



**SPECIAL CALLED MEETING OF THE
TAX INCREMENT REINVESTMENT ZONE #3 BOARD (“TIRZ”)
MAY 11, 2023 AT 6:00 P.M.**

Cedar Park City Hall, 450 Cypress Creek Road, Building Four – Council Chambers

BOARD OF DIRECTORS

Jim Penniman-Morin, Chair
Stephen Thomas, Place One
Mel Kirkland, Place Two
Anne Duffy, Place Three

Eric Boyce, Place Four
Kevin Harris, Place Five
Heather Jefts, Place Six
Brenda Eivens, City Manager

AGENDA

1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN.
2. Discussion And Possible Action:
 - a. Approval Of Minutes From The Special Called Meeting Of December 8, 2022.
 - b. Consideration Of A Resolution Approving An Amended Tax Increment Reinvestment Zone Agreement.
3. Director Closing Comments.
4. Adjournment.

The above agenda schedule represents an estimate of the order for the indicated items and is subject to change at any time. All agenda items are subject to final action by the TIRZ Board. Separate agenda items may be combined and discussed together at the discretion of the Chair.

Any final action, decision, or vote on a matter deliberated in Closed Executive Session shall be made in an open meeting pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

Certain information may be presented to and by the TIRZ Board, under the headings of “Citizen Communications”, and “Director Comments” however, by law, the Board shall not discuss, deliberate or vote upon such matters except that a statement of specific factual information, a recitation of existing policy, and deliberations concerning the placing of the subject on a subsequent agenda may take place.

An unscheduled Closed Executive Session may be called to discuss any item on this posted agenda provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.

The City Attorney has approved the Executive Session Items on this agenda.

CERTIFICATION

I certify that the above notice of the Special Called Meeting of the Tax Increment Reinvestment Zone #3 Board of the City of Cedar Park, Texas was posted on the bulletin board of the City of Cedar Park City Hall, 450 Cypress Creek Road, Building Four, Cedar Park, Texas. This notice was posted on:

Date Posted: _____
Date Stamped (Month, Day, Year, AM/PM, Time)

MAY 5 2023 PM 12:51

The Cedar Park City Hall Board Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretative services must be made 48 hours prior to this meeting. Please contact the City Secretary's Office at (512) 401-5002 or FAX (512) 401-5003 for further information.



LeAnn M. Quinn, TRMC
City Secretary

Notice Removed: _____
Date Stamped (Month, Day, Year, AM/PM, Time)

An unscheduled Closed Executive Session may be called to discuss any item on this posted agenda provided it is within one of the permitted categories under Chapter 551 of the Texas Government Code.



**SPECIAL CALLED MEETING OF THE
TAX INCREMENT REINVESTMENT ZONE #3 BOARD (“TIRZ”)
THURSDAY, DECEMBER 8, 2022 AT 6:30 P.M.
Cedar Park City Hall, 450 Cypress Creek Road, Building Four – Council Chambers**

BOARD OF DIRECTORS

Jim Penniman-Morin, Chair
Stephen Thomas, Place One
Mel Kirkland, Place Two
Anne Duffy, Place Three

Eric Boyce, Place Four
Kevin Harris, Place Five
Heather Jeffs, Place Six
Brenda Eivens, City Manager

MINUTES

1. CALL TO ORDER, QUORUM DETERMINED, MEETING DECLARED OPEN.

Chair Penniman-Morin called the meeting to order at 6:32 p.m.

All Directors present.

2. Discussion And Possible Action:
 - a. Consideration Of A Resolution Approving A Tax Increment Reinvestment Zone Agreement And A Final Project And Finance Plan For A Super-Regional Destination Center That Includes A Convention Center And Hotel Project.

J.P. LeCompte, City Attorney, reviewed the recent creation of Tax Increment Reinvestment Zone #3 and the Master Development Agreement approved by the City Council. This item is for the approval of the Tax Increment Reinvestment Zone Agreement and the Final Project and Finance Plan for the proposed project.

Motion to approve Agenda Item 2.a as presented.

Movant: Director Harris

Second: Director Duffy

Vote: 7-0

Resolution Number 2022-12-08-2A

3. Director Closing Comments.

None.

4. Adjournment.

Chair Penniman-Morin adjourned the meeting at 6:35 p.m.

PASSED AND APPROVED THIS 11TH DAY OF MAY, 2023.

James Penniman-Morin, Chair

ATTEST:

LeAnn M. Quinn, TRMC
City Secretary



**CEDAR PARK TAX INCREMENT
REINVESTMENT ZONE #3 AGENDA**
May 11, 2023

Item/Subject: Consideration Of A Resolution Approving An Amended Tax Increment Reinvestment Zone Agreement.

Commentary

In December of 2021, the City of Cedar Pak and CPM Development, LLC executed a performance-based Master Development Agreement contemplating the development and operation of a super-regional destination center with a hotel and convention center, retail, dining, entertainment, lodging and recreational uses that collectively are projected to attract a large number of visitors annually (“Project”). As proposed, the Project will provide significant full-time jobs, attract a significant number of visitors and amount of taxable spending to the community, and receive substantial funding via the State of Texas’ Qualified Hotel Project (“QHP”) Program, Chapter 351, Subchapter C, Texas Tax Code, which is administered by the Texas Comptroller of Public Accounts.

On April 27, 2023, Council approved an Amended Master Development Agreement with CPM Development, LLC, in order to provide additional information and clarification at the request of the Comptroller’s Office to confirm the Project’s eligibility under the QHP Program, and to update status of certain performance requirements that have been completed since the Master Development Agreement was initially executed.

This proposed resolution is for the TIRZ #3 Board to approve an Amended TIRZ Agreement for the Project as approved by the Council on April 27, 2023 as Exhibit E to the Amended Master Development Agreement, which contains similar substantive updates and clarification without and change to the *Final Project and Finance Plan for Reinvestment Zone Number 3, City of Cedar Park* approved by the Board on December 8, 2022, and approved by the City Council by Ordinance No. D07.22.12.15.E2 adopted on December 15, 2022.

