

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

**RESOLUTION OF THE CITY OF PFLUGERVILLE AUTHORIZING THE CITY MANAGER TO EXECUTE A POST-ANNEXATION PROVISION OF SERVICES AGREEMENT WITH CE DEVELOPMENT INC., PROVIDING THAT UPON ANNEXATION THE CITY WILL PROVIDE STANDARD CITY SERVICES TO A TRACT OF LAND TOTALING APPROXIMATELY 14.09 ACRES SITUATED IN THE JOHN LIESSE SURVEY NO. 18, ABSTRACT NO. 406, TRAVIS COUNTY, GENERALLY LOCATED EAST OF WEISS LANE AND THE MUNICIPAL UTILITY DISTRICT NO. 23, AND WEST OF CAMERON ROAD, WITHIN THE CITY'S EXTRATERRITORIAL JURISDICTION.**

WHEREAS, the City of Pflugerville, Texas (“City”) and the CE Development Inc., (“Property Owner”) entered into the Carmel Development Agreement on October 13, 2015, as amended by that certain First Amendment to the Development Agreement on June 8, 2017; and

WHEREAS, the City of Pflugerville, Texas (“City”) and the CE Development Inc., (“Property Owner”) entered into the Second Amendment to the Carmel Development Agreement, on February 12, 2019, contemplating annexation of the subject property; and

WHEREAS, the Property Owner has requested that the City consider annexation of a tract of land totaling approximately 14.09 acres of land situated in the John Liesse Survey No. 18, Abstract 406, Travis County, Texas; and

WHEREAS, Chapter 43, Subchapter C-3 of the Texas Local Government Code authorizes Tier 2 municipalities, including the City, to annex property on the request of all property owners in an area; and

WHEREAS, pursuant to Texas Local Government Code Section 43.067 et seq., the City must first negotiate and enter into a written agreement with the owners of land in the area for the provision of City services; and

WHEREAS, pursuant to the City Charter, Section 4.01 (c) 10, the City manager may, if authorized by the City Council, sign any contract, conveyance or other document; and

WHEREAS, the City Council of the City of Pflugerville has determined it necessary to enter into a post-annexation provision of services agreement pursuant to State law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE:

**Section 1.**

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

**Section 2.**

That the City Council of the City of Pflugerville, Texas hereby authorizes and directs the City Manager to execute a post-annexation provision of services agreement with CE Development Inc., in substantially the form as the agreement attached hereto as Exhibit A, providing that upon annexation the City will provide City standards services to a tract of land totaling approximately 14.09 acres situated in the John Liesse Survey No. 18, Abstract No. 406, Travis County, Texas, generally located east of Weiss Lane and Municipal Utility District No. 23, and west of Cameron Road, within the City's extraterritorial jurisdiction.

**Section 3.**

That this Resolution shall be in full force and effect from and after its passage and adoption.

PASSED AND APPROVED this 9<sup>th</sup> day of April, 2019.

CITY OF PFLUGERVILLE, TEXAS

By: \_\_\_\_\_  
Victor Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Karen Thompson, City Secretary

APPROVED AS TO FORM:

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Charles E. Zech, City Attorney  
DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

**Exhibit A**

**POST-ANNEXATION PROVISION OF SERVICES AGREEMENT**

## **AGREEMENT REGARDING POST-ANNEXATION PROVISION OF SERVICES**

This Agreement is entered into by and between the City of Pflugerville, a Texas Municipal Corporation ("City"), acting by and through its City Manager, and CE Development, Inc. ("Landowner"), both of which may be referred to herein singularly as "Party" or collectively as the "Parties."

### **Recitals**

**WHEREAS**, the Landowner has requested that the City consider annexation of a tract of land totaling approximately 14.09 acres of land situated in the John Liesse Survey No. 18, Abstract No. 406, Travis County, Texas, as specifically described in **Exhibit "A"** ("Property") and further shown in Exhibit "B" as MUD #23 Territory Gain, which is attached hereto and incorporated herein for all purposes; and

**WHEREAS**, in accordance with Texas Local Government Code, Chapter 43, Sub-Chapter C-3, Sections 43.067 et seq., the City and the Landowner must enter into a written agreement identifying a list of public services to be provided to the Property and a schedule for provision of the same; and

**WHEREAS**, this Agreement is being entered into by and between the Parties to comply with the Texas Local Government Code prior to the City's consideration of an ordinance annexing the Property, it being understood and agreed to by the Parties that annexation of the Property is a condition precedent to this Agreement becoming effective; and

**WHEREAS**, this Agreement shall be deemed effective on the effective date of an ordinance approved by the City annexing the Property (the "Effective Date").

