

MARGIE R IBARRA
COUNTY CLERK
FILED

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WEBB COUNTY, TEXAS

THE STATE OF TEXAS §
 §
COUNTY OF WEBB §

BY REH DEPUTY

**PARTICIPATION AGREEMENT
TIRZ NUMBER TWO
CITY OF LAREDO, TEXAS**

THIS AGREEMENT ("Agreement") is made by and between the City of Laredo, Texas ("City"), acting by and through its City Manager or his designee, and Webb County ("County") acting by and through its duly authorized officials.

WITNESSETH:

WHEREAS, in accordance with the Tax Increment Financing Act, Chapter 311, Texas Tax Code (the "Act") on January 4, 2018 the City of Laredo adopted Ordinance No. 2017-O-185 (the "Ordinance") creating Tax Increment Reinvestment Zone Number Two, City of Laredo, Texas ("Zone") for the Coves of Winfield development; and

WHEREAS, on April 24, 2018 the County adopted a non-binding resolution expressing its support for the Zone and its intention to contribute tax increment to the tax increment fund at a percentage matching the percentage of tax increment contributed by the City; and

WHEREAS, the ordinance approving the "Project Plan" for the Zone and the "Finance Plan" for the Zone had a first reading on December 6, 2021 and a final approval is expected at the next meeting of the Laredo City Council; and

WHEREAS, the County and the Zone developer, Charco Land Sales, LLC (the "Developer") have agreed to enter into that certain development agreement (the "Development Agreement", attached hereto as Exhibit A); and

WHEREAS, City and County now desire to enter into this Agreement under the Act for the contributions of their respective tax increments to the tax increment fund of the Zone;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, the City and the County do agree as follows.

A G R E E M E N T

1. Parts Incorporated.

The following documents are hereby incorporated into this Agreement for all purposes by this reference:

- A. The Ordinance (as may be amended from time to time; including the Amended-Ordinance);
- B. The Project Plan (as may be amended from time to time);

- C. The Finance Plan (as may be amended from time to time);
- D. The development agreement between the City and the Developer; and
- E. The Development Agreement between the County and Developer (Exhibit A hereto).

2. Tax Increment Contributions.

A. Contributions. Beginning with tax increment for tax year 2021, and continuing until the termination of the Zone on May 31, 2052, the County agrees that it shall annually contribute to the tax increment fund of the Zone, net of its Administrative Costs (defined below):

- (i) one hundred percent (100%) of any County tax increment resulting from rollback taxes; and
- (ii) forty percent (40%) of County tax increment attributable to the portion of their respective tax rates attributable to maintenance and operation.

Notwithstanding the foregoing, contributions to the tax increment fund by the County shall cease when total contributions by the County have reached \$26,486,496. Notwithstanding the foregoing, County may suspend payments to the tax increment fund held by the City if the Developer has an uncured default under the Development Agreement; or if the City terminates its participation in the Zone.

B. Contract Tax Increment Base. As used herein, "tax increment" shall have the meaning set forth in Chapter 311 of the Tax Code. Notwithstanding the provisions of Section 311.012, Texas Tax Code, the Parties agree that, for purposes of this Agreement, increment shall be calculated with \$10,491,230.00 as the tax increment base (the "Contract Tax Increment Base") as is consistent with the Finance Plan approved by the City.

C. County Increment. The County's obligation to contribute its tax increment payment to the tax increment fund shall accrue as the County collects its tax increment. The parties hereto agree that all real property taxes collected each year by the County that are attributable to real property in the Zone, shall first constitute taxes on the Tax Increment Base and after the total amount of taxes on the Tax Increment Base have been collected, shall then, except as may be excepted herein, constitute the tax increment. The County agrees to make its annual payments to the City for deposit into the tax increment fund of the Zone on or before the 90th day after the tax delinquency date as provided by Tax Code Section 311.013(e). Under no circumstances shall the County be required to participate in the Zone after May 30, 2052.

D. Public Improvements. County's contribution to the tax increment fund shall be used to fund public improvements to support the development and revitalization efforts in the Zone, including related Project costs.

