costs in writing. The Developer shall also make Developer Advances to pay for cost overruns (after applying cost savings). The lack of Bond Proceeds or other funds in the PID Project Fund shall not diminish the obligation of the Developer to pay Actual Costs of the Authorized Improvements.

3.3 Payment of Reimbursement Agreement Balance. Subject to the terms, conditions, and requirements of this Agreement, including Section 3.6 hereof, The City agrees to pay to the Developer, and the Developer shall be entitled to receive payments from the City, until the Maturity Date, for the lesser of: (a) amounts shown on each approved Certificate for Payment for Actual Costs of Authorized Improvements paid by or at the direction of the Developer, and (b) the reimbursement amount shown in Schedule I of the SAP plus: (1) simple interest on the unpaid principal balance at a rate equal to or less than five percent (5%) above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index shown on Schedule I of the SAP that was approved by the City Council

of the City and reported in the month before the date the obligation is incurred (which date is the date of approval by the City of the Assessment Ordinance levying the Assessments from which the Reimbursement Agreement Balance, or a portion thereof, shall be paid) for years one through five beginning on the date each Certificate for Payment is delivered to the City Representative; and (2) simple interest on the unpaid principal balance at a rate equal to or less than two percent (2%) above the highest average index rate for tax-exempt bonds reported in a daily or weekly bond index reported in the month before the date the obligation was incurred (which date is the same as the approval by the City of the Assessment Ordinance levying the Assessments from which the Reimbursement Agreement Balance, or a portion thereof, shall be paid) for years six and later (the unpaid principal balance, together with accrued but unpaid interest, owed the Developer for all Certificates for Payment is referred to as the "Reimbursement Agreement Balance"); provided, however, upon the issuance of PID Bonds, the interest rate due and unpaid on amounts shown on each Certificate for Payment to be paid to the Developer shall be the lower of: (1) the interest rate on such series of PID Bonds issued to finance the costs of the Authorized Improvements for which the Certificate for Payment was filed, or (2) the interest rate approved by the City Council of the City in the Assessment Ordinance levying the Assessments from which the Bonds shall be paid. The interest rates set forth in Schedule I of the SAP shall be approved by the City Council in each Assessment Ordinance as authorized by the Act. The principal amount of each portion of the Reimbursement Agreement Balance to be paid under each Assessment Ordinance, and the interest rate for such portion of the Reimbursement Agreement Balance, shall be shown on Schedule I attached to the SAP and Schedule I is incorporated as a part of this Agreement for all purposes. Interest shall accrue on each Reimbursement Agreement Balance from the later of: (1) final plat approval as evidenced by recording the final plat in the real property records of the County, and (2) the levy of Assessments securing such Reimbursement Agreement Balance. As the City passes and approves additional Assessment Ordinances and/or issues PID Bonds, the City shall approve an updated Schedule I as part of the updated or amended SAP for the sole purpose of showing the principal amount of the portion of the Reimbursement Agreement to be paid under such newly-adopted Assessment Ordinance and any adjustments to the interest rate for such portion of the Reimbursement Agreement Balance if applicable. Such updated Schedule I attached to the SAP shall automatically be incorporated as part of this Agreement for all purposes as if attached hereto without any further action from the Parties.

The Reimbursement Agreement Balance is payable solely from: (1) the PID Reimbursement Fund if no PID Bonds are issued for the purposes of paying the Authorized Improvements related to such Reimbursement Agreement Balance, or (2) from PID Bond Proceeds. No other City funds, revenues, taxes, income, or property shall be used even if the Reimbursement Agreement Balance is not paid in full by the Maturity Date. All payments made from Bond Proceeds shall be made in the manner set forth in the applicable Indenture. So long as no PID Bonds are issued and the City has received and approved a Certificate for Payment, the City shall make payments to the Developer toward the Reimbursement Agreement Balance related to each Improvement Area from Assessment Revenue collected from such Improvement Area (excluding the portion of each Assessment, or Annual Installment thereof, collected for Annual Collection Costs) and deposited in the PID Reimbursement Fund. Such payments shall be in an amount not to exceed the Assessment Revenue (excluding the portion of each Assessment, or Annual Installment thereof, collected for Annual Collection Costs) related to such Improvement Area on deposit in the PID Reimbursement Fund; and, such payments shall be made at least annually and no later than 60 days after the date payment of the Annual Installments are due and payable to the City. In the event that a Prepayment of an Assessment is made prior to the issuance of PID Bonds, the City shall remit payment to the Developer of an amount of the Reimbursement Agreement Balance then due and payable not to exceed the Assessment Revenue related to such Prepayment from the Assessment Revenue deposited into the PID Reimbursement Fund within 60 days after the Prepayment is made. Each payment from the PID Reimbursement Fund shall be accompanied by an accounting that certifies the Reimbursement Agreement Balance as of the date of the payment and that itemizes all deposits to and disbursements from the fund since the last payment.

