



Dr. Larry Wallace Jr., Chair, Place 1  
Emily Hill, Place 2  
Maria Amezcua, Vice-Chair, Place 3  
Dr. Christopher Harvey, Place 4  
Danny Scarbrough, Place 5  
Deja Hill, Place 6  
Valerie Dye, Place 7

**TAX INCREMENT REINVESTMENT  
ZONE, NUMBER ONE (TIRZ)  
BOARD MEETING  
AGENDA**

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Wednesday, December 4, 2019

6:30 p.m.

Manor City Hall – Council Chambers  
105 E. Eggleston Street

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**CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT**

**PUBLIC COMMENTS**

Comments will be taken from the audience on non-agenda related topics for a length of time, not to exceed three (3) minutes per person. Comments on specific agenda items must be made when the item comes before the Board. To address the TIRZ Board, please complete the white card and present it to the City Secretary prior to the meeting. **No Action May be Taken by the TIRZ Board During Public Comments**

**REGULAR AGENDA**

1. Consideration, discussion, and possible action to approve the Tax Increment Reinvestment Zone, Number One Minutes of the November 6, 2019, Meeting.
2. Consideration, discussion, and possible action on a resolution approving the Tax Increment Reinvestment Zone Number One (TIRZ) Agreement regarding financing and reimbursement.

**ADJOURNMENT**

**POSTING CERTIFICATION**

I, the undersigned authority do hereby certify that this Notice of Meeting was posted on the bulletin board, at the City Hall of the City of Manor, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: Wednesday, November 27, 2019, by 5:00 p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

/s/ Lluvia T. Almaraz, TRMC  
City Secretary for the City of Manor, Texas

***NOTICE OF ASSISTANCE AT PUBLIC MEETINGS:***

*The City of Manor is committed to compliance with the Americans with Disabilities Act. Manor City Hall and the Council Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at 512.272.5555 or e-mail [lalmaraz@cityofmanor.org](mailto:lalmaraz@cityofmanor.org)*



## AGENDA ITEM SUMMARY FORM

**PROPOSED MEETING DATE:** December 4, 2019

**PREPARED BY:** Lluvia T. Almaraz, City Secretary

**DEPARTMENT:** Administration

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**AGENDA ITEM DESCRIPTION:**

Consideration, discussion, and possible action to approve the Tax Increment Reinvestment Zone, Number One Minutes of the November 6, 2019, Meeting.

**BACKGROUND/SUMMARY:**

**PRESENTATION:** ☐ YES ☒ NO

**ATTACHMENTS:** ☒ YES (IF YES, LIST IN ORDER TO BE PRESENTED) ☐ NO

November 6, 2019, TIRZ Minutes

**STAFF RECOMMENDATION:**

It is City staff's recommendation that the TIRZ Board approve the Tax Increment Reinvestment Zone, Number One Minutes of the November 6, 2019, Meeting.

**PLANNING & ZONING COMMISSION:** ☒ RECOMMENDED APPROVAL ☐ DISAPPROVAL ☐ NONE

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**TAX INCREMENT REINVESTMENT  
ZONE, NUMBER ONE (TIRZ)  
BOARD MINUTES  
NOVEMBER 6, 2019**

**BOARD MEMBERS**

**PRESENT:**

Rita G. Jonse, Chair, Place 1  
Gil Burrell, Place 2  
Maria Amezcua, Place 3  
Anne Weir, Place 4  
Danny Scarbrough, Place 5  
Deja Hill, Place 6  
Valerie Dye, Place 7

**ABSENT:**

**CITY STAFF**

Thomas Bolt, City Manager  
Lluvia T. Almaraz, City Secretary

**REGULAR SESSION – 6:30 P.M.**

With a quorum of the Board Members present, the regular session of the Manor Tax Increment Reinvestment Zone, Number One Board was called to order by Chair Rita G. Jonse at 6:30 p.m. on Wednesday, November 6, 2019, in the Council Chambers of the Manor City Hall, 105 E. Eggleston St., Manor, Texas.

- 1. Consideration, discussion, and possible action to approve the Tax Increment Reinvestment Zone, Number One Minutes of the October 16, 2019, Meeting.**

**MOTION:** Upon a motion made by Board Member Weir and seconded by Board Member Amezcua the Board voted seven (7) For and none (0) Against to approve the Tax Increment Reinvestment Zone, Number One Minutes of the October 16, 2019, Meeting. The motion carried unanimously.

- 2. Consideration, discussion, and possible action on a resolution approving a Tax Increment Reinvestment Zone, Number One, City of Manor Final Project and Finance Plan.**

Jon Snyder with P3 Works discussed the resolution regarding the TIRZ Final Project and Finance Plan.

The discussion was held regarding the TIRZ True Up.

Resolution No. 2019-16: A Resolution of the Tax Increment Reinvestment Zone Number One, City of Manor Board Approving the Tax Increment Reinvestment Zone Number One, City of Manor Final Project and Finance Plan; Making Certain Findings; and Providing for an Immediate Effective Date.

**MOTION:** Upon a motion made by Board Member Scarbrough and seconded by Board Member Burrell the Board voted seven (7) For and none (0) Against to approve Resolution No. 2019-16 approving a Tax Increment Reinvestment Zone, Number One, City of Manor Final Project and Finance Plan. The motion carried unanimously.