E. County Public Work. Pursuant to the terms of the Development Agreement, the County, or Developer (including Developer's affiliate) if Developer provides the initial funding to the County, shall be reimbursed for a public work project for a public assembly, public health, public safety, and emergency shelter up to \$1,000,000 (the "County Public Work"). The County Public Work shall be included in the Zone's project and finance plans. The County collected tax increment included in the tax increment fund shall be first

allocated to reimbursement of the County Public Work up to \$1,000,000.

F. Conflict. Pursuant to the Act, in the event there is a conflict between the parties in regard to the amount of the tax increment owed by the County, the parties agree that the County will make a reasonable determination as to the amount of any Tax Increment owed by the County under this Agreement and present the same to the City. If the City does not accept the County's determination after a thirty (30) day review period, the parties agree to allow a third party accounting firm, mutually selected by and equally funded by the parties, to make the final determination based on the terms of this Agreement and the Act.

G. No Penalty or Interest. Any delinquent deposit of a tax increment payment under this Agreement by the County shall be administered as provided in Section 311.013(c) of the Act (or its successor provision). The parties expressly agree that the County shall not owe any penalty or interest on tax increments that have been levied, but not received by the County. In addition, the County shall not be obligated to contribute its tax increment payments from any non-tax increment revenue sources. Furthermore, the County shall not be obligated to contribute its tax increment payment to the tax increment fund in the event any participating taxing entity in the Zone, other than the County, discontinues its required contribution under the Finance Plan or fails to fully contribute its entire contribution to the tax increment fund during the term of this Agreement, unless such discontinuance is in compliance with and authorized by a written amendment to this Agreement.

3. Additional Agreements.

A. Annual Report. Project and Finance Plans. City shall provide County with the Zone's annual report contemporaneously with submitting the annual report to the Texas Comptroller of Public Accounts. The County shall receive the final project plan and finance plan for the Zone in advance of City's approval and shall receive notice of any proposed amendments to such plans.

B. Financial Obligation. Except for making its annual payments to the City for deposit in the tax increment fund as set out in this Agreement, County shall not have any obligation or responsibility for any costs or expenses associated with the Zone or the Project other than the County Public Work.

C. Term. This Agreement shall become effective as of the date of execution, and shall remain in effect until the later of (i) May 30, 2052; (ii) the collection of \$77,418,383.15 in the tax increment fund, the maximum available tax increment under the Finance Plan; or

(iii) the contribution by the County to the tax increment fund reaches \$26,486,496, the maximum contribution by the County under the Finance Plan.

D. Non-Qualification. The parties agree that should the Texas Attorney General or a Texas District Court opine or find that (i) the basis for creating the Zone or the County's participation in the Zone is unlawful or unconstitutional, or (ii) the property designated as the Zone does not qualify under the Act, this Agreement shall be terminated and any money remaining in the tax increment fund shall be paid to each taxing entity that contributed funds to the tax increment fund in proportion to the contributions of each; and, the County shall have no further liability with regard to the

Zone or this Agreement.

E. Termination. Upon the termination of the Zone, and after satisfaction of all obligations, payment of any unreimbursed service costs, and allocation of costs to infrastructure maintenance, any money remaining in the tax increment fund shall be paid to each of taxing entity that contributed funds to the tax increment fund in proportion to the contributions of each in accordance with Section 311.014(d) of the Texas Tax Code.

F. Administrative Costs. The reasonable costs directly incurred by the County as a participating taxing entity in the Zone, relating to this Agreement, the Development Agreement, and participation in the Zone, shall be reimbursed by the Developer or the tax increment fund to the County. These costs include, but are not limited to reasonable costs and expenses for legal review and financial analysis related to the TIRZ incurred prior to entering into this Agreement and the Development Agreement, as well as any such administrative costs and expenses incurred after this Agreement becomes effective; provided that the County's administrative costs and expenses shall be invoiced based on an hourly rate of attorneys or financial consultant obtained and shall not exceed \$20,000 annually.