Approval of a Certificate for Payment and all payments under this Agreement are predicated on: (1) the Developer constructing and installing, or the City acquiring (if applicable), the Authorized Improvements (or portion thereof) shown on each Certificate for Payment as required under the Development Agreement; (2) the Developer providing the necessary supporting documentation in the standard form for City construction projects; and (3) the City's inspection of each Authorized Improvement (or portion thereof) covered by each Certificate for Payment; provided, however, in no event shall the City Representative be authorized to approve a Certificate for Payment if the City has not previously levied an Assessment against Assessed Property within an Improvement Area related to and benefitting from the Authorized Improvements for which such Certificate for Payment has been

submitted. If there is a dispute over the amount of any payment, the City shall nevertheless pay the undisputed amount, and the Parties shall use all reasonable efforts to resolve the disputed amount before the next payment is made; however, if the Parties are unable to resolve the disputed amount, then the City's determination of the disputed amount (as approved by the City Council) shall control. Notwithstanding anything to the contrary in this Agreement, the City shall be under no obligation to reimburse the Developer for Actual Costs of any Authorized Improvement that is not accepted by the City.

The City's obligation to reimburse the Reimbursement Agreement Balance related to the Authorized Improvements for a particular Improvement Area constructed for the benefit of the Assessed Property within such Improvement Area is: (1) contingent upon the City levying Assessments against property within such Improvement Area benefitting from the Authorized Improvements, (2) payable solely from the Assessments, including the Annual Installments of such Assessments, collected from Assessed Property within such Improvement Area, and (3) not due and owing unless and until the City actually adopts an Assessment Ordinance levying such Assessments.

3.4 PID Bonds. The City, in its sole, legislative discretion, may issue PID Bonds, in one or more series, when and if the City Council determines it is financially feasible for the purposes of: (1) paying all or a portion of the Reimbursement Agreement Balance; or (2) paying directly Actual Costs of Authorized Improvements. PID Bonds issued for such purpose will be secured by and paid solely as authorized by the applicable Indenture. Upon the issuance of PID Bonds for such purpose and for so long as PID Bonds remain outstanding, the Developer's right to receive payments each year in accordance with Section 3.3 shall be subordinate to the deposits required under the applicable Indenture related to any outstanding PID Bonds and the Developer shall be entitled to receive funds pursuant to the flow of funds provisions of such Indenture. The failure of the City to issue PID Bonds shall not constitute a "Failure" by the City or otherwise result in a "Default" by the City. Upon the issuance of the PID Bonds, the Developer has a duty to construct those Authorized Improvements as described in the SAP and the Development Agreement. The Developer shall not be relieved of its duty to construct or cause to be constructed such improvements even if there are insufficient funds in the PID Project Fund to pay the Actual Costs. This Agreement shall apply to all PID Bonds issued by the City whether in one or more series, and no additional reimbursement agreement shall be required for future series of PID Bonds.

3.5 Disbursements and Transfers at and after Bond Closing. The City and the Developer agree that from the proceeds of the PID Bonds, and upon the presentation of evidence satisfactory to the City Representative, the City will cause the trustee under the applicable Indenture to pay at closing of the PID Bonds approved amounts from the appropriate account to the persons entitled to payment for costs of issuance and payment of costs incurred in the establishment, administration, and operation of the PID and any other costs incurred by the Developer and the City as of the time of the delivery of the PID Bonds as described in the SAP. In order to receive disbursement, the Developer shall execute a Closing Disbursement Request to be delivered to the City no less than five (5) days prior to the pricing date for the applicable series of PID Bonds for payment in accordance with the provisions of the Indenture. In order to receive additional disbursements from any applicable fund under an Indenture, the Developer shall execute a Certificate for Payment, no more frequently than monthly, to be delivered to the City for payment in accordance with the provisions of the applicable Indenture and this Agreement. Upon receipt of a Certificate for Payment (along with all accompanying documentation required by the City) from the Developer, the City shall conduct a review in order to confirm that such request is complete, to confirm that the work for which payment is requested was performed in accordance with all Applicable Laws and applicable plans therefore and with the terms of this Agreement and any other agreement between the parties related to property in the PID, and to verify and approve the Actual Costs of such work specified in such Certificate for Payment. The City shall also conduct such review as is required in its discretion to confirm the matters certified in the Certificate for Payment. The Developer agrees to cooperate with the City in conducting each such review and to provide the City with such additional information and documentation as is reasonably necessary for the City to conclude each such review. The Developer further agrees that if the City provides to the Developer a sales tax exemption certificate then sales tax will not be approved for payment under a Certification for Payment. Within fifteen (15) business days following receipt of any Certificate for Payment, the City shall either: (1) approve the Certificate for Payment and forward it to the trustee for payment, or (2) provide the Developer with written notification of disapproval of all or part of a Certificate for Payment, specifying the basis for any such disapproval. Any disputes shall be resolved as required by Section 3.3 herein. The City shall deliver the approved or partially approved Certificate for Payment to the trustee for payment, and the trustee shall make the disbursements as quickly as practicable thereafter.

