

A RESOLUTION OF THE CITY OF TERRELL, TEXAS, APPROVING A DEVELOPMENT AGREEMENT WITH SPEZIA INVESTMENTS, LLLP; AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY TO EXECUTE THE DEVELOPMENT AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Spezia Investments, LLLP, an Arizona limited liability limited partnership, and the City of Terrell, Texas have negotiated a Development Agreement covering real property owned by said limited liability limited partnership, which Development Agreement is authorized pursuant to the authority of Section 212.172 of the Texas Local Government Code; and

WHEREAS, on August 1, 2006, the City Council of the City of Terrell, Texas, after providing notice as required by law, and otherwise in compliance with all applicable laws, considered the Development Agreement in a meeting open to the public; and

WHEREAS, the City Council of the City desires to approve the Development Agreement and authorize and direct the Mayor of the City to execute the Development Agreement.

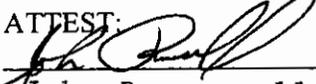
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS AS FOLLOWS:

Section 1. That the Development Agreement (a copy of which is attached hereto) among Spezia Investments, LLLP, an Arizona limited liability limited partnership, and the City of Terrell, Texas covering the property (the "Property") more particularly described in the Development Agreement is hereby approved.

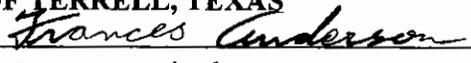
Section 2. That the Mayor of the City of Terrell, Texas is hereby authorized and directed to execute the Development Agreement for and on behalf of the City immediately upon the passage and adoption by the City Council of a Resolution accepting the Property into the extraterritorial jurisdiction of the City whereupon the Development Agreement shall become effective and binding on the Property.

Section 3. That this Resolution shall take effect immediately upon passage.

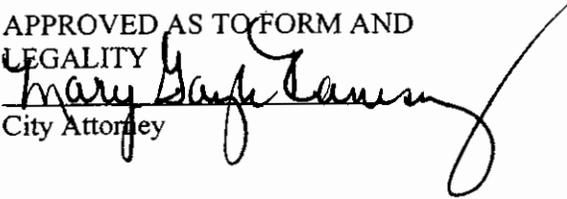
PASSED AND APPROVED this 1st day of August, 2006.

ATTEST:


John Rounsavall
Printed Name
City Secretary

CITY OF TERRELL, TEXAS
By: 

Frances Anderson
Printed Name
Title: Mayor

APPROVED AS TO FORM AND LEGALITY


Mary Kaye Cannon
City Attorney

Development Agreement

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (this "Agreement") is entered into between Spezia Investments, LLLP (the "Owner") and the City of Terrell, Texas (the "City"), to be effective the 1 day of August, 2006 (the "Effective Date").

ARTICLE I RECITALS

WHEREAS, the City is a home-rule municipal corporation of the State of Texas; and

WHEREAS, Spezia Investments, LLLP is an Arizona limited liability limited partnership; and

WHEREAS, Owner and the City are individually referred to as a "Party" and collectively as the "Parties"; and

WHEREAS, Owner is the owner of the real property in Kaufman County, Texas containing approximately 612.9 acres described by metes and bounds on Exhibit A attached to this Agreement and depicted by the drawing on Exhibit B attached to this Agreement (the "Property"); and

WHEREAS, the Property was partially located within the existing extraterritorial jurisdiction ("ETJ") of the City of Forney, and partially within Kaufman County and not within the existing ETJ or corporate limits of any city or town, prior to the City's inclusion of the Property in its ETJ; and

WHEREAS, on March 15, 2005, Owner submitted to the City a petition requesting the consent of the City to the creation of Las Lomas Municipal Utility District No. 4 of Kaufman County to include several tracts of land ("MUD 4"); and

WHEREAS, on March 15, 2005, the Terrell City Council (the "City Council") adopted Resolution No. 513 consenting to the creation of MUD 4; and