G. Developer's Risk. All financing, development costs, construction costs, improvements, damages, or other costs incurred by the Developer with respect to the private improvements (the "Project") will be at the sole risk of the Developer. Neither the City, nor County, nor any other participating taxing entity shall incur any risk of loss whatsoever associated with the development, construction, completion, or failure of the Project.

H. Limited Obligation. The County's obligations shall be limited to imposing and collecting taxes on properties in the Zone and depositing the agreed portion of the tax receipts in the tax increment fund during the term of the Zone. Any costs incurred by the Developer are not and shall not in any event become general obligations or debt by the County. The Project Costs incurred by the Developer shall be paid solely by the Zone revenues from available increment contributed to the tax increment fund and shall never constitute a debt, indebtedness, or a pledge of the faith and credit or taxing power of the State of Texas, the County or any political corporation, subdivision or agency of the State of the Texas other than the Zone.

I. Expansion of the Zone. The obligation of the County to participate in the Zone is limited to the description of the Zone contained in the Project Plan and Finance Plan. The County's participation shall not extend to the tax increment on any additional property added to the Zone by the City unless the County approves in writing such participation.

J. Miscellaneous.

- (i) **Severability.** In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained.
- (ii) **Entire Agreement.** This Agreement merges the prior negotiations and understandings of the parties hereto and embodies the entire agreement of

the parties. There are no other agreements, assurances, conditions, covenants (express or implied), or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

- (iii) **Written Amendment.** This Agreement may be changed or amended only by a written instrument duly executed on behalf of the City and the County.
- (iv) **Default.** If a party is in breach of any of the terms and conditions of this Agreement, the aggrieved party shall give written notice thereof, including a reasonably detailed statement of the nature of such breach, to the breaching party. The breaching party will have thirty (30) days after notice is given to cure such breach. If the breaching party fails to cure in timely manner, the aggrieved party, at its option, shall be entitled to suspend its performance under the Agreement for as long as the breach remains uncorrected, and avail itself of any and all remedies available under this Agreement, at law or in equity.
- (v) **Notices.** All notices required or permitted hereunder shall be in writing and delivered by personal delivery, facsimile or United States Postal Service (certified mail, return receipt requested) and addressed to the other party at the address prescribed below, or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

If to the City, to:

CITY OF LAREDO

Attn: City Manager
1110 Houston St.
Laredo, Texas 78040
Re: Coves at Winfield TIRZ
Ph: (956) 791-7304

If to the County, to:

WEBB COUNTY

Attn: County Judge
1000 Houston St. 3rd Floor
Laredo, Texas 78040
Re: Coves at Winfield TIRZ
Phone: (956) 523-4600

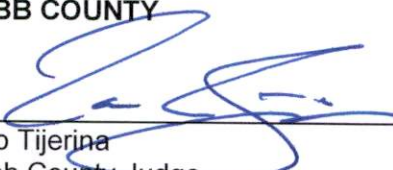
- (vi) **Non-Waiver.** Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, or to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.
- (vii) **Venue.** Venue for any legal action concerning this Agreement will lie in

Webb County, Texas.

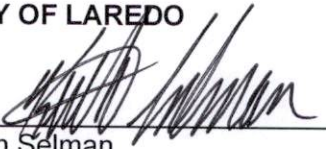
[SIGNATURES ON FOLLOWING PAGE]

THIS AGREEMENT IS EXECUTED by the City and the County on this 16th day of March, 2022

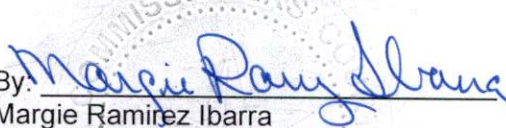
WEBB COUNTY

By: 
Tano Tijerina
Webb County Judge

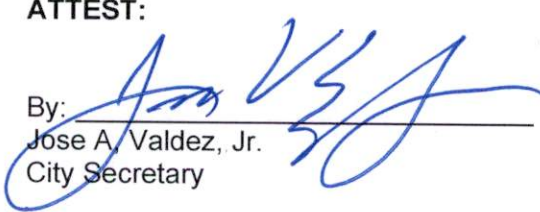
CITY OF LAREDO

By: 
Keith Selman
Interim City Manager

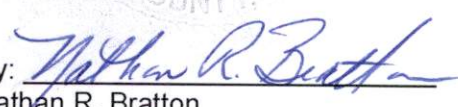
ATTEST:

By: 
Margie Ramirez Ibarra
Webb County Clerk

ATTEST:

By: 
Jose A. Valdez, Jr.
City Secretary

Approved as to Form:

By: 
Nathan R. Bratton
General Counsel

Approved as to Form:

By: 
By: Silvia Borunda-Firth
Interim City Attorney

Webb County Civil Legal Division*

*The General Counsel, Civil Legal Division's office, may only advise or approve contracts or legal documents on behalf of its client. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).



STATE OF TEXAS §
 §
COUNTY OF WEBB §

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between Webb County, Texas ("County") and Charco Land Sales, LLC, a Texas limited liability company ("Charco").

WITNESSETH:

WHEREAS, Charco is the developer of the Coves of Winfield the master planned residential and commercial community (the "Coves") that is located in City of Laredo Tax Increment Reinvestment Zone Number 2 (the "TIRZ"); and

WHEREAS, the County has or intends to enter into a participation agreement for the TIRZ; and

WHEREAS, in support of the Coves and the surrounding area, Charco, directly or through its affiliate Killam Ranch Properties, Ltd., desires to provide the County with approximately four (4) acres of land (the "Land") for a public facility to be used for public assembly and public safety, public health, community meetings, and emergency shelter (the "Project", which Project may be located on a site other than the Land, at the County's discretion); and

WHEREAS, the parties desire that the cost of construction, including public infrastructure, of the Project be included in the TIRZ project and finance plans and that Charco be eligible for reimbursement of funds advanced to the County for the Project from the TIRZ tax increment fund for the Project; and

WHEREAS, the parties agree that the Project is a public work benefiting the TIRZ and surrounding area; and

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

A. *Project Obligations.*

1. Land Donation. Provided that the "Participating Taxing Jurisdictions" (collectively, the City of Laredo (the "City"), the County, and the Laredo College District) agree to participate in the tax increment fund for the TIRZ in an amount up to \$77,418,383 for public improvements (less administrative costs), then Charco (directly or through one or more affiliates) shall donate the Land, (described in Exhibit A hereto) to the County by special warranty deed. Charco agrees that prior to conveying the Land to the County, Charco shall (i) abandon and close any wells on the site and (ii) plat the Land.

2. Project Development and Construction; TIRZ Project and Finance Plans. The Project development costs shall be included in the TIRZ project and finance plans, be advanced by Charco to the County, and be fully reimbursable up to \$1,000,000 to Charco for the advance. If the Project is (i) not included by the City in the project and finance plans, (ii) is removed from such plans prior to the County's full reimbursement, or (iii) is found by the Texas Attorney General or a state district

court to be ineligible for TIRZ reimbursement, Charco (directly or through one or more affiliate) agrees not to seek reimbursement from the County for the development and construction costs of Project advanced to the County.

3. Project Reimbursement. The County agrees to submit construction costs for the Project to Charco. The County further agrees to submit requests for advances to Charco with documentation in the form required by the City to allow for the reimbursement of Charco for the advances. Charco shall advance funds to the County to reimburse the documented costs up to \$1,000,000 within sixty (60) days of receipt of the reimbursement request and shall apply to the City for reimbursement from the TIRZ fund as increment becomes available. County shall have no liability to Charco for any advances that go unreimbursed from the TIRZ fund.

B. Developer Costs.

Charco agrees to pay the County's reasonable legal costs for negotiating and drafting this Development Agreement, as well as the Participation Agreement. Charco further agrees to assume responsibility of the costs associated with platting the land and abandoning and capping the wells if not already abandoned and capped. Charco further agrees that, if permitted by the Texas Comptroller, Charco will utilize separated contracts for the infrastructure to be reimbursed by the TIRZ to make the land in the TIRZ the situs of taxable sales on materials used in the construction of the infrastructure.

