**NOTICE OF MEETING**
**ECONOMIC DEVELOPMENT CORPORATION**
**September 8, 2026**
**10:00 A.M.**
**PEDC Office**
**100 Willow Creek Pkwy, Suite A**
**Palestine, TX**

Zoom Link: https://us06web.zoom.us/j/88526374804?pwd=XBt1B3QgMicnmcltOCasobM4mOqGg6.1

Meeting ID: 885 2637 4804
Passcode: 747598

Note: when you are joining a Zoom meeting by phone, you can use your phone's dial pad to enter the commands *6 for toggling mute/unmute and *9 to "raise your hand." Learn more here.

Follow us live at: facebook.com/PalestineTxEDC/

A. **CALL TO ORDER**

B. **PROPOSED CHANGES OF AGENDA ITEMS**

C. **PUBLIC COMMENTS**
Any citizen wishing to speak during public comments regarding an item on or off the agenda may do so during this section of the agenda. All comments must be no more than five minutes in length. Any comments regarding items, not on the posted agenda may not be discussed or responded to by the board. Members of the public may join via Zoom or in person.

D. **CONFLICT OF INTEREST DISCLOSURES**

E. **ITEMS FROM BOARD**

F. **DIRECTOR'S REPORT**

1. Review Monthly Director's Report.
   a.) Strategic Plan Activity
   b.) Retail Sector Data
   c.) Workforce Data
   d.) Development Services Report
   e.) All Other Economic Development Activities

2. Review Monthly Marketing Analyst Report.
   a.) Monthly Marketing Activities
   b.) Monthly Marketing Analytics
   c.) All Other Marketing Activities

G. **DISCUSSION AND ACTION ITEMS**

1. Consider approval of the PEDC minutes from August 11, 2026.
2. Consider approval of the August 2026 Financial Report.

3. Presentation by Justin Jackson regarding Tahwahkaro Distilling Company, LLC.
4. Presentation by Tyler Schmill regarding Bitcoin Mining Institute, LLC.
5. Discussion and possible action regarding a First Amendment to the Performance Agreement with Three Owls Enterprises, LLC.

H. **CLOSED SESSION**

The Board will go into Closed Session pursuant to Texas Government Code, Chapter 551, Subchapter D.

1. Section 551.087 deliberation regarding Economic Development negotiations
   a.) Bitcoin Mining Institute, LLC.
   b.) Tahwahkaro Distilling Company, LLC.
   c.) Performance Agreement with The Overlook Lifestyle Apt Homes, LLC.

I. **RECONVENE IN OPEN SESSION**

1. Discussion and possible action regarding Bitcoin Mining Institute, LLC.
2. Discussion and possible action regarding Tahwahkaro Distilling Company, LLC.
3. Discussion and possible action regarding a Performance Agreement with The Overlook Lifestyle Apt Homes, LLC.

J. **ADJOURNMENT**

I certify that the above Notice of Meeting was posted at the main entrance of the Palestine Economic Development Corporation located at 100 Willow Creek Parkway, Suite A, Palestine, Texas, in compliance with Chapter 551 of the Texas Government Code on **Tuesday, September 1, 2026.**

M. Temple

Melissa Temple, EDC Admin. Assistant

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA) PERSONS IN NEED OF SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, CONTACT THE CITY SECRETARY'S OFFICE VIA EMAIL AT citysecretary@palestine-tx.org or 903-731-8414.

Agenda Date: 09/08/2026
To: Palestine Economic Development Corporation
From: Melissa Temple, EDC Administrative Assistant
Agenda Item: Review Monthly Director's Report.

**SUMMARY:**

Review Monthly Director's Report.
a.) Strategic Plan Activity
b.) Retail Sector Data
c.) Workforce Data
d.) Development Services Report
e.) All Other Economic Development Activities

**RECOMMENDED ACTION:**

Staff recommends the board review the monthly Director's Report.

THE CITY OF PALESTINE
TEXAS 1846

| | |
|---|---|
| Agenda Date: | 09/08/2026 |
| To: | Palestine Economic Development Corporation |
| From: | Melissa Temple, EDC Administrative Assistant |
| Agenda Item: | Review Monthly Marketing Analyst Report. |

**SUMMARY:**

Review Monthly Marketing Analyst Report.
a.) Monthly Marketing Activities
b.) Monthly Marketing Analytics
c.) All Other Marketing Activities

**RECOMMENDED ACTION:**

Staff recommends the board review the monthly Marketing Analyst Report.

| | |
|---|---|
| Agenda Date: | 09/08/2026 |
| To: | Palestine Economic Development Corporation |
| From: | Melissa Temple, EDC Administrative Assistant |
| Agenda Item: | Approval of the PEDC Minutes from August 11, 2026. |

**SUMMARY:**

Consider approval of the PEDC minutes from August 11, 2026.

**RECOMMENDED ACTION:**

Staff recommends approving PEDC minutes from August 11, 2026.

**Attachments**

Minutes 08.11.26

THE STATE OF TEXAS §
COUNTY OF ANDERSON §
CITY OF PALESTINE §

The Economic Development Board of the City of Palestine convened in a regular called meeting on Tuesday, August 11, 2026, at 10:00 a.m., at PEDC Office, 100 Willow Creek Pkwy, Suite A, Palestine, Texas, with the following people present: Vice President Kim Willmott; Secretary/ Treasurer Charles Drane; Directors: Joseph Thompson, Debbie Wacha, Ernest Williams and Firouz Haghighi.

Staff present: PEDC Director Christophe Trahan, Administrative Assistant Melissa Temple, and Marketing Analyst Mary Ann Admire.

Others Present: City Manager Teresa Herrera, City Finance Director Andrew Sibai, Heather Cook (Via Zoom) and Sam Ivy (Via Zoom).

**A. CALL TO ORDER**
With a quorum present, Vice President Kim Willmott called the meeting to order at 10:00 a.m.

-City Finance Director Andrew Sibai entered meeting at 10:01 a.m.

**B. PROPOSED CHANGES OF AGENDA ITEMS**
There were none.

**C. PUBLIC COMMENTS**
There were none.

**D. CONFLICT OF INTEREST DISCLOSURES**
There were none.

**E. ITEMS FROM BOARD**
There were none.

**F. DIRECTOR'S REPORT**

1. Review Monthly Director's Report.
   a.) Strategic Plan Activity
   b.) Retail Sector Plan Data
   c.) Workforce Data
   d.) Development Services Report
   e.) All Other Economic Development Activities

2. Review Monthly Marketing Analyst Report.
   a.) Monthly Marketing Activities
   b.) Monthly Marketing Analytics
   c.) All Other Marketing Activities

**G. DISCUSSION AND ACTION ITEMS**

1. Consider approval of the PEDC minutes from July 14, 2026.

Motion by Director Joseph Thompson, seconded by Director Ernest Williams to approve item as presented. Upon vote, motion carried unanimously 6-0.

2. Consider approval of the July 2026 Financial Report.

Motion by Director Debbie Wacha, seconded by Director Joseph Thompson to approve item as presented. Upon vote, motion carried unanimously 6-0.

3. Presentation by Brannon Corporation regarding findings of the Master Plan for the Willow Creek Business Park.

Sam Ivy from C.T. Brannon Corporation presented the findings of the Master Drainage Plan to the board.

4. Presentation by Inner Loop Construction regarding an update on the Palestine Mall.

EDC Director Christophe Trahan informed the board that Austin Torrence from Inner Loop was unable to attend the meeting.

5. Discussion and possible action regarding a Downtown Grant Performance Agreement with Edward McCoy, Jr.

Motion by Director Joseph Thompson, seconded by Secretary/ Treasurer Charles Drane to approve final payment to Edward McCoy, Jr. for work completed under their Downtown Grant Performance Agreement. Upon vote, motion carried unanimously 6-0.

6. Consideration of and possible action on Resolution No. R-01-26, a resolution of the PEDC declaring projects of the PEDC offering economic development grants to incentivize downtown and community development and authorizing and directing staff to publish notice of the same.