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

### **Section 1.**

The Parties hereto acknowledge and agree that the foregoing recitals are hereby found to be true and correct and are hereby adopted by the Parties and made a part hereof for all purposes.

### **Section 2.**

The following service list and schedule ("Service Plan") represents the provision of services agreed to between the Landowner of the Property and the City establishing a program under which the City will provide municipal services to the Property (referred to hereinafter as the "Annexed Area") on the Effective Date of this Agreement, as required by § 43.0672 of the Texas Local

Government Code, which will be provided at a level consistent with service levels provided to other similarly-situated areas within the City:

I.

- A. Police Protection. The City provides police service within its City limits, including routine patrols through the City and law enforcement services upon call. Upon annexation, police protection will be provided to the Annexed Area at a level consistent with the service to other areas of the City with similar population density and characteristics. The City's police services include neighborhood patrols, criminal investigations, crime prevention, community services and school programs.
- B. Fire Protection and Emergency Medical Service.
  - 1. Travis County Emergency Services District No. 2 (TCESD #2) includes the City and the Annexed Area. TCESD #2 will continue to provide fire protection service to the Annexed Area after annexation.
  - 2. The City fire marshal enforces the City fire code, investigates fires, and conducts fire prevention inspections within the City limits, and will provide these services within the Annexed Area upon annexation.
  - 3. The City provides Emergency Medical Transport Services through an interlocal agreement with Travis County, Texas. Upon annexation, transport services will be provided to the Annexed Area at a level consistent with the service to other areas of the City with similar population density and characteristics. Emergency Medical First Responder Services are provided by TCESD #2, and TCESD #2 will continue to provide such services to the Annexed Area after annexation.

II.

Upon annexation, the City will provide the following municipal services to the Annexed Area on the same basis as it provides such services to other similarly situated areas of the City:

- A. Solid Waste Collection. The City provides residential solid waste collection services within the City limits for a fee under a contract between the City and various private refuse collection companies. The residential solid waste collection services include garbage collection, recycling, bulky item collection and brush collection or chipping. Commercial solid waste collection services are also available. This service will be provided for a fee to any person within the Annexed Area requesting the service after the date of annexation, provided that a privately owned solid waste management service provider ("POSWMSP") is unavailable. In the event that the Annexed Area is already receiving service, or desires to receive service from a POSWMSP, the City may not prohibit solid waste collection by the POSWMSP, nor may the City offer solid waste collection services for a period of two years following the effective date of the annexation unless a POSWMSP is or becomes unavailable, as established by Texas Local Government Code § 43.0661. If a landowner uses the services of a POSWMSP or services are available from a POSWMSP during the two

years following annexation, the City will not provide solid waste collection services to that landowner.

- B. Maintenance. Routine maintenance of the following City-owned facilities, if any, will be provided within the Annexed Area upon the effective date of annexation:
1. **Water and wastewater facilities** that are not within the service area of another water or wastewater utility. These facilities will include all internal water and wastewater distribution and collection lines owned by the City that are within the Annexed Area. The City maintains distribution and collection lines and handles all customer billing, service calls and complaints.
  2. **Public streets and right-of-ways**. The City provides street repairs, improvements, inspections, street lighting and traffic control devices. This City does not maintain private streets or private right-of-ways or other public owned streets under the ownership and control of another public entity.
  3. **Publicly owned parks, playgrounds, and swimming pools**. The City will maintain and operate City-owned land and facilities within the Annexed Area.
  4. **Other public easement, facilities or buildings**, including drainage facilities, such as drainage channels, storm sewers and detention ponds contained within dedicated public easements not under the ownership and control of another public entity. The City maintains drainage facilities through regular mowing and cleaning or repair, as needed. The City will periodically inspect facilities and perform maintenance on facilities in the Annexed Area as necessary to ensure continued functionality of the facilities through the year. Any unacceptable conditions that exist in the drainage areas and are reported to the City of Pflugerville between scheduled inspections will be evaluated and resolved as necessary. A maintenance schedule for these areas can be obtained from the Public Works and Parks and Recreation Departments.
- C. Development Regulation. The City will impose and enforce zoning, subdivision development, site development and building code regulations within the Annexed Area upon the effective date of the annexation. Enforcement will be in accordance with City ordinances. Development plans and plats for projects within the Annexed Area will be reviewed for compliance with City standards.
- D. Other Services. City recreational facilities, including parks and library, will be available for use by landowners or residents of the Annexed Area on the same basis as those facilities are available to current City landowners and residents. City residents receive program preference for some City programs. Other City services including Animal Control, Code Enforcement, Municipal Court and General Administration services will be also be available to landowners and residents in the Annexed Area on the same basis those facilities are available to current City landowners and residents. All other services contemplated herein will be available upon the effective date of annexation.