3.6 Obligations Limited. The obligations of the City under this Agreement shall not, under any circumstances, give rise to or create a charge against the general credit or taxing power of the City or a debt or other obligation of the City payable from any source other than the PID Reimbursement Fund or the PID Project Fund. The Parties further agree that the City's obligation under this Agreement to reimburse the Developer for Actual Costs of Authorized Improvements within any Improvement Area shall only be paid from: (1) net proceeds of PID Bonds, if issued, on deposit in the PID Project Fund related to such PID Bonds, and/or (2) Assessments, including Annual Installments of such Assessments, collected from such Improvement Area. The Parties further agree that the City's obligation under this Agreement to reimburse the Developer for Actual Costs of Authorized Improvements constructed for the benefit of any Improvement Area is: (1) contingent upon the City levying Assessments against property within such Improvement Area benefitting from the Authorized Improvements, (2) payable solely from the Assessments, including the Annual Installments of such Assessments, collected from Assessed Property within such Improvement Area, and (3) not due and owing unless and until the City actually adopts an Assessment Ordinance levying such Assessments. Concurrent with the levy of Assessments against any Improvement Area, the City will: (1) establish a separate account within the PID Reimbursement Fund relating solely to such Improvement Area, if no PID Bonds are issued, or (2) establish a separate PID Project Fund under an Indenture if PID Bonds are issued, out of which the City will pay its obligations related to such Improvement Area; and, until such time, this Agreement does not create any obligations of the City with respect to any Improvement Area for which Assessments have not been levied. Unless approved by the City, no other City funds, revenues, taxes, or income of any kind shall be used to pay: (1) the Actual Costs of the Authorized Improvements; (2) the Reimbursement Agreement Balance even if the Reimbursement Agreement Balance is not paid in full on or before the Maturity Date; or (3) debt service on any PID Bonds. None of the City or any of its elected or appointed officials or any of its officers, employees, consultants or representatives shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of this Agreement or their acts or omissions under this Agreement.

3.7 Obligation to Pay. Subject to the provisions of Section 3.3 and 3.6, if the Developer is in substantial compliance with its obligations under the Development Agreement, then following the inspection and approval of any portion of Authorized Improvements for which Developer seeks reimbursement of the Actual Costs by submission of a Certificate for Payment or City approval of a Closing Disbursement Request, the obligations of the City under this Agreement to pay from

Assessment Revenue or the net proceeds of PID Bonds, as applicable, disbursements (whether to the Developer or to any person designated by the Developer) identified in any Closing Disbursement Request or in any Certificate for Payment and to pay debt service on PID Bonds are unconditional AND NOT subject to any defenses or rights of offset except as may be provided in any Indenture.

3.8 City Delegation of Authority. All Authorized Improvements shall be constructed by or at the direction of the Developer in accordance with the plans, the Development Agreement, applicable City ordinances and regulations, and with this Agreement and any other agreement between the parties related to property in the PID. The Developer shall perform, or cause to be performed, all of its obligations and shall conduct, or cause to be conducted, all operations with respect to the construction of Authorized Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer has sole responsibility of ensuring that all Authorized Improvements are constructed in accordance with the Development Agreement and in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction and installation of all Authorized Improvements to be acquired and accepted by the City from the Developer. If any Authorized Improvements are or will be on land owned by the City, the City hereby grants to the Developer a license to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Authorized Improvements. Inspection and acceptance of Authorized Improvements will be in accordance with applicable City ordinances and regulations.

3.9 Security for Authorized Improvements. Prior to completion and conveyance to the City of any Authorized Improvements, the Developer shall cause to be provided to the City a maintenance bond in the amount required by the City's subdivision regulations for applicable Authorized Improvements, which maintenance bond shall be for a term of two years from the date of final acceptance of the applicable Authorized Improvements. Any surety company through which a bond is written shall be a surety company duly authorized to do business in the State of Texas, provided that legal counsel for

the City has the right to reject any surety company regardless of such company's authorization to do business in Texas. Nothing in this Agreement shall be deemed to prohibit the Developer or the City from contesting in good faith the validity or amount of any mechanics or materialman's lien and/or judgment nor limit the remedies available to the Developer or the City with respect thereto so long as such delay in performance shall not subject the Authorized Improvements to foreclosure, forfeiture, or sale. In the event that any such lien and/or judgment with respect to the Authorized Improvements is contested, the Developer shall be required to post or cause the delivery of a surety bond or letter of credit, whichever is preferred by the City, in an amount reasonably determined by the City, not to exceed 120 percent of the disputed amount.

3.10 Ownership and Transfer of Authorized Improvements. If requested in writing by the City, Developer shall furnish to the City a commitment for title insurance (a "Commitment") for land related to the Authorized Improvements to be acquired and accepted by the City from the Developer and not previously dedicated or otherwise conveyed to the City. The Commitment shall be made available for City review and must be approved at least fifteen (15) business days prior to the scheduled transfer of title. The City agrees to approve the Commitment unless it reveals a matter which, in the reasonable judgment of the City, would materially affect the City's use and enjoyment of the Authorized Improvements. If the City objects to any Commitment, the City shall not be obligated to accept title to the applicable Authorized Improvements until the Developer has cured the objections to the reasonable satisfaction of the City.