Initiating Dept: Legal

Fiscal Impact
Fund:

Budget
Amount:

Finance Director Review

Legal Certification

Approved as to form and content:

Yes

No **City Attorney**

Associated Information:

RESOLUTION NO. 2023-05-11-2B

A RESOLUTION OF THE BOARD OF DIRECTORS OF CEDAR PARK TAX INCREMENT REINVESTMENT ZONE (“TIRZ”) #3, APPROVING AN AMENDED TIRZ AGREEMENT; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, on November 10, 2022, the City Council adopted Ordinance No. D04.22.11.10.E1 designating Reinvestment Zone Number 3, City of Cedar Park, Texas (the "TIRZ"), including a preliminary project and financing plan, appointing the TIRZ Board, and approving the TIRZ Agreement; and

WHEREAS, on December 8, 2022, the TIRZ Board (i) approved the Final Project and Finance Plan for Reinvestment Zone Number 3, City of Cedar Park, Texas (the "Project and Finance Plan") for the TIRZ; (ii) recommended approval of the Project and Finance Plan to the City Council; (iii) and approved the TIRZ Agreement; and

WHEREAS, on December 15, 2022, the City Council adopted Ordinance No. D07.22.12.15.E2 approving the Project and Finance Plan; and

WHEREAS, the City Council and CPM Development, LLC have updated and amended the Master Development Agreement (“Amended MDA”) in order to provide additional information and clarification at the request of the Comptroller’s Office, and to update status of certain performance requirements that have been completed since the Master Development Agreement was initially executed; and

WHEREAS, the Amended MDA includes an Amended TIRZ Agreement, which was attached to and approved by the City Council as Exhibit A to the Amended MDA; and

WHEREAS, the Amended TIRZ Agreement contains similar substantive updates and clarification without any change to the approved *Final Project and Finance Plan for Reinvestment Zone Number 3, City of Cedar Park*.

NOW, THEREFORE, BE IT RESOLVED BY THE CEDAR PARK TAX INCREMENT REINVESTMENT ZONE (“TIRZ”) #3, CEDAR PARK, TEXAS:

SECTION 1. That the TIRZ #3 Board of Directors hereby approves an Amended TIRZ Agreement for the Project, attached hereto as Exhibit A, subject to final review by the City Attorney.

SECTION 2. That it is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

PASSED AND APPROVED this the 11th day of May, 2023.

TAX INCREMENT REINVESTMENT ZONE #3

James Penniman-Morin, Chair

ATTEST:

LeAnn M. Quinn, TRMC
City Secretary

APPROVED AS TO FORM
AND CONTENT:

J.P. LeCompte, City Attorney

EXHIBIT A

TIRZ AGREEMENT

EXHIBIT E

Form of TIRZ Amended Agreement (includes Right of First Refusal)

**REINVESTMENT ZONE NUMBER 3, CITY OF CEDAR PARK, TEXAS
TIRZ AMENDED AGREEMENT**

This TIRZ Amended Agreement (this “Agreement”) is executed between CPM Development, LLC, a Texas limited liability company (the “Developer”), the City of Cedar Park (the “City”), and the Board of Directors of Reinvestment Zone Number 3, City of Cedar Park, Texas (the “Board”) to be effective _____, 2023 (the “Effective Date”). The City, the Board, and the Developer are individually referred to as a “Party” and collectively as the “Parties.” The City and the Board are collectively referred to as the “Public Parties.”

**ARTICLE I
RECITALS**

WHEREAS, unless otherwise specified, all references to “Section” mean a section of this Agreement, and all references to “Exhibit” mean the exhibits attached to and made a part of this Agreement for all purposes; and

WHEREAS, capitalized terms shall have the meanings given to them in Article 2, and, if not otherwise defined in Article 2 of this Agreement, shall have the meanings given to them in the Master Development Agreement; and

WHEREAS, the City and the Developer have entered into that certain Master Development Agreement (the “Master Development Agreement”), approved by the City on December 9, 2021 and amended on April 27, 2023, relating to the Project (defined in the Master Development Agreement) under which the City has agreed to provide certain performance-based economic development incentives in exchange for Developer’s substantial commitment and investment in the Project which include certain grants and reimbursements to the Developer as described therein and as more fully set forth in the Master Development Agreement and this Agreement; and

WHEREAS, the Master Development Agreement contemplates the Project will be a “Qualified Project” in Section 351.151(4) of the Chapter 351 of the Texas Tax Code, as amended (“Chapter 351”); and

WHEREAS, the Master Development Agreement contemplates the creation of a tax increment reinvestment zone in accordance with the Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended (the “Act”) as a condition precedent to Developer proceeding with the Project; and

WHEREAS, Reinvestment Zone Number 3, City of Cedar Park, Texas (the “TIRZ”) is a tax increment reinvestment zone created by the governing body of the City (the “City Council”) by Ordinance No. D04.22.11.10.E1 adopted November 10, 2022; and

WHEREAS, in addition to creating the TIRZ, Ordinance No. D04.22.11.10.E1 appointed the Board; and

WHEREAS, on December 8, 2022, the Board (i) approved the *Final Project and Finance Plan for Reinvestment Zone Number 3, City of Cedar Park* (the “Project and Finance Plan”) for the TIRZ and (ii) recommended approval of the Project and Finance Plan to the City Council; and

WHEREAS, on December 15, 2022, the City Council adopted Ordinance No. D07.22.12.15.E2 approving the Project and Finance Plan; and

WHEREAS, the City is authorized by Chapter 380 of the Texas Local Government Code as amended (“Chapter 380”) to establish economic development programs and to provide incentives for economic development; and

WHEREAS, Section 311.010(h) of the Act provides that upon approval by the City Council, the Board may exercise all of the powers of the City under Chapter 380 to promote state or local economic development and to stimulate business and commercial activity in the TIRZ; and the Public Parties are establishing economic development programs and providing incentives pursuant to this Agreement and the Master Development Agreement; and