#### **ADJOURNMENT**

The Regular Session of the Manor Tax Increment Reinvestment Zone Number One, Board Adjourned at 6:39 p.m. on Wednesday, November 6, 2019.

These minutes approved by the Manor TIRZ, Number One Board on the 4<sup>th</sup> day of December 2019.

#### **APPROVED:**

\_\_\_\_\_  
Dr. Larry Wallace Jr.  
Board Chair

#### **ATTEST:**

\_\_\_\_\_  
Lluvia T. Almaraz, TRMC  
City Secretary



## AGENDA ITEM SUMMARY FORM

**PROPOSED MEETING DATE:** December 4, 2019

**PREPARED BY:** Thomas Bolt, City Manager

**DEPARTMENT:** Development Services

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**AGENDA ITEM DESCRIPTION:**

Consideration, discussion, and possible action on a resolution approving the Tax Increment Reinvestment Zone Number One (TIRZ) Agreement regarding financing and reimbursement.

**BACKGROUND/SUMMARY:**

**PRESENTATION:** ☐ YES ☒ NO

**ATTACHMENTS:** ☒ YES (IF YES, LIST IN ORDER TO BE PRESENTED) ☐ NO

Resolution No. 2019-17

Exhibit A - TIRZ Agreement

**STAFF RECOMMENDATION:**

It is City staff's recommendation that the TIRZ Board approve Resolution No. 2019-17 approving the Tax Increment Reinvestment Zone Number One (TIRZ) Agreement regarding financing and reimbursement.

**PLANNING & ZONING COMMISSION:** ☒ RECOMMENDED APPROVAL ☐ DISAPPROVAL ☐ NONE

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**TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF MANOR**

**RESOLUTION NO. 2019-17**

**A RESOLUTION OF THE TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF MANOR BOARD APPROVING THE TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF MANOR AGREEMENT PROVIDING FOR FINANCE AND REIMBURSEMENT; MAKING CERTAIN FINDINGS; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, the Tax Increment Reinvestment Zone Number One, City of Manor Board (the “Board”) has been duly appointed in accordance with State law;

**WHEREAS**, the City of Manor, Texas (the “City”) City Council (the “City Council”) previously approved the creation of the Tax Increment Reinvestment Zone Number One, City of Manor (the “Zone”) via City Council Ordinance No. 536 on December 5, 2018 (the “Creation Ordinance”); and

**WHEREAS**, the City Council previously approved the *Tax Increment Reinvestment Zone Number One, City of Manor Project and Finance Plan* via Ordinance No. 558 on November 6, 2019 (the “Final Project and Finance Plan”); and

**WHEREAS**, the *Tax Increment Reinvestment Zone Number One, City of Manor Agreement* (the “TIRZ Agreement”) has been prepared for the Zone; and

**WHEREAS**, upon full review and consideration of the TIRZ Agreement and all matters attendant and related thereto, the Board is of the opinion that the terms and conditions thereof are in the best interests of the City and its citizens and should be approved; and

**WHEREAS**, all constitutional, statutory and legal prerequisites for the passage of this Resolution have been met, including but not limited to the Open Meetings Act.

**NOW THEREFORE BE IT RESOLVED BY THE TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF MANOR BOARD, THAT:**

**SECTION 1.** The recitals set forth in the preamble to this Resolution are true and correct and are incorporated as part of this Resolution.

**SECTION 2.** The Board approves the TIRZ Agreement, attached hereto as **Exhibit “A”**.

**SECTION 3.** It is hereby found, determined, and declared that sufficient written notice of the date, hour, place and subject of the meeting of the Board at which this Resolution was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding its meeting, as required by the Texas Open

Meetings Act, Chapter 551 of the Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Resolution and the subject matter hereof has been discussed, considered and formally acted upon. The Board further ratifies, approves and confirms such written notice and the contents and posting thereof.

**SECTION 4.** This Resolution shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED** by the Tax Increment Reinvestment Zone Number One, City of Manor Board, on this the 4<sup>th</sup> day of December 2019.

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Dr. Larry Wallace Jr., Board Chair

**ATTEST:**

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Lluvia T. Almaraz, City Secretary

**APPROVED AS TO FORM:**

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Veronica Rivera, Assistant City Attorney



**Exhibit “A”**

**Tax Increment Reinvestment Zone Number One, City of Manor (TIRZ) Agreement  
[attached]**

## **TIRZ NO. 1 AGREEMENT**

This **TIRZ NO. 1 AGREEMENT** (the “Agreement”) dated as of December\_\_\_\_, 2019 (the “Effective Date”) is made by and between the **CITY OF MANOR, TEXAS** (the “City”), the **BOARD OF DIRECTORS** (the “Board”) of TAX REINVESTMENT ZONE NUMBER ONE, CITY OF MANOR, TEXAS, **FORESTAR (USA) REAL ESTATE GROUP, INC.**, a Delaware corporation (“Forestar” or “Developer”) and consented to by **ALMA JUANITA CHAMPION MEIER, WILLIAM CLARK MEIER, and CAROLYN JUANITA MEIER FAUBER** (collectively, “Meier”)(Meier and Forestar collectively referred to as, the “Owner”), which together with the Board and the City are sometimes herein each referred to as a “Party” and collectively as the “Parties.”

