AFTER RECORDING, RETURN TO:

City Secretary
City of McKinney
P.O. Box 517
401 E. Virginia Street
McKinney, Texas 75069

City of McKinney, Texas
ANNEXATION AND DEVELOPMENT AGREEMENT
For
Approximately 683,956 feet (15.702) Acres of Land
Situated in an Area at the southeast corner of Baxter Well Road and FM-1461, within the City of McKinney, Texas
Owned by ADVENT GARDEN LLC, a Texas limited liability company and KV LAND DEVELOPMENTS LLC, a Texas limited liability company

This ANNEXATION AND DEVELOPMENT AGREEMENT ("Agreement"), is entered into pursuant to Chapter 43 and Section 212.172 of the Texas Local Government Code and Article 3 of the Unified Development Code of the City of McKinney, Texas ("UDC"), contained in Chapter 150 of the Code of Ordinances, City of McKinney, Texas ("McKinney Code") effective the _____ day of _____, 2025, by and between the ***CITY OF McKINNEY***, a Texas municipal corporation and home-rule city ("CITY"), ***ADVENT GARDEN LLC***, a Texas limited liability company, whose address is 207 Kate Lane, Princeton, Texas 75407, and ***KV LAND DEVELOPMENTS LLC***, a Texas limited liability company, whose address is 5109 Settlement Way, McKinney, Texas 75070, being the present owners of the subject property at the time of the execution of this Agreement (collectively referred to herein as "OWNER"), witnesseth that:

WHEREAS, the OWNER owns certain real property located within the extraterritorial jurisdiction ("ETJ") of the CITY that is more particularly described herein below and identified as the "Property"; and

WHEREAS, the OWNER has voluntarily requested that the CITY acting by and through its City Council annex the Property into the CITY's corporate limits; and

WHEREAS, the CITY desires to annex the Property into the CITY's corporate limits; and

WHEREAS, the OWNER understands that the:

(1) the OWNER is not required to enter into this Agreement; and

(2) the CITY may only annex the Property in accordance with the requirements of Tex. Loc. Gov't Code Chapter 43; and

(3) CITY's annexation of the Property requires the consent of the OWNER; and

(4) CITY waives its immunity to suit if the CITY fails to provide municipal services as required by the Service Plan between the OWNER and CITY or otherwise breaches this Agreement; and

WHEREAS, OWNER remains committed to annexing the Property into the CITY's corporate limits; and

WHEREAS, the OWNER and CITY have entered into this Agreement pursuant to the authority provided by Chapter 43 and Section 212.172, *et seq.*, of the Texas Local Government Code, in order to address the desires of the OWNER and the CITY and the procedures of the CITY; and

WHEREAS, the physical location of the Property and the lack of adequate roadway and utility facilities to serve the Property demonstrate that infrastructure improvements will likely be required as a condition to development in the future; and

WHEREAS, OWNER understands that prior to record platting the Property the CITY's development standards and ordinances will require the then Owner(s) and/or any Developer(s) to fund and construct certain roadway and utility improvements, as set forth in the CITY's Subdivision Ordinance, that are necessitated by the development of the Property and a general statement of such required public improvements (based on existing conditions) is outlined herein; and

WHEREAS, a Facilities Agreement specific to the then proposed use of the Property may be required at such time as development of the Property begins which may supersede or amend this Agreement by setting forth in detail the public improvements that will be required for the Property and until such occurrence all applicable ordinances and the terms of this Agreement shall govern the Property's development and provide notice to the OWNER of the CITY's development requirements; and

WHEREAS, the OWNER, together with the OWNER's grantees, assigns, successors, trustees and all others holding any interest now or in the future, agree and enter into this Agreement which shall operate as a covenant running with the land and be binding upon the OWNER, its representatives, grantees, assigns, successors, trustees and all others holding any interest now or in the future.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein the OWNER and CITY agree as follows:

A. <u>INCORPORATION OF RECITALS</u>

The Recitals set forth above, are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

B. PROPERTY

This Agreement is for a tract of land containing approximately 15.702 acres of land, more or less, located in the ETJ of the City of McKinney, in an area located at the southeast corner of Baxter Well Road and FM-1461, and is more fully described in Exhibit "A" attached hereto and fully incorporated herein by reference for all purposes allowed by law (the "Property").

C. ANNEXATION AND COVENANT RUNNING WITH THE LAND

1. It is specifically understood and agreed that the Property is outside the CITY's corporate limits and that the CITY has not identified the Property in its Annexation Plan. It is also specifically understood and agreed that but for the OWNER's petition requesting the Property be annexed into the CITY's corporate limits the Property would remain outside the CITY's corporate limits and within the CITY's extra-territorial jurisdiction.

2. The OWNER and the CITY hereby specifically agree that the entirety of the Property shall be annexed into the CITY's corporate limits; and, that this obligation to annex the Property shall constitute and hereafter be a covenant running with the land.

3. OWNER and OWNER's respective successors, assigns, and heirs shall hereafter notify every purchaser of all, or any part, portion, tract, or lot situated within and about the Property of this covenant running with the land to annex the Property into the CITY's corporate limits as soon as the City's corporate limits are considered adjacent to and abutting any part or portion of the Property.

