

**STATE OF TEXAS** §  
**COUNTY OF TARRANT** §

1

shown on **Exhibit A**. The City's obligations shall not exceed the Authorized Reimbursement amount.

3. The Developer has prepared and negotiated final bid and contract documents for the Facilities and delivered to the City for the City's written approval, the final approved construction documents (referred to herein as the "Final Construction Documents").
4. The Developer was responsible for execution of the Final Construction Documents, including, without limitation, contract administration and construction inspection, and ensured that the general contractor performing the work provided performance and payment bonds and the appropriate insurance as required by law and this Agreement.
5. **Insurance**. The Developer ensured that contractors performing work on the Project provided insurance, including, but not limited to, workers' compensation coverage in accordance with applicable law, and in the form, substance, and amounts acceptable to the City, naming the City as additional insured and providing waivers of subrogation in favor of the City.
6. **Compliance with Laws**. The Developer ensured that contractors performing work on the Project complied with all local, state, and federal laws, rules, and regulations, including, but not limited to those regulations relating to drainage, flood control, runoff, erosion, pollution, hazardous materials, waste, sedimentation, and any other control and mitigation requirements related thereto.
7. **Books and Records**. The Developer ensured that contractors performing work on the Project made all books and records available for audit and inspection by the City in accordance with Texas Local Gov't Code Sec. 212.074.
8. **Performance and Payment Bonds**. Prior to the commencement of construction on the Project, the Developer, or its contractors, provided a performance bond and payment bond that meets the requirements of Chapter 2253 of the Texas Government Code, and names the City as additional obligee. Each bond was in the full amount of the costs to construct the work and was made in favor of the City ensuring completion of the work in accordance with the plans and specifications approved by the City Engineer. The performance bond and payment bond was executed by a corporate surety authorized to do business in Texas in accordance with Chapter 2253 of the Texas Government Code.
9. **Termination**. This Agreement may be terminated upon any one or more of the following:
  - (a) by mutual written agreement of the parties;
  - (b) upon written notice by any party, if another party defaults or breaches any of the other terms or conditions of this Agreement and such default or breach is not cured within sixty (60) days after written notice thereof;
  - (c) upon written notice by the City, if the Developer suffers an event of bankruptcy or insolvency and such filing is not dismissed or withdrawn within ninety (90) days after the filing thereof;

- (d) upon written notice by the City, if any taxes, fines, fees, assessments, judgments, or other impositions owed to City become delinquent and such delinquency has not been cured within ninety (90) days after written notice thereof; or
  - (e) upon written notice by any party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction renders this Agreement invalid, illegal, or unenforceable.
10. Offset. The City may offset any amounts due and payable under this Agreement against any delinquent debt (including taxes, fines, fees, assessments, judgments, or other impositions) lawfully due to the City, regardless of whether or not the delinquent debt due to the City has been reduced to judgment by a court.
11. Venue. The parties hereto agree that this Agreement is performable in the City of North Richland Hills, Tarrant County, Texas, if any legal action is necessary in connection with this Agreement, exclusive venue shall lie in Tarrant County, Texas.
12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state or country.
13. **INDEMNIFICATION**.

**THE DEVELOPER SHALL CAUSE THE GENERAL CONTRACTOR PERFORMING WORK ON THE PROJECT AND ITS SUCCESSORS AND ASSIGNS (COLLECTIVELY THE "INDEMNIFYING PARTY"), TO RELEASE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY'S OFFICERS, AGENTS, COUNCILMEMBERS, EMPLOYEES, ATTORNEYS, AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE "CITY INDEMNIFIED PARTIES"), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS, JUDGMENTS, SUITS, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) MADE BY ANY CONTRACTOR OR ANY THIRD-PARTY, TO THE EXTENT ARISING FROM, RELATED TO, OR PURSUANT TO THE WORK PERFORMED UNDER THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD-PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD-PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY THE DEVELOPER OR THE CITY. THE INDEMNITIES IN THIS AGREEMENT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE OF THE CITY INDEMNIFIED PARTIES. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT.**

14. Texas Public Information Act. All information, documents, and communications relating to this Agreement shall be subject to the Texas Public Information Act ("Act") and any

opinion of the Texas Attorney General or a ruling of court of competent jurisdiction relating to the Act.

15. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
16. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any or all representations or modifications concerning this Agreement shall be of no force and effect except for a subsequent modification in writing signed by the parties hereto.
17. No Waiver. All rights, remedies, and privileges permitted or available to the parties under this Agreement or at law or equity shall be cumulative and not alternative, and election of any such right, remedy or privilege shall not constitute a waiver or exclusive election of any rights, remedies, or privilege with respect to any other permitted or available right, remedy or privilege. Additionally, one instance of forbearance by a party in the enforcement of any such right, remedy or privilege, shall not constitute a waiver of such right, remedy or privilege by that party.
18. Successor and Assigns. This Agreement and the terms and conditions herein shall be binding upon and inure to the benefit of the parties, hereto, their respective successors and assigns. This Agreement may not be assigned without the mutual written consent of the Developer and the City.
19. 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.
20. Gift to Public Servant. The City may terminate this Agreement immediately if the Developer has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.
21. Governmental Function(s) and Immunity. The parties hereby acknowledge and agree that the City is entering into this Agreement in the performance of and pursuant to its governmental functions for the health, safety, and welfare of the citizens of the City, the general public, and the State of Texas, and nothing contained in this Agreement shall be construed as constituting a waiver of the City's governmental immunity from suit or liability, which is expressly reserved to the fullest extent allowed by law.
22. Waiver of Attorney's Fees. The parties expressly covenant and agree that in the event of any litigation arising between the parties to this Agreement, each party shall be solely responsible for payment of its attorneys (except as required pursuant to the indemnity obligations in this Agreement) and that in no event shall either party be responsible for the other party's attorneys' fees regardless of the outcome of the litigation.