### **RECITALS**

**WHEREAS**, capitalized terms used but not defined herein shall have the meanings given to them in the *Tax Reinvestment Zone Number One, City of Manor, Texas, Final Project and Finance Plan* (the “Final Plan”) dated November 6, 2019 and approved by the TIRZ Board and the City Council of the City of Manor (the “City Council”); and

**WHEREAS**, after providing the notices required by the Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended (the “Act”) and by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended (the “Open Meetings Act”), the City Council passed and approved Ordinance No. 536 on December 5, 2018 (the “TIRZ Creation Ordinance”), designating a tax increment reinvestment zone known as *Tax Reinvestment Zone Number One, City of Manor, Texas* (the “Zone”); and

**WHEREAS**, the City will participate in the Zone by contributing a portion of the Tax Increment levied and collected by the City from the property within the Zone, which Tax Increment will be paid annually into the TIRZ Fund for a term of twenty-five (25) years, or until the amount in the TIRZ Fund reaches the Maximum Contribution, whichever occurs first; and

**WHEREAS**, the TIRZ Fund shall only be used in the manner set forth in the TIRZ Creation Ordinance, the Final Plan and this Agreement;

**WHEREAS**, the Zone encompasses approximately 599.2 acres of land located within the corporate limits of the City, which land is more particularly described by metes and bounds and depicted on **Exhibit “A”** attached hereto (the “Property”); and

**WHEREAS**, the Property will be developed as a master planned community in accordance with the Development Agreement (Manor Heights) between the City and the Owner, effective as of November 7, 2018 (as amended and assigned to Forestar, the “Development Agreement”); and

**WHEREAS**, in addition to creating the Zone, the TIRZ Creation Ordinance appointed the initial members of the Board and approved the Preliminary Plan for the Zone in accordance with the Act; and

**WHEREAS**, the City has created the Manor Heights Public Improvement District (the “District”), a portion of which is coterminous with the Zone, and will levy assessments in the District to finance or reimburse the cost of certain improvements (the “Authorized Improvements”) benefitting the District;

**WHEREAS**, following the Board’s recommendation and approval of the Final Project and Finance Plan, the City Council approved the Final Plan on November 6, 2019;

**WHEREAS**, the costs of the Public Improvements and Administrative Costs constitute Project Costs pursuant to the Final Plan; and

**WHEREAS**, the City and the Board have determined that it is in the best interest of the City and in conformance to the Final Plan to use dollars in the TIRZ Fund, as they become available, to pay the Project Costs.

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

## **ARTICLE I** **DEFINITIONS**

1.1 “Certificate for Payment” means a certificate (substantially in the form of **Exhibit “B”** or as otherwise approved by Forestar and the City) executed by a representative of Forestar and approved by a representative of the City, delivered to the representative of the City, specifying the work performed and the amount charged (including materials and labor costs) for Public Improvements Costs, and requesting payment of such amount from the TIRZ Fund. Each certificate shall include supporting documentation in the standard form for City construction projects and evidence that the Public Improvements (or its completed segment) covered by the Certificate for Payment have been inspected by the City.

## **ARTICLE II** **REPRESENTATIONS**

2.1 Representations of Board and City. The Board and the City hereby represent to the Owner that:

(A) As of the Effective Date, the Board and the City are duly authorized, created and existing in good standing under the laws of the State and are duly qualified and authorized to carry on the governmental functions contemplated by this Agreement.

(B) As of the Effective Date, the Board and the City have the power, authority and legal right to enter into and perform their obligations set forth in this Agreement and the execution, delivery and performance hereof: (i) have been duly authorized; (ii) will not violate any applicable judgment, order, law or regulation; and (iii) do not constitute a default under, or result

in the creation of, any lien, charge, encumbrance or security interest upon any of their assets under any agreement or instrument to which the Board or the City are a party or by which they or their assets, may be bound or affected.

(C) The execution, delivery and performance of this Agreement by the Board and the City does not require the consent or approval of any person or entity which has not been obtained.

2.2 Representations of the Owner. The Owner (as applicable) hereby represents to the Board and the City that:

(A) Forestar is a Delaware corporation duly authorized, created and existing in good standing under the laws of the State of Delaware.

(B) The Owner has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof: (i) has been duly authorized; (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the Owner; and (iii) does not constitute a default under, or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Owner, under any agreement or instrument to which the Owner is a party or by which the Owner or its assets may be bound or affected.

(C) The execution, delivery and performance of this Agreement by the Owner does not require the consent or approval of any person or entity which has not been obtained.

### **ARTICLE III** **REIMBURSEMENT PAYMENT**

3.1 Eligible Project Costs. All Project Costs are an eligible cost under the Act as such costs are identified in Appendix D attached to the Final Plan, as may be amended from time to time.

3.2 TIRZ True Up.

(A) Forestar will receive funds from the TIRZ on April 15<sup>th</sup> of each year until the earlier of (i) 25 years beginning on the second April 15<sup>th</sup> following the creation of the TIRZ (i.e. April 15, 2021), or (ii) \$19,168,820 has been paid to the Developer, or (iii) the Developer has been paid an amount equal to the cost of the TIRZ improvements as identified in **Exhibit “L”** of the Development Agreement, including 7.0% simple interest accrued on unreimbursed amounts for the costs of the Public Improvements.