4. It is further understood and agreed that the CITY may have some of the public improvements in place necessary to serve the Property. It is also understood and agreed, however, that the CITY does not have any plans to improve or construct the roadways, extend the water, sanitary sewer and storm sewer lines, and construct the parks necessary to serve the Property. Neither does the CITY have the funds budgeted or otherwise available or projects and bonds approved by the voters to provide the public improvements necessary to serve the Property.

5. **The OWNER acknowledges that the Property is within the CITY's extra- territorial jurisdiction and represents to the CITY that the OWNER has not engaged in any discussions or negotiations with any other city or town seeking to have the Property annexed into the extra-territorial jurisdiction or corporate limits of any municipality or town**

save and except the CITY. The OWNER specifically understands and agrees that the CITY shall have no obligation to design, extend, construct and provide the public improvements necessary to serve the Property and that should OWNER desire to develop the Property prior to the time that adequate public improvements are on or adjacent to the Property, it shall be the OWNER's responsibility and obligation to design, extend and construct such public improvements. The OWNER does hereby, in exchange for the annexation of the Property, waive and hold harmless and agree to indemnify the CITY from and against any and all claims or demands that the CITY design, extend, construct and provide the public improvements necessary to serve the Property.

D. ZONING, PLATTING, AND DEVELOPMENT

1. It is hereby agreed by and between the OWNER and CITY pursuant to Tex. Loc. Gov't Code § 212.172(b) that until such time as the Property is annexed into the corporate limits of the CITY, the Property shall be developed in accordance with the following requirements:

   a. All uses of land within, upon, over, across, and about the Property shall conform to, comply with, and be limited to those permitted uses and space limits allowed in Section 204.L, "MF36 – Multi-Family Residential," of the UDC; and

   b. The Property and all proposed development on the Property shall be platted, if required by applicable ordinance or state law, in accordance with Article 3 of the UDC (hereinafter referred to as the "Subdivision Regulations") and Engineering Design Manual, and Standard Details for Construction together with any variances thereto, then in force, before any Development Permit will be issued by CITY for the development of the Property; and

   c. The Property and all development on the Property shall also be subject to all other requirements of the UDC and McKinney Code, specifically including, but not limited to, Chapter 42, "Fire Prevention and Protection," Chapter 90, "Streets and Sidewalks," Chapter 94, "Standards for Public Swimming Pools, Spas, and Public Interactive Water Features and Fountains," Chapter 110, "Utilities," Chapter 122, "Construction Regulations," Chapter 130, "Land Development Regulations," and Chapter 138, "Special Use Regulations," save and except that all building permits will be obtained by and through Collin County, Texas until such time as the Property is annexed into the CITY's corporate limits; and

d. In accordance with Section 309 of the UDC, the OWNER shall dedicate parkland to the CITY or pay money in lieu of dedicating land, as further explained in Paragraph F below; and,

e. All rights-of-ways and easements necessary to serve the Property shall be obtained by OWNER and dedicated to CITY at no cost to CITY in a form acceptable to CITY, provided that in the event the OWNER is unable to procure the same from off-site property owners, the CITY will procure the same through the exercise of its power of eminent domain, at OWNER'S cost and expense, subject to the following conditions:

i. OWNER agrees to obtain an independent appraisal of all the necessary off-site rights-of-way and easements ("Appraisal" whether one or more) and use commercially reasonable efforts to obtain any and all off-site infrastructure easements necessary for the construction of such improvements contemplated herein. If OWNER has previously obtained CITY's approval of the general location of the proposed off-site rights-of-way and/or easements and OWNER is unable to acquire all of the necessary easements for such off-site improvements within a six (6) month period beginning upon written notice to CITY and following OWNER's submission of a best and final offer accompanied by the Appraisal to each owner of the property(ies) upon which each of the off-site improvements is proposed to be situated (collectively "Landowners"), and OWNER provides CITY evidence that reasonable and diligent efforts have been pursued to obtain such off-site rights-of-way and/or easements then CITY agrees to use its eminent domain authority, upon written request by OWNER, to the extent permitted by law to acquire such off-site rights-of-way and/or easements described in this Agreement. OWNER shall provide copies of all correspondence related to the acquisition of said off-site rights-of-way and easements to the CITY upon request.

ii. CITY's exercise of eminent domain authority shall also be subject to CITY's determination, in its sole discretion, that the off-site rights-of-way and/or easements are necessary for and serve a public use and that OWNER exercised commercially reasonable efforts including, but not limited to, making a legitimate offer to Landowners to purchase the off-site rights-of-way and/or easements. CITY's obligation, if any, to exercise its eminent domain authority pursuant to this Subparagraph e shall also be subject to the approval and finding of necessity by the City Council.

iii. OWNER shall pay all costs and expenses in eminent domain, whether incurred by CITY or otherwise, in connection with such eminent domain actions and acquisition of such off-site rights-of-way and/or easements including, but not limited to, settlements, court awards, damages, interest, expert witness fees, mediation fees, attorney's fees, staff time/costs, deposition costs, photocopy charges, courier fees, telephone and facsimile charges, postage, travel charges, costs associated with the preparation of exhibits and demonstrative aids, and taxable costs of court (collectively "Costs and Expenses") as such are billed to CITY by its designated legal counsel.

