

**MASONRY DEVELOPMENT AGREEMENT
ESTABLISHING DEVELOPMENT STANDARDS
FOR PARKSIDE VILLAGE**

This Development Agreement Establishing Development Standards for **Parkside Village** (the "Agreement") is made and entered into, effective as of the ___ day of _____, 20__, by and between the **City of Leander, Texas**, a Texas home rule municipal corporation (the "City"), and **CWS Leander Parkside, LP** (the "Developer"). The City and the Developer are sometimes referred to herein as the "Parties." The Parties agree as follows.

Section 1. Purpose; Consideration.

- (a) The Developer owns that certain 15.01 acre tract located in Williamson County, Texas, being more particularly described in **Exhibit A** attached hereto and incorporated herein for all purposes (the "Property") and wishes to develop the Property for multi-family uses (the "Development"). The Developer desires that the City be able to enforce the development standards set forth herein through its building permit, inspection, and certificate of occupancy processes by this agreement, given that House Bill 2439 adopted in the 86th Legislative Session limits the ability of cities to enforce certain development standards governing building materials by ordinance.
- (b) The Developer will benefit from the City enforcing the Development Standards as set forth herein because it will be more efficient and cost-effective for compliance to be monitored and enforced through the City's building permit and inspection processes and will help ensure that the Development is built out as planned by the Developer after conveyance to the builder of homes or other buildings and structures authorized by the applicable zoning regulations. The City will benefit from this Agreement by having assurance regarding certain development standards for the Development, having certainty that such Development Standards may be enforced by the City, and preservation of property values within the City.
- (c) The benefits to the Parties set forth in this Article 1, plus the mutual promises expressed herein, are good and valuable consideration for this Agreement, the sufficiency of which is hereby acknowledged by both Parties.

Section 2. Term; Termination.

- (a) The term of this Agreement shall be in full force and effect from the Effective Date hereof, subject to earlier termination as provided in this Agreement. Unless earlier terminated as provided in this Agreement, this Agreement shall terminate upon the issuance of the final certificate of occupancy for the final structure in the Development shown on the site plans for the Property that provide for full development of the Property.
- (b) The Parties further mutually agree that this Agreement shall be in full force and effect upon the date above first written, provided that the City may terminate this Agreement if Developer defaults under the terms of this Agreement, subject to the notice and cure provisions in Section 6.

Section 3. Development Standards.

- (a) **Development Requirements.** The exterior wall standards set forth in this section shall apply to the structures located on the Property. One hundred percent (100%) of the combined exterior surface area of all walls, including all stories of buildings / structures, shall consist of stone, brick, painted or tinted stucco, and factory tinted (not painted) split faced concrete masonry unit or similar material approved by the Director of Planning.
- (b) **Building Permits.** The Developer acknowledges and agrees that compliance with Section 3(a) will be a condition of issuance of building permits and certificates of occupancy. Developer further agrees that the City may use its building permitting, inspection, and enforcement processes and procedures to enforce the requirements of Section 3(a) above, including but not limited to rejection of applications and plans, stop work orders, and disapproval of inspections for applications and/or work that does not comply with this Agreement. Applications and plans for a building permit must demonstrate compliance with this Agreement in order for a building permit to be issued. Applications for building permits must be in compliance with this Agreement, as well as the Applicable Regulations, in order for such application to be approved and a building permit issued. Plans demonstrating compliance with this Agreement must accompany a building permit application and will become a part of the approved permit. Any structure constructed on the Property must comply with this Agreement and the Applicable Regulations for a certificate of occupancy to be issued for such structure.

Section 4. Development of the Property. Except as modified by this Agreement, the Development and the Property will be developed in accordance with all applicable local, state, and federal regulations, including but not limited to the City’s ordinances and the zoning regulations applicable to the Property, and such amendments to City ordinances and regulations that that may be applied to the Development and the Property under Chapter 245, Texas Local Government Code, and good engineering practices (the “Applicable Regulations”). If there is a conflict between the Applicable Regulations and the Development Standards, the Development Standards shall control.

Section 5. Assignment of Commitments and Obligations; Covenant Running with the Land.

This Agreement shall constitute a covenant that runs with the Property and is binding on future owners of the Property, and a copy of this Agreement shall be recorded in the Official Public Records of Williamson County, Texas. The Developer and the City acknowledge and agree that this Agreement is binding upon the City and the Developer and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 6. Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of fourteen (14) business days after receipt by such party

of notice of default from the other party. Upon the passage of fourteen (14) business days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement; provided that if the nature of the default is that it cannot reasonably be cured within the fourteen (14) business day period, the defaulting party shall have a longer period of time as may be reasonably necessary to cure the default in question; but in no event more than sixty (60) days. In the event of default, the non-defaulting party to this Agreement may pursue the remedy of specific performance or other equitable legal remedy not inconsistent with this Agreement. All remedies will be cumulative and the pursuit of one authorized remedy will not constitute an election of remedies or a waiver of the right to pursue any other authorized remedy. In addition to the other remedies set forth herein, the City may withhold approval of a building permit application or a certificate of occupancy for a structure that does not comply with the Development Standards.

