

**DEVELOPERS AGREEMENT
ALEDO INDEPENDENT SCHOOL DISTRICT**

This Developers Agreement (“**Agreement**”) is made and entered into by and between the Town of Annetta, Texas (“**Town**”), and Aledo Independent School District (“**Developer**”), for the purposes and considerations stated below. Town and Developer may sometimes hereafter be referred to individually as a “**Party**” or collectively as the “**Parties.**”

WHEREAS, Developer owns approximately 20.891 acres of land located within the municipal boundaries of the Town and being more particularly described on the attached Exhibit A (“**Property**”); and

WHEREAS, Developer intends on developing the Property for the use of a school site (“**Development**”); and

WHEREAS, the purpose of this Agreement is to set forth obligations of the Parties to ensure that certain public utilities which are to be initially constructed by Developer are constructed in a manner compliant with all applicable governmental regulations and the terms for the Town to provide retail water and sewer service to customers on the Property.

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

**ARTICLE 1
PUBLIC FACILITIES**

1.01 Water Facilities.

(a) **Generally.** Developer is responsible for constructing, or causing to be constructed, at its sole cost and expense, the water infrastructure to serve the Development including all internal and approach facilities (“**Water Facilities**”) as described in plans and specifications meeting all Town requirements and to be approved in writing by the Town. Town’s Engineer (as defined below) must review and approve all plans prior to submission to any regulatory agency on behalf of Town.

(b) **Water Well.** Developer will drill one water well to serve the Development (the “**Water Well**”). Developer agrees that the Town’s Engineer will have reasonable access and communication with the Developer’s Engineer and General Contractor (as such terms are defined below) during drilling, production, and completion of the Water Well and will be afforded the right to be present on the Property when the pumps for the Water Well are installed. The Parties acknowledge that (i) pump depth settings will define both the width and depth of the cone of depression, which is dependent on the thickness of the aquifer, aquifer characteristics such as aquifer permeability, transmissivity, and storativity, as well as rate of pumping and the duration of pumping; and (2) initially, water level drops very rapidly in the immediate vicinity of the wells (drawdown). Town’s Engineer must agree to the depth of the pumps for the Water Well to ensure that the depth of the pumps and pumping rates are set to maximize production based on the aforementioned cone of depression to set the pumps in order for the pumps to remain completely submerged at maximum drawdown and set for acceptable recharge for long term deployment and use. The Town will not unreasonably withhold or delay its approval of the pump depths, and all such decisions on pump depth will be made solely upon accepted engineering

practices. Developer will submit to the Town Engineer written verification of testing of the Water Well (production and development results). Developer will also dedicate and provide the appropriate sanitary control easements for the Water Well.

(c) Water Treatment Plant. Developer agrees that Town's Engineer will have reasonable access and communication with the contractor(s) installing the ground storage tanks, pressure tanks, service pumps and housing. Developer will submit to Town's Engineer written verification of testing of all water plant facilities and hydrostatic testing of pressure tank, ground storage tank(s), and water transmission and distribution lines. Town's Engineer will require written verification of appropriate installation and chlorination/dechlorination. A complete copy of all completion data and forms provided to the TCEQ will be provided to the Town.

(d) Water During Construction. Provided Developer is in compliance with this Agreement, the Town agrees to provide temporary construction water, upon application to the Town by Developer, at Developer's request and expense, for construction and testing purposes.

(e) Retail Water Service. Upon acceptance of the Water Facilities by the Town and payment of the fees described in Section 3.02, the Town will provide retail water service to the Development, at a rate established by Town ordinance in an amount sufficient to compensate the Town for the future ownership, operation (including, but not limited to, fees associated with operating a public water well consistent with fees charged by other local or state entities or groundwater conservation districts), maintenance, and repair of the Water Facilities (expressly excluding the value for the raw water). The Town hereby agrees and acknowledges that Developer shall not be required to pay any capital recovery fees in connection with the Water Facilities and/or any future expansion of such facilities. This provision will survive the termination of this Agreement