iv. From time to time and upon ten (10) calendar days written or electronic notice from CITY, including the City Attorney, OWNER shall advance, by wire transfer, funds to CITY to pay such Costs and Expenses. Each such notice to OWNER shall itemize, in reasonable detail, the purposes (as described above) for which the funds are required, including the estimated line-item costs. CITY shall undertake all eminent domain actions in accordance with SB 18, wherein CITY shall have the unilateral right to make the necessary determinations of which interests are necessary for public use. If it is determined by a Court of competent jurisdiction that an interest to be acquired does not constitute a public use, the CITY shall have no obligation to continue acquisition thereof, and OWNER shall have the continuing obligation to comply with this Subparagraph e. CITY shall provide to OWNER copies of all appraisal reports, including updates, if any, prior to all offers being made to Landowners. CITY shall also provide to OWNER prior notice of the attorneys, appraisers, and other consultants that CITY will engage to assist in connection with the acquisitions. CITY shall provide to OWNER an accounting of all Costs and Expenses paid or incurred by CITY in connection with this Subparagraph e. OWNER's default in payment of any advance requested under this Subparagraph e shall provide CITY the immediate right to cease any actions or efforts to acquire rights-of-way and/or easements until full payment of all Costs and Expenses is actually received. In addition, CITY shall have the right to immediately terminate this Agreement and withhold any further development approvals and permits for the Property if OWNER fails to make any payment or advance under this Subparagraph e. In the event of any conflict between the CITY's Capital Improvement Plan or Master

Utility Plan and this Agreement relative to size or width of offsite utility line easements whereby such location, size, or width is altered, increased, or reduced, the CITY's Capital Improvement Plan or Master Utility Plan shall control; and

f. All public improvements including but not limited to roadways, water lines, storm water lines, and sanitary sewer lines shall be designed and constructed by OWNER at no cost to CITY, subject to the availability of any offsets or credits, and permitted, and inspected by CITY in strict accordance with the requirements of the McKinney Code and as further explained in Paragraph E below; and

g. All buildings, structures, and site improvements shall be designed and constructed by OWNER in strict accordance with the requirements of the McKinney Code; and

h. OWNER further agrees that OWNER and its successors, heirs and assigns shall pay fees to Collin County, Texas and obtain permits and inspections from Collin County, Texas for all buildings, structures, and related appurtenances thereto designed, constructed and installed on the Property until such time as the Property is annexed into the CITY's corporate limits; and

i. OWNER also agrees that OWNER shall, following the approval by Collin County, Texas of each requested building permit, submit the Collin County approved site plan / plot plan showing the building setbacks (in accordance with the standards required by this Agreement) in the submittal package for any water meter request to the CITY; and

j. OWNER hereby agrees that the OWNER shall make any required modifications to the above-referenced approved site plan / plot plan that may be identified by CITY as being necessary to comply with the setback requirements of the McKinney Code, and that any failure by OWNER to so act shall empower and authorize the CITY to withhold approval of the issuance of requested water meters until corrected or cured.

2. It is hereby agreed by and between the OWNER and CITY pursuant to Tex. Loc. Gov't Code § 212.172(b) that upon the annexation of the Property into the corporate limits of the CITY, the Property shall be zoned "MF36 – Multi-Family Residential", per Section 204.L, of the UDC, as may be amended.

3. Any additional or further development or redevelopment of the Property following the annexation thereof shall also be platted, if required by applicable ordinance or state law, in accordance with the UDC and

Engineering Design Manual, and Standard Details for Construction together with any variances thereto, then in force, before any Development Permit or Building Permit will be issued for the additional or further development of the Property.

E. PUBLIC IMPROVEMENTS

All public improvements, including utilities, drainage structures and easements, roadways, sidewalks, hike and bike trails, street lighting, street signage, rights-of–ways, parkland dedication and all other required improvements and dedications shall be constructed and provided to the CITY by the OWNER, at no cost to the CITY, in accordance with the CITY's Ordinances which are then in effect. The following provides a general description of the minimum construction requirements for roadways and utilities which, under current conditions, would be required by OWNERS as a condition to development of the Property (subject to the City's approval of phases or partial development):

1. Traffic Impact Analysis. The OWNER may be required to cause a Traffic Impact Analysis ("TIA") to be performed by a professional engineer acceptable to the CITY at the time of development, and prior to platting the Property provided that OWNER fully complies with all of the provisions of this Agreement and the land uses and requirements set out in the McKinney Code and this Agreement. If required, the TIA must be performed by a professional engineer acceptable to the CITY in accordance with the requirements of Section 2.13 of the Engineering Design Manual, as amended.