### III.

- A. Capital Improvements. Capital improvement acquisition or construction will occur in accordance with applicable ordinances and regulations and the adopted capital improvement plans of the City, as amended, which are incorporated herein by reference.
- B. Water and Wastewater Service. For portions of the Annexed Area not within the certificated service areas of the City, water and wastewater service to such areas will be subject to service extension regulations and policies provided in the City's Unified Development Code, as amended.

The portions of the Annexed Area that are currently within the certificated service areas of other water and wastewater utilities will continue to receive water and wastewater utility services from such utility providers after annexation, unless subsequent agreements are entered into between the City and the other utility providers.

### IV.

- A. In accordance with Texas Local Government Code § 43.0672(c), no other services are contemplated by this Service Plan and a schedule for future services as contemplated by Texas Local Government Code § 43.0672(b) is not applicable as all services identified herein will be provided upon the effective date of annexation.

### Section 3.

#### General Terms.

1. Binding Effect/Authority. This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and permitted assigns. Each Party further warrants that each signatory to this Agreement is legally authorized to bind the respective individual or entity for the purposes established herein.
2. Choice of Law. This Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for any dispute shall lie exclusively in Travis County, Texas.
3. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all signatory Parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
4. Legal Construction. If any provision in this Agreement is for any reason found to be unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever



context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

5. Entire Agreement. This Agreement contains the entire Agreement between the Parties relating to the rights herein granted and the obligations herein assumed and cannot be varied except by written agreement of the Parties. Any oral representation or modification concerning this instrument shall be of no force and effect except for any subsequent modification in writing, signed by the Party to be charged.

Executed and Agreed to by the Parties on this the 7 day of March 2019.

**CITY OF PFLUGERVILLE**

**ATTEST:**

by: \_\_\_\_\_  
Sereniah Breland, City Manager

by: \_\_\_\_\_  
Karen Thompson, City Secretary

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

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

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Charles E. Zech, City Attorney  
Denton, Navarro, Rocha, Bernal & Zech, P.C.

**PROPERTY OWNER(S):**

CE Development, Inc.,

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

John S. Lloyd, President

Date: 3/7/19

**EXHIBIT "A"**

**PROPERTY/ANNEXED AREA**

14.09 Acres

THAT PART OF THE JOHN LIESSE SURVEY 18, ABSTRACT No. 406, TRAVIS COUNTY, TEXAS, BEING A PART OF THAT 15.623 ACRE TRACT, THAT 15.967 ACRE TRACT AND THAT 19.9285 ACRE TRACT CONVEYED TO TEXAS GULF BANK, N.A., AS TRUSTEE OF THE MANAGEMENT TRUST FOR THE BENEFIT OF HOLLY JEAN PFLUGER, BY DEED RECORDED IN DOCUMENT No. 2015193607 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, DESCRIBED AS FOLLOWS:

Begin at a 1/2" iron rod with Pape-Dawson cap found at the Southeast Corner of that 7.94 Acre Tract conveyed to CE Development, Inc., by deed recorded in Document No. 2015162829 of the Official Public Records of Travis County, Texas, and the Southwest Corner of said 15.623 Acre Tract at Texas State Plane Central Zone NAD 83 grid coordinates N. 10127969.37 feet and E. 3173081.25 feet (from which point the Southwest Corner of said John Liesse Survey bears approximately S.75°57'40"W. 2450 feet)