WHEREAS, the City is authorized to pledge or commit revenues received under Chapter 351 for the payment of contractual obligations, including incentives and reimbursements, for the Project, as a Qualified Project under Chapter 351, pursuant to a contract authorized by Chapter 380, and the City has done so under the Master Development Agreement and this Agreement which require certain revenues to be deposited into the TIF Fund; and

WHEREAS, Section 311.008 of the Act authorizes the City to enter into agreements necessary to implement the Project and Finance Plan and otherwise achieve the purposes of the Project and Finance Plan; and

WHEREAS, the Act authorizes, and the Project and Finance Plan contemplates, the execution of a "TIRZ Agreement" that the City and the Board determine to be necessary to implement the Project and Finance Plan and the Master Development Agreement; and

WHEREAS, this Agreement is the “TIRZ Agreement” described in the Project and Finance Plan and the Master Development Agreement; and

WHEREAS, the Parties intend that certain grants and reimbursements described in the Master Development Agreement will be paid to the Developer under this Agreement; and

WHEREAS, the liability of the Public Parties under this Agreement is limited to amounts required to be deposited into the TIF Fund under the Master Development Agreement; and

WHEREAS, the grants and reimbursements provided to the Developer under this {00655529}

Agreement as contemplated by the Master Development Agreement are for the public purposes of: (i) developing and diversifying the economy of the state; (ii) eliminating unemployment and underemployment in the state; (iii) developing and expanding commerce in the state; (iv) stimulating business and commerce within the TIRZ; and (v) promoting development and redevelopment within the TIRZ; and

WHEREAS, the City and Developer intend for portions of the Project to be a "Qualified Project" under Section 351.151(4) of Chapter 351; and

WHEREAS, the City has determined that pledging the tax funds received under Subchapter C of Chapter 351 to this Agreement benefits the Hotel Building and the Convention Center Building; and

WHEREAS, the City has determined that pledging the tax funds received under Subchapter C of Chapter 351 to this Agreement benefits the Hotel Building and the Convention Center Building; and

WHEREAS, the City Council has also determined that the Convention Center Building will be constructed and operated for the primary use and benefit of the City; and

WHEREAS, the City and the Board hereby find, determine and declare that it is necessary and convenient to the implementation of the Project and Finance Plan and to the achievement of the purposes contained therein to create the economic development programs contained in the Project and Finance Plan; and, that such programs further the public purpose of developing and diversifying the economy of the TIRZ and are authorized by Article III, Section 52-a of the Texas Constitution, as amended; and

WHEREAS, the completion of the Project will facilitate and encourage development both within and outside the TIRZ that will significantly enhance growth will generate tax revenues to the City; and

WHEREAS, the completion of the Project will promote state and local economic development and will stimulate business and commercial activity in the City, the County and the State, including tourism; and will contribute to the development and diversification of the economy of the State, and to the development and expansion of the commerce of the state; and

WHEREAS, the Public Parties have an interest in creating jobs and expanding the tax base which accomplish a public purpose; and

WHEREAS, the Public Parties have ensured that the public will receive benefits for the reimbursements provided by: (i) imposing on the Developer performance standards and penalties for any failure to meet the standards; and (ii) restricting the use of land within the TIRZ.

NOW THEREFORE, for and in consideration of the mutual benefits and promises of the Parties set forth in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are acknowledged and agreed by the Parties, the Parties agree as follows:

ARTICLE II
DEFINITIONS

“Act” means Tax Increment Financing Act, Chapter 311, Texas Tax Code, as amended.

“Agreement” has the meaning stated in the first paragraph hereof.

“Assignee” has the meaning stated in Section 8.1.

“Board” means the Board of Directors of Reinvestment Zone Number 3, City of Cedar Park, Texas.

“Certification of Capital Investment Costs Certificate” has the meaning stated in Section 3.2 and shall be substantially in the form attached as Exhibit B.

“Certification of Costs Certificate” has the meaning stated in Section 4.3 and shall be substantially in the form attached as Exhibit C.

“Chapter 351” means Chapter 351 of the Texas Tax Code, as amended.

“Chapter 380” means Chapter 380 of the Texas Local Government Code, as amended.

“City” means the City of Cedar Park, Texas, a home-rule municipality of the State of Texas.

“City Council” means the governing body of the City.

“City Representative” means the City Manager or designee.

“Convention Center Building” has the meaning stated in the Master Development Agreement.

“Developer” means CPM Development, LLC, a Texas limited liability company, its successors and permitted assigns.

“Effective Date” means the date set forth by the signature of the last party to execute this Agreement.

“Facility” has the meaning stated in the Master Development Agreement.

“Hotel Building” has the meaning stated in the Master Development Agreement.

“Master Development Agreement” means that certain Master Development Agreement relating to the Project entered into by the City and the Developer, approved by the City on December 9, 2021 and amended on April 27, 2023.

“Party” has the meaning stated in the first paragraph hereof.

“Parties” has the meaning stated in the first paragraph hereof.

“Project and Finance Plan” means that certain *Final Project and Finance Plan for Reinvestment Zone Number 3, City of Cedar Park* approved by the Board on December 8, 2022, and approved by the City Council by Ordinance No. D07.22.12.15.E2 adopted on December 15, 2022.

“Public Infrastructure” has the meaning stated in the Master Development Agreement.

“Public Parties” has the meaning stated in the first paragraph hereof.

“Qualified Project” has the meaning stated in the Master Development Agreement.

“Right of First Refusal” or “ROFR” means the right of first refusal related to the ROFR Property under 6.2 of the Master Development Agreement.

“Right of First Refusal Agreement” means the agreement executed by the Parties related to the Right of First Refusal on the ROFR Property substantially in the form of **Exhibit A**.

“Right of First Refusal Property” or “ROFR Property” has the meaning stated in the Master Development Agreement.

“ROFR Appraised Value” has the meaning stated in the Master Development Agreement.

“ROFR Grant” has the meaning stated in the Master Development Agreement.

“ROFR Purchase Price” has the meaning stated in the Master Development Agreement.

“Selected City Tax Revenues” has the meaning stated in the Master Development Agreement.