2. Off-site Roadway Level of Service. The OWNER of the Property must maintain the greater of the then current Level of Service ("LOS") on the roadway system serving the Property or Level of Service "D" on the roadways between the Property and the nearest major roadway based on the anticipated traffic routes from/to the Property as approved by the CITY Engineer. A major roadway is defined as an improved four (4) lane divided roadway (which major roadway section is classified as an "Arterial Roadway" as defined by the CITY), a TxDOT maintained roadway, or a U.S. Highway (i.e., US 75 and US 380).

    a. The OWNER will be required to obtain and dedicate to the CITY, at no cost to the CITY, all rights-of-way and easements as may be necessary to construct any off-site roadway improvements identified on the TIA as being necessary to serve the OWNER's proposed development of the Property.

    b. The OWNER will also be required to construct, at no cost to the CITY, any off-site roadway improvements that are identified on the TIA as being necessary to serve the OWNER's proposed development of

the Property in accordance with the CITY's Street Design Standards, then in effect, or as may be otherwise agreed by the CITY.

c. The CITY may, in its sole discretion, enter into a separate agreement with the OWNER that will allow the OWNER to fulfill their obligations under this Paragraph No. E(2) and also allow the CITY to make any additional roadway improvements that the CITY determines should be made in coordination with the OWNER's off-site roadway improvements and which additional CITY roadway improvements are not identified in the TIA as being necessary to or required by the development of the Property.

d. The OWNER must provide all appropriate documentation regarding the necessary rights-of-way and off-site roadway construction to the CITY Engineer for approval.

3. Right-of Way Dedication. The OWNER shall dedicate to the CITY, at no cost to the CITY, that amount of right-of-way along perimeter roadways adjacent to the Property which will yield at least one-half (½) of the ultimate right-of-way width that is not already dedicated by plat or legal instrument as road right-of- way, at such time as development occurs. If a Master Plan roadway is situated on or across the Property, the OWNER shall dedicate to the CITY the full right- of-way for such Master Plan roadway at such time as development occurs. The CITY will compensate the OWNER for that portion of the Master Plan roadway right-of-way that is so dedicated, and which is not roughly proportionate to the impact the development of the Property will have on the CITY's roadway system. The OWNER shall dedicate all right-of-way for the interior streets serving the Property at the time of development. The OWNER shall also dedicate all easements necessary for construction and safety purposes for roadways on the Property and perimeter roadways adjacent to the Property as required herein-above. The final alignment of right-of-way dedications shall be consistent with the CITY's Master Thoroughfare Plan and as approved by the CITY Engineer.

Notwithstanding the foregoing, as it relates to the perimeter roadways adjacent to the Property the OWNER and the CITY hereby agree that the OWNER shall dedicate at no cost to City the following rights-of-ways:

a. Baxter Well Road

4. Roadway Plan Approval. All roadway construction plans shall be approved by the CITY's Engineer or his agent prior to approval of a Development Permit for any portion of the Property.

5. Roadway Construction. The OWNER shall construct, at no cost to the CITY, all required roadway improvements in accordance with the Subdivision Regulations and Street Design Standards, then in effect. In addition to complying with the CITY's ordinance and standards, the OWNER shall also comply with TxDOT's standards and specifications when the roadway improvements are being made on along, about or to TxDOT roadways. In the event of a conflict between the CITY's requirements and TxDOT's requirements, the OWNER shall comply with the more stringent of those requirements.

   a. Gravel and seal coat roadways are not acceptable.

   b. Roadways along the anticipated traffic routes must be reinforced concrete pavement with appropriate subgrade treatment all of which items must be approved by the CITY Engineer. The pavement on all such roadways must be designed for a minimum service life of thirty (30) years without the need for any major maintenance overhauls.

   c. A pavement analysis shall be performed by the OWNER, at no cost to the CITY, to determine the adequacy of the current pavement structure to handle the OWNER's projected traffic along with existing traffic volumes and recommendations by the OWNER must be made based upon the analysis for roadway improvements as needed. The OWNER shall create a pavement design to handle the expected traffic volumes and other criteria as determined by the circumstances surrounding the development of the Property and as approved by the CITY Engineer.

   d. Additional roadway improvements may be required to maintain safe roadway conditions. The determination regarding what additional improvements may be necessary shall be based upon the engineering judgment of the CITY Engineer and good engineering practices criteria.

   e. If the CITY has a project to construct any of the roadways for which the OWNER is responsible, in whole or in part, the CITY and the OWNER may enter into a separate agreement whereby the OWNER is allowed, in the sole discretion of the CITY, to provide the CITY a cash escrow in an amount that will cover the OWNER's roughly proportionate obligation for construction of such roadway(s) in lieu of constructing said roadway improvements.

   f. OWNER and CITY hereby agree that OWNER shall at no cost to the CITY design and construct in accordance with TxDOT's requirements and the CITY's Engineering Design Manual and Standard Details for Construction and subject to the Director of

Engineering's approval the Baxter Well Roadway Improvements and Improvements to FM 1461 together with all appurtenances related thereto necessary to provide a completed roadway within the right-of-way dedicated to the CITY by OWNER for that purpose immediately adjacent to the north and east boundaries of the Property, respectively. The Baxter Well roadway improvements include the construction of approximately 1,215 linear feet of 24' wide concrete pavement from FM 1461 to the west property line. The FM 1461 improvements include a left turn lane at Baxter Well Road and a left turn lane and right turn lane at the proposed site driveway.

6. Utility Easement Dedication. The OWNER shall dedicate to the CITY, at no cost to CITY, that amount of easement across the Property as deemed necessary by the CITY Engineer to facilitate the construction of water and wastewater utilities as shown on the CITY's Master Plans for Water and Wastewater (hereafter referred to collectively as the "Master Plans") and as approved by the CITY Engineer. The final alignment of easement dedications shall be consistent with the City's Master Plans and as approved by the City Engineer.