Thence N.27°31'45"E., along the West Line of said 15.623 Acre Tract and the East Line of said 7.94 Acre Tract (at 170.43 feet pass the Northeast Corner of said 7.94 Acre Tract and the Southeast Corner of that 62.00 Acre Tract conveyed to CE Development, Inc., by deed recorded in Document No. 2015146187 of the Official Public Records of Travis County, Texas) in all a distance of 326.09 feet to a 1/2" iron rod found at the Northwest Corner of said 15.623 Acre Tract and the Southwest Corner of said 15.967 Acre Tract;

Thence N.27°31'45"E., along the West Line of said 15.967 Acre Tract and the East Line of said 62.00 Acre Tract a distance of 368.80 feet to a 1/2" iron rod found at the Northwest Corner of said 15.967 Acre Tract and the Southerly Southwest Corner of said 16.925 Acre Tract;

Thence N.27°31'45"E. along a West Line of said 16.925 Acre Tract and the East Line of said 62.00 Acre Tract a distance of 109.72 feet to a 1/2" iron rod with Texas land Surveyors cap found at the Northeast Corner of said 62.00 Acre Tract and an interior corner of said 16.925 Acre Tract;

Thence N.62°45'53"W. along the North Line of said 62.00 Acre Tract and the South Line of said 16.925 Acre Tract a distance of 1326.26 feet to a 1/2" iron rod with Pape-Dawson cap found at the Westerly Southwest Corner of said 16.925 Acre Tract and an interior corner of said 62.00 Acre Tract;

Thence N.27°14'07"E. along the West Line of said 16.925 Acre Tract and an East Line of said 62.00 Acre Tract a distance of 161.08 feet to a 1/2" iron rod with Pape-Dawson cap found at the Southwest Corner of that 16.747 Acre Tract conveyed to CE Development, Inc., by deed recorded in Document No. 2015162822 of the Official Public Records of Travis County, Texas, and the Northwest Corner of said 16.925 Acre Tract;

Thence S.62°45'53"E. along the North Line of said 16.925 Acre Tract and the South Line of said 16.747 Acre Tract a distance of 1766.66 feet to a 1/2" iron rod set;

14.09 Acres

Thence S.27°49'55"W. across said 16.925 Acre Tract (at 270.81 feet pass the South Line of said 16.925 Acre Tract and the North Line of said 15.967 Acre Tract) in all a distance of 364.90 feet to a 1/2" iron rod set;

Thence N.65°33'54"W. across said 15.967 Acre Tract a distance of 161.01 feet to a 1/2" iron rod set in the West Line of that Wastewater Easement to City of Pflugerville by deed recorded in Document No. 2016151275 of the Official Public Records of Travis County, Texas;

Thence along the West Line of said Wastewater Easement and across said 15.967 Acre Tract and said 15.623 Acre Tract the following two courses:

1. S.08°00'23"W. a distance of 237.44 feet to a 1/2" iron rod set;
2. S.02°00'28"W. (at 47.15 feet pass the South Line of said 15.967 Acre Tract and the North Line of said 15.623 Acre Tract) in all a distance of 417.93 feet to a 1/2" iron rod set in the South Line of said 15.623 Acre Tract and the North Line of that 85.00 Acre Tract conveyed to CE Development, Inc., by deed recorded in Document No. 2015162822 of the Official Public Records of Travis County, Texas;

Thence N.61°46'03"W. along the South Line of said 15.623 Acre Tract and the North Line of said 85.00 Acre Tract a distance of 536.32 feet to the said Point of Beginning.

Containing 14.09 acres, more or less.

*John K. Weigand Feb. 8, 2013*

J. Kenneth Weigand  
Registered Professional Land Surveyor No. 5741  
State of Texas

RJ Surveying & Associates, Inc.  
2900 Jazz Street  
Round Rock, Texas 78664  
F-10015400



All iron rods set have RJ Surveying caps  
Bearings are Texas State Plane Central Zone NAD 83

**EXHIBIT "B"**

**PROPERTY/ANNEXED AREA**

**MUD #23 TERRITORY GAIN – 14.09 ACRES**

**Carmel Development**