“Selected County Tax Revenues” has the meaning stated in the Project and Finance Plan.

“Selected State Tax Revenues” has the meaning stated in the Master Development Agreement.

“TIF Fund” has the meaning stated in the Master Development Agreement.

“TIRZ” means Reinvestment Zone Number 3, City of Cedar Park, Texas created in accordance with Section 6.2 of the Master Development Agreement and the Act, by Ordinance No. D04.22.11.10.E1 adopted by the City Council on November 10, 2022.

ARTICLE III
ECONOMIC PROGRAMS AND ECONOMIC GRANTS

Section 3.1. Economic Development Programs and Economic Development Grants. Section 311.010(h) of the Act provides that the Board, subject to the approval of the City Council, may establish and provide for the administration of one or more programs as the Board determines is necessary or convenient to implement and achieve the purposes of the Project and Finance Plan, which programs are for the public purposes of developing and diversifying the economy of the TIRZ and developing business and commercial activity within the TIRZ. Such economic development programs may include, to the extent permitted by law, programs to make grants of any lawfully available money from the TIF Fund, for activities that benefit the TIRZ and stimulate business and commercial activity in the TIRZ. Section ___ of the Project and Finance Plan is intended to be an economic development program authorized by Section 311.010(h) and by Article III, Section 52-a of the Texas Constitution, as amended. Development within the TIRZ will further the public purpose of developing and diversifying the economy of the TIRZ as described in the Project and Finance Plan. The Public Parties have determined, and it is recognized, that such development will not occur through private investment in the foreseeable future, nor will such development occur only through public participation in the cost of the Public Improvements. The Right of First Refusal described in Article V below and the Project serve the public purpose of attracting new business and commercial activity to the TIRZ for the purpose of providing long-term economic benefits including, but not limited to, increases in the real property tax base for all taxing units within the TIRZ and increased job opportunities for residents of the City, Williamson County, and the region, all of which benefit the TIRZ and the City. Pursuant to this authority, the Public Parties agree to implement this Agreement and the Master Development Agreement.

Section 3.2. Required Certifications. As required by Section 4.4 of the Master Development Agreement, beginning on the first calendar month after development of the Project commences, Developer shall provide to the City a "Certification of Capital Investment Costs Certificate" substantially in the form of **Exhibit B** that make up the minimum capital investment amounts for the Project no more frequently than once each month for the limited purpose of calculating the grant reduction contemplated by Section 8.6(c)(3) of the Master Development Agreement, if any. The City Representative shall review the expenditures and shall approve or deny them on behalf of the Public Parties within fifteen (15) days (which approvals shall not be unreasonably withheld). If the City Representative takes no action within such 15-day period, the invoices shall be deemed approved. The Parties will use all reasonable efforts to resolve disputes within thirty (30) days, after which time period the Developer may pursue its remedies under the Master Development Agreement. Upon satisfaction of the Developer Performance Obligations under the Master Development Agreement, the City Representative shall authorize payment from the TIF Fund to satisfy the City Performance Obligations consisting of the grant payments set forth in Sections 5.2 of the Master Development Agreement.

ARTICLE IV
REIMBURSEMENTS FROM TIF FUND

Section 4.1. Deposits into TIF Fund. Commencing on the Effective Date, and continuing for the term of the TIRZ, the Public Parties shall cause to be deposited into the TIF Fund (or appropriate subaccount created therein by the City) (a) the Selected City Tax Revenues and (b) the Selected State Tax Revenues. Funds in the TIF Fund shall be used only to pay the Developer the incentives contemplated by the Master Development Agreement.

Section 4.2. Developer Payments. The Public Parties agree to pay the Developer for the incentives contemplated by the Master Development Agreement from the TIF Fund. The TIF Fund shall only be used to pay the Developer amounts owed in accordance with this Agreement, the Project and Finance Plan, the Master Development Agreement and the Act.

Section 4.3. Procedure for Reimbursement. The Developer will present to the City Representative of the City not more frequently than monthly a "Certification of Costs Certificate" substantially in the form of **Exhibit C** attached hereto certifying the costs of such Public Infrastructure, including appropriate supporting documentation reasonably acceptable to the City to verify reimbursable costs for the Public Infrastructure expended or caused to be expended by Developer. The City Representative shall review the expenditures and shall approve or deny them on behalf of the Public Parties within fifteen (15) days (which approvals shall not be unreasonably withheld). If the City Representative takes no action within such 15-day period, the invoices shall be deemed approved. Invoices that have been approved by the City Representative or that are deemed approved shall be paid to the Developer from the TIF Fund within fifteen (15) days after the end of the next calendar month, provided funds are available in the TIF Fund. The Parties will use all reasonable efforts to resolve disputes within thirty (30) days, after which time period the Developer may pursue its remedies under the Master Development Agreement.

Section 4.4. Records. Each Party shall maintain complete books and records showing its compliance with its obligations, its satisfaction of performance criteria for incentives under the Master Development Agreement and this Agreement, which books and records shall be deemed complete if kept in accordance with generally acceptable accounting principles. Such books and records shall be available for examination by the duly authorized officers or agents of the inspecting Party during normal business hours upon request made not less than ten (10) business days prior to the date of such examination. Each Party shall maintain such books and records throughout the term of this Agreement. Each Party shall have the right to an annual audit, upon reasonable notice and, at its own expense, all of the records related to the performance criteria of Article IV and Article V of the Master Development Agreement to confirm the performance criteria have been satisfied. Upon written request by a Party not more than once per year, the Party in receipt of the request shall give the requesting Party access to all records controlled by, or in the direct or indirect possession of, the Party (other than records subject to legitimate claims of attorney-client privilege) relating to that Party's compliance with performance criteria or obligations and permit the inspecting Party to review such records in connection with conducting a reasonable audit of such conditions. Any discrepancy in grant or reimbursement payments found in the audit shall be submitted to the audited Party for review and each Party shall make appropriate adjustment in incentive payments during the next payment period.