(B) Forestar pledged, in accordance with the Development Agreement to build homes with an average sales price of \$287,000 for single family homes (the “Home Price Requirement”) and \$200,000 for condo/townhomes (the “Condo/Townhome Price Requirement”),

which amounts will be updated annually based on a published local home price index acceptable to the City and Owner.

**(1) Single Family Homes**

By April 1<sup>st</sup> of each year, the City shall cause the following to be performed:

(a) Calculate the Home Price Requirement for the previous two (2) calendar years;

(b) Calculate the average sales price of homes completed in the Project (the “Project Home Price”) two (2) calendar years prior (e.g. by April 1, 2018 the City would calculate the average sales price of homes completed in calendar year 2016). The Developer will cause homebuilders in the Project to supply the City with the sales price of every home sold within the Property;

(c) Calculate the City TIRZ contribution percentage for all homes completed two (2) calendar years prior according to the methodology provided below. A different City TIRZ contribution percentage will be calculated each year, and the City TIRZ contribution for a given calendar year will be applied to all homes completed in the Project two (2) calendar years prior. Once the City TIRZ contribution percentage is determined for homes completed in a calendar year, the City TIRZ contribution percentage will not change for those homes.

(i) if the Project Home Price equals or exceeds the Home Price Requirement, as updated annually, the City will contribute 30.5% of its incremental ad valorem taxes; and

(ii) if the Project Home Price is 10% or more below the Home Price Requirement, the City will contribute 0% of its incremental ad valorem taxes; and

(iii) if the Project Home Price is less than 10% below the Home Price Requirement the City will contribute an amount equal to the following formula:

$$30.5\% \times ((Project\ Home\ Price \div Home\ Price\ Requirement - 90\%) \div 10\%).$$

**(2) Condos/Townhomes**

By April 1<sup>st</sup> of each year, the City shall cause the following to be performed:

(a) Calculate the Condo/Townhome Price Requirement for the previous two (2) calendar years;

(b) Calculate the average sales price of condo/townhomes completed in the Project (the “Project Condo/Townhome Price”) two (2) calendar years

prior (e.g. by April 1, 2018 the City would calculate the average sales price of condos/townhomes completed in calendar year 2016). The Developer will cause homebuilders in the Project to supply the City with the sales price of every condos/townhomes sold within the Project;

(c) Calculate the City TIRZ contribution percentage for all condos/townhomes completed two (2) calendar years prior according to the methodology provided below. A different City TIRZ contribution percentage will be calculated each year, and the City TIRZ contribution for a given calendar year will be applied to all condos/townhomes completed in the Project two (2) calendar years prior. Once the City TIRZ contribution percentage is determined for condos/townhomes completed in a calendar year, the City TIRZ contribution percentage will not change for those condos/townhomes.

(i) if the Project Condo/Townhome Price equals or exceeds the Condo/Townhome Price Requirement, as updated annually, the City will contribute 30.5% of its incremental ad valorem taxes; and

(ii) if the Project Condo/Townhome Price is 10% or more below the Condo/Townhome Price Requirement, the City will contribute 0% of its incremental ad valorem taxes; and

(iii) if the Project Condo/Townhome Price is less than 10% below the Condo/Townhome Price Requirement the City will contribute an amount equal to the following formula:

$$30.5\% \times ((\text{Project Condo/Townhome Price} \div \text{Condo/Townhome Price Requirement} - 90\%) \div 10\%).$$

### **(3) Non-Residential**

By April 1<sup>st</sup> of each year, the City shall cause the following to be performed:

(a) Calculate the City TIRZ contribution for non-residential property by averaging the City contribution percentage for all homes and condos/townhomes for which a City contribution percentage has been determined.

(C) The estimated percentage of the TIRZ Fund to be paid to the Developer each year pursuant to the True Up is shown on **Appendix G** of the Final Plan. The amounts estimated to be paid annually to the Developer are calculated on **Exhibit H** of the Final Plan. The total amount paid to the Developer will be the total amount paid from the TIRZ Funds up to the Maximum Contribution, until the term expires.

### **3.3 TIRZ Participation.**

(A) Pursuant to the Final Plan, the Board agrees, subject to Section 3.2 above and other conditions contained in this Agreement, to use dollars in the TIRZ Fund, as they become available, to reimburse Forestar or its assigns for actual Public Improvements Costs paid; provided, however, that the Board's obligation to use dollars in the TIRZ Fund for such purposes shall be limited to the Maximum Contribution.

(B) It shall be the obligation of the Parties to pay the Project Costs annually as set forth in this Agreement and the Final Plan, until the expiration of the term of this Agreement pursuant to Section 6.10 hereof.

(C) The Owner shall submit a Certificate for Payment to the City to verify actual Public Improvements Costs, and such documentation shall be available to the Board concerning the expenditure of funds for the Public Improvements Costs and the development of the Property.