1.02 Sewer Facilities. The Development will be served by an onsite wastewater treatment plant and related appurtenances ("Sewer Facilities"). Developer is responsible for constructing, or causing to be constructed, at its sole cost and expense, the Sewer Facilities as described in plans and specifications meeting all Town requirements and to be approved in writing by the Town Engineer. The Parties agree to work together in good faith to determine whether the Sewer Facilities will be publicly or privately owned and operated. In the event the Sewer Facilities are determined to be publicly owned and operated, (a) Developer will dedicate the Sewer Facilities and all necessary easements to the Town by separate instrument in accordance with the provisions of Section 1.07 of this Agreement; and (b) the Town will provide waste water service to the Development, at a rate established by Town ordinance in an amount sufficient to compensate the Town for the future ownership, operation, maintenance, and repair of the Sewer Facilities. The Town hereby agrees and acknowledges that Developer shall not be required to pay any capital recovery fees in connection with the Sewer Facilities and/or any future expansion of such facilities. This provision will survive the termination of this Agreement

1.03 Drainage Facilities. Developer will construct, or cause to be constructed, at its sole cost, drainage facilities necessary for the Property ("Drainage Facilities"), as described in plans and specifications meeting all Town requirements and to be approved in writing by the Town. Developer hereby agrees to fully comply with all federal, state, and local requirements relating to the planning, permitting, and management of storm water, including the drainage regulations of the Town in the Town's Subdivision Ordinance and Engineering Design Manual in effect on the Effective Date. As a condition to receiving a certificate of occupancy for the Development, Developer must execute a

stormwater facility maintenance agreement, on a form acceptable to Town, for detention and drainage facilities located on the Property.

1.04 Streets. Developer is responsible for constructing, or causing to be constructed, at its sole cost and expense, the streets within the Development, which must be installed in accordance with plans and specifications to be prepared by the Developer's engineer and approved by the Town Engineer (the "**Streets**").

1.05 Public Facilities. The Water Facilities, Drainage Facilities, and Streets may sometimes be referred to collectively in this Agreement as the "**Public Facilities.**" In the event the Parties determine that the Sewer Facilities will be publicly owned and operated in accordance with Section 1.02, the Sewer Facilities will be considered a component of the Public Facilities.

1.06 Changes to Plans. It is understood that in every construction project a decision may be made later to realign a line or service which may occur after construction has commenced. Developer hereby agrees to advise the Town Engineer as soon as possible when such a need has been identified and to work cooperatively with the Town to make such utility change in a manner that will be least disruptive to the stability of the Public Facilities as a whole. Any change to the plans will need to be approved by the Town Engineer, which approval shall not be unreasonably withheld or delayed, provided the Town Engineer determines that the change will not negatively impact the Public Facilities or the Town's operation thereof.

1.07 Easements. Developer will dedicate to the Town, either by plat or separate instrument, all easements within the Property necessary, as determined by the Town Engineer and Developer, to allow the Town to access, operate, maintain, replace, repair, inspect, and reconstruct the Public Facilities (such easement areas referred to as the "**Easement Properties**" and the foregoing activities the "**Easement Purposes**"). The dedication instrument will provide the Town, its officers, officials, employees, agents, representatives, contractors, subcontractors, successors, and assigns the right and privilege, at all times, to access the Easement Properties for the Easement Purposes. Any lienholder will be required to subordinate their interest in the Property to the purposes and effects of a plat or separate dedication instrument, and such subordination or written representation from Developer that there are no liens encumbering the Property will be a condition precedent to the Town's acceptance of the Public Facilities. Notwithstanding any other term in this Agreement to the contrary, the Town will not accept the Public Facilities without the Easement Properties first being dedicated to the Town on a form approved by the Town attorney and District attorney.

1.08 Consultants. In connection with the construction of the Development, including the construction of the Public Facilities, Developer (a) has engaged TNP (Tom Rutledge) as its engineer for the Development ("**Developer's Engineer**") and (b) will engage, at its sole cost and expense, a general contractor ("**General Contractor**"), who will be primarily responsible providing all of the material, labor, equipment (such as engineering vehicles and tools) and services necessary for the construction of the Development. Town has engaged Halff Associates, Inc. and Harkins Engineering, Inc. (collectively, "**Town's Engineer**") in connection with the Development.

ARTICLE 2 **SECURITY**

2.01 Bonds. Prior to initiating any construction of the Public Facilities, Developer will cause General Contractor to provide to the Town the following bonds, on a form acceptable to the Town:

(a) A Performance Bond in an amount equal to one hundred percent (100%) of the total cost of the Public Facilities, guaranteeing the full and faithful execution of the work and performance of this Agreement. The Performance Bond shall guarantee completion of the Public Facilities within two (2) years of execution of the commencement of the construction of the Development.