3.11 Remaining Funds After Completion of an Authorized Improvement. Within any applicable Improvement Area, upon the final completion of an Authorized Improvement within such Improvement Area and payment of all outstanding invoices for such Authorized Improvement, if the Actual Cost of such Authorized Improvement is less than the budgeted cost as shown in Exhibit ___ to the SAP (a "Cost Underrun"), any remaining budgeted cost will be available to pay Cost Overruns on any other Authorized Improvement within such Improvement Area. A City Representative shall promptly confirm to the Administrator (as defined in the SAP) that such remaining amounts are available to pay such Cost Overruns, and the Developer, the Administrator and the City Representative will agree how to use such moneys to secure the payment and performance of the work for other Authorized Improvements. Any Cost Underrun for any Authorized Improvement is available to pay Cost Overruns on any other Authorized Improvement and may be added to the amount approved for

payment in any Certificate for Payment, as agreed to by the Developer, the Administrator and the City Representative.

3.12 Contracts and Change Orders. The Developer shall be responsible for entering into all contracts and any supplemental agreements (herein referred to as “Change Orders”) required for the construction of an Authorized Improvement. The Developer or its contractors may approve and implement any Change Orders even if such Change Order would increase the Actual Cost of an Authorized Improvement, but the Developer shall be solely responsible for payment of any Cost Overruns resulting from such Change Orders except to the extent amounts are available pursuant to Section 3.12 hereof. If any Change Order is for work that requires changes to be made by an engineer to the construction and design documents and plans previously approved under the Development Agreement, then such revisions made by an engineer must be submitted to the City for approval by the City’s engineer prior to execution of the Change Order.

SECTION 4. ADDITIONAL PROVISIONS

4.1 Term. The term of this Agreement shall begin on the Effective Date and shall continue until the earlier to occur of the Maturity Date or the date on which the Reimbursement Agreement Balance is paid in full.

4.2 No Competitive Bidding. Construction of the Authorized Improvements shall not require competitive bidding pursuant to Section 252.022(a) (9) of the Texas Local Government Code, as amended. All plans and specifications, but not construction contracts, shall be reviewed and approved, in writing, by the City prior to Developer selecting the contractor. The City, at its election made prior to the Developer entering into a construction contract, shall have the right to examine and approve the contractor selected by the Developer prior to executing a construction contract with the contractor, which approval shall not be unreasonably delayed or withheld.

4.3 Independent Contractor. In performing this Agreement, the Developer is an independent contractor and not the agent or employee of the City.

4.4 Audit. The City Representative shall have the right, during normal business hours and upon five (5) business days' prior written notice to the Developer, to review all books and records of the Developer pertaining to costs and expenses incurred by the Developer with respect to any of the Authorized Improvements. For a period of two years after completion of the Authorized Improvements, the Developer shall maintain proper books of record and account for the

construction of the Authorized Improvements and all costs related thereto. Such accounting books shall be maintained in accordance with customary real estate accounting principles. The Developer shall have the right, during normal business hours, to review all records and accounts pertaining to the Assessments upon written request to the City. The City shall provide the Developer an opportunity to inspect such books and records relating to the Assessments during the City's regular business hours and on a mutually agreeable date no later than ten (10) business days after the City receives such written request. The City shall keep and maintain a proper and complete system of records and accounts pertaining to the Assessments for so long as PID Bonds remain outstanding or Reimbursement Agreement Balance remains unpaid.

4.5 Developer's Right to Protest Ad Valorem Taxes. Nothing in this Agreement shall be construed to limit or restrict Developer's right to protest ad valorem taxes. The Developer's decision to protest ad valorem taxes on Assessed Property does not constitute a Default under this Agreement.

4.6 PID Administration and Collection of Assessments. The Administrator shall have the responsibilities provided in the SAP related to the duties and responsibilities of the administration of the PID, and the City shall provide the Developer with a copy of the agreement between the City and the Administrator. If the City contracts with a third-party for the collection of Annual Installments of the Assessments, the City shall provide the Developer with a copy of such agreement. For so long as PID Bonds remain outstanding or the Reimbursement Agreement Balance remains unpaid, the City shall notify the Developer of any change of administrator or third-party collection of the Assessments.

4.7 Representations and Warranties.

4.7.1 The Developer represents and warrants to the City that: (1) the Developer has the authority to enter into and perform its obligations under this Agreement; (2) the Developer has the financial resources, or the ability to collect sufficient financial resources, to meet its obligations under this Agreement; (3) the person executing this Agreement on behalf of the Developer has been duly authorized to do so; (4) this Agreement is binding upon the Developer in accordance with its terms; and (5) the execution of this Agreement and the performance by the Developer of its obligations under this Agreement do not constitute a breach or event of default by the Developer under any other agreement, instrument, or order to which the Developer is a party or by which the Developer is bound.