(D) The Board shall contribute the portion of the Tax Increment equal to thirty and one half percent (30.5%) per \$100 of Captured Appraised Value collected in the Zone described herein and in the Final Plan, and the City shall deposit or cause to be deposited such Tax Increment into the TIRZ Fund. The City shall provide reimbursement to Forestar for the Public Improvements Costs from the TIRZ Fund, as dollars become available, on or March 31<sup>st</sup> of each year during the term of the Zone beginning in the year that the revenues in the TIRZ Fund are available. Disbursements from the TIRZ Fund shall be made for the following purposes and in the following order of priority unless otherwise approved by Forestar and the City:

FIRST, to reimburse the City for Administrative Costs in accordance with the Final Plan; and

SECOND, to reimburse Forestar or its assigns actual Public Improvements Costs paid in accordance with this Agreement and the Final Plan.

The City shall maintain the TIRZ Fund as a segregated account which shall not be commingled with any other funds of the City. The TIRZ Fund shall be invested in the same manner as other municipal funds, and all interest earned shall be part of the TIRZ Fund.

(E) The City shall prepare and submit an annual report in accordance with the Act (the "Report") to the Board and to Forestar detailing: (i) the amount due to pay for the Project Costs, and (ii) the amount of funds that are available to make such payment from the TIRZ Fund. Forestar shall review the Report and notify the Board in writing no later than fifteen (15) days from the receipt of the Report of acceptance of the Report or any deficiency found in the Report. The Board, the City and Forestar shall work cooperatively to mutually resolve any discrepancies or deficiencies in the Report within thirty (30) days of receipt of the Report. During such time, Forestar shall be able to provide evidence demonstrating its compliance with this Agreement. If any discrepancy, deficiency or dispute remains after the expiration of the thirty (30) days, the Parties agree to attend mediation within ninety (90) days thereafter in an effort to resolve the dispute.

(F) Under no circumstance shall the City or the Board be obligated to reimburse Forestar or its assigns the Public Improvements Costs, unless there are funds net of the Administrative Costs in the TIRZ Fund to pay for their Public Improvements Costs.

(G) Commencing on the Effective Date and continuing until the amount paid to Forestar under this Agreement equals the Maximum Contribution, the City shall not enter into any tax abatement agreements affecting property located within the Zone, and the City and Board shall not approve any amendment to the Final Plan, which would create a reimbursement out of the TIRZ Fund that has priority over the use of monies in the TIRZ Fund to reimburse Forestar or its assigns the Public Improvements Costs under the terms of this Agreement. Specifically, and without limiting the generality of the foregoing, only the Administrative Costs shall have priority over payment by the Board of the Public Improvements Costs.

#### **ARTICLE IV** **EVENTS OF DEFAULT**

4.1 Events of Default. A non-performing Party shall be in “Default” under this Agreement if such Party fails to perform any duty or obligation under this Agreement and such failure is not cured within thirty (30) days after written notice from any other Party specifying the nature and the period of existence thereof and what action, if any, the non-defaulting Parties require or propose to require with respect to curing the default (or if the failure is not reasonably capable of being cured within thirty (30) days, the non-performing Party does not begin to cure within such 30-day period and thereafter continuously and diligently complete a cure at the earliest possible time).

#### **ARTICLE V** **REMEDIES ON DEFAULT**

5.1 Remedies. If a Party is in Default under this Agreement, the other Parties shall have available all remedies at law or in equity (including, but not limited to, injunctive relief and specific performance) except as follows: no Default shall: (i) relieve the Board from its obligation to use dollars from the TIRZ Fund to reimburse Forestar or its assigns for actual Public Improvements Costs, as they become available, up to the Maximum Contribution; or (ii) relieve the City from its obligation to reimburse Forestar or its assigns for actual Public Improvements Costs from the dollars in the TIRZ Fund, as they become available, up to the Maximum Contribution.

#### **ARTICLE VI** **GENERAL**

6.1 Inspections, Audits. Forestar agrees to keep operating records related to construction of the Public Improvements and to any particular Public Improvements Cost for four (4) years after disbursements from the TIRZ Fund to pay the Public Improvements Costs, or such longer period of time as may be required by the Board, the City, or by State and federal



law or regulation. Forestar shall allow the City and/or the Board reasonable access to documents and records in Forestar's possession, custody or control that the City and/or the Board deem necessary to assist the City and/or the Board in determining the Owner's compliance with this Agreement.

6.2 Personal Liability of Public Officials. To the extent permitted by State law, no director, officer, employee or agent of the Board or the City shall be personally responsible for any liability arising under or out of this Agreement.

6.3 Notices. Any notice required or contemplated by this Agreement shall be in writing and shall be deemed given and received: (i) when delivered (with evidence of delivery) by a nationally recognized delivery service (e.g., FedEx or UPS) to the address shown below whether or not signed for by the individual to whose attention the notice is addressed; or (ii) three business days after deposited with the US Postal Service, CERTIFIED MAIL, RETURN RECEIPT REQUESTED, for delivery to the address shown below whether or not signed for by the individual to whose attention the notice is addressed.