Motion by Director Joseph Thompson, seconded by Director Debbie Wacha to approve item as presented. Upon vote, motion carried unanimously 6-0.

7. Discussion and possible action establishing a Project Architect Evaluation Sub-Committee for the PEDC's capital project at 217/219 W Main St.

Motion made by Director Debbie Wacha, seconded by Director Ernest Williams to established a sub-committee consisting of PEDC Board President Dan Bochsler, Vice President Kim Willmott, Director Joseph Thompson, PEDC Marketing Analyst Mary Ann Admire and Economic Development Director Christophe Trahan. Upon vote, motion carried unanimously 6-0.

8. Discussion and possible action regarding a Consultant Service Agreement between PEDC and TG Mullins Consulting, LLC.

Motion made by Director Joseph Thompson, seconded by Secretary/ Treasurer Charles Drane to approve a Consultant Service Agreement between PEDC and TG Mullins. Upon vote, motion carried unanimously 6-0.

**H. CLOSED SESSION**

Vice President Kim Willmott announced that the board would go into closed session pursuant to Texas Government Code, Chapter 551, Subchapter D. The time was 10:51 a.m.

1. Section 551.071 Consultation with attorney
a.) Pending or contemplated litigation
b.) Legal matters that are not related to litigation

2. Section 551.087 deliberation regarding Economic Development negotiations
a.) TSRA

**I. RECONVENE IN OPEN SESSION**

Vice President Kim Willmott announced the board would reconvene into Open Session. The time was 11:42 p.m.

**J. TAKE ANY NECESSARY ACTIONS REGARDING CLOSED SESSION ITEMS**

1. Discussion and possible action regarding pending or contemplated litigation.

No action taken.

2. Discussion and possible action regarding legal matters that are not related to litigation.

No action taken.

3. Discussion and possible action regarding TSRA.

No action taken.

**K. ADJOURNMENT**

With no other business to put before the Board, Vice President Kim Willmott adjourned the meeting at 11:43 p.m.

PASSED AND APPROVED THIS 8th DAY OF September 2026.

______________________________

Dan Bochsler, President

ATTEST:

___________________________________
Melissa Temple, Administrative Assistant

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|---|---|
| Agenda Date: | 09/08/2026 |
| To: | Palestine Economic Development Corporation |
| From: | Melissa Temple, EDC Administrative Assistant |
| Agenda Item: | August 2026 Financial Report. |

**SUMMARY:**

Consider approval of the August 2026 Financial Report.

**RECOMMENDED ACTION:**

Staff recommends approving the August 2026 Financial Report.

Agenda Date: 09/08/2026
To: Palestine Economic Development Corporation
From: Melissa Temple, EDC Administrative Assistant
Agenda Item: Presentation by Justin Jackson regarding Tahwahkaro Distilling Company, LLC.

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**SUMMARY:**

Presentation by Justin Jackson regarding Tahwahkaro Distilling Company, LLC.

**RECOMMENDED ACTION:**

No action required.

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THE CITY OF
PALESTINE
TEXAS 1846

Agenda Date: 09/08/2026
To: Palestine Economic Development Corporation
From: Melissa Temple, EDC Administrative Assistant
Agenda Item: Presentation by Tyler Schmill regarding Bitcoin Mining Institute, LLC.

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**SUMMARY:**
Presentation by Tyler Schmill regarding Bitcoin Mining Institute, LLC.

**RECOMMENDED ACTION:**
No action required.

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| | |
|---|---|
| Agenda Date: | 09/08/2026 |
| To: | Palestine Economic Development Corporation |
| From: | Melissa Temple, EDC Administrative Assistant |
| Agenda Item: | Discussion and possible action regarding a First Amendment to the Performance Agreement with Three Owls Enterprises, LLC. |

**SUMMARY:**

Discussion and possible action regarding a First Amendment to the Performance Agreement with Three Owls Enterprises, LLC.

**RECOMMENDED ACTION:**

Staff recommends the board approve the First Amendment to the Performance Agreement with Three Owls Enterprises, LLC.

**Attachments**

Three Owls Enterprises, LLC. Performance Agreement

First Amendment to Performance Agreement with Three Owls Enterprises, LLC.

**DOWNTOWN GRANT PERFORMANCE AGREEMENT**

This Downtown Grant Performance Agreement ("GRANT AGREEMENT") is executed by and between the Palestine Economic Development Corporation, a Texas Section 4B Economic Development Corporation ("PEDC"), whose address is 100 Willow Creek Pkwy. Suite A, Palestine, Texas 75801, and Three Owls Enterprises LLC, ("APPLICANT"), a Texas limited liability company whose current address is 4008 Louetta Rd #267, Spring, Texas 77388.

**RECITALS**

**WHEREAS**, the PEDC is an Economic Development Corporation, organized under the Texas Development Corporation Act of 1979, Article 5190.6, Section 4B of Vernon's Texas Civil Statutes, now Section 501 et seq. of the Texas Local Government Code (the Act), and authorized by the City of Palestine, Texas (City);

**WHEREAS**, the PEDC has adopted, and the City approved, a Downtown Grant Program ("GRANT PROGRAM");

**WHEREAS,** the APPLICANT submitted its Application dated October 20, 2025 for a Downtown Grant ("APPLICATION"); and

**WHEREAS**, the APPLICANT plans to make real property capital investments of **Fifty-Seven Thousand Six Hundred Sixty-Six Dollars and Ninety-Six Cents (\$57,666.96)** for the purpose of electrical upgrades, HVAC installation, and spray foam insulation at the vacant property located at 917 W. Debard St, Palestine, TX 75801 ("PROJECT"). PEDC has found that the proposed improvements of APPLICANT'S property will encourage economic development in the City and will add to the ad valorem tax rolls of the City and other local taxing entities, and the PEDC and City have approved a cash performance grant to APPLICANT that matches funds expended by APPLICANT not to exceed a grant of **Twenty-Eight Thousand Eight Hundred Thirty-Three Dollars and Forty-Eight Cents (\$28,833.48) ("GRANT").**

**NOW, THEREFORE**, in consideration of mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. APPLICANT'S OBLIGATIONS**

1.1. The GRANT PROGRAM, APPLICATION, and APPLICATION GRANT APPROVAL are incorporated herein by reference as if specifically set forth herein.

1.2. APPLICANT accepts such grant subject to PEDC and City approval.

1.3. APPLICANT recognizes that, pursuant to the terms and provisions of Texas law, this GRANT AGREEMENT will not be valid and binding on PEDC until it is approved by the City Council of the City of Palestine, Texas.

1.4. APPLICANT will secure completion of the improvements in compliance within its APPLICATION, the GRANT APPLICATION APPROVAL, and the GRANT PROGRAM before September 15, 2026.

1.5. APPLICANT will obtain all permits required by the CITY or otherwise required by other government authorities for the improvement project.

1.6. PEDC, by its designated representative, shall have the right to inspect during the construction of the improvements and, following APPLICANT'S notice of completion, to evaluate APPLICANT'S compliance with the APPLICATION, the GRANT APPLICATION APPROVAL, and the GRANT PROGRAM.

## 2. FUNDING

2.1. APPLICANT shall provide PEDC with written notification of project completion by certified mail, return receipt requested, stating that all improvements have been completed in accordance with the APPLICATION and GRANT APPLICATION APPROVAL and GRANT PROGRAM, and that full payments have been made for all labor and materials with attached payment receipts for materials and labor, required permits, inspection reports, and project photographs.

2.2. Upon PEDC'S receipt of APPLICANT'S notification of completion, an on-site inspection may be made by a representative or representatives of PEDC. Such inspection shall not be considered in any way as a reflection of PEDC'S approval on the quality, safety, or reliability of the improvements, such being the sole responsibility of APPLICANT.

2.3. Following on-site inspection, PEDC will review the findings and may request additional information if needed and then either notify the APPLICANT of compliance or identify items of non-compliance. APPLICANT shall correct the items of non-compliance within thirty (30) days of notice thereof or this GRANT AGREEMENT shall be immediately cancelled and the APPLICANT shall immediately refund of all grant monies received to date, if any.