Section 4.5. Collection and Payment. The Public Parties shall continuously collect the Selected City Tax Revenue and the Selected State Tax Revenues pursuant to the Master Development Agreement to the maximum extent permitted by law. The Public Parties shall continuously collect the Selected County Tax Revenues pursuant to the County Participation Agreement, if any, to the maximum extent permitted by law. The Public Parties will deposit all Selected City Tax Revenue, Selected State Tax Revenues and all Selected County Tax Revenues, if any, directly into the TIF Fund, without counterclaim or offset.

ARTICLE V **RIGHT OF FIRST REFUSAL**

The City hereby grants the Right of First Refusal contemplated by Section 2.3 of the Master Development Agreement and authorizes the City Representative to execute the Right of First Refusal Agreement in the form of **Exhibit A** attached hereto and incorporated as a part of this Agreement for all purposes. The Right of First Refusal expires when the Facility ceases to operate even if such period extends beyond the expiration of the TIRZ.

ARTICLE VI **DEFAULTS AND REMEDIES**

Section 6.1. The terms of this Agreement are subject to the notice, cure and default provisions of the Master Development Agreement.

Section 6.2. IF A PARTY IS IN DEFAULT, THE AGGRIEVED PARTY'S SOLE AND EXCLUSIVE REMEDY SHALL BE SPECIFIC PERFORMANCE. WITHOUT LIMITING THE FOREGOING, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE AGGRIEVED PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.

ARTICLE XII **MISCELLANEOUS**

Section 7.1. Term. This Agreement shall expire when the TIRZ expires.

Section 7.2. Collateral Assignment. The Developer shall have the right to collaterally assign, pledge, or encumber, in whole or in part, to any lender as security for any loan in connection with development within the TIRZ, all rights, title, and interests of the Developer to receive payments under this Agreement. Such collateral assignments (i) shall not require the consent of the Public Parties, (ii) shall require notice to the Public Parties together with full contact information for such lenders, (iii) shall not create any liability for any lender under this Agreement by reason of such collateral assignment unless the lender agrees, in writing, to be bound by this Agreement; and (iv) may give lenders the right, but not the obligation, to cure any failure of the Developer to perform under this Agreement. No collateral assignment shall relieve the Developer from any obligations or liabilities under this Agreement.

Section 7.3. Notice. Any notices or other communications required or desired to be given to the other Parties hereto shall be given in writing and delivered by a reputable independent courier service providing proof of delivery, a reputable overnight courier, or if mailed certified first class mail to the following addresses:

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Exhibit E - 8

To City: City of Cedar Park
450 Cypress Creek Road, Building One
Cedar Park, Texas 78613
Attention: City Manager
Phone: 512-401-5010

With copy to: City of Cedar Park
Legal
450 Cypress Creek Rd., Bldg.1
Cedar Park, Texas 78613
Attention: City Attorney
Phone: 512-401-5004

And to: Jackson Walker L.L.P.
2323 Ross Avenue, Suite 2000
Dallas, Texas 75201
Attention: William Dahlstrom
Phone: 214-953-5932

To Developer: CPM Development, LLC
700 South 72nd. Street
Omaha, Nebraska 68114
Attention: Ryan Blumkin
Phone: 402-392-3270

And to Developer: CPM Development, LLC
700 South 72nd. Street
Omaha, Nebraska 68114
Attention: Vic Padios, General Counsel
Phone: 402-392-3311

With a copy to: Shupe Ventura, PLLC
9406 Biscayne Blvd.
Dallas, Texas 75218
Attention: Misty Ventura
Phone: 214-328-1101

Either Party may designate a different address at any time upon written notice to the other Party.

Section 7.4. Governing Law and Venue. This Agreement shall be interpreted and the rights of the Parties hereto determined in accordance with the laws of the State of Texas without regard to the conflicts of laws principles thereto, and venue shall be in the District Court in Williamson County, Texas.

Section 7.5. Compliance with Laws. The City and Developer shall comply in all material respects with all applicable laws in connection with the development and construction of the Project.

Section 7.6. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns. This Agreement may be assigned, in whole or in part, to an Affiliate without City consent. In the event of any assignment, the

assigning party shall provide notice to the other party of the assignment within ten (10) business days thereof.

Section 7.7. Entire Agreement. This Agreement (including the Exhibits hereto) and the Master Development Agreement (including the Exhibits thereto) and the other agreements and documents referenced herein constitute the full and entire understanding and agreement of the Parties hereto with regard to the subject matter hereof and thereof and supersede any prior or contemporaneous agreement or understanding among the Parties.

Section 7.8. Time of the Essence. Time is of the essence in the performance of this Agreement.

Section 7.9. Binding Effect. The execution of this Agreement has been duly authorized by Developer, and the person signing this Agreement is duly authorized and lawfully empowered to execute such Agreement and bind Developer, said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of Developer's certificate of formation or company agreement, or of any agreement or instrument to which Developer is a party or by which it may be bound. The execution of this Agreement has been duly authorized by the City, and the person signing this Agreement is duly authorized and lawfully empowered to execute such Agreement and bind the City, said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of the City's home rule charter or of any agreement or instrument to which the City is a party or by which it may be bound.

Section 7.10. Amendment. Except as expressly set forth herein, this Agreement may not be amended or terminated without the written consent of the Parties hereto.

Section 7.11. Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor has there been any estoppel to enforce any provision of this Agreement, except by written instrument of the Party charged with such waiver or estoppel.

Section 7.12. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable: (1) such provision shall be deleted and rewritten to the extent necessary for such provision to be legal, valid and enforceable and as similar in terms as possible to the original provision in order to give effect to the intent of the Parties, and (2) the validity, legality and enforceability of the remaining provisions this Agreement shall not in any way be affected or impaired thereby.

Section 7.13. Third-Party Beneficiaries. The Parties hereto intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third-party beneficiary, or any individual other than the Parties hereto and their permitted assigns.