23. Additional Verifications. To the extent required by Texas law, the Developer verifies that: (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of the contract discriminate against a firearm entity or firearm trade association; (2) it does not “boycott Israel” as that term is defined in Texas Government Code Ch. 2271 and § 808.001 and it will not boycott Israel during the term of this Agreement; and (3) it does not “boycott energy companies,” as those terms are defined in Texas Government Code §§ 809.001 and 2276.001, and it will not boycott energy companies during the term of this Agreement; (4) it does not engage in scrutinized business operations with Sudan, Iran, or designated foreign terrorist organization as defined in Texas Government Code, Chapter 2270; and (5) it is not owned by or the majority of its stock or other ownership interest is held or controlled by i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country as defined by Texas Government Code § 2275.0101; or ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; nor is it headquartered in China, Iran, North Korea, Russia, or a designated country.
24. Ethics Disclosure. To the extent required by law, the Developer represents that it has completed a Texas Ethics Commission (the “TEC”) form 1295 (“Form 1295”) generated by the TEC’s electronic filing application in accordance with the provisions of Texas Gov’t Code Ch. 2252.908 and the rules promulgated by the TEC. The parties agree that, with the exception of the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295.
25. Authority. By signing below, the Developer and the City each indicate their agreement to the terms of this Agreement and represent and warrant the authority of the person signing to bind such entity.

This Agreement is executed on behalf of the Developer shown below, and on behalf of the City by its City Manager, effective on the last date shown below (the “Effective Date”):

**City of North Richland Hills,**  
a Texas home-rule municipality

By: \_\_\_\_\_  
Paulette Hartman, City Manager

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

**ATTEST:**

By: \_\_\_\_\_  
Alicia Richardson, City Secretary

**APPROVED TO FORM AND LEGALITY:**

By: \_\_\_\_\_  
Bradley A. Anderle, City Attorney

**Revest, LLC** (“Developer”)

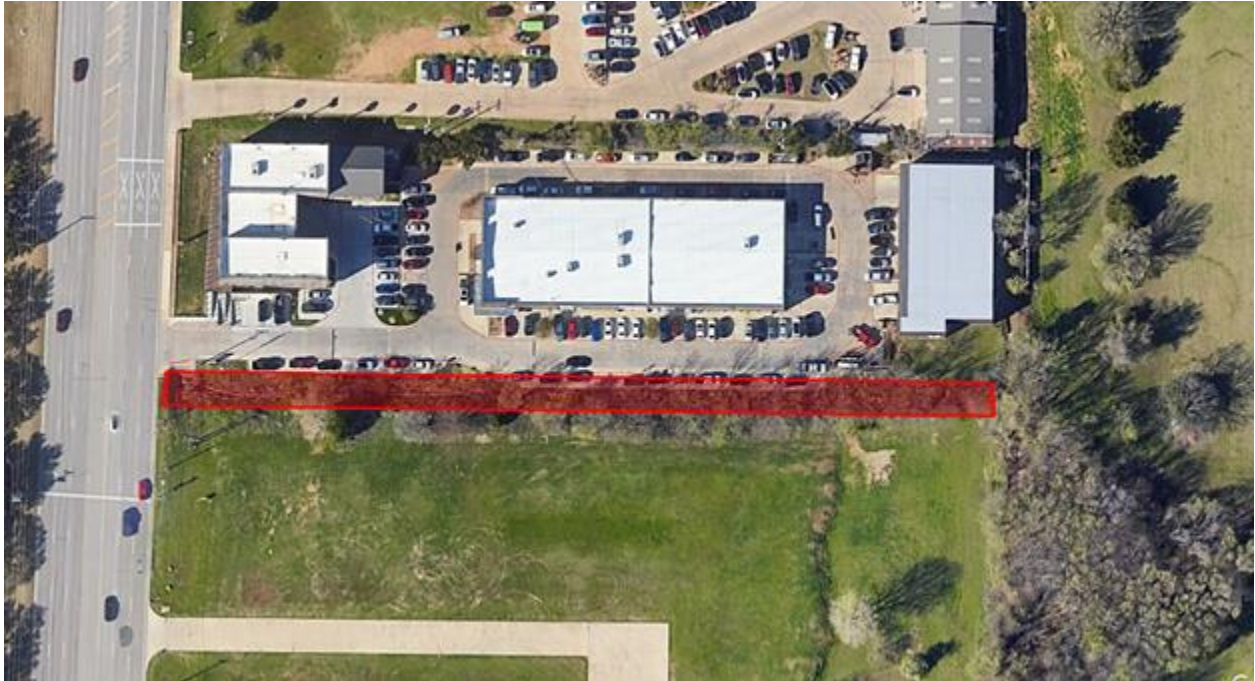
By: \_\_\_\_\_  
Rick Figueroa, Managing Member

**ATTEST:**

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

## **EXHIBIT A**

### **1. Public Drainage Facilities**



### **2. Detailed Scope of Work and Estimated Cost of Work**