(b) A Payment Bond in an amount equal to one hundred percent (100%) of the total cost of the Public Facilities, guaranteeing payment for all labor, materials and equipment used in the construction of the Public Facilities.

(c) A Maintenance Bond in an amount equal to one hundred percent (100%) of the total cost of the Public Facilities, guaranteeing the maintenance in good condition or repair of the Public Facilities for a period of two (2) years from and after the date that a letter of acceptance is issued by the Town indicating that the Public Facilities have been completed and accepted by the Town.

2.02 Qualified Surety. The bonds must be issued by a Best-rated surety company that is duly authorized to transact business in the State of Texas; however, the Town retains the right to reject any surety company regardless of such company's qualifications or authorization to do business in Texas if the company does not have a resident agent and/or the surety does not meet the requirements of the Texas Insurance Code.

ARTICLE 3 **INSPECTION, FEES, RECORD DRAWINGS**

3.01 Inspection.

(a) Generally. The Town shall inspect the Public Facilities as they are being installed and constructed. The Town will not issue a letter of acceptance for the Public Facilities until they are completely constructed (final completion) in accordance with all submitted plans and specifications, which have been previously approved by the Town Engineer. Developer must deliver to the Town clear and unencumbered title (with documentation sufficient to the Town evidencing clear title) to the Public Facilities upon their completion. Upon issuance of the Town's letter of acceptance, title to the Public Facilities shall be vested in the Town, and Developer shall relinquish any right, title or interest in and to the Public Facilities or any part thereof. The Town shall have no responsibility in connection with the Public Facilities until the letter of acceptance is issued. Upon acceptance of the Public Facilities, the Developer shall have no responsibility in connection with the maintenance, repair or operation of the Public Facilities and the Town shall maintain such facilities at the Town's cost, subject to the Maintenance Bond described in Section 2.01(c).

(b) Fees. The Parties agree that the Town will not inspect any of the Public Facilities until all inspection fees and outstanding engineering review fees are paid to the Town.

(c) Reasonable Access. Developer will provide the Town and its representatives all reasonable access to the Property necessary to allow for inspections.

3.02 Fees. Developer agrees to reimburse the Town the actual costs billed to the Town by Town's Engineer for inspection and engineering review related to the Public Facilities and the

Development within thirty (30) days of receipt of invoice. The Parties acknowledge that typical engineering review fees attributable to services performed by senior associates do not exceed \$150.00 per hour. The Town may collect meter fees and meter testing fees in accordance with the Town's fee schedule for customers within Town's corporate limits, with such fees being representative of the cost of the meter(s) installed by Town, and the installation and testing costs incurred by the Town.

3.03 Record Drawings. Prior to final acceptance of the Public Facilities, the Developer shall provide to the Town four (4) copies of record as-built drawings of the Public Facilities, showing the Public Facilities as actually constructed, and one (1) electronic version of said record drawings in a format acceptable to the Town Engineer. Such drawings will be stamped and signed by a registered professional civil engineer.

ARTICLE 4 **MISCELLANEOUS PROVISIONS**

4.01 Design Review. Town Engineer and Town will review, provide comments, and will ultimately approve all plans, designs or specifications submitted by Developer pursuant to this Agreement, which are in compliance with Town ordinances and regulations.

4.02 Design Liability.

(a) Notwithstanding any provision of this Agreement to the contrary, approval by the Town Engineer or other Town employee of any plans, designs or specifications submitted by Developer pursuant to this Agreement shall not constitute or be deemed to be an assumption of such responsibility and liability by the Town for any defect in the design and specifications prepared by Developer's engineer, his officers, agents, servants or employees, it being the intent of the Parties that approval by the Town Engineer signifies the Town's approval on only the general design concept of the facilities and improvements to be constructed.

(b) Notwithstanding any provision of this Agreement to the contrary, this Agreement shall not constitute or be deemed to be an assumption of such responsibility or liability by the Developer for any defect in the design and specifications prepared by Developer's engineer, his officers, agents, servants or employees, related to the expansion or utilization of the Public Facilities and Sewer Facilities by any other party offsite of the Property, it being understood that the design and specifications prepared by Developer's engineer for facilities and improvements to be constructed are to accommodate the use of the same solely by Developer for the Development.