Section 7.14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Section 7.15. Headings. The headings of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 7.16. Draftsmanship and Interpretation. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. In the event of a dispute or disagreement arising under this Agreement, this Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted for or against any party on the ground that such party drafted or caused to be drafted this Agreement. To the extent there is a conflict between the terms of this Agreement, the Right of First Refusal Agreement, or the Master Development Agreement, the terms of the Master Development Agreement shall control.

Section 7.17. Delays or Omissions. Except as otherwise provided herein to the contrary, no delay or omission to exercise any rights, power or remedy inuring to any Party upon any Default of any Party under this Agreement shall impair any such right, power or remedy of such Party not shall it be construed to be a waiver of any such Default, or an acquiescence therein, or of or in any similar Default thereafter occurring; nor shall any waiver of any single Default be deemed a waiver of any Default theretofore or thereafter occurring. All remedies either under this Agreement or by law or otherwise afforded to the Parties shall be cumulative and not alternative.

Section 7.18. No Joint Venture. Nothing contained in this Agreement or any other agreement between Developer and the City is intended by the parties to create a partnership or joint venture between Developer on the one hand, and the City on the other hand and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other. Each Party shall be responsible for any and all suits, demands, costs or actions proximately resulting from its own individual acts or omissions.

Section 7.19. Approvals. This Agreement, including all exhibits attached hereto, is expressly contingent upon the approval by the City Council and the Board.

Section 7.20. No Waiver of Immunities. Except as otherwise expressly stated herein, the City does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under state or federal law. The City does, however, acknowledge this Agreement is a contract for goods and services enforceable under Texas Local Government Code Chapter 271, Subchapter I. In addition, the City acknowledges the Project is the plan for development of the Property and enforceable under Texas Local Government Code Chapter 245. Nothing in this Agreement is intended to delegate or impair the performance by the City of its governmental functions, and the City waives any claim or defense that any provision of this Agreement is unenforceable on the grounds that it constitutes an impermissible delegation or impairment of the City's performance of its governmental functions.

Section 7.21. Employment of Undocumented Workers. During the term of this Agreement, the Developer agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a(f), the Developer shall repay the incentives granted herein within 120 days after the date the Developer is notified by the City of such violation, plus interest at the rate of six percent (6%) compounded annually from the date of violation until paid. Pursuant to Section 2264.101(c), Texas Government Code, a business is not liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

Section 7.22. No Boycott of Israel. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2271.002, Texas Government Code, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to enable compliance with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, ‘boycott Israel,’ a term defined in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Section 7.23. Iran, Sudan and Foreign Terrorist Organizations. The Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely enable the City to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

Section 7.24. No Discrimination Against Fossil Fuel Companies. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification, “boycott energy companies,” a term defined in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above.

Section 7.25. No Discrimination Against Firearm Entities and Firearm Trade Associations. To the extent this Agreement constitutes a contract for goods or services for which a written

verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the City to comply with such Section and to the extent such Section does not contravene applicable Federal or Texas law. As used in the foregoing verification and the following definitions:

- (a) 'discriminate against a firearm entity or firearm trade association,' a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association;
- (b) 'firearm entity,' a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code, as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting); and
- (c) 'firearm trade association,' a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which

inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

Section 7.26. Form 1295. Submitted herewith is a completed Form 1295 generated by the Texas Ethics Commission's (the "TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the "Form 1295"). The City hereby confirms receipt of the Form 1295 from the Developer, and the City agrees to acknowledge such form with the TEC through its electronic filing application not later than the 30th day after the receipt of such form. The Parties understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by the Developer; and, neither the City nor its consultants have verified such information.

[SIGNATURE PAGES FOLLOW]

EXECUTED this _____ day of _____, 2022.

CITY OF CEDAR PARK, TEXAS

By: _____
James Penniman-Morin, Mayor

ATTEST:

LeAnn M. Quinn, TRMC, City Secretary

APPROVED AS TO FORM:

City Attorney

**CITY OF CEDAR PARK TAX INCREMENT
REINVESTMENT TIRZ NUMBER 3**

By: _____
_____, Board Chairman

DEVELOPER
CPM DEVELOPMENT, LLC,
a Texas limited liability company

By: _____

Name: _____

Title: _____

Date: _____

STATE OF TEXAS

§

§

COUNTY OF _____

§

This instrument was acknowledged before me on this ____ day of _____
_____, by _____, _____ of CPM DEVELOPMENT, LLC, a Texas limited
liability company, on behalf of said limited liability company.

Notary Public, State of Texas

[SEAL]

EXHIBIT A
FORM OF RIGHT OF FIRST REFUSAL AGREEMENT

THIS RIGHT OF FIRST REFUSAL AGREEMENT (the "**Agreement**") is made this ____ day of _____, ____ by and between the **CITY OF CEDAR PARK, TEXAS**, a home rule city and municipal corporation (hereinafter "**Seller**") and **CPM DEVELOPMENT, LLC**, a Texas limited liability company (hereinafter "**Purchaser**").

WHEREAS, Seller is the owner of that certain property more fully described on Exhibit A hereto (the "**Property**"), such Property to include all improvements, buildings, furniture, fixtures, equipment, intangible property, and all other items located thereon or associated therewith;

WHEREAS, pursuant to and in consideration of that certain Master Development Agreement approved by the City on December 9, 2021 and amended on April 27, 2023, by and between Seller and Purchaser (the "**Master Development Agreement**"), Seller has agreed to grant to Purchaser a right of first refusal to purchase the Property subject to the terms as more fully set forth in this Agreement.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION the receipt and sufficiency being acknowledged, it is agreed:

1. Seller hereby grants Purchaser a right of first refusal on the Property in accordance with the terms below (the "**Right of First Refusal**").

2. If at any time following the date of this Agreement that is also during a period that the Facility as defined in the Master Development Agreement remains operational, Seller receives either (i) a bona fide written offer by a willing third party to purchase all or part of the Property which Seller intends to accept, (ii) a purchase agreement for all or a portion of the Property which Seller intends to enter into, or (iii) Seller elects to seek a purchaser for all or a portion of the Property (collectively, an "**Election to Sell**"), Seller shall give written notice (the "**Election Notice**") to Purchaser at the address provided below within ten (10) business days (and at least sixty (60) days prior to any proposed sale) of any such Election to Sell.