4.7.2 The City represents and warrants to the Developer that: (1) the City has the authority to enter into and perform its obligations under this Agreement; (2) the person executing this Agreement on behalf of the City has been duly authorized to do so; (3) this Agreement is binding upon the City in accordance with its terms; and (4) the execution of this Agreement and the performance by the City of its obligations under this Agreement do not constitute a breach or event of default by the City under any other agreement, instrument, or order to which the City is a party or by which the City is bound.

4.8 Default/Remedies.

4.8.1 If either Party fails to perform an obligation imposed on such Party by this Agreement (a "Failure") and such Failure is not cured after notice and the expiration of the cure periods provided in this section, then such Failure shall constitute a "Default." If a Failure is monetary, the non-performing Party shall have ten (10) days within which to cure. If the Failure is non-monetary, the non-performing Party shall have thirty (30) days within which to cure.

4.8.2 If the Developer is in Default, the City shall have available all remedies at law or in equity; provided no default by the Developer shall entitle the City to terminate this Agreement or to withhold payments to the Developer from the PID Reimbursement Fund or the PID Project Fund in accordance with this Agreement and the Indenture.

4.8.3 If the City is in Default, the Developer shall have available all remedies at law or in equity; provided, however, no Default by the City shall entitle the Developer to terminate this Agreement.

4.8.4 The City shall give notice of any alleged Failure by the Developer to each Transferee identified in any notice from the Developer, and such Transferees shall have the right, but not the obligation, to cure the alleged Failure within the same cure periods that are provided to the Developer. The election by a Transferee to cure a Failure by the Developer shall constitute a cure by the Developer but shall not obligate the Transferee to be bound by this Agreement unless the Transferee agrees in writing to be bound.

4.9 Remedies Outside the Agreement. Nothing in this Agreement constitutes a waiver by the City of any remedy the City may have outside this Agreement against the Developer, any Transferee, or

any other person or entity involved in the design, construction, or installation of the Authorized Improvements. The obligations of the Developer hereunder shall be those of a party hereto and not as an owner of property in the PID. Nothing herein shall be construed as affecting the City's or the Developer's rights or duties to perform their respective obligations under other agreements, use regulations, or subdivision requirements relating to the development property in the PID.

4.10 Estoppel Certificate. From time to time upon written request of the Developer, the City Manager will execute a written estoppel certificate, in form and substance satisfactory to both Parties that: (1) identifies any obligations of the Developer under this Agreement that are in default or, with the giving of notice or passage of time, would be in default; or (2) states, to the extent true, that to the best knowledge and belief of the City, the Developer is in compliance with its duties and obligations under this Agreement.

4.11 Transfers. The Developer has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part without the consent of (but with notice to) the City, the Developer's right, title, or interest to payments under this Agreement (but not performance obligations) including, but not limited to, any right, title, or interest of the Developer in and to payments of the Reimbursement Agreement Balance, whether such payments are from the PID Reimbursement Fund in accordance with Section 3.3 or from Bond Proceeds (any of the foregoing, a "Transfer," and the person or entity to whom the transfer is made, a "Transferee"); provided, however, that no such conveyance, transfer, assignment, mortgage, pledge or other encumbrance shall be made without prior written consent of the City if such conveyance, transfer, assignment, mortgage, pledge or other encumbrance would result in: (1) the issuance of municipal securities, and/or (2) the City being viewed as an "obligated person" within the meaning of Rule 15c2-12 of the United States Securities and Exchange Commission, and/or (3) the City being subject to additional reporting or recordkeeping duties. Notwithstanding the foregoing, no Transfer shall be effective until notice of the Transfer is given to the City. The City may rely on notice of a Transfer received from the Developer without obligation to investigate or confirm the validity of the Transfer. The Developer waives all rights or claims against the City for any funds paid to a third party as a result of a Transfer for which the City received notice.

4.12 Applicable Law; Venue. This Agreement is being executed and delivered and is intended to be performed in the State of Texas. Except to the extent that the laws of the United States may apply, the

substantive laws of the State of Texas shall govern the interpretation and enforcement of this Agreement. In the event of a dispute involving this Agreement, venue shall lie in any court of competent jurisdiction in Nueces County, Texas.

4.13 Notice. Any notice referenced in this Agreement must be in writing and shall be deemed given at the addresses shown below: (1) when delivered by a nationally recognized delivery service such as FedEx or UPS with evidence of delivery signed by any person at the delivery address regardless of whether such person is the named addressee; or (2) 72 hours after deposited with the United States Postal Service, Certified Mail, Return Receipt Requested.

To the City: Attn: City Manager's Office
City of Corpus Christi
P.O. Gox 9277
Corpus Christi, Texas 78469-9277
E-mail: ElsyB@cctexas.com

With a copy to: Attn: City Attorney's Office
City of Corpus Christi
P.O. Gox 9277
Corpus Christi, Texas 78469-9277
E-mail: MilesR@cctexas.com

To the Developer: Attn: Steve Yetts
Ashlar Interests, LLC
400 Las Colinas Blvd. E., Suite 1075
Irving, Texas 75039
E-mail: syetts@ashlardev.com

With a copy to: Attn: Misty Ventura
Shupe Ventura, PLLC
9406 Biscayne Blvd.
Dallas, Texas 75218
E-mail: misty.ventura@svlandlaw.com
TEL: (214) 328-1101
FAX: (800) 519-3768

Any Party may change its address by delivering notice of the change in accordance with this section.