(c) Upon acceptance of any Public Facilities by the Town, Developer will assign all right, title and interest in and to all warranties and guaranties related to the Public Facilities delivered to Developer from the General Contractor and any subcontractors.

4.03 Amendments. This Agreement may be amended or modified only with the written consent of Developer and the Town.

4.04 Covenant. This Agreement shall be a covenant running with the land and shall be binding upon Developer, its successors, heirs, assigns, grantees, trustees and/or representatives. Upon the

Property. Developer waives and releases all claims against the Town related to any and all rough proportionality and individual determination requirements mandated by Section 212.904, Texas Local Government Code, or the Texas or U.S. constitutions, as well as other requirements of a nexus between development conditions required pursuant to this Agreement with respect to the Public Facilities and the projected impact of Developer's development of the Property.

4.09 Entire Agreement; Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

4.10 Applicable Law; Venue. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Parker County, Texas. Venue and exclusive jurisdiction for any action to enforce or construe this Agreement shall be in Parker County, Texas.

4.11 No Waiver. Any failure by a Party to insist upon strict performance by another Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

4.12 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

4.13 Further Documents. Each Party shall, upon request of the other Party, execute and deliver such further documents and perform such further acts as may reasonably be requested to effectuate the terms of this Agreement and achieve the intent of the Parties.

4.14 Compliance with Laws. Developer hereby agrees to comply with all federal, state, and local laws in constructing the Public Facilities and the Development.

4.15 Effective Date. The "**Effective Date**" of this Agreement is the date this Agreement is fully executed by both Parties.

4.16 Exhibits. The following Exhibits are attached to this Agreement and are incorporated herein for all purposes:

Exhibit A Property Description

SIGNATURES APPEAR ON NEXT PAGES

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its undersigned duly authorized representative as of the date set forth below.

TOWN OF ANNETTA, TEXAS

By: _____
Bruce Pinckard, Mayor

Date: _____

ATTEST:

By: _____
Jamee Long, Town Secretary

THE STATE OF TEXAS §
 §
COUNTY OF PARKER §

BEFORE ME, the undersigned authority, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledges that he/she executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL this ____ day of _____, 2020.

Notary Public, State of Texas

Print: _____

My commission expires: _____

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its undersigned duly authorized representative as of the date set forth below.

ALEDO INDEPENDENT SCHOOL DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF PARKER §

BEFORE ME, the undersigned authority, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledges that he/she executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL this ____ day of _____, 2020.

Notary Public, State of Texas

Print: _____

My commission expires: _____

Exhibit A
Property Description

BEING 20.891 acres of land situated in the B. Stephenson Survey, Abstract No. 1219, Town of Annetta and Town of Annetta ETJ, Parker County, Texas, and being all of those certain tracts of land as conveyed to Aledo Independent School District (Aledo I.S.D.), according to the deed filed in County Clerk's (C.C.) #201817304 and #201817306, Deed Records of Parker County, Texas (D.R.P.C.T.); and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with cap stamped "TNP", set in the east Right-of-Way (R-O-W) line of W. F.M. 5 (variable width), at the most westerly northwest corner of said Aledo I.S.D. tract (#201817304), also being in the south line of a tract of land described in deed to Charles P. Carter, according to the deed recorded in C.C. #201505308, D.R.P.C.T., from which a 1/2 inch iron rod with cap stamped "Harlan Tx2074", found at the southwest corner of said Carter tract, bears N 89°38'21" W, a distance of 10.00 feet;

THENCE along the most westerly north line of said Aledo I.S.D. tract (#201817304), and along the south line of said Carter tract generally along and near a wire fence, the following courses and distance;

S 89°38'21" E, a distance of 85.67 feet to a 1/2 inch iron rod found with cap stamped "Harlan Tx2074";

S 84°07'17" E, a distance of 51.41 feet to a 5/8 inch iron rod found at a reentrant corner of said Aledo I.S.D. tract (#201817304), also being the southeast corner of said Carter tract;

THENCE N 03°32'03" W, continuing along the most westerly north line of said Aledo I.S.D. tract (#201817304), along the east line of said Carter tract, a distance of 13.22 feet to a 1/2 inch iron rod found at the southwest corner of a tract of land described in deed to Annetta Community Storage, LLC, according to the deed recorded in C.C. #201605351, D.R.P.C.T., also being a reentrant corner of said Aledo I.S.D. tract (#201817304);