3. Within thirty (30) days after Seller provides Purchaser with Election Notice, Purchaser shall have the right to notify Seller that it is exercising its Right of First Refusal by providing written notice to Seller (the "**ROFR Notice**") at the address provided below of Purchaser's election to purchase the Property. Upon Purchaser's election to exercise its Right of First Refusal, Purchaser shall agree to purchase the entire Property pursuant to a purchase agreement which incorporates the terms and conditions set forth herein and in Section 2.3 of the Master Development Agreement. Notwithstanding the terms of any Election to Sell, however, the purchase price of the entire Property shall be the fair market value (e.g.—such value taking into account all relevant factors, including, without limitation, the following matters: any and all leases, easements, restrictions, and other agreements or matters applicable to or to which the Property) as set forth in that certain appraisal dated December 1, 2021. Closing of the sale to Purchaser shall occur on the date that is sixty (60) days following Seller's receipt of the ROFR

Notice. If Purchaser exercises the Right of First Refusal, Seller shall convey the Property together with all improvements and fixtures located thereon, if any and all right, title and interest of Seller, if any, in and to the rights, privileges, hereditaments, and appurtenances pertaining to the Property, to Purchaser by special warranty deed free and clear of all liens created by or allowed by Seller. Seller agrees to credit towards the purchase price the ROFR Grant authorized by Section 2.3 of the Master Development Agreement. Seller agrees to execute any additional documentation reasonably necessary to accomplish the purposes set forth herein. Taxes shall be prorated for the year of conveyance as of the date of the closing of the purchase. Purchaser shall be responsible for all closing costs, including, but not limited to, the cost of a title policy insuring fee simple ownership of the Property in Purchaser. For purposes of this Agreement, the term "**Fair Market Value**" shall mean the value on an open market as of the Determination Date for real property and improvements commensurate with the Property. The determination of the Fair Market Value shall take into account all relevant factors, including, without limitation, the following matters: any and all leases, easements, restrictions, and other agreements or matters applicable to or to which the Property is subject.

4. Seller may not sell or transfer the Property without providing Purchaser the notice and opportunity to exercise its Right of First Refusal, subject to the terms included herein.

5. If Purchaser does not provide ROFR Notice to Seller within thirty (30) days after Seller provides Purchaser with Election Notice, Purchaser will be deemed to have waived its Right of First Refusal as set out herein and this Agreement will automatically terminate and be of no further force or effect.

6. Time is of the essence of this Agreement.

7. Miscellaneous.

(a) Any notices or other communications required or desired to be given to the other Parties hereto shall be given in writing and delivered by a reputable independent courier service providing proof of delivery, a reputable overnight courier, or if mailed certified first class mail to the following addresses:

Purchaser: CPM Development, LLC
700 S. 72nd Street
Omaha, Nebraska 68114
Attn: Ryan Blumkin

With required copies to:

CPM Development, LLC
c/o Nebraska Furniture Mart, Inc.
700 S. 72nd Street
Omaha, Nebraska 68114
Attn: General Counsel
Kuckelman Torline Kirkland
10740 Nall Ave., Ste. 250
Overland Park, Kansas 66211
Attn: James Kirkland

Seller: City of Cedar Park
450 Cypress Creek Road, Building One
Cedar Park, TX 78613
Attn: City Manager

With required copies to:

City of Cedar Park
Legal
450 Cypress Creek Rd., Building 1
Cedar Park, TX 78613
Attn: City Attorney

Jackson Walker L.L.P.
2323 Ross Avenue, Suite 2000
Dallas, Texas 75201
Attn: William Dahlstrom

Either Party may designate a different address at any time upon written notice to the other Party.

(b) Assignment. Purchase may assign this Agreement, in whole or in part, to an Affiliate (as defined in the Master Development Agreement) without City consent. In the event of any assignment, Purchaser shall provide notice to the City of the assignment within ten (10) business days thereof.

(c) Amendments. This Agreement may not be amended or terminated without the written consent of the Parties hereto.

(d) Time of the Essence. Time is of the essence in the performance of this Agreement.

(e) Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective heirs, legal representatives, successors and permitted assigns. The execution of this Agreement has been duly authorized by Purchaser, and the person signing this Agreement is duly authorized and lawfully empowered to execute such Agreement and bind Purchaser, said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of Purchaser's certificate of formation or company agreement, or of any agreement or instrument to which Purchaser is a party or by which it may be bound. The execution of this Agreement has been duly authorized by Seller, and the person signing this Agreement is duly authorized and lawfully empowered to execute such Agreement and bind Seller, said authorization, signing and binding effect is not in contravention of any law, rule or regulation, or of the provisions of Seller's home rule charter or of any agreement or instrument to which Seller is a party or by which it may be bound.

(f) Captions. All captions and headings of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

(g) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

(h) Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor has there been any estoppel to enforce any provision of this Agreement, except by written instrument of the Party charged with such waiver or estoppel.

(i) Governing Law and Venue. This Agreement shall be interpreted and the rights of the Parties hereto determined in accordance with the laws of the State of Texas without regard to the conflicts of laws principles thereto, and venue shall be in the District Court in Williamson County, Texas.

(i) Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable: (1) such provision shall be deleted and rewritten to the extent necessary for such provision to be legal, valid and enforceable and as similar in terms as possible to the original provision in order to give effect to the intent of the Parties, and (2) the validity, legality and enforceability of the remaining provisions this Agreement shall not in any way be affected or impaired thereby.

(j) Interpretation. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any Party shall not apply. In the event of a dispute or disagreement arising under this Agreement, this Agreement shall be interpreted in accordance with its fair meaning and shall not be interpreted for or against any party on the ground that such party drafted or caused to be drafted this Agreement. To the extent there is a conflict between the terms of this Agreement and the Master Development Agreement, the terms of the Master Development Agreement shall control.