2.4. Upon the PEDC board of directors making a finding of completion of the project, as per the terms of the APPLICATION, the GRANT APPLICATION APPROVAL and the GRANT AGREEMENT, payment of the total grant award will be made.

## 3. REPRESENTATION AND WARRANTIES

APPLICANT represents and warrants to PEDC that:

3.1. APPLICANT has the power and authority, corporate or otherwise, to conduct its business and to perform all of its obligations under this GRANT AGREEMENT.

3.2. APPLICANT'S execution, delivery, and performance of this GRANT AGREEMENT has been duly authorized by all necessary action, corporate or otherwise, and does not and will not violate any provision of any existing law, rule, regulation, contract, or lien by which APPLICANT or its property or assets is bound or affected.

3.3. To the best of APPLICANT'S knowledge neither it, nor any division, branch, subsidiary, or related agency of the APPLICANT, is a party to any administrative or legal proceeding that is active or threatened against the APPLICANT or APPLICANT'S officers which may result in any material adverse change in APPLICANT'S business operations or assets which may be the subject of this GRANT AGREEMENT.

3.4. APPLICANT represents and warrants that they are not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Government Code.

3.5. Information, documentation, and other material in connection with the GRANT AGREEMENT may be subject to public disclosure pursuant to Chapter 552 of the Government Code **(the "Public Information Act")**. To the extent, if any, that any provision of the Agreement is in conflict with the Public Information Act, such provision shall be void and have no force or effect.

In accordance with Section 2252.907 of the Government Code, APPLICANT is required to make any information created or exchanged with the PEDC pursuant to the GRANT AGREEMENT, regardless of contrary provisions contained herein, and not otherwise excepted from disclosure under the Public Information Act, available in a format that is accessible by the public at no additional charge to the PEDC.

3.6. ***No Indemnification by the PEDC.*** APPLICANT and the PEDC expressly acknowledge that the PEDC'S authority to indemnify and hold harmless any third party is governed by Article XI, Section 7, of the Texas Constitution and any provision that purports to require indemnification by the PEDC is invalid. Nothing in this GRANT AGREEMENT requires that the PEDC incur debt, assess or collect funds, or create a sinking fund.

3.7. APPLICANT is aware of the limitations imposed on this GRANT and the use of funds by law and acknowledges that the funds herein granted shall be utilized solely for purposes authorized under law and by the terms of this GRANT AGREEMENT. In the event that an audit determines that the financial incentives granted under this GRANT AGREEMENT were not used for proper purposes, APPLICANT agrees to reimburse PEDC for the sums of money spent for purposes not authorized by law or this GRANT AGREEMENT, with interest at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the City) as its prime or base commercial lending rate. The payment of interest shall be from the date that the money was spent for purposes not authorized by law or this GRANT AGREEMENT.

3.8. APPLICANT does not and will not knowingly employ an undocumented worker, as that term is defined by Tex. Gov't. Code Sec. 2264.001, directly or indirectly through a contractor or subcontractor. If, after receiving the funds herein granted, APPLICANT is convicted of a violation under 8 U.S.C. § 1324a(t), APPLICANT shall repay the amount of the grant paid by PEDC to APPLICANT with interest at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the City) as its prime or base commercial lending rate. The payment of interest shall be, no later than 120 days after the date that APPLICANT receives notification of such a violation.

3.9. APPLICANT shall fully comply with all local, state and federal laws applicable or otherwise implicated by APPLICANT'S receipt of funds under this GRANT PROGRAM, which includes but is not limited to APPLICANT'S compliance with Title VII, Civil Rights Act of 1964, as amended, the Texas Labor Code, the Drug Free Workplace Act of 1988, and the Americans with Disabilities Act, as well as APPLICANT'S refraining from discrimination of persons based on race, color, religion, sex (including pregnancy, childbirth, and related medical conditions; sexual orientation), national origin, disability, age, citizenship status, genetic information, political affiliation or participation in civil rights activities. Furthermore, while the City of Palestine fully supports the exercise of freedom of speech, the City of Palestine will not financially support or fund projects that incorporate or promote ideas of hate or which are intended to vilify, humiliate, or incite hatred against a group or a class of persons on the basis of race, religion, skin color, sexual identity, gender identity, ethnicity, disability or national origin.

3.10. APPLICANT will use all commercially reasonable efforts to continue operations in Palestine, Anderson County, Texas.

3.11. APPLICANT shall timely pay all ad valorem taxes due and owed by it to the CITY and all other taxing authorities having jurisdiction over the APPLICANT'S property. APPLICANT shall also timely pay any and all water and sewer bills owed to the CITY. In addition, APPLICANT shall timely pay all employment, income, franchise, and other taxes owed by it to all local, state, and federal government entities.

3.12. APPLICANT shall properly notify the Anderson County Appraisal District of all capital improvements, personal property, and equipment and shall list the City of Palestine as the taxable situs of all capital improvements, personal property, and equipment located on the property.

3.13. If APPLICANT'S operations, past or present, cause the CITY or PEDC to be fined by any governmental entity, this AGREEMENT shall terminate immediately and the PEDC will have no further obligations under this GRANT AGREEMENT and APPLICANT shall immediately repay the CITY or PEDC for such fines, penalties, and expenses within thirty (30) days.

3.14. If the business property, that being 917 W. Debard St., Palestine, Texas 75801, is sold, conveyed, or utilized for a purpose not originally intended by the GRANT APPLICATION within two years of grant funding being awarded to APPLICANT, APPLICANT shall be required to reimburse the PEDC immediately for the full amount of the grant.

## 4. REMEDIES

4.1. Upon default, the non-defaulting party shall have the right to seek any remedy available in law or equity including, termination of this GRANT AGREEMENT, recovery of GRANT funds, and pre-judgment and post-judgment interest at the rate provided by law or as otherwise provided by this GRANT AGREEMENT (whichever is greater).

4.2 **Attorney's Fees.** Except as otherwise expressly provided herein, each party shall bear its own costs and attorney's fees in connection with this Agreement, including any dispute relating thereto.

## 5. MISCELLANEOUS PROVISIONS

5.1. All representations, warranties, covenants, and agreements, as well as rights and benefits for the parties to this GRANT AGREEMENT shall survive the payment of grant funds to APPLICANT.

5.2. This GRANT AGREEMENT may not be assigned by APPLICANT without the prior written consent of PEDC. No such assignment shall relieve APPLICANT of any of its obligations under this GRANT AGREEMENT.

5.3. The GRANT AGREEMENT may not be amended, modified, altered, or changed unless in writing, signed by both parties to this GRANT AGREEMENT and approved by the City of Palestine.

5.4. **APPLICANT SHALL INDEMNIFY AND HOLD THE PEDC, ITS EMPLOYEES, AND ITS AGENTS HARMLESS FOR ANY DAMAGES, BOTH PERSONAL AND PROPERTY, WHICH MAY RESULT DIRECTLY OR INDIRECTLY FROM ANY INCIDENT ASSOCIATED WITH PROJECT BOTH DURING AND AFTER CONSTRUCTION, AND THAT PEDC, ITS EMPLOYEES, AND ITS AGENTS SHALL NOT BE LIABLE FOR ANY DEBTS INCURRED IN ASSOCIATION WITH THE EXECUTION AND COMPLETION OF THE SUBJECT PROJECT OF THIS APPLICATION.**

**PEDC, ITS EMPLOYEES, AND ITS AGENTS, DO NOT ATTEST TO THE QUALITY, SAFETY, OR CONSTRUCTION OF A PROJECT ELIGIBLE FOR, OR RECEIVING GRANT FUNDING. THEREFORE, PEDC, ITS EMPLOYEES AND AGENTS SHALL BE HELD HARMLESS BY THE APPLICANT FOR ANY PROJECT WHOSE APPLICATION HAS BEEN APPROVED OR HAS RECEIVED ACTUAL GRANT FUNDING.**

5.5. **Severability.** In the event of any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporations, or circumstance, shall be held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity, or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the application, validity, or constitutionality of the remaining parts of this Agreement shall not be affected thereby.