To the City:

Attn: City Manager  
City of Manor, Texas  
105 E. Eggleston Street  
Manor, Texas 78653

With a copy to:                   Attn: Paige Saenz  
The Knight Law Firm, LLP  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

To Forestar:

Attn: John Maberry  
Forestar (USA) Real Estate Group, Inc.  
2221 E. Lamar Blvd. Suite 790  
Arlington, Texas 76006

Attn: Matt Stark  
Forestar (USA) Real Estate Group, Inc.  
2221 E. Lamar Blvd. Suite 790  
Arlington, Texas 76006

With a copy to:                   Attn: Talley J. Williams  
Metcalfe Wolff Stuart & Williams, LLP  
221 West 6<sup>th</sup> Street, Suite 1300  
Austin, Texas 78701

To Meier:

Attn: Clark Meier  
321 Post Oak  
Liberty Hill, TX 78642

With a copy to:

Attn: Terry Bray  
Graves Dougherty Hearon & Moody  
401 Congress Avenue, Suite 2200  
Austin, Texas 78701

Any Party may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this Section shall be deemed to be given when so mailed, any notice so sent by facsimile transmission shall be deemed to be given when such transmission is sent, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by, the addressee.

6.4 Amendments and Waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the Board, the Owner, and the City. No course of dealing on the part of any Party, nor any failure or delay by any Party with respect to exercising any right, power or privilege of a Party under this Agreement shall operate as a waiver thereof, except as otherwise provided in this Section. In addition, as long as Forestar (or its Transferee) owns any portion of the Property, Forestar (or its Transferee) and the City may amend this Agreement if such amendment is only applicable to the portion of the Property owned by Forestar without the joinder of Meier (or Meier's successors-in-interest) or any other landowner.

6.5 Invalidity. In the event that any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement.

6.6 Successors and Assigns. (A) Subject to subparagraph (B) below, all covenants and agreements contained by or on behalf of the Parties in this Agreement shall bind their successors and assigns and shall inure to the benefit of the Owner and its successors and assigns. This Agreement and the right to reimbursement set forth herein may be assigned, from time to time and in whole or in part, by the Owner to any person or entity as provided herein.

(B) Owner's right, title and interest to payments from the TIRZ Fund shall be the sole and exclusive property of Owner and no other third party shall have any claim or right to such funds unless Owner transfers its rights in writing and otherwise in accordance with the requirements set forth herein. Owner has the right to convey, transfer, assign, mortgage, pledge, or otherwise encumber, in whole or in part with the consent of the City, all or any portion of Owner's right, title, or interest under this Agreement to receive payments from the TIRZ Fund (the person or entity to whom the transfer is made, a "Transferee"). The assignment must be in writing and must obligate the Transferee to be bound by this Agreement. A copy of the assignment shall be given to the City within thirty (30) days after its effective date. In order to be effective, City consent (not to be unreasonably withheld, conditioned or delayed) to the assignment is required by the City Council. Upon any such assignment and notice to the City, the Owner shall be released from performing the duties or obligations that are assigned and that arise after the effective date or the

date that the City receives notice of the assignment and consents to the assignment, whichever later occurs; further, the Owner is not released from any liabilities that arose prior to the effective date or date of notice to the City, whichever later occurs, unless the City and the Board approve (such approval not to be unreasonably withheld, conditioned or delayed). The Owner's right under this Agreement are a personal obligation and do not constitute a covenant running with the land.

(C) Meier hereby acknowledges, agrees, and consents to Forestar being the sole recipient of all TIRZ proceeds to be paid to Owner under this Agreement for all of the Property. The City may rely conclusively on this provision that Forestar is to receive all TIRZ process under this Agreement.

6.7 Exhibits, Titles of Articles, Sections and Subsections. All titles or headings are only for the convenience of the Parties and shall not be construed to have any effect or meaning as to the agreement between the Parties hereto. Any reference herein to a Section or Subsection shall be considered a reference to such Section or Subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated. Any reference to ordinances or resolutions herein shall mean ordinances or resolutions adopted by the City Council.

6.8 Construction. This Agreement is a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas, as such laws are now in effect.

6.9 Entire Agreement. This written Agreement represents the final agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. There are no unwritten oral agreements between the Parties.

6.10 Term. This Agreement shall be in force and effect from the Effective Date for a term expiring on the earlier of: (i) the expiration of the Zone on December 31, 2043; (ii) the Maximum Contribution of \$19,168,820 has been paid to Forestar or its assigns; (iii) the date on which Forestar has been paid an amount equal to the cost of the Public Improvements Costs, including seven percent (7.0%) simple interest accrued on unreimbursed amounts for the costs of the Public Improvements Costs, but not to exceed the Maximum Contribution; or (iv) August 31, 2021, if the District dissolves in accordance with the Agreement Regarding the Dissolution of the Manor Heights Public Improvement District entered into by Owner's predecessor-in-interest and the City dated November 7, 2018. If upon expiration of the stated term of the Zone, the Maximum Contribution of the TIRZ revenues, has not been paid to the Owners or its assigns, the City shall have no obligation to pay the shortfall and the term shall not be extended.

6.11 Venue for Performance or Litigation. This Agreement is performable only in Travis County, Texas. Venue for any action affecting this Agreement shall lie in Travis County.

6.12 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the Parties, the Parties agree that such approval or consent shall not be unreasonably withheld, conditioned or delayed.

6.13 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

6.14 Severability and Legal Construction. If a court of competent jurisdiction finds any provision of this Agreement to be invalid, illegal, or unenforceable as to any person or circumstance, such finding shall not render that provision invalid, illegal or unenforceable as to any other persons or circumstances. It is the intention and agreement of the Parties to this Agreement that each such illegal, invalid or unenforceable provision shall be amended by the Parties hereto to the extent necessary to make it legal, valid and enforceable while achieving the same object of such provision, or, if that is not possible, by substituting therefore another provision that is legal, valid and enforceable and achieves the same objectives (or, if such provision cannot be amended or a provision substituted therefore in a manner that is legal, valid and enforceable and achieves the same objectives, then such provision shall be amended or a new provision substituted therefore that achieves as closely as possible the same objectives or economic position as the illegal, invalid, or unenforceable provision.)