7. Utility Plan Approval. All utility plans and improvements are subject to the approval of the CITY Engineer, and all utility lines shall be constructed of materials of a quality and grade meeting at least the minimum standards specified by the CITY's Engineering Department. Upon approval of all utility construction plans for the Property by the CITY Engineer, or his designee, the OWNER may develop in accordance with such approved plans.

8. Utility Construction. The OWNER shall construct, at their sole cost, all necessary utility lines up to twelve inches (12") in diameter to provide service to the Property in accordance with the CITY's standards or as required by the Master Plans, at such time as demand on the Property requires or concurrent with the development of the Property, as determined by the CITY. The OWNER shall also construct, at no cost to the CITY, all necessary utility lines to serve the interior of the Property; said lines shall be at least eight inches (8") in diameter or larger as demand of the development on the Property requires. In addition to the requirements stated herein, the OWNER shall construct any necessary off-site and/or oversize utility improvements up to the sizes shown on Master Plans and as per City of McKinney standards. In the event the proposed development of the Property requires utility improvements in excess of the CITY's minimum standards and Master Plans the OWNER shall construct any off-site and oversize utility improvements as may be required to serve the Property. No septic systems shall be permitted.

F. CONVEYANCE OF LAND FOR RECREATIONAL AREAS & FACILITIES

OWNER shall comply with the parkland dedication requirements contained in Article 3, Section 309 of the CITY's UDC, as may be amended from time to time, which as a condition of subdivision development may require OWNER to dedicate land for parks or pay a fee in lieu of dedicating land or a combination of both, as approved by the CITY's Director of Parks and Recreation. In addition to the parkland dedication requirement, OWNER may be required to pay a park development fee, subject to the regulations contained therein.

G. AVAILABILITY OF WATER AND WASTEWATER SERVICE IN THE FUTURE

The CITY makes no guarantee that water supply or wastewater treatment capacity will be available at any particular time or place, it being fully understood by both parties hereto that the ability of the CITY to supply water and wastewater services is subject to its contract with the North Texas Municipal Water District, a governmental agency and body politic and corporate, hereinafter referred to as "N.T.M.W.D.", and that this Agreement will only allow utilization of the CITY's water and wastewater system capacity when and if capacity is present and available from the N.T.M.W.D. Notwithstanding the foregoing, the CITY will supply the development on the Property with water supply and wastewater treatment capacity if such capacity is present and available from N.T.M.W.D. The CITY shall be the sole judge of the availability of such capacity of water supply and/or wastewater services, provided, however, that the CITY will attempt to insure that said water supply and wastewater treatment capacity is available.

H. CITY DEVELOPMENT REGULATIONS

The OWNERS shall develop the Property in accordance with the standards set forth in the CITY's zoning, subdivision and land development regulations, including but not limited to provisions regarding drainage, erosion control, pro-rata payments, parkland dedication, storm water management, tree preservation, Street Design Standards, Public Improvements Policy and construction standards. The OWNER expressly acknowledges that by entering into this Agreement, the OWNER, its successors, assigns, vendors, grantees, and/or trustees, shall not construe any language contained herein or in any exhibits attached hereto as waiving any of the requirements of the UDC or any other ordinance of the CITY, as applicable.

I. TREE PRESERVATION REGULATIONS

OWNER expressly acknowledges the City's Tree Preservation regulations, as contained in Article 4 of the City's UDC, as amended, and the duty to develop the Property in accordance with the standards contained therein and any amendments to those standards.

J. STORMWATER MANAGEMENT REGULATIONS

OWNER agrees to abide by all terms of the City's Stormwater Management regulations contained in Article 8 of the City's UDC, as amended.

K. PRO-RATA FEES

Off-site water and sewer facilities may be subject to either pro rata payments paid to third parties or reimbursements collected from third parties in accordance with City's Code of Ordinances. For any applicable off-site facilities in place as of the date of OWNER's development of the Property, the OWNER shall be responsible to pay applicable pro-rata fees in the amount of one-half (½) of the actual construction and engineering costs of up to a twelve-inch (12") diameter pipe if off-site facilities have been constructed adjacent to the Property by the CITY or any other party prior to the date hereof and the OWNER utilizes such facilities for the Property. If, however, the water or sewer facilities are bounded on both sides by the Property then the OWNER shall be responsible to pay applicable pro-rata fees in the full amount of the actual construction and engineering costs of up to a twelve-inch (12") diameter pipe if the OWNER utilizes such facilities. Should the OWNER construct off-site water and sewer facilities such that pro-rata fees are due to the OWNER, the CITY agrees to collect any fees due to the OWNER related to the construction of the line(s) as those properties utilizing such facilities are developed during the period of ten (10) years after OWNER's installation of such off-site water and sewer facilities. The OWNER shall submit final construction costs to the CITY for approval prior to final acceptance of the improvements for use in determining pro-rata fees to be collected on behalf of the OWNER.

The OWNER shall not be required to pay pro-rata fees for any major transmission line(s) that may be constructed upon, through, under, across or adjacent to the Property that merely transport(s) water or wastewater to or from a treatment facility and to which line(s) Owner is not permitted any right to tap or tie in to.