5.6. This GRANT AGREEMENT shall be binding upon an inure to the benefit of the parties and their respective heirs, administrators, and assigns.

5.7. No failure or delay on the part of the PEDC in exercising any right, power, or exercise hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. No notice to or demand on APPLICANT in any case shall entitle APPLICANT to any other or further notice or demand in similar or other circumstances.

5.8. All notices, consents, requests, demands, and other communication hereunder shall be in writing and shall be deemed to have been duly given to the party hereto if mailed by certified mail, prepaid, to the APPLICANT'S address shown above as first written.

5.9. Time is of the essence of this agreement.

5.10. Neither party will be liable for delays or failure in its performance hereunder to the extent that such delay or failure is caused by acts of God, war, terrorism, or threats of terrorism, natural disaster, strike, lockout, labor dispute, work stoppage, fire, third-party criminal act, quarantine restriction, epidemic, pandemic, act of government, or other events outside of the reasonable control of a party (a "Force Majeure Event"); provided that the delayed party took reasonable precaution to prevent the impact of the Force Majeure Event.

5.11. This GRANT AGREEMENT shall be deemed a contract made under the laws of the State of Texas and for all purposes shall be construed in accordance with the Laws of said State. The venue shall be in Anderson County, Texas.

5.12. The providing of this GRANT AGREEMENT by PEDC to APPLICANT by any means of delivery constitutes an offer by PEDC to APPLICANT to accept this GRANT AGREEMENT on the terms and conditions contained therein, subject to approval by the City of Palestine City Council. If APPLICANT has not accepted the offer by ninety (90) days from the date approved by the City Council of the City of Palestine, Texas, the offer will lapse, and the offer and this GRANT AGREEMENT shall become null and void.

6. TERM

6.1. This GRANT AGREEMENT shall be effective on the date of the last signature below. The GRANT AGREEMENT shall terminate one year from the date that the PEDC board of directors makes a finding of completion of the project pursuant to Section 2.5 of this GRANT AGREEMENT or earlier as otherwise terminated according to the provisions of this GRANT AGREEMENT.

**AGREED** and **SIGNED** to be effective as of the Effective Date.

**For the Applicant(s):**
Three Owls Enterprises LLC

By Babette Moreno Date 12-16-25
**Babette Moreno, Registered Agent**

**For the PEDC:**
Palestine Economic Development Corporation

By Dan Bochsler Date 12-9-2025
**Dan Bochsler, Board President**

**APPROVED:**
City of Palestine, Texas

By Mitchell Jordan Date 12-8-2025
**Mitchell Jordan, Mayor**

# FIRST AMENDMENT TO DOWNTOWN GRANT PERFORMANCE AGREEMENT

**THIS FIRST AMENDMENT TO DOWNTOWN GRANT PERFORMANCE AGREEMENT** ("First Amendment") is made effective the 21st day of September 2026, ("Effective Date") by and among Palestine Economic Development Corporation, a Texas non-profit Type B economic development corporation ("PEDC"), and Three Owls Enterprises LLC ("Applicant"). The PEDC, and Applicant may be referred to herein as the "Parties" and, each separately, as a "Party."

## RECITALS

A. The Parties entered into that certain Downtown Grant Performance Incentive Agreement executed by PEDC on December 9, 2025 ("Performance Agreement"), which is incorporated herein by reference.

B. Unless otherwise defined herein, all capitalized terms used in this First Amendment shall have the same meanings as defined in the Performance Agreement.

C. Applicant has requested a forty-seven (47) day extension to the requirement in the Performance Agreement that they will secure completion of all the improvements, including electrical upgrades, HVAC installation, and spray foam insulation at the vacant property located at 917 W. Debard St., Palestine, TX 75801, before September 15, 2026.

D. Applicant understands that payment of the remaining 50% of his total grant award will not be made until a finding of completion of all improvements is made by the PEDC board of directors.

E. The Parties wish to modify the Performance Agreement to extend the deadline to ensure the successful completion of the obligations and requirements under the Performance Agreement.

F. The ultimate purposes and goals of the Performance Agreement for encouraging economic development shall still be met; therefore, the extension of deadlines is warranted to accomplish those purposes and goals.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The above-stated recitals are true and correct and are incorporated herein by reference and made a part hereof.

2. Section 1.4 of the Performance Agreement is amended as follows:

APPLICANT shall secure completion of the improvements in compliance with its APPLICATION, the GRANT APPLICATION APPROVAL, and the GRANT PROGRAM before November 1, 2026.

**IN WITNESS WHEREOF**, the Parties hereto have caused this First Amendment to be executed as of the Effective Date.

**Palestine Economic Development Corporation**
(a Texas non-profit Type B economic development corporation)

By: ______________________________________
Name: Dan Bochsler
Its: President

**Three Owls Enterprises LLC**

By: ______________________________________
Name: Babette Moreno
Its: Registered Agent

**City of Palestine**

By: ______________________________________
Name: Mitchell Jordan
Its: Mayor

**This is the signature page to that certain First Amendment to Performance Agreement effective September 21, 2026.**

| | |
|---|---|
| Agenda Date: | 09/08/2026 |
| To: | Palestine Economic Development Corporation |
| From: | Melissa Temple, EDC Administrative Assistant |
| Agenda Item: | Discussion and possible action regarding a Performance Agreement with The Overlook Lifestyle Apt Homes, LLC. |

**SUMMARY:**

Discussion and possible action regarding a Performance Agreement with The Overlook Lifestyle Apt Homes, LLC.

**RECOMMENDED ACTION:**

Staff recommends that the board make a finding of substantial compliance regarding the agreement and issue the infrastructure reimbursement incentive according to the agreement.

**Attachments**

The Overlook Lifestyle Apt Homes, LLC. Performance Agreement

ECONOMIC DEVELOPMENT INCENTIVE PERFORMANCE AGREEMENT

BETWEEN

PALESTINE ECONOMIC DEVELOPMENT CORPORATION

AND

THE OVERLOOK LIFESTYLE APT HOMES LLC,
a Texas limited liability company

STATE OF TEXAS §
§
COUNTY OF ANDERSON §

This Economic Development Incentive Performance Agreement ("Agreement") is made and entered into as of the 22nd day of September, 2020 ("Effective Date"), by and between Palestine Economic Development Corporation ("PEDC"), a Section 4B corporation created pursuant to the authority of the Development Corporation Act of 1979, as amended, and by the City of Palestine, Texas ("City") and The Overlook Lifestyle Apt Homes LLC, a Texas limited liability company ("Company"). The PEDC and the Company may be referred to individually herein as a "Party" and collectively as the "Parties."

RECITALS

**WHEREAS,** Texas Local Government Code Section 501.158 of the Development Corporation Act authorizes the PEDC to execute performance agreements with certain business enterprises to provide funding, or make expenditures of sales tax on behalf of a business enterprise, in furtherance of a permissible economic development project that promotes new or expanded business development; and

**WHEREAS,** the PEDC is a Section 4B corporation created pursuant to the authority of the Development Corporation Act of 1979 and by the City of Palestine, Texas which at the time of the execution of this Agreement has an estimated population of 20,000 or less, for which the term "project" according to Section 505.158 may also include land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements the PEDC's board of directors finds to promote new or expanded business development; and

**WHEREAS,** luxury housing is necessary to a community, like the City of Palestine, that is working to attract qualified persons for high-end employment opportunities that are available but remaining unfilled, and

**WHEREAS,** PEDC desires and this Agreement is intended to encourage residential growth and major economic activity, commerce and development in the City and in the surrounding area through the planning, development and construction of new luxury multifamily housing units which will satisfy a current lack of luxury housing in the City, attract new residents to the City, provide new luxury housing opportunities for existing residents of the City, and ultimately stimulate new commercial development within and around the City which attracts new professional employment opportunities and encourages the retention of existing primary and professional employment within the City; and