4.14 Conflicts; Amendment. In the event of any conflict between this Agreement and any other instrument, document, or agreement by which either Party is bound, the provisions and intent of the applicable Indenture controls. This Agreement may only be amended by written agreement of the Parties.

4.15 Severability. If any provision of this Agreement is held invalid by any court, such holding shall not affect the validity of the remaining provisions.

4.16 Non-Waiver. The failure by a Party to insist upon the strict performance of any provision of this Agreement by the other Party, or the failure by a Party to exercise its rights upon a Default by the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by such other Party with the provisions of this Agreement.

4.17 Third Party Beneficiaries. Nothing in this Agreement is intended to or shall be construed to confer upon any person or entity other than the City, the Developer, and Transferees any rights under or by reason of this Agreement. All provisions of this Agreement shall be for the sole and exclusive benefit of the City, the Developer, and Transferees.

4.18 Counterparts. This Agreement may be executed in multiple counterparts, which, when taken together, shall be deemed one original.

4.19 Employment of Undocumented Workers. During the term of this Agreement, the Developer agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a(f), the Developer shall repay the incentives granted herein within 120 days after the date the Developer is notified by the City of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. Pursuant to Section 2264.101(c), Texas Government Code, a business is not liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

4.20 No Boycott of Israel. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, 'boycott Israel,' has the meaning in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, and means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

4.21 Iran, Sudan, and Foreign Terrorist Organizations. The Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company

identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, as amended. The foregoing representation excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

4.22 No Discrimination Against Fossil Fuel Companies. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above.

4.23 No Discrimination Against Firearm Entities and Firearm Trade Associations. The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do 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 of this Agreement. As used in the foregoing verification and the following definitions:

(a) 'discriminate against a firearm entity or firearm trade association,' has the meaning in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), and means: (A) with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association

based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association;

(b) 'firearm entity,' has the meaning in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), and means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting); and

(c) 'firearm trade association,' has the meaning in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), and means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and

(iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code."

4.24 Affiliate. As used in Sections 4.19 through 4.24, the Developer understands 'affiliate' to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.

4.25 Texas Attorney General Standing Letter. The Developer represents that it has, as of the Effective Date, on file with the Texas Attorney General a standing letter addressing the representations and verifications hereinbefore described in the form attached as Exhibit B to the Updated Recommendations for Compliance with the Texas BPA Verification and Representation Requirements (December 1, 2023) of the Municipal Advisory Council of Texas or any other form accepted by the Texas Attorney General (a "Standing Letter"). In addition, if the Developer or the parent company, a wholly- or majority-owned subsidiary or another affiliate of the Developer receives or has received a letter from the Texas Comptroller of Public Accounts or the Texas Attorney General seeking written verification that the Developer is a member of the Net Zero Banking Alliance, Net Zero Insurance Alliance, Net Zero Asset Owner Alliance, or Net Zero Asset Managers or of the representations and certifications contained in the Developer's Standing Letter (a "Request Letter"), the Developer shall promptly notify the City (if it has not already done so) and provide to the City, two business days prior to the Effective Date and additionally upon request by the City, written verification to the effect that its Standing Letter described in the preceding sentence remains in effect and may be relied upon by the City and the Texas Attorney General (the "Bringdown Verification"). The Bringdown Verification shall also confirm that the Developer (or the parent company, a wholly- or majority-owned subsidiary or other affiliate of the Developer that received the Request Letter) intends to timely respond or has timely responded to the Request Letter. The Bringdown Verification may be in the form of an e-mail.

4.26 Form 1295. Submitted herewith is a completed Form 1295 generated by the Texas Ethics Commission's (the "TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the "Form 1295"). The City hereby confirms receipt of the Form 1295 from the Developer, and the City agrees to acknowledge such form with the TEC through its electronic filing application system not later than the 30th day after the receipt of such form. The Parties understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its

consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by the Developer; and, neither the City nor its consultants have verified.

4.27 Changes in Law. The Parties acknowledge and expressly agree that, during the Term, either Party may take advantage of changes in the law notwithstanding anything to the contrary in this Agreement.

4.28 Public Information. Notwithstanding any other provision to the contrary in this Agreement, all information, documents, and communications relating to this Agreement may be subject to the Texas Public Information Act and any opinion of the Texas Attorney General or a court of competent jurisdiction relating to the Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Developer agrees that this Agreement may be terminated if the Developer knowingly or intentionally fails to comply with a requirement of that subchapter, if applicable, and the Developer fails to cure the violation on or before the tenth business day after the date the City provides notice to Developer of noncompliance with Subchapter J, Chapter 552. Pursuant to Section 552.372, Texas Government Code, Developer is required to preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to the City for the duration of this Agreement; promptly provide to the City any contracting information related to this Agreement that is in the custody or possession of the Developer on request of the City; and on completion of the Agreement, either provide at no cost to the City all contracting information related to the contract that is in the custody or possession of the entity or preserve the contracting information related to the contract as provided by the records retention requirements applicable to the City.