[SIGNATURE PAGES FOLLOW]

**IN WITNESS WHEREOF**, the Parties hereto have caused this instrument to be executed on the Effective Date.

**TIRZ NO. 1 BOARD:**

TAX REINVESTMENT ZONE NUMBER  
ONE, CITY OF MANOR, TEXAS

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

**ATTEST:**

\_\_\_\_\_  
Lluvia T. Almaraz, City Secretary

**CITY:**

CITY OF MANOR, TEXAS

By: \_\_\_\_\_  
Dr. Larry Wallace Jr., Mayor

**ATTEST:**

\_\_\_\_\_  
Lluvia T. Almaraz, City Secretary

[SEAL]

**DEVELOPER:**

Forestar (USA) Real Estate Group, Inc.,  
a Delaware Corporation

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

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

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

It is hereby acknowledged that Meier is executing this Agreement solely due to the fact that Meier is the current owner of a portion of the Property described on Exhibit “C” attached hereto (the “Meier Portion”), and Meier has no rights, duties or obligations to the City, the Developer or otherwise in connection with this Agreement. In the event Meier conveys all or any portion of the herein Portion, Meier will thereupon be released and discharged from any obligations, if any, under the Agreement, the TIRZ, or any other agreement or document relating thereto or referred to herein.

**MEIER:**

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Alma Juanita Champion Meier

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William Clark Meier

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Carolyn Juanita Meier Fauber



**EXHIBIT A**  
**Property Description and Depiction**

**599.2 ACRES**

90.089 ACRES OUT OF THE A.C. CALDWELL SURVEY, ABSTRACT NUMBER 154, TRAVIS COUNTY, TEXAS AND BEING THE TRACTS OF LAND CONVEYED TO RHOF, LLC, A TEXAS LIMITED LIABILITY COMPANY, PER DEED RECORDED AS DOCUMENT NO.2017194263 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

44.0347 ACRES OF LAND LOCATED IN THE A.C. CALDWELL SURVEY, ABSTRACT NUMBER 154, TRAVIS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN CALLED 180.83 ACRES OF LAND CONVEYED TO ALMA JUANITA MEIER, AS DESCRIBED IN VOLUME 11376, PAGE 676, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

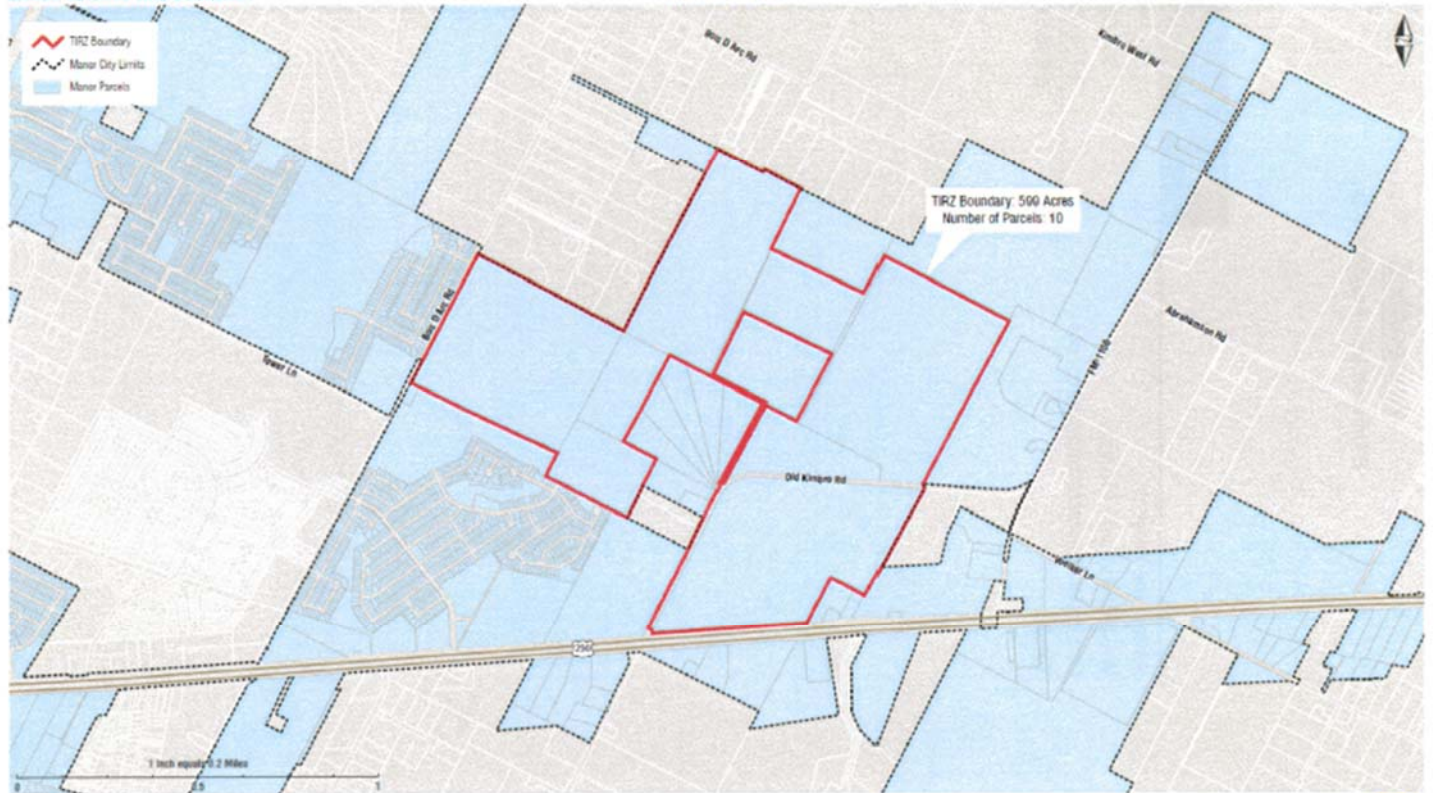
267.972 ACRES OF LAND LOCATED IN THE LEMUEL KIMBRO SURVEY, ABSTRACT NUMBER 456 AND THE A.C. CALDWELL SURVEY, ABSTRACT NUMBER 154, TRAVIS COUNTY, TEXAS AND BEING THE SAME 267.972 ACRE TRACT OF LAND CONVEYED TO SKY VILLAGE KIMBRO ESTATES, LLC, AS DESCRIBED IN DOCUMENT NUMBER 2016214460, OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