**WHEREAS,** the Company has requested financial assistance from the PEDC to offset the cost of constructing certain infrastructure improvements necessary for the Company's planned development of an approximate 152-unit multifamily luxury apartment community known as The Overlook Apartments ("Project") located on an approximate 15.05-acre tract of land located in the northwest corridor of Loop 256 as depicted on the attached Exhibit "A" ("Project Site");

**WHEREAS,** the Company is prepared to invest approximately thirteen million dollars ($13,000,000) to build its Project in the City; and

**WHEREAS,** the PEDC wishes to provide the Company with an economic incentive to encourage the Company to acquire real property and construct the infrastructure necessary to develop and construct the luxury apartment complex and the Company wishes to accept such economic incentive on the terms and conditions set forth in this Agreement; and

**WHEREAS,** the Tex. Loc. Gov't Code Sec. 501.158 prohibits the direct economic incentive contemplated by this Agreement unless the PEDC enters into a performance agreement with Company providing a statement of capital expenditures to be made in conjunction with the Project; and

**WHEREAS,** the Act further prohibits the execution of a performance agreement without provisions for the recovery of the PEDC's economic incentives in the event the Company defaults on its obligations under this Agreement; and

**WHEREAS,** Company acknowledges and agrees that the PEDC, in granting this economic incentive to the Company, is relying upon Company's representations, warranties, and agreements, as set forth and provided for in this Agreement, and the PEDC's tender of the economic incentive contemplated by this Agreement is contingent upon the Company agreeing to repay, in full, the economic incentive the Company receives from the PEDC pursuant to the terms hereunder in the event of the Company's failure to cure a breach of the Company's obligations hereunder; and

**WHEREAS,** the PEDC finds the Project is appropriate pursuant to Texas Local Government Code Chapter 505, Subchapter D, Section 505.158; and

**WHEREAS,** the PEDC finds the Company's proposed project constitutes a major economic investment in the City and surrounding community; and

**WHEREAS,** the PEDC finds it is duly authorized by the Constitution and laws of the State of Texas to enter into this Agreement; and

**WHEREAS**, the PEDC finds that this Project was presented to the public by publication in the Palestine Herald on April 14, 2020 in accordance with Tex. Loc. Gov't Code Sec. 505.160 and that the 61st day from the date of publication occurred on June 14, 2020; and

**WHEREAS**, the PEDC finds that the economic development funds contemplated by this Agreement were presented for consideration at a public hearing conducted on April 16, 2020, approved by the PEDC's board of directors at a properly noticed public meeting on June 4, 2020, approved by the City of Palestine City Council on September 28, 2020 after receiving two separate readings on September 28, 2020 Work Session and on September 28, 2020 Council Meeting; and

**WHEREAS**, the City of Palestine and the Board of Directors of PEDC have determined that the granting of this incentive to Company is in the public interest and will promote or develop opportunities for professionals to live in Palestine, and have approved and authorized the making and performance of this Agreement by PEDC; and

**WHEREAS**, the commitments contained in this Agreement shall become legally binding obligations enforceable against the Parties upon the Parties approving and executing this Agreement.

**NOW, THEREFORE,** for and in consideration of mutual agreements described herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, PEDC and Company hereby represent, stipulate and agree as follows:

## Article 1.

### Recitals Incorporated

1. The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the Parties.

## Article 2.

### Definitions

2. The following words shall have these meanings when used in this Agreement:

    2.1. "Agreement" means this Economic Development Incentive Performance Agreement, together with all exhibits and schedules attached hereto.

    2.2. "Company" means The Overlook Lifestyle Apt Homes LLC.

    2.3. "Event of Bankruptcy or Insolvency" means the dissolution or termination of the Company's existence as a going business, insolvency, appointment of receiver for any part of the Company's real property associated with the Project Site and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment of Company's real property associated with the Project Site for the benefit of creditors, or the Company of any proceeding under any bankruptcy or insolvency laws by or against the Company and such proceeding is not dismissed within ninety (90) days after the filing thereof.

2.4. "Event of Default" means and includes any of the Events of Default set forth below in Articles 6 or 7 of this Agreement.

2.5. "Force Majeure" means (i) an act of God, (ii) a fire or other casualty, (iii) COVID – 19 or other disease declared to be a pandemic by a local, state, federal or international health authority, governmental agency or governmental authority; (iv) governmental restriction, regulation or control, (iv) the action or inaction of any governmental authority unrelated to any act or failure to act by the party required to perform herein, (v) a strike, lockout or other general unavailability of labor, utilities, or materials, (vi) a military invasion by an enemy of the United States or any act of terrorism or civil riot (vii) a materially adverse weather condition, (viii) the bankruptcy or insolvency of a general contractor, major subcontractor or material supplier, or (ix) any other event not within the reasonable control of the party required to perform herein.

2.6. "Grant" means the performance based economic development reimbursement the PEDC pays to the Company to reimburse the Company for its infrastructure costs paid in conjunction with the Project.

2.7. "Project" means the construction of a new 152-unit multi-family luxury apartment complex located on an approximate 15.05-acre tract of land located in the northwest corridor of Loop 256 in the City of Palestine, Texas.

2.8. "Undocumented Worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United State or authorized under law to be employed in that manner in the United States.

## Article 3.

### Term of the Agreement

3. This Agreement shall commence on the Effective Date and, unless sooner terminated pursuant to any provisions of this Agreement, shall terminate five (5) years from the date the Company receives a final Certificate of Occupancy from the City for the operation of the Project.

## Article 4.

### Performance Obligations of the Company

4. The Company covenants and agrees to satisfy the following obligations as a condition precedent to receiving the incentives contemplated by this Agreement:

4.1. **Capital Investment.** The Company shall construct a new 152-unit multi-family luxury apartment building at an estimated capital investment of thirteen million dollars ($13,000,000.00) as approved by the Development Review Committee of the City and in accordance with all applicable City codes and ordinances; and

4.2. **Project Commencement.** The Company shall commence construction of the Project no later than December 31, 2021, and shall obtain its final Certificate of Occupancy for the Project on or before December 31, 2023 subject to delays caused by Force Majeure; and

4.3. **Intentionally deleted.**

4.4. **Contractor / Subcontractor Payments; Release of Liens.** The Company shall, on a monthly basis, tender to the PEDC proof of all payments (if any) made to the Company's contractor(s) and subcontractor(s) for work conducted in conjunction with the construction of the Project. Upon the completion of the Project, the Company shall tender to the PEDC a roster of all contractors and subcontractors who performed work on the project, including names, addresses and telephone numbers, and their respective releases of lien demonstrating full and final payment for all work performed and materials delivered and attached to the Project; and

4.5. **Minimum Project Operation.** The Company shall operate its Project, without interruption except for periods of closure due to Force Majeure, for a minimum of five (5) years in the City of Palestine, Texas, measured from the date the date the City issues to the Company a Certificate of Occupancy for the Project; and

4.6. **Local Purchase Requirement.** To the greatest extent possible while maintaining compliance with (i) HUD requirements related to the financing of the Project, (ii) the general contractor's bonding and insurance program requirements, (iii) the general contractor's certified cost budget, and (iv) Davis-Bacon Act wage requirements, the Company and its contractors shall purchase its taxable items from suppliers or vendors having a sales tax outlet situated within the City's corporate limits.

## Article 5.

### Economic Incentive Obligations of PEDC

In consideration of the Company's covenants and agreement as outlined herein, the PEDC agrees to satisfy the following performance requirements:

5. **Infrastructure Reimbursement Incentive.** The PEDC desires to incentivize the Company's successful construction of the Project with a performance incentive in the amount of \$70,000.00 (SEVENTY THOUSAND DOLLARS AND NO/100s) which the PEDC shall pay to the Company to reimburse the Company's costs associated with the construction of the infrastructure necessary to serve the Project, including, without limitation, paving and other street work related to the construction of Overlook Way, installation of a sanitary sewer line and manholes, and installation of a water line and related facilities. Upon completion of any portion of the infrastructure work and inspection approval of same by the City, the PEDC agrees to reimburse the Company for the cost of such work within sixty (60) days after submission to PEDC of an invoice for such work. In no event may the PEDC's incentive exceed \$70,000.00 in the aggregate regardless of the Company's final cost for the construction of infrastructure necessary to serve the Project.