[Execution pages follow.]

CITY:

CITY OF CORPUS CHRISTI, TEXAS

By: _____

Paulette Guajardo, Mayor

ATTEST:

By: _____

Rebecca Huerta, City Secretary

APPROVED AS TO FORM AND LEGALITY:

By: _____

_____, [Assistant] City Attorney [for City Attorney]

DEVELOPER:

ASHLAR INTERESTS, LLC
a Texas limited liability company

By: _____

Title: _____

DRAFT

EXHIBIT A

CERTIFICATE FOR PAYMENT FORM

The undersigned is an agent for Ashlar Interests, LLC (the "Developer") and requests payment from the applicable account of the [PID Reimbursement Fund] [PID Project Fund] from the City of Corpus Christi, Texas (the "City") in the amount of _____ for labor, materials, fees, and/or other general costs related to the creation, acquisition, or construction of certain Authorized Improvements providing a special benefit to property within the Whitecap Public Improvement District No. 1. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the PID Reimbursement Agreement between the City and the Developer, effective as of _____, 20__ (the "Reimbursement Agreement").

In connection with the above referenced payment, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Certificate for Payment Form on behalf of the Developer and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced Authorized Improvements has not been the subject of any prior payment request submitted for the same work to the City or, if previously requested, no disbursement was made with respect thereto.
3. The amount listed for the Authorized Improvements below is a true and accurate representation of the Actual Costs associated with the creation, acquisition, or construction of said Authorized Improvements, and such costs (i) are in compliance with the Reimbursement Agreement, and (ii) are consistent with the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Reimbursement Agreement, the Indenture, the Service and Assessment Plan and the Development Agreement.
5. The Developer has timely paid all ad valorem taxes and annual installments of special assessments it owes or an entity the Developer controls owes, located in the Whitecap Public Improvement District and has no outstanding delinquencies for such assessments.
6. All conditions set forth in the Indenture (as defined in the Reimbursement Agreement) for the payment hereby requested have been satisfied.
7. The work with respect to the Authorized Improvements referenced below (or its completed segment) has been completed, and the City has inspected such Authorized Improvements (or its completed segment).

8. The Developer agrees to cooperate with the City in conducting its review of the requested payment and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

9. No more than ninety-five percent (95%) of the budgeted or contracted hard costs for major improvements or any phase of Authorized Improvements identified may be paid until the work with respect to such Authorized Improvements (or segment) has been completed and the City has accepted such Authorized Improvements (or segment). One hundred percent (100%) of soft costs (e.g., engineering costs, inspection fees and the like) may be paid prior to City acceptance of such Authorized Improvements (or segment).

Payments requested are as follows:

- a. X amount to Person or Account Y for Z goods or services.
- b. Etc.

[If the Authorized Improvements are to be paid in part from one series of PID Bonds and in part from another, insert the following:

As required by Section ____ of the Indenture, the costs for the Authorized Improvements that constitutes the pro-rata share of such Authorized Improvements allocable to the designated Bonds shall be paid as follows:

Authorized Improvements:	Amount to be paid from _____ Fund	Amount to be paid from _____ Fund	Total Cost of Authorized Improvements

Attached hereto are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments. Also attached hereto are "bills paid" affidavits and supporting documentation in the standard form for City construction projects.

Pursuant to the Reimbursement Agreement, after receiving this payment request, the City has inspected the Authorized Improvements (or completed segment) and confirmed that said work has been completed in accordance with approved plans and all applicable governmental laws, rules, and regulations.

I hereby declare that the above representations and warranties are true and correct.

ASHLAR INTERESTS, LLC
a Texas limited liability company

By: _____

Title: _____

DRAFT

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Certificate for Payment, acknowledges the Certificate for Payment, acknowledges that the Authorized Improvements (or its completed segment) covered by the certificate have been inspected by the City, and otherwise finds the Certificate for Payment to be in order. After reviewing the Certificate for Payment, the City approves the Certificate for Payment and shall [include said payments in the City Certificate submitted to the Trustee directing payments to be made from the appropriate account of the PID Project Fund] [direct payment from the PID Reimbursement Fund] to the Developer or to any person designated by the Developer.