(35.626 AC) LOT 2, J.F. NAGLE ESTATES, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN DOCUMENT NO. 199900207, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, TOGETHER WITH A NON-EXCLUSIVE 60 FOOT WIDE ACCESS AND PUBLIC UTILITY EASEMENT AS CREATED AND MORE PARTICULARLY DESCRIBED IN THAT DECLARATION OF ACCESS AND PUBLIC UTILITY EASEMENT RECORDED IN DOCUMENT NO. 1999058184, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS, BEING THE SAME 35.626 ACRES CONVEYED TO SKY VILLAGE KIMBRO ESTATES, LLC, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

3.469 ACRES OF LAND LOCATED IN THE LEMUEL KIMBRO SURVEY, ABSTRACT NUMBER 456, TRAVIS COUNTY, TEXAS AND BEING A PORTION OF THAT CERTAIN TRACT OF LAND CONVEYED TO SKY VILLAGE KIMBRO ESTATES, LLC, AS RECORDED IN 2017157471 OF THE OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS

157.9603 ACRES OUT OF THE A.C. CALDWELL SURVEY NO.52, ABSTRACT 154 AND THE LEMUEL KIMBRO SURVEY NO.64, ABSTRACT 456, AND BEING THE TRACTS OF LAND CONVEYED TO KIMBRO ROAD ESTATES, LP PER DEED RECORDED AS DOCUMENT NO.201780865 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

MANOR HEIGHTS TIRZ BOUNDARY



**Exhibit “B”**  
**CERTIFICATE FOR PAYMENT FORM**

The undersigned is an agent for Forestar (USA) Real Estate Group, Inc. (the “Developer”) and requests payment from the TIRZ Fund from the City of Manor, 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 Public Improvements providing a special benefit to property within the *Tax Reinvestment Zone Number One, City of Manor, Texas*. Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the TIRZ Agreement, effective November 6, 2019, between the Developer’s predecessor-in-interest, the TIRZ Board and the City (the “TIRZ 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 Public 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 Public Improvements below is a true and accurate representation of the Public Improvements Costs associated with the creation, acquisition, or construction of said Public Improvements and such costs (i) are in compliance with the TIRZ Agreement, and (ii) are consistent with the Development Agreement.
4. The Developer is in compliance with the terms and provisions of the TIRZ Agreement, the TIRZ Project and Finance Plan, and the Development Agreement, as amended.
5. The Developer has timely paid all ad valorem taxes and annual installments of assessments it owes or an entity under common control with the Developer owes, located in the Manor Heights Public Improvement District and has no outstanding delinquencies for such assessments.
6. All conditions set forth in the TIRZ Agreement for the payment hereby requested have been satisfied.
7. The work with respect to the Public Improvements referenced below (or its completed segment) has been completed, and the City has inspected such Public 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 the Public Improvements identified may be paid until the work with respect to such Public Improvements (or segment thereof) has been completed and the City has accepted such Public Improvements (or segment thereof). 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 Public Improvements (or segment thereof).

**Payments requested are as follows:**

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

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 and any lender consents or approvals that the Developer may be required to obtain under any loan documents relating to the Manor Heights development.

Pursuant to the TIRZ Agreement, after receiving this payment request, the City has inspected the Public 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.

[Signature Page to Follow]

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

**Forestar (USA) Real Estate Group, Inc.,  
a Delaware Corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### **APPROVAL OF REQUEST BY CITY**

The City is in receipt of the attached Certificate for Payment, acknowledges the Certificate for Payment, acknowledges that the Public 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 directs payments to be made from the TIRZ Fund to the Developer or to any person designated by the Developer.

### **CITY OF MANOR, TEXAS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit “C”**  
**MEIER PORTION**

[see attached]