## Article 6.

### Liability

6.1. By executing this Agreement, the Company assumes no obligation, duty or other responsibility with regard to any governmental function or service for which PEDC or the City is responsible that is not otherwise addressed by this Agreement. In addition, the Company assumes no legal liability for the actions of PEDC from PEDC's execution of this Agreement. By executing this Agreement, PEDC assumes no obligation, duty or other responsibility with regard to any duty, right, obligation, liability or responsibility associated with the Project for which the Company is responsible. In addition, PEDC assumes no legal liability for any action, duty, right, obligation, or responsibility of the Company or its successors or assigns by virtue of the Company's execution of this Agreement.

6.2. Each Party to this Agreement agrees that it shall have no liability for the actions or omissions of the employees, agents, directors, officers, members or trustees of any other Party. Each Party to this Agreement is solely responsible for the actions and omissions of its own employees, agents, directors, officers, members or trustees to the extent allowed or otherwise required by law.

6.3. Neither party shall be liable to the other for consequential, punitive or special damages. The Company's liability hereunder shall be limited to the return of any portion of the Grant received by it pursuant to this Agreement together with accrued and unpaid interest as provided herein.

## Article 7.

### Events of Default by Company

Each of the following shall constitute an Event of Default by Company under this Agreement:

7.1. Sale of the Property/Project: The Company sells the Property and the Project constructed thereon, or any part thereof or any interest therein, prior to the issuance by the City of a Certificate of Occupancy for the Project, without the prior written consent of the PEDC which shall not be unreasonably withheld, conditioned or delayed.

7.2. Failure to Begin Construction: The Company fails to initiate construction by December 31, 2021, which shall be defined as the issuance of a construction permit from the City of Palestine, Texas, subject to delays caused by Force Majeure.

7.3. Failure to Maintain Operation of the Project: The Company fails to operate and continuously maintain the Project as an apartment building subject to closure during periods of Force Majeure.

7.4. Event of Bankruptcy or Insolvency: The Company's dissolution or termination of its existence as a going business, insolvency, appointment of receiver for any part of Company's property, any assignment of all or substantially all of the assets of Company for the benefit of creditors of Company, any type of creditor workout for Company, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Company, unless, in the case of involuntary proceedings, such proceedings are discharged within ninety (90) days after filing, any of which occur prior to the end of the Term of this Agreement.

7.5. Undocumented Workers: During the term of this Agreement, the Company knowingly employs any Undocumented Worker as that term is defined herein according to Texas Government Code Section 2264.001, as may be amended.

7.6. False Statements: Any warranty, representation or statement made or furnished to PEDC by or on behalf of Company through an authorized representative of Company, under this Agreement which was false or misleading in any material respect, either now or at the time made or furnished, and Company fails to cure same to the satisfaction of PEDC within thirty (30) days after written notice from PEDC describing the violation, or if such violation cannot be cured within such thirty (30) day period in the exercise of all due diligence, then if Company fails to commence such cure within such thirty (30) day period or fails to continuously thereafter diligently prosecute the cure of such violation, or if Company learns that any such warranty, representation or statement has become false or misleading, and Company fails to provide written notice to PEDC of the false and misleading nature of such warranty, representation or statement within ten (10) days after Company learns of its false or misleading nature.

7.7. Miscellaneous Defaults: The Company fails to comply with or perform any other term, condition, affirmative covenant or obligation contained in this Agreement; the Company's failure to comply with or perform any other term, obligation, affirmative covenant or condition contained in any other agreement between PEDC and the Company is not permissible under the applicable provisions of the Act, which is not cured within any applicable cure period.

7.8. If Company fails to cure or correct an Event of Default as described by this Agreement within sixty (60) days of the PEDC's written notice to Company to cure the Event of Default, or if Company's Event of Default is incurable, or if such Event of Default cannot be cured within such sixty (60) day period in the exercise of all due diligence, then if Company fails to commence such cure within such sixty (60) day period or fails to continuously thereafter diligently prosecute the cure of such Event of Default then Company shall be immediately obligated to repay all PEDC Grant funds tendered to or on behalf of the Company pursuant to Article 5 hereof within sixty (60) days after the date the PEDC sends its written demand for repayment of the PEDC Grant funds, in whole or in part, to the Company in accordance with Section 9.1 hereof.

7.9. In the event the Company does not tender repayment to the PEDC of any Grant amount due and owing within the sixty (60) days required by Section 7.8 above, then the outstanding Grant amount shall accrue interest in the amount of eight percent (8%) per annum until such time the Company repays the Grant balance due.

7.10. Any delay for any amount of time by the PEDC in providing notice of Default to Company shall in no event be deemed or constitute a waiver of such Default by the PEDC of any of its rights and remedies available in law or in equity.

7.11. Any waiver granted the PEDC to Company of an Event of Default shall not be deemed or constitute a waiver of any other existing or future Event of Default by Company or of a subsequent Event of Default of the same act or event by Company.

## Article 8.

### Events of Default by PEDC

8.1. It shall be an Event of Default by PEDC under this Agreement if PEDC fails to perform its obligations under Article 5 of this Agreement. If PEDC fails to cure such Event of Default within sixty (60) days of its receipt of written notice from the Company, then the Company shall have all remedies available at law or in equity for the enforcement of this Agreement.

8.2. Should the PEDC fail to timely, fully and completely comply with any one or more of the requirements obligations, duties, terms, conditions or warranties of this Agreement, such failures shall be an Event of Default by the PEDC and the PEDC shall have sixty (60) days to cure and remove the Event of Default upon receipt of written notice to do so from Company. Company specifically agrees that the PEDC shall only be liable to Company for a maximum amount of \$70,000.00 (SEVENTY THOUSAND DOLLARS and NO/100s)(if Company meets all applicable conditions) and the PEDC shall not be liable to Company for any other actual or consequential damages, direct or indirect, or interest for any Event of Default by the PEDC under the term of this Agreement.

## Article 9.

### Notices

9.1. Any notice given under this Agreement must be in writing and may be given (i) by depositing it in the United States mail, certified with return receipt requested and addressed to the Party to be notified at the address set forth below, or at the last address for notice that the sending Party has for the receiving Party at the time of mailing, and with all charges prepaid; (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery," addressed to the Party to be notified and with all charges prepaid; (iii) by personally delivering it to the Party, or any agent of the Party listed in this Agreement; or (iv) by email with confirming copy sent by one of the other described methods for notice set forth in this sentence. Notice by United States mail as provided in (i) will be deemed delivered, whether or not actually received, three (3) days after the date of mailing. Payments to any Party shall be made by check at the address set forth below (without copies), unless timely notice of change of address is given to a Party in writing. For purposes of this Article IX, the addresses of the Parties will, until changed, be as provided in Section 9.2 below, be as follows:

| | |
|---|---|
| The Company: | The Overlook Lifestyle Apt Homes LLC<br>Attention: Marie C. Freeman, Manager<br>13770 Noel Road #803424<br>Dallas, Texas 75240<br>Email: marie@ejtjventures.com |
| with a copy to: | Scheef & Stone, LLP<br>Attention: Gardner Savage<br>500 N. Akard Street, Suite 2700<br>Dallas, Texas 75201<br>Email: gardner.savage@solidcounsel.com |
| PEDC: | Palestine Economic Development Corporation<br>Attn: Economic Development Director<br>100 Willow Creek Parkway, Suite A<br>Palestine, Texas 75801<br>Email: kdenton@palestine-tx.org |
| With a copy to: | The City of Palestine, Texas<br>Attn: City Manager<br>504 North Queen Street<br>Palestine, Texas 75801<br>Email: CityManager@palestine-tx.org |

9.2. Either Party may designate a different address by giving the other Party ten (10) days written notice.

## Article 10.

### Miscellaneous Provisions

10. The following miscellaneous provisions are a part of this Agreement:

10.1. Disclaimer: Nothing herein shall confer upon any person, firm, or other entity other than the Parties hereto any benefit or any legal or equitable right, remedy or claim under this Agreement. All obligations hereunder of the Parties hereto shall be binding upon their respective successors and assigns unless otherwise provided by law. The Company shall not assign this Agreement to any third party without the prior written consent of the PEDC which will not be unreasonably withheld, conditioned or delayed.