CITY OF CORPUS CHRISTI, TEXAS

By: _____

Name: _____

Title: _____

Date: _____

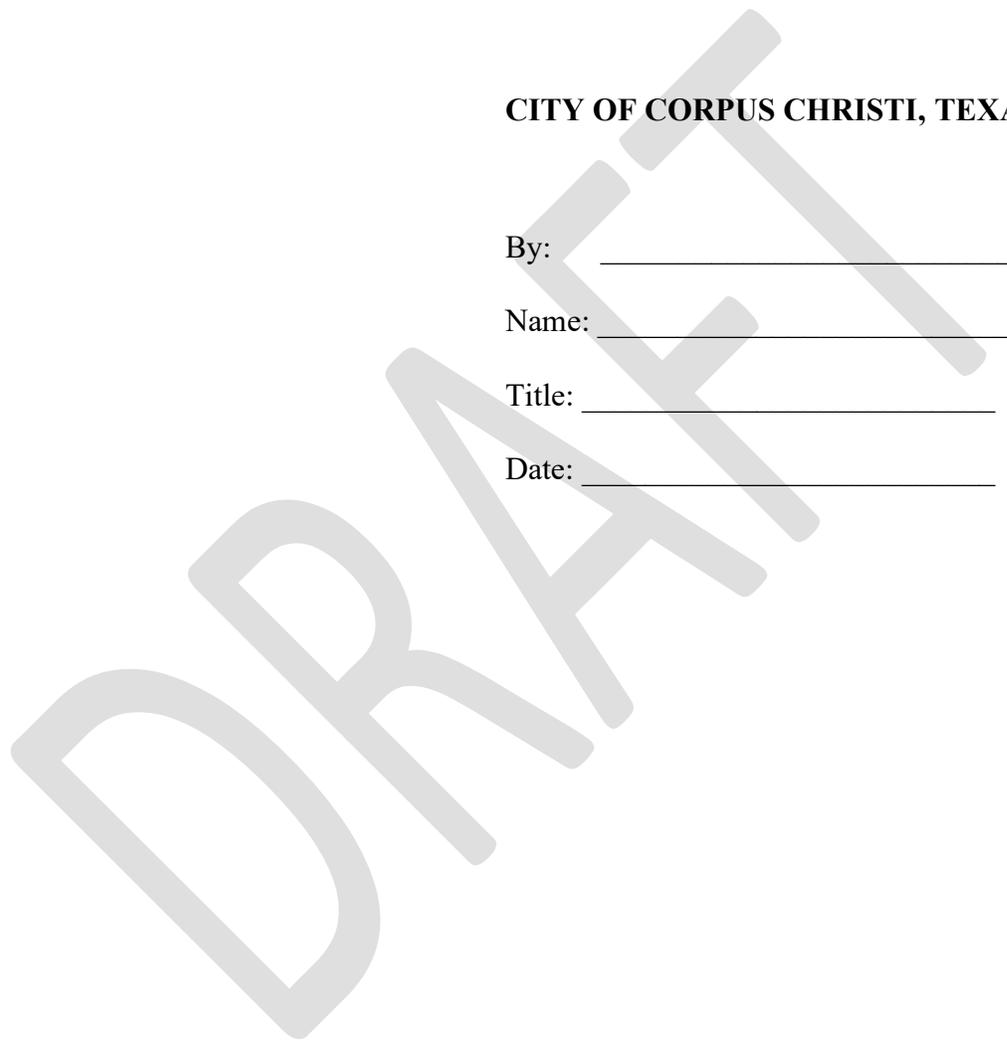


Exhibit B

FORM OF CLOSING DISBURSEMENT REQUEST

The undersigned is an agent for _____ (the "Developer") and requests payment to the Developer (or to the person designated by the Developer) from the Cost of Issuance Account of the Project Fund from _____ (the "Trustee") in the amount of _____ (\$ _____) to be transferred from the Cost of Issuance Account of the PID Project Fund upon the delivery of the PID Bonds for costs incurred in the establishment, administration, and operation of the Whitecap Public Improvement District No. 1 (the "District"), as follows. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Indenture of Trust by and between the City and the Trustee dated as of _____, 20__ (the "Indenture") relating to the [INSERT NAME OF BONDS] (the "PID Bonds").

In connection with the above referenced payment, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Closing Disbursement Request on behalf of the Developer and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced establishment, administration, and operation of the District at the time of the delivery of the PID Bonds have not been the subject of any prior payment request submitted to the City.
3. The amount listed for the below costs is a true and accurate representation of the Actual Costs associated with the establishment, administration and operation of the District at the time of the delivery of the PID Bonds, and such costs are in compliance with the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Reimbursement Agreement, the Indenture, the Service and Assessment Plan, and the Development Agreement.
5. All conditions set forth in the Indenture and the Reimbursement Agreement for the payment hereby requested have been satisfied.
6. The Developer agrees to cooperate with the City in conducting its review of the requested payment and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

Payments requested hereunder shall be made as directed below:

[Information regarding Payee, amount, and deposit instructions attached]

I hereby declare that the above representations and warranties are true and correct.

ASHLAR INTERESTS, LLC
a Texas limited liability company

By: _____

Title: _____

DRAFT

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Closing Disbursement Request, acknowledges the Closing Disbursement Request, and finds the Closing Disbursement Request to be in order. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request and shall include said payments in the City Certificate submitted to the Trustee directing payments to be made from Costs of Issuance Account upon delivery of the PID Bonds.

CITY OF CORPUS CHRISTI, TEXAS

By: _____

Name: _____

Title: _____

Date: _____

DRAFT