L. PROPORTIONALITY FEE

The OWNER, or the OWNER's successor(s)-in-interest (including a builder-owner), shall pay to the CITY a Proportionality Fee ("Fee") for development of the approximately 15.702 acres of the Property that is situated in the CITY's extraterritorial jurisdiction, which Fee represents a roughly proportional amount necessary to offset the roadway infrastructure capacity needs of the Property. The Fee shall be the equivalent of the roadway impact fee assessed in the adjacent (abutting) roadway impact fee service area (or that service area nearest to the Property if not adjacent) in effect at the time of building permit and shall be paid at the time of OWNER's submission of each request for a water meter for any development on the Property. The OWNER, or the OWNER's successor(s)-in-interest (including a builder-owner), shall also pay (at the time of building permit issuance) to the CITY a water and wastewater proportionality fee in an amount equivalent to the then existing fee charged for a particular use in accordance with the CITY's utility impact fee ordinance.

In accordance with the methodology and provisions of the CITY's roadway impact fee ordinance, the OWNER shall receive credits for excess vehicle miles contributed by the OWNER (as such compare to the amount of vehicle miles of demand the entire Property creates) for right-of-way dedication and construction of on-site and adjacent roadways required by this Agreement. Such credits will only be issued to OWNER for construction of impact fee eligible system roadways, or roadways which become impact fee eligible system roadways, completed to CITY standards and accepted by the CITY. Any credits shall not include the OWNER's individual costs for eminent domain, if any.

M. IMPACT FEES

If the CITY's Impact Fee Capital Improvement Plan is updated and the Property is designated as falling within a specific roadway service area and/or a specific utility service area before the Property is developed, the Owner shall pay roadway impact fees and/or utility impact fees on the proposed development of the Property. In such event, Impact fees for the Property shall be charged in accordance with Ordinance No. 2020-12-091 (Roadway) and Ordinance No. 2020-12-092 (Water & Wastewater), and as these ordinances may be amended in the future. These fees shall be due upon the time established by these Ordinances save and except only to the extent any waiver of or variance from said Ordinances is granted by the CITY and is contained in a separate agreement between OWNER and CITY which agreement shall supersede and control.

N. NO WAIVER

The OWNER expressly acknowledges that by entering into this Agreement, the OWNER, its successors, assigns, vendors, grantees, and/or trustees, shall not construe any language contained herein or in any Exhibits as waiving any of the requirements of the UDC in force by the CITY, except as specifically herein agreed.

O. REVOCATION

In the event the OWNER fails to comply with any of the provisions of this Agreement, the CITY shall be authorized to revoke any and all Certificates of Occupancy that may have been previously issued in relation to the subdivision and/or development of the Property; and the CITY shall be further authorized to file this instrument in the records of Collin County as a Mechanic's Lien against the OWNER's Property; and in the alternative, the CITY shall be authorized to levy an assessment against the OWNER's Property for public improvements actually constructed by the CITY to be held as a tax lien against the Property by CITY.

P. RELATIONSHIP TO ROADWAY AND SEWER/WATER IMPACT FEES AND WAIVER OF CLAIMS.

The OWNER has been represented by legal counsel in the negotiation of this Agreement and been advised, or have had the opportunity to have legal counsel review this Agreement and advise the OWNER, regarding the OWNER's rights under Texas and federal law. The OWNER hereby waives any requirement that the CITY retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the CITY as a condition of approval for the development of this Property are roughly proportional or roughly proportionate to the proposed development's anticipated impact. (These exactions may include but are not limited to the making of dedications or reservations of land, the payment of fees, the construction of facilities, and the payment of construction costs for public facilities.) The OWNER specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with Tex. Loc. Gov't Code § 212.904. However, notwithstanding the foregoing, the OWNER hereby releases the City from any and all liability under Tex. Loc. Gov't Code § 212.904 regarding or related to the cost of those municipal infrastructure improvements required for the development of the Property.

It is the intent of this Agreement that the provision for roadway and utility improvements made herein constitutes a proportional financial allocation of the OWNER's responsibility for roadway and utility improvements for its Property and that the financial contribution, including the proportionality fee and in-kind construction of improvements made by the OWNER pursuant to this Agreement, are necessary and attributable to development of the Property. The financial obligation of the OWNER herein set forth shall relieve the OWNER of any obligation for roadway and water/sewer impact fees for the Property unless impact fees are applicable to this Property, or as otherwise provided herein above. The OWNER further waives any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 of the Tex. Loc. Gov't Code, any federal constitutional claims, and any claims for reimbursement under any existing or future impact fee ordinances of the City of McKinney to the extent such claims are based on the OWNER's dedication, construction, or payment obligations under this Agreement. The OWNER further releases the CITY from any and all claims based on excessive or illegal exactions; it being agreed that the amount of the OWNER's infrastructure contribution proportionality fee (after receiving all contractual offsets, credits and reimbursements) is roughly proportional to the demand that is placed on the CITY's roadway and utility systems by OWNER's development. The OWNER further acknowledges that the benefits of annexation, zoning and platting have been accepted with full knowledge of potential claims and causes of action which may be raised now and in the future, and the OWNER acknowledges the receipt of good and valuable consideration for the release and waiver of such claims. The OWNER shall indemnify and hold harmless the CITY from and against any claims and suits of any third parties, including but not limited to OWNER's successors,

assigns, grantees, vendors, trustees or representatives, brought solely pursuant to this Agreement and/or asserting the claims or types of claims described in this paragraph.