10.2. Entire Agreement and Amendments: This Agreement constitutes the entire understanding and agreement of the Parties as to the matters made the subject of this Agreement. There are no binding agreements or representations by either of the parties except for those set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless made in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment. Except as expressly provided herein, there are no third-party beneficiaries of this Agreement.

10.3. Approvals or Consents: Approvals or consents required or permitted to be given under this Agreement shall be evidenced by an appropriate ordinance, resolution, or minute order adopted by the governing body or board of the appropriate Party and by the governing body of the City, to the extent required, or by a certificate executed by a person, firm or entity previously authorized to give such approval or consent on behalf of a Party. Approvals and consents shall be effective without regard to whether given before or after the time required for giving such approvals or consents.

10.4. Modification: This Agreement shall be subject to change or modification only with the mutual written consent of PEDC and the Company.

10.5. Supplementation: In the event any further documentation or information is required for this Agreement to be valid, then the Parties to this Agreement shall provide or cause to be provided such documentation or information. The Parties shall execute and deliver such documentation, including but not limited to any amendments, corrections, deletions or additions as necessary to this Agreement provided, however, that the Parties shall not be required to do anything that has the effect of changing the essential economic terms of this Agreement or imposing greater liability on the Parties. The Parties further agree that they shall do anything necessary to comply with any requirements to honor or otherwise enable the full effect of this Agreement; provided, however, that the Parties shall not be required to do anything that has the effect of changing the essential economic terms of this Agreement or imposing greater liability on the Parties.

10.6. Applicable Law and Venue: This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Anderson County, Texas. Venue for any action arising under this Agreement shall lie in the state courts of Anderson County, Texas. In any lawsuit to enforce this Agreement, the prevailing party shall be entitled to judgment for its reasonable and necessary attorney's fees incurred in addition to other remedies available at law or in equity.

10.7. Binding Obligation: PEDC warrants and represents that the individual executing this Agreement on behalf of PEDC has full authority to execute this Agreement and bind PEDC to the same. Company warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Company to the same. Each party represents and warrants that it is duly authorized to enter into this Agreement and to perform its obligations contemplated hereunder. This Agreement shall be binding upon, and inure to the benefit of, PEDC and its successors and assigns. This Agreement shall be binding upon, and shall inure to the benefit of Company, its successors and permitted assigns. Notwithstanding anything herein to the contrary, Company may not transfer, encumber or assign any of its rights or obligations under this Agreement without the prior written consent of PEDC, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, Company may assign all of its rights under this Agreement to an affiliated Texas entity formed by the owner(s) of Company for the purpose of constructing, owning and operating the Project. Any such assignment shall be in writing, shall be signed by Company and the assignee, and shall include a covenant by the assignee to assume and perform all of the obligations of Company under this Agreement. No assignment of this Agreement shall release the Company from its obligations under this Agreement. A copy of any such assignment shall be provided to PEDC prior to execution and delivery of the deed required hereunder.

10.8. Caption Headings: Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

10.9. Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

10.10. Review and Inspection: The Company agrees to allow PEDC (and its agents and representatives) to inspect the Project in the event of suspected default after at least ten (10) days' written notice to Company, and to review (and copy) any and all of the Company's records, documents, agreements and other instruments as related to this agreement for the following purposes: (i) to ensure, confirm and document the Company's compliance with the covenants set forth herein; (ii) to determine and document the existence of any Event of Default; and (iii) to determine and document compliance with any other term or condition of this Agreement.

10.11. Severability: If a court of competent jurisdiction finds any provision of this agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

10.12. Survival: All warranties, representations, and covenants made by Company in this Agreement or in any certificate or other instrument delivered by Company to PEDC under this Agreement shall be considered to have been relied upon by PEDC and will survive the making of this Agreement, regardless of any investigation made by PEDC or on PEDC's behalf.

10.13. Time is of the Essence: Time is of the essence in the performance of this Agreement.

10.14. Filing of Agreement: This Agreement may be filed in the Official Public Records of Anderson County, Texas. The provisions of this Agreement shall be deemed to run with the Land and shall be binding on successors and permitted assigns of Company. Provided, however, upon the expiration or termination of this Agreement, it shall be of no further force or effect and shall not thereafter be binding on the Land or the parties.

10.15. Merger: The terms contained in this Agreement represent the final agreement among and between the Parties with respect to the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. The Parties agree that by entering into this Agreement they have not relied upon any representation other than those contained in this Agreement. The Parties agree that they have read this Agreement, sought the advice of counsel, understand the terms of this Agreement and have executed this Agreement voluntarily.

10.16. Immunity. To the extent applicable, nothing in this Agreement shall constitute a waiver by the PEDC of its governmental or sovereign immunity. Nothing in this Agreement shall be construed as express or implied consent by the PEDC to being sued.

10.17. Attorney's Fees: In the event it becomes necessary for PEDC to file a suit to enforce this Agreement or any provisions of this Agreement, PEDC shall be entitled to recover against the Company, in addition to all other remedies or damages, its reasonable and necessary attorneys' fees and court costs PEDC incurred upon prevailing in such suit. In the event PEDC is dissolved during the term of this Agreement, then the City shall have all legal rights necessary to enforce this Agreement on behalf of the former PEDC and the City shall be entitled to recover against the Company, in addition to all other remedies or damages, reasonable and necessary attorneys' fees and court costs the City incurred upon prevailing in such suit.

(The remainder of this page is intentionally blank)

**SIGNATURES:**

THE OVERLOOK LIFESTYLE APT HOMES LLC,
a Texas limited liability company

**By:** ______________________

Marie C. Freeman, Manager

**Date:** 11.03.2020

## ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF Dallas §

Before me, the undersigned notary public, on this day personally appeared Marie Freeman, Manager of The Overlook Lifestyle Apt Homes LLC, a Texas limited liability company, and known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed that instrument for the purposes and consideration therein expressed in the capacity therein stated.

Given under my bond and official seal this 3 day of November, 2020.

FELICIA MAHACHEK
My Notary ID # 130468359
Expires December 14, 2023

F Mahachek
Notary Public, State of Texas

NOTARY ID: 130468359

By: [signature]

Larry Weber, President

Palestine Economic Development Corporation
A Texas Development Corporation

Date: 10-7-20

**ATTEST:**

[signature]
Terry Johnson

**Approved as to Form:**

[signature]
Christopher L. Nichols, EDC Attorney

**ACKNOWLEDGMENT**

STATE OF TEXAS §
§
COUNTY OF ANDERSON §

Before me, the undersigned notary public, on this day personally appeared Larry Weber, President of the Palestine Economic Development Corporation, a Texas development corporation, and known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed that instrument for the purposes and consideration therein expressed in the capacity therein stated.

Given under my bond and official seal this 7th day of October, 2020.