(k) Recording Notice. Purchaser shall have the right to record this Agreement or a notice of this Agreement, at its costs, and Seller agrees to execute such notice, in recordable form, upon request.

(Remainder of page left blank intentionally. Execution pages follow.)

IN WITNESS WHEREOF, this Agreement has been made the date and year written above.

SELLER:

CITY OF CEDAR PARK, TEXAS,
a home rule city and municipal corporation

By: _____
Name: _____
Title: _____
Date: _____

PURCHASER:

CPM DEVELOPMENT, LLC,
a Texas limited liability company

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

{00655529}

Exhibit E - 22

EXHIBIT B
CERTIFICATION OF CAPITAL INVESTMENTS CERTIFICATE

The undersigned is an agent for CPM Development, LLC, a Texas limited liability company or its Affiliate (the "Developer") submits this Certification of Capital Investments Certificate in the amount of _____ **DOLLARS AND** ___/___ (\$____.____) for labor, materials, fees, and/or other hard and soft costs related to the creation, acquisition, or construction of certain capital improvements (the "Capital Improvements") related to the Project as required by Section 8.6(c)(3) of that certain Master Development Agreement between the City of Cedar Park, Texas (the "City") and the Developer, effective as of December 9, 2021 and amended on April 27, 2023 (the "Master Development Agreement"). Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Master Development 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 Certification of Capital Improvements Certificate on behalf of the Developer and is knowledgeable as to the matters set forth herein.
2. The amounts listed for the Capital Improvements below are true and accurate representations of the actual costs associated with the creation, acquisition, or construction of said Capital Improvements, and such costs are in compliance with the Master Development Agreement.
3. The Developer is in material compliance with the terms and provisions of the Master Development Agreement.
4. The work with respect to the Capital Improvements referenced below (or its completed segment) has been completed, and the City has inspected such Capital Improvements (or its completed segment).
5. The Developer agrees to cooperate with the City in conducting its review of this Certification of Capital Investments Certificate, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

Description of Capital Improvement:	Cost:

Attached hereto are receipts, purchase orders, change orders, and similar instruments which support and validate the costs shown above. Also attached hereto are "**bills paid**" **affidavits and supporting documentation** in the standard form for City construction projects.

Pursuant to the Master Development Agreement, after receiving this Certification of Capital Improvements Certificate, the City has inspected the Capital 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.

[Remainder of page left blank intentionally. Execution pages follow.]

I hereby submit this Certification of Capital Improvements Certificate on _____,
20____, and declare that the above representations and warranties are true and correct.

CPM DEVELOPMENT, LLC
a Texas limited liability company

By: _____

Name: _____

Title: _____

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Certification of Capital Improvements Certificate, acknowledges the Certification of Capital Improvements Certificate, acknowledges that the Capital Improvements (or its completed segment) covered by the certificate have been inspected by the City, and otherwise finds the Certification of Capital Improvements Certificate to be in order. After reviewing the Certification of Capital Improvements Certificate, the City approves the Certification of Capital Improvements Certificate for purposes of assessing Developer's satisfaction of Developer's performance obligations and calculating the amount of any reduction under Section 8.6(c)(3) of the Master Development Agreement.

CITY OF CEDAR PARK, TEXAS

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT C
CERTIFICATION OF COSTS CERTIFICATE

The undersigned is an agent for CPM Development, LLC, a Texas limited liability company or its Affiliate (the "Developer") submits this Certification of Costs Certificate and requests payment from the applicable account of the [TIF Fund] in the amount of _____ DOLLARS AND ___/___ (\$____.____) for labor, materials, fees, and/or other hard and soft costs related to the creation, acquisition, or construction of certain Public Infrastructure related to the Project as defined and described in that certain Master Development Agreement between the City of Cedar Park, Texas (the "City") and the Developer, effective as of December 9, 2021 and amended on April 27, 2023 (the "Master Development Agreement"). Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the Master Development 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 Certification of Costs Certificate on behalf of the Developer and is knowledgeable as to the matters set forth herein.
2. The payment requested for the below referenced Public Infrastructure 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 amounts listed for the Public Infrastructure below are true and accurate representations of the actual costs associated with the creation, acquisition, or construction of said Public Infrastructure, and such costs are in compliance with the Master Development Agreement.
4. The Developer is in material compliance with the terms and provisions of the Master Development Agreement.
5. The work with respect to the Public Infrastructure referenced below (or its completed segment) has been completed, and the City has inspected such Public Infrastructure (or its completed segment).
6. The Developer agrees to cooperate with the City in conducting its review of this Certification of Costs Certificate, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.
7. No more than ninety-five percent (95%) of the budgeted or contracted hard costs for major improvements or any phase of Authorized Improvements identified may be paid until the work with respect to such Authorized Improvements (or segment) has been completed and the City has accepted such Authorized Improvements (or segment). 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 Authorized Improvements (or segment).

Description of Public Infrastructure:	Costs to be Reimbursed:

Payee Information:
CPM Development, LLC
[INSERT WIRE INFORMATION]

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.

Pursuant to the Master Development Agreement, after receiving this Certification of Costs Certificate, the City has inspected the Public Infrastructure (or completed segment) and confirmed that said work has been completed in accordance with approved plans and all applicable governmental laws, rules, and regulations.

[Remainder of page left blank intentionally. Execution pages follow.]

I hereby submit this Certification of Costs Certificate on _____, 20____, and declare that the above representations and warranties are true and correct.

CPM DEVELOPMENT, LLC
a Texas limited liability company

By:_____

Name:_____

Title:_____

APPROVAL OF REQUEST BY CITY

The City is in receipt of the attached Certification of Costs Certificate, acknowledges the Certification of Costs Certificate, acknowledges that the Public Infrastructure (or its completed segment) covered by the certificate have been inspected by the City, and otherwise finds the Certification of Costs Certificate to be in order. After reviewing the Certification of Costs Certificate, the City approves the Certification of Costs Certificate and shall direct payment from the [TIF Fund] to the Developer or to any person designated by the Developer.

CITY OF CEDAR PARK, TEXAS

By: _____

Name: _____

Title: _____

Date: _____