THENCE S 77°00'22" E, continuing along the most westerly north line of said Aledo I.S.D. tract (#201817304), along the south line of said Annetta Community Storage tract, a distance of 556.22 feet to a 1 inch iron rod found near a fence line at the southeast corner of said Annetta Community Storage tract, also being a reentrant corner of said Aledo I.S.D. tract (#201817304);

THENCE N 16°27'39" E, along the most northerly west line of said Aledo I.S.D. tract (#201817304), along the east line of said Annetta Community Storage tract, and generally along and near a partially downed wire fence, a distance of 524.87 feet to a railroad X-tie found at the northeast corner of said Annetta Community Storage tract, also being the most northerly south corner of a tract of land described in deed to Hendrix Annetto, L.L.C., according to the deed recorded in C.C. #201708597, D.R.P.C.T., from which a 1/2 inch iron rod found in the north line of said Annetta Community Storage tract, also being in the most northerly south line of said Hendrix Annetto tract, bears N 79°35'37" W, a distance of 202.27 feet;

THENCE N 37°08'39" E, along a southeasterly line of said Hendrix Annetto tract, and continuing along the most northerly west line of said Aledo I.S.D. tract (#201817304), a distance of 79.18 feet to a 5/8 inch iron rod set with cap stamped "TNP";

THENCE N 26°59'07" E, continuing along a southeasterly line of said Hendrix Annetto tract, and continuing along the most northerly west line of said Aledo I.S.D. tract (#201817304), a distance of 24.20 feet to a 1/2 inch iron rod with cap stamped "Corlett", found near an 8" fence post at the most north corner of said Aledo I.S.D. tract (#201817304), also being a reentrant corner of said Hendrix Annetto tract;

THENCE S 45°10'36" E, generally along and near a wire fence, along the northeasterly line of said Aledo I.S.D. tract (#201817304), and along a southwesterly line of said Hendrix Annetto tract, a distance of 976.66 feet to a 5/8 inch iron rod with cap stamped "TNP", set at the southeast corner of said Aledo I.S.D. tract (#201817304), also being the northeast corner of the remainder of a tract of land described in deed to Barbara Moore Family Partnership, LTD, according to the deed recorded in Volume 1849, Page 106, P.R.P.C.T.

THENCE S 64°10'57" W, generally along and near a wire fence, along the south line of said Aledo I.S.D. tract (#201817304), and along the north line of the remainder of said Barbara Moore Family Partnership, LTD tract, a distance of 904.68 feet to a 5/8 inch iron rod set with cap stamped "TNP";

THENCE S 89°08'42" W, continuing along said line, passing over and across the southwest corner of said Aledo I.S.D. tract (#201817304), also being the southeast corner of said Aledo I.S.D. tract (#201817306), also passing along the north line of the remainder of said Barbara Moore Family Partnership, LTD tract, also passing along the north line of the remainder of tracts of land described in deed to Barbara Lynne Carpenter, according to the deeds recorded in Volume 1677, Page 1418 and Volume 1743, Page 655, P.R.P.C.T., and continuing along the south line of said Aledo I.S.D. tract (#201817306), in all, a distance of 757.19 feet to a 5/8 inch iron rod with cap stamped "TNP", set near a wire fence line at the southwest corner of said Aledo I.S.D. tract (#201817306), also being the northwest corner of the remainder of said Barbara Lynne Carpenter tract (Vol. 1677, Pg. 1418, D.R.P.C.T.), also being in the east R-O-W line of said W. F.M. 5;

THENCE N 00°13'45" W, along and near a wire fence line in the west line of said Aledo I.S.D. tract (#201817306), and along the east R-O-W line of said W. F.M. 5, a distance of 31.45 feet to a 1/2 inch iron rod found;

THENCE N 00°38'21" W, continuing along and near a wire fence line, passing along the west line of said Aledo I.S.D. tract (#201817306), also passing along the west line of said Aledo I.S.D. tract (#201817304), and along the east R-O-W line of said W. F.M. 5, in all, a distance of 591.98 feet to the **POINT OF BEGINNING** and containing 910,003 square feet or 20.891 acres of land.