Q. CONTINUITY

This Agreement shall be a covenant running with the land, and be binding upon the OWNER, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

R. ASSIGNMENT

This Agreement shall not be assignable by the OWNER without the prior written consent of the CITY, and such consent shall not be unreasonably withheld, conditioned or delayed.

S. TERMINATION AND RELEASE

Upon satisfactory completion by the OWNER and final acceptance by the CITY of all requirements of this Agreement, this Agreement shall terminate and the CITY will execute a release of covenant to the OWNER, its heirs, successors, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future. This Agreement shall not terminate until the earlier of the following to occur:

1. The requirements and obligations of all parties have been fulfilled; or

2. The passage of forty-five (45) years from the effective date of this Agreement.

T. MAINTENANCE BOND

Prior to final acceptance of the public improvements to the Property, the OWNER shall furnish to the CITY a good and sufficient maintenance bond in the amount of fifteen percent (15%) of the contract price of such public improvements, or in such amount as approved by the City Engineer, with a reputable and solvent corporate surety, in favor of the CITY, to indemnify the CITY against any repairs arising from defective workmanship or materials used in any part of the construction of the public improvements to the Property, for a period of at least two (2) years from the date of final acceptance of such public improvements.

U. CONFLICT OF INTEREST

OWNER covenants and agrees that OWNER and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this

Agreement. All activities, investigations and other efforts made by OWNER pursuant to this Agreement will be conducted by employees, associates or subcontractors of OWNER.

OWNER shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics Commission ("Commission") at the time OWNER submits this signed Agreement to CITY, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. OWNER must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of OWNER must sign the printed copy of the form and complete the "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form. The completed Form 1295 with the certification of filing must be filed with the CITY.

The CITY must notify the Commission, using the Commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Agreement binds all parties to the Agreement. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the CITY.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

V. NO BOYCOTTING OF ISRAEL

In accordance with Chapter 2271, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

(i) does not boycott Israel; and

(ii) will not boycott Israel during the term of the contract.

Chapter 2271 does not apply to (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that

has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the company is not subject to Chapter 2271 for the reasons stated herein, the signatory executing this contract on behalf of the company verifies by its signature on this Agreement that the company does not boycott Israel and will not boycott Israel during the Term of this Agreement.

W. NO BOYCOTTING ENERGY COMPANIES

In accordance with Chapter 2276, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

(i) does not boycott energy companies; and

(ii) will not boycott energy companies during the term of the contract.

Chapter 2276 does not apply to (1) a company that has fewer than ten (10) full-time employees; and (2) a contract that has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the company is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature on this Agreement that the company does not boycott energy companies and will not boycott energy companies during the Term of this Agreement.

X. NO BOYCOTTING FIREARM ENTITIES OR FIREARM TRADE ASSOCIATIONS

In accordance with Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it:

(i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and

(ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

Chapter 2274 does not apply to (1) a company that has fewer than ten (10) full-time employees; and (2) a contract that has a value of less than One Hundred Thousand Dollars ($100,000.00). Unless the company is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature on this Agreement that the company does not discriminate against any firearm entity or firearm trade association and will not discriminate against any firearm entity or firearm trade association during

the Term of this Agreement. Notwithstanding the foregoing, such provision does not apply to a governmental entity that:

(i) contracts with a sole-source provider; or

(ii) does not receive any bids from a company that is able to provide the required written verification.

Y. GENERAL PROVISIONS

1. The OWNER agrees that construction shall not begin on any proposed improvements to the Property prior to City Council approval of this Agreement.

2. The OWNER agrees that all coordination required with public and/or private utility agencies to eliminate conflicts with proposed street grades or underground improvements shall be the responsibility of the OWNER. Likewise, coordination with agencies requiring special conditions (i.e., railroads and the Texas Department of Transportation) shall be the responsibility of the OWNERS.

3. Save and except to the extent specifically stated herein to the contrary, the Property shall be developed in accordance with the standards set forth in the City of McKinney zoning, subdivision and land development regulations, including but not limited to provisions regarding drainage, erosion control, pro rata payments, tree preservation, Street Design Standards, Public Improvements Policy and construction standards.

CITY OF McKINNEY

By: _____
PAUL G. GRIMES
City Manager

Date Signed:
_____

ATTEST:

_____
EMPRESS DRANE
City Secretary
TENITRUS PARCHMAN
Deputy City Secretary

APPROVED AS TO FORM:

_____
MARK S. HOUSER
City Attorney

THE STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared PAUL G. GRIMES, City Manager of the ***CITY OF MCKINNEY***, a Texas municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on CITY's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 2025.

_____
Notary Public _____ County, Texas
My commission expires _____

ADVENT GARDEN LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

Date Signed: _____

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2025, by _____, in his/her capacity as _____ of ***ADVENT GARDEN LLC***, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of and as the act of said entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 2025.

_____
Notary Public _____ County,
Texas My commission expires _____

KV LAND DEVELOPMENTS LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____

Date Signed: _____

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2025, by _____, in his/her capacity as _____ of ***KV LAND DEVELOPMENTS LLC***, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on behalf of and as the act of said entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 2025.