C. Written Amendment.

This Agreement may be changed or amended only by a written instrument duly executed on behalf of Charco and the County.

D. Default.

If Charco or County fail to comply any of the terms and conditions of this Agreement, the aggrieved party shall give written notice thereof, including a reasonably detailed statement of the nature of such breach, to the breaching party. The breaching party will have thirty (30) days after notice is given to cure such breach. If the breaching party fails to cure in timely manner, may avail itself of any and all remedies available at law or in equity.

E. Notices.

All notices required or permitted hereunder shall be in writing and delivered by personal delivery, facsimile or United States Postal Service (certified mail, return receipt requested) and addressed to the other party at the address prescribed below, or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

If to Charco, to:

Charco Land Sales, LLC
4320 University Blvd
Laredo, TX 78041
Attn: Radcliffe Killam, II

If to the County, to:

Webb County

1000 Houston St. 3rd Floor
Laredo, Texas 78040
Re: Coves at Winfield TIRZ
Attention: County Judge
Phone: (956) 523-4600

F. Non-Waiver.

Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, or to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

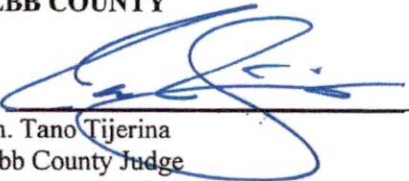
G. Venue.

Venue for any legal action concerning this Agreement will lie in Webb County, Texas. Nothing in this Agreement should be interpreted to waive the County's right to governmental immunity.

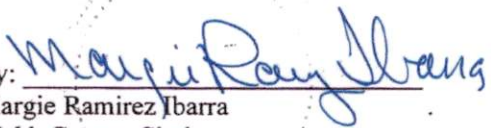
[SIGNATURES ON FOLLOWING PAGE]

EXECUTED and effective as of the 13th day of December, 2021.


WEBB COUNTY

By: 
Hon. Tano Tijerina
Webb County Judge

ATTEST:

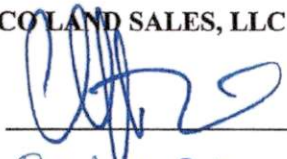
By: 
Margie Ramirez Ibarra
Webb County Clerk

Approved as to Form:

By: 
Nathan R. Bratton
General Counsel
Webb County Civil Legal Division"

**The General Counsel, Civil Legal Division's office, may only advise or approve contracts or legal documents on behalf of its client. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval and should seek review and approval of their own respective attorney(s).*

CHARCO LAND SALES, LLC

By: 
Name: Radcliffe Killam II
Title: President and CEO

**EXHIBIT A
THE LAND**



1701 Jaraman Rd., Suite #11
Laredo, TX 78041
(956) 235-1594
TSPE Certificate of Registration No. F-10071
Texas Licensed Surveying Firm No. 100438-00

LEGAL DESCRIPTION for a TRACT OF LAND
containing 4.0208 acres, more or less, situated in Porción 45, Tomas Jose de Oribe, Original
Grantee, Dolores Garcia, Patentee, Abstract 54, Webb County, Texas

A tract of land containing 4.0208 acres, more or less, situated in Porción 45, Tomas Jose de Oribe, Original Grantee, Dolores Garcia, Patentee, Abstract 54, Webb County, Texas, said 4.0208 acres being out of Part 6 of the San Rafael Farm Partition called to contain 302.177 acres conveyed to Killam Ranch Properties, Ltd., as per Warranty Deed, as recorded in Volume 1333, Pages 298-299, Official Public Records of Webb County, Texas, and as described in Volume 555, Pages 30-38, Official Public Records of Webb County, Texas, this tract of land being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2" iron found (N: 17027793.1100, E: 668521.2230), same iron rod being an interior corner on the west right-of-way line of U.S. Hwy 83 (ROW Varies), and bears S 34°30'58" W, a distance of 146.55 feet from a TxDOT ROW monument found, and interior corner on the west right-of-way line of U.S. HWY 83; THENCE, S 35°05'11" E, along the west right-of-way line of U.S. Hwy 83, at 551.33 feet past the southeast corner of the Laredo Ready Mix, Ltd. Tract, as recorded in Volume 4378, Page 622, Official Public Records of Webb County, Texas, and an exterior corner of the said Part 6 of the San Rafael Farm Partition, a total distance of 648.62 feet to a point; THENCE, S 89°41'21" W, across said Tract 6, a distance of 282.26 feet to a set 1/2" iron rod, same being THE POINT OF BEGINNING this tract of land containing 4.0208 acres, more or less, the northeast corner hereof;