Section 7. Attorneys Fees. In the event of action pursued in court to enforce rights under this Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees, incurred in connection with such action.

Section 8. Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of length of time during which that failure continues, be deemed a waiver of that party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

Section 9. Force Majeure.

- (a) The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning, earthquakes; fires, hurricanes; storms, floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- (b) If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.

- (c) It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

Section 10. Notices. Any notice to be given hereunder by any party to another party shall be in writing and may be effected by personal delivery or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the City shall be addressed:

City of Leander
Attn: City Manager
P.O. Box 319
Leander, Texas 78641
Williamson County

with copy to:

The Knight Law Firm, LLP
Attn: Paige H. Saenz, Partner
223 West Anderson Lane, Suite A-105
Austin, Texas 78752
Travis County

Any notice mailed to the Developer shall be addressed:

CWS Leander Parkside, LP
Mary Ellen Barlow
9606 North Mopac Expressway, Ste. 500
Austin, TX 78759
Travis County

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

Section 11. Severability. Should any court declare or determine that any provisions of this Agreement is invalid or unenforceable under present or future laws, that provision shall be fully severable; this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining

provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in place of each such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. Texas law shall govern the validity and interpretation of this Agreement.

Section 12. Agreement and Amendment. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties and may not be amended except by a writing approved by the City Council of the City that is signed by all Parties and dated subsequent to the date hereof.

Section 13. No Joint Venture. The terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past, present and future officers, elected officials, employees and agents, do not assume any responsibilities or liabilities to any third party in connection with the development of the Property. The City enters into this Agreement in the exercise of its public duties and authority to provide for development of property within the City pursuant to its police powers and for the benefit and protection of the public health, safety, and welfare.

Section 14. No Third Party Beneficiaries. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a party, unless expressly provided otherwise herein, or in a written instrument executed by both the City and the third party. Absent a written agreement between the City and third party providing otherwise, if a default occurs with respect to an obligation of the City under this Agreement, any notice of default or action seeking a remedy for such default must be made by the Owner.

Section 15. Effective Date. The Effective Date of this Agreement is the defined date set forth in the first paragraph.

Section 16. Recordation. This Agreement or a memorandum of Agreement acceptable to the City and Developer shall be recorded in the Official Public Records of Williamson County, Texas.

Section 17. Texas Law Governs. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Williamson County, Texas. Venue shall lie exclusively in Williamson County, Texas.

Section 18. Anti-Boycott Verification. To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, the Developer represents that neither the Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer (i) boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms “boycotts Israel” and “boycott Israel” as used in this paragraph have the meanings assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code, as amended.

Section 19. Iran, Sudan and Foreign Terrorist Organizations. To the extent this Agreement constitute a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, Developer represents that Developer nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201, or 2252.153 of the Texas Government Code.

Section 20. Time is of the Essence. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.

Section 21. Exhibits. The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

Exhibit A – Property Description & Sketch

EXECUTED in multiple originals this the _____ day of _____, 20_.

CITY:
City of Leander, Texas
a Texas home-rule municipal corporation

Attest:

By: _____
Name: Dara Crabtree
Title: City Secretary

By: _____
Name: Christine Sederquist
Title: Mayor

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20_, by _____, Mayor of the City of Leander, Texas, a Texas home-rule municipal corporation, on behalf of said corporation.

(SEAL)

Notary Public, State of Texas

DEVELOPER:

By: Mary Ellen Barlow
Name: MARY ELLEN BARLOW
Title: VICE PRESIDENT OF CWSEFG 20 Leander, LLC
The General Partner of CW'S Leander Parks,
L.P.

California
THE STATE OF ~~TEXAS~~ §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20____, by _____ of _____, a _____ company, on behalf of said company.

(SEAL)

Notary Public, State of Texas

See attached California Acknowledgment

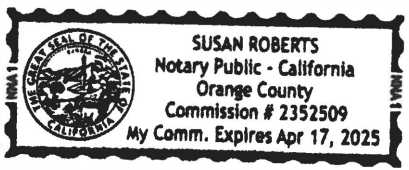
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

State of California }
County of Orange }

On April 26, 2021 before me, Susan Roberts, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Mary Ellen Barlow
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Susan Roberts
Signature of Notary Public

EXHIBIT "A"

Description of Property

**A METES AND BOUNDS
DESCRIPTION OF A
15.010 ACRE TRACT OF LAND**

BEING a 15.010 acre (653,818 square foot) tract of land situated in the Elijah D. Harmon Survey, Abstract No. 6, City of Leander, Williamson County, Texas; and being a portion of that certain 30.00 acre tract described in instrument to Leander 30, L.P. in Document No. 2017013760 of the Official Public Records of Williamson County; and being more particularly described as follows:

COMMENCING at a 1/2-inch iron rod found for the southwest corner of the said 30.00 acre tract;

THENCE, North 68°59'01" East, 983.38 feet along the southeast line of the said 30.00 acre tract to the **POINT OF BEGINNING** of the herein described tract;

THENCE, over and across the said called 30.00 acre tract the following eight (8) calls:

1. North 20°42'32" West, 58.78 feet to a point for corner;
2. South 69°06'13" West, 555.32 feet to a point for corner;
3. North 21°00'29" West, 485.86 feet to a point for corner;
4. South 68°55'21" West, 195.22 feet to a point for corner;
5. North 20°58'21" West, 198.35 feet to a point marking the northwest corner of the herein described tract;
6. North 70°38'26" East, 520.98 feet to a point for corner;
7. North 68°59'26" East, 516.09 feet to a point marking the northeast corner of the herein described tract;
8. South 28°12'56" East, 734.60 feet to a point for corner, from which a 1/2-inch iron rod with cap found in the southwesterly right-of-way line of U.S. Highway 183A Toll Way, a variable width right-of-way, bears North 68°59'01" East, a distance of 331.63 feet;

THENCE, South 68°59'01" West, 378.90 feet, along the southeast line of the said 30.00 acre tract to the **POINT OF BEGINNING** and containing 15.010 acres of land in Williamson County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System Grid, Central Zone (FIPS 4203 (NAD83)). All distances are on the Grid and shown in U.S. Survey feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.



JOHN G. MOSIER
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6330
601 NW LOOP 410, SUITE 350
SAN ANTONIO, TEXAS 78216
PH. 210-541-9166
greg.mosier@kimley-horn.com

**15.010 ACRE TRACT OF LAND
IN THE ELIJAH D. HARMON
SURVEY, ABSTRACT NO. 6
CITY OF LEANDER,
WILLAMSON COUNTY, TEXAS**

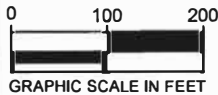
Kimley»»Horn

601 NW Loop 410, Suite 350
San Antonio, Texas 78216

FIRM # 10193973

Tel. No. (210) 541-9166
www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	DMD	JGM	5/14/2020	064425204	1 OF 2



CALLED EXHIBIT "B" - 52.45 ACRES
LEANDER DEVELOPER 4, LTD
DOC. NO. 2005077774
O.P.R.W.C.

PROPOSED
RIGHT-OF-WAY
DEDICATION

N68°59'26"E 516.09'

N70°38'26"E 520.98'

PROPOSED
LOT 1, BLOCK A

U.S. 183A TOLL ROAD
(VARIABLE WIDTH)

CALLLED 29.0385 ACRES
(30.00 ACRES SAVE & EXCEPT
0.9615 ACRES)
LEANDER 30, L.P.
DOC. NO. 2017013760
O.P.R.W.C.

15.010 ACRES
653,818 SQ. FT.

S28°12'56"E 734.60'

PROPOSED
LOT 3, BLOCK A
PRIVATE PARKLAND

30.00 ACRE OUT OF 275.31 ACRE
LWB JOINT VENTURE
DOC. NO. 1999021051
O.P.R.W.C.

P.O.B.

PROPOSED
LOT 2, BLOCK A

N68°59'01"E 331.63'

REMAINDER
CALLED EXHIBIT "C" - 5.00 ACRES
LEANDER DEVELOPER 4, LTD
DOC. NO. 2005077774 OPRWC

BEARING BASIS:
THE BEARINGS, DISTANCES, AREAS AND
COORDINATES SHOWN HEREON ARE TEXAS
STATE COORDINATE SYSTEM GRID, CENTRAL
ZONE (FIPS 4203) (NAD'83), AS DETERMINED
BY THE GLOBAL POSITIONING SYSTEM (GPS).

DATA SOURCES:
THIS IS AN EXHIBIT PREPARED BASED ON A FIELD
SURVEY CONDUCTED BY KIMLEY-HORN
PERSONNEL. NO IMPROVEMENTS ARE SHOWN. ALL
EXISTING EASEMENTS ARE NOT SHOWN. SEE THE
SEPARATE LAND TITLE SURVEY UNDER JOB
NUMBER 064425204 FOR ADDITIONAL INFORMATION.
THIS IS NOT A LAND TITLE SURVEY.

LINE TABLE		
NO.	BEARING	LENGTH
L1	N20°42'32"W	58.78'
L2	S68°55'21"W	195.22'
L3	N20°58'21"W	198.35'

LEGEND

P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
IRF = 1/2" IRON ROD FOUND
IRCF = IRON ROD W/CAP FOUND
O.P.R.W.C. = OFFICIAL PUBLIC
RECORDS WILLIAMSON COUNTY

John G. Mosier
5-18-21

JOHN G. MOSIER
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6330
601 NW LOOP 410, SUITE 350
SAN ANTONIO, TEXAS 78216
PH. 210-541-9166
greg.mosier@kimley-horn.com



**15.010 ACRE TRACT OF LAND
IN THE ELIJAH D. HARMON
SURVEY, ABSTRACT NO. 6
CITY OF LEANDER,
WILLAMSON COUNTY, TEXAS**

Kimley»Horn

601 NW Loop 410, Suite 350
San Antonio, Texas 78216 FIRM # 10193973 Tel. No. (210) 541-9166
www.kimley-horn.com

Scale 1" = 200'	Drawn by DMD	Checked by JGM	Date 5/14/2021	Project No. 064425204	Sheet No. 2 OF 2
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