_____
Notary Public _____ County,
Texas My commission expires _____

EXHIBIT A

DESCRIPTION OF PROPERTY

SITUATED in the Joel F. Stewart Survey, Abstract No. 838 of Collin County, Texas and being all of that certain called 7.72 acre tract of land described in a Warranty Deed with Vendor's Lien to ADVENT GARDEN, LLC, recorded in Document No. 20210728001523420, Deed Records, Collin County, Texas (D.R.C.C.T.) and part of that certain called 25.30 acre tract of land described in a Warranty Deed with Vendor's Lien to KV Land Development LLC, recorded in Document No. 20211222002573150, D.R.C.C.T. and being more particularly described by metes & bounds as follows:

BEGINNING at a 3/8 inch iron rod found at the intersection of the center of Baxter Well Road (prescriptive public right-of-way) and the west right-of-way line of F.M. Road 1461 (a variable width public right-of-way) for the northeast corner of the above described Advent Garden tract and said point also being the southeast corner of that certain called 6.11 acre tract of land described in a deed to St. Pauls Orthodox Church, Dallas, recorded in Document No. 2023000015974, D.R.C.C.T.;

THENCE: South 00 deg. 18 min. 45 sec. East, along the common line of said Advent Garden tract and said F.M. Road 1461, a distance of 430.60 feet to a 1/2 inch iron rod with a green plastic cap, stamped "Eagle Surveying", found for the easterly southeast corner of said Advent Garden tract and same being the northeast corner of that certain called 5.06 acre tract of land described in a deed to Baby Bear Holdings LLC, recorded in Document No. 20210408000710170, D.R.C.C.T.;

THENCE: South 88 deg. 37 min. 41 sec. West, departing from F.M. Road 1461, along the common line of said Advent Garden and Baby Bear Holdings tracts, a distance of 665.71 feet to a 1/2 inch iron rod with a green plastic cap, stamped "Eagle Surveying", found for an inside ell corner of said Advent Garden tract and the northwest corner of said Baby Bear Holdings tract;

THENCE: South 00 deg. 19 min. 58 sec. East, continuing along said common line, a distance of 325.17 feet to a 1/2 inch iron rod with a green plastic cap, stamped "Eagle Surveying", found for the southerly southeast corner of said Advent Garden tract and the southwest corner of said Baby Bear Holdings tract and same being on the north line of that certain tract of land described in a deed to Lake Forest Business Park LLC, recorded in Document No. 20210414000749840, D.R.C.C.T.;

THENCE: South 89 deg. 49 min. 52 sec. West, along the common line of said Advent Garden tract and said Lake Forest Business Park tract, a distance of 59.41 feet to a 1/2 inch iron rod with a green plastic cap, stamped "Eagle Surveying", found for the southwest corner of said Advent Garden tract and same being the southeast corner of the above described KV Land Development tract;

THENCE: South 89 deg. 36 min. 04 sec. West, along the common line of said KV Land Development tract and said Lake Forest Business Park tract, at a distance of 151.10 feet, passing a 1/2 inch iron rod with a green plastic cap, stamped “Eagle Surveying”, found for an inside ell corner of said KV Land Development tract and the northwest corner of said Lake Forest Business Park tract and departing from said common line, over & across said KV Land Development tract for a total distance of 452.49 feet to a 1/2 inch iron rod, topped with a red plastic cap, stamped “RPLS 4701”, set for the southwest corner of this hereinafter described parcel of land;

THENCE: North 00 deg. 16 min. 33 sec. West, continuing across said KV Land Development tract, a distance of 769.13 feet to a mag nail with a steel washer, stamped “RPLS 4701”, set on the north line of said KV Land Development tract, in the center of the above described Baxter Well Road and said point also being on the south line of that certain called 2.015 acre tract of land described in a deed to Linley J. and Harold R. Nall, recorded in Document No. 20130905001253860, D.R.C.C.T.;

THENCE: North 89 deg. 43 min. 27 sec. East, along the center of said Baxter Well Road with the common line of said KV Land Development tract and said Nall tract, at a distance of 214.25 feet, passing the southeast corner of said Nall tract and the southwest corner of that certain called 10.011 acre tract of land described in a deed to John & Jill Morris, recorded in Document No. 20101109001224500, D.R.C.C.T., continuing along said Baxter Well Road with the common line of said KV Land Development and Morris tract, at a distance of 329.35, passing the southeast corner of said Morris tract and the southwest corner of that certain called 3.603 acre tract of land described in a deed to 3PALS Technologies, LLC and Balakrishna Voruganti, recorded in Document No. 2024000043940, D.R.C.C.T., continuing along the center of said Baxter Well Road with the common line of said KV Land Development tract and said 3PALS Technologies tract for a total distance of 452.13 feet to a mag nail found for the northeast corner of said KV Land Development tract and the northwest corner of said Advent Garden tract;

THENCE: North 89 deg. 42 min. 20 sec. East, along the center of said Baxter Well Road with the common line of said Advent Garden and said 3PALS tracts, at a distance of 206.60 feet, passing the southeast corner of said 3PALS tract and the southwest corner of the above described St. Pauls Orthodox Church tract and continuing along said Baxter Well Road with the common line of said Advent Garden and said St. Pauls Orthodox Church tracts for a total distance of 724.76 feet t the POINT OF BEGINNING and containing 683,956 square feet or 15.702 acres of land.