THENCE, S 00°18'39" E, a distance of 310.00 feet to a 1/2" iron set, the southeast corner hereof;

THENCE, S 89°41'21" W, a distance of 566.00 feet to a 1/2" iron set, the southwest corner hereof;

THENCE, N 00°18'39" W, a distance of 285.00 feet to a 1/2" iron set, a point of deflection to the right;

THENCE, N 44°41'21" E, a distance of 35.36 feet to a 1/2" iron set, a point of deflection to the right;

THENCE, N 89°41'21" E, a distance of 541.00 feet to the POINT OF BEGINNING of this tract of land containing 4.0208, more or less.

Basis of Bearings: Texas Coordinate System of 1983, South Zone 4205.

STATE OF TEXAS
COUNTY OF WEBB

I, Hugo Seca, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this Legal Description and the Plat of Survey attached are true and correct and were prepared from record information and from an actual survey on the ground made under my supervision.

Executed this 14th day of October, 2021


Hugo Seca, RPLS No. 5783 - Texas



EXHIBIT B
REQUIRED DISCLOSURE AND PROVISIONS – CHARCO LAND SALES, LLC (“CHARCO”)

Section 1. DISCLOSURE OF CERTAIN RELATIONSHIPS: Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that any supplier or person doing business with a local government entity disclose in the Questionnaire Form CIQ, the supplier or person’s affiliation or business relationship that might cause a conflict of interest with a local government entity. By law, this questionnaire must be filed with the Records Administrator of the Webb County not later than the 7th business day after the date the supplier or person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code. A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

Section 2. ANTI-BOYCOTT VERIFICATION. Pursuant to Section 2271.002, Texas Government Code, to the extent this Agreement is a contract for goods or services, Charco hereby represents that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not Boycott Israel and, subject to or as otherwise required by applicable Federal law, Charco agrees not to Boycott Israel during the term of this Agreement. For purposes of this Section, "Boycott Israel" shall have the meaning given such term in Section 808.001, Texas Government Code. Charco understands "affiliate" for this Section 4.07 to mean an entity that controls, is controlled by, or is under common control with Charco and exists to make a profit.

Section 3. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN ENERGY COMPANIES. Pursuant to Section 2274.002, Texas Government Code, to the extent this Agreement is a contract for goods or services, Charco hereby represents that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, does not boycott energy companies, and will not boycott energy companies during the term of the contract. For purposes of this Section, "Boycott Energy Company" shall have the meaning given such term in Section 809.001, Texas Government Code.

Section 4. PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARM AND AMMUNITION INDUSTRIES. Pursuant to Section 2274.003, Texas Government Code, to the extent this Agreement is a contract for goods or services, Charco hereby represents that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. For purposes of this Section, "discriminate against a firearm entity or firearm trade association" shall have the meaning given such term in Section 2274.001., Texas Government Code.

Section 5. PROHIBITION ON CONTRACTS WITH CERTAIN COMPANIES. Charco and the person or persons executing the Development Agreement on behalf of Charco, or representing themselves as executing the Development Agreement on behalf of Charco (collectively, the “Signing Entities”), hereby acknowledge that (i) the Signing Entities do not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) the Signing Entities are not named 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 the Comptroller’s website:

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

CHARCO LAND SALES, LLC

By: _____

Name: Rodolfo Killam II

Title: President and CEO