TERRY JOHNSON
Notary Public, State of Texas
Comm. Expires 09-11-2021
Notary ID 131275289

[signature]
Notary Public, State of Texas

NOTARY ID: 131275289

**Approved by the City of Palestine, Texas**

By: Steve Presley

CC 9-26-20

Steve Presley, Mayor

Date: October 5, 2020

**ATTEST:**

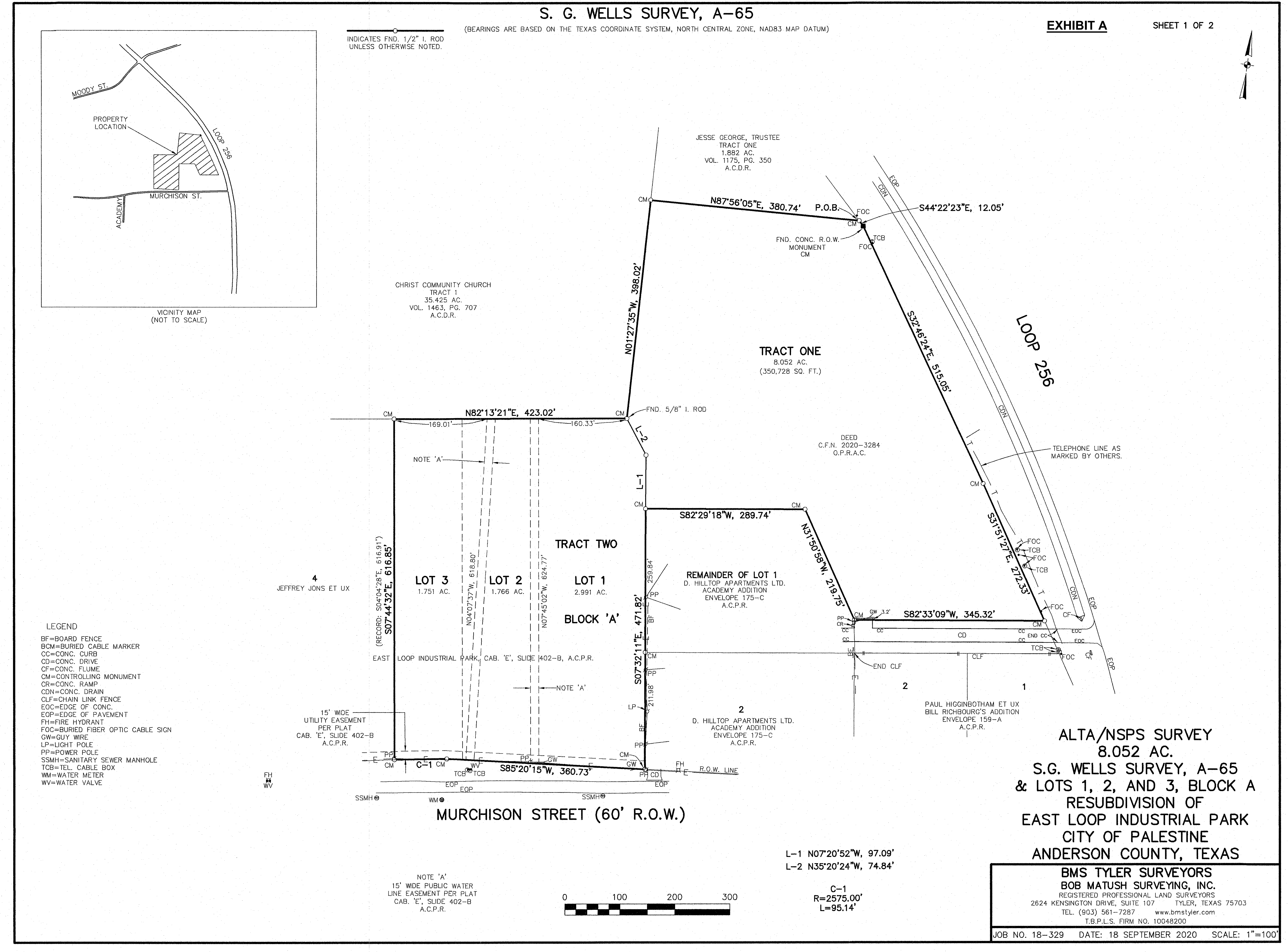
Teresa Herrera

Teresa Herrera, City Secretary

**Approved as to Form:**

GLanders

Gary Landers, City Attorney



S. G. WELLS SURVEY, A-65
(BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM, NORTH CENTRAL ZONE, NAD83 MAP DATUM)
EXHIBIT A
SHEET 1 OF 2
INDICATES FND. 1/2" I. ROD UNLESS OTHERWISE NOTED.
MOODY ST.
PROPERTY LOCATION
LOOP 256
MURCHISON ST.
ACADEMY
VICINITY MAP (NOT TO SCALE)
JESSE GEORGE, TRUSTEE TRACT ONE 1.882 AC. VOL. 1175, PG. 350 A.C.D.R.
N87°56'05"E, 380.74'
P.O.B.
S44°22'23"E, 12.05'
FND. CONC. R.O.W. MONUMENT CM
CHRIST COMMUNITY CHURCH TRACT 1 35.425 AC. VOL. 1463, PG. 707 A.C.D.R.
N01°27'35"W, 398.02'
S32°46'24"E, 515.05'
LOOP 256
TRACT ONE 8.052 AC. (350,728 SQ. FT.)
N82°13'21"E, 423.02'
169.01'
160.33'
FND. 5/8" I. ROD
L-2
L-1
NOTE 'A'
DEED C.F.N. 2020-3284 O.P.R.A.C.
TELEPHONE LINE AS MARKED BY OTHERS.
S82°29'18"W, 289.74'
N31°50'58"W, 219.75'
S31°51'27"E, 272.33'
TRACT TWO
LOT 3 1.751 AC.
LOT 2 1.766 AC.
LOT 1 2.991 AC.
BLOCK 'A'
N04°07'37"W, 618.80'
N07°45'02"W, 624.77'
(RECORD: S04°04'28"E, 616.91')
S07°44'32"E, 616.85'
S07°32'11"E, 471.82'
259.84'
211.98'
4 JEFFREY JONS ET UX
REMAINDER OF LOT 1 D. HILLTOP APARTMENTS LTD. ACADEMY ADDITION ENVELOPE 175-C A.C.P.R.
S82°33'09"W, 345.32'
END CLF
2
1
PAUL HIGGINBOTHAM ET UX BILL RICHBOURG'S ADDITION ENVELOPE 159-A A.C.P.R.
EAST LOOP INDUSTRIAL PARK, CAB. 'E', SLIDE 402-B, A.C.P.R.
15' WIDE UTILITY EASEMENT PER PLAT CAB. 'E', SLIDE 402-B A.C.P.R.
2 D. HILLTOP APARTMENTS LTD. ACADEMY ADDITION ENVELOPE 175-C A.C.P.R.
C-1
S85°20'15"W, 360.73'
R.O.W. LINE
MURCHISON STREET (60' R.O.W.)
LEGEND
BF=BOARD FENCE
BCM=BURIED CABLE MARKER
CC=CONC. CURB
CD=CONC. DRIVE
CF=CONC. FLUME
CM=CONTROLLING MONUMENT
CR=CONC. RAMP
CDN=CONC. DRAIN
CLF=CHAIN LINK FENCE
EOC=EDGE OF CONC.
EOP=EDGE OF PAVEMENT
FH=FIRE HYDRANT
FOC=BURIED FIBER OPTIC CABLE SIGN
GW=GUY WIRE
LP=LIGHT POLE
PP=POWER POLE
SSMH=SANITARY SEWER MANHOLE
TCB=TEL. CABLE BOX
WM=WATER METER
WV=WATER VALVE
NOTE 'A' 15' WIDE PUBLIC WATER LINE EASEMENT PER PLAT CAB. 'E', SLIDE 402-B A.C.P.R.
0 100 200 300
L-1 N07°20'52"W, 97.09'
L-2 N35°20'24"W, 74.84'
C-1 R=2575.00' L=95.14'
ALTA/NSPS SURVEY
8.052 AC.
S.G. WELLS SURVEY, A-65
& LOTS 1, 2, AND 3, BLOCK A
RESUBDIVISION OF
EAST LOOP INDUSTRIAL PARK
CITY OF PALESTINE
ANDERSON COUNTY, TEXAS
BMS TYLER SURVEYORS
BOB MATUSH SURVEYING, INC.
REGISTERED PROFESSIONAL LAND SURVEYORS
2624 KENSINGTON DRIVE, SUITE 107 TYLER, TEXAS 75703
TEL. (903) 561-7287 www.bmstyler.com
T.B.P.L.S. FIRM NO. 10048200
JOB NO. 18-329
DATE: 18 SEPTEMBER 2020
SCALE: 1"=100'