WHEREAS, MUD 4 was created by Senate Bill No. 1894, 79th Texas Legislature, Regular Session ("SB 1894"); and

WHEREAS, concurrently with the approval of this Agreement, the City Council adopted Resolution No. 547 consenting to the continued existence of MUD 4 in the ETJ of the City, and consenting to the undertaking of a road project pursuant to the terms and conditions of SB 1894 and to the inclusion of the Property in MUD 4 (the "MUD 4 Consent Resolution"); and

WHEREAS, the Parties desire that the Property be located wholly within the ETJ of the City; and

WHEREAS, on 6-19 2006, the Owner submitted a petition to the City of Forney (“Forney”) requesting that Forney release the Property from its ETJ; and

WHEREAS, on 6-24, 2006, the Forney City Council adopted an ordinance releasing the Property from its ETJ; and

WHEREAS, on 8-1, 2006, Owner submitted to the City a petition requesting the inclusion of the Property into the City’s ETJ; and

WHEREAS, on 8-1, 2006, prior to the approval of this Agreement by the City Council of the City, the City Council adopted Resolution No. 556 including the Property within the City’s ETJ; and

WHEREAS, as of the Effective Date, all of the Property is located within the City’s ETJ; and

WHEREAS, Owner desires to develop the Property as a master planned community represented initially by the concept plan shown on Exhibit C attached to this Agreement; and

WHEREAS, Owner desires to develop the Property within the City’s ETJ pursuant to mutually agreeable governing regulations that will remain in place for the term of this Agreement; and

WHEREAS, Owner desires that the Property will continue to exist within the City’s ETJ and be immune from annexation by the City as provided by this Agreement and by the MUD 4 Consent Resolution; and

WHEREAS, the City is willing to allow the Property to be developed as a master planned community within the City’s ETJ pursuant to mutually agreeable governing regulations that will remain in place for the term of this Agreement and is willing for the Property to remain in the City’s ETJ and be immune from annexation as provided by this Agreement and by the MUD 4 Consent Resolution; and

WHEREAS, pursuant to the requirement of House Bill 1445 and the authority of Chapter 791 of the Texas Government Code, the City entered into that certain Interlocal Agreement with Kaufman County effective October 1, 2001 (the “1445 Agreement”); and

WHEREAS, the 1445 Agreement provides, in relevant part, that the City has the exclusive jurisdiction to regulate all subdivision plats and to approve all related permits in the City’s ETJ, that the City is authorized to regulate subdivisions under Subchapter A of Chapter 212 of the Texas Local Government Code and other statutes applicable to municipalities, and that Kaufman County shall no longer exercise any of these functions in the City’s ETJ; and

WHEREAS, the 1445 Agreement further provides that, in the event the ETJ of the City is expanded, the 1445 Agreement shall be amended; however, the City shall continue to be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the City’s ETJ and to regulate subdivision under Subchapter A of Chapter 212 of the Texas Local Government

Code and other statutes applicable to municipalities until the 1445 Agreement is amended to take into account the expanded ETJ; and

WHEREAS, the Parties intend that MUD 4 and the City shall enter into a Strategic Partnership Agreement (the “SPA”) under the terms of which the City shall annex the retail areas within the Property for the limited purpose of collecting sales and use taxes within such retail area; and

WHEREAS, the Parties have the authority to enter into this Agreement including, but not limited to, the authority granted by Section 212.172 of the Texas Local Government Code.

NOW THEREFORE, for and in consideration of the mutual obligations of the Parties set forth in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are acknowledged, the Parties agree as follows.

ARTICLE II
DEVELOPMENT OF THE PROPERTY

2.1 Governing Regulations. Development of the Property shall be governed by: (a) the subdivision regulations attached hereto as Exhibit D (the “Subdivision Regulations”); (b) the development regulations attached hereto as Exhibit E (the “Development Regulations”); (c) the building codes identified on Exhibit F attached hereto (the “Building Codes”); (d) the special regulations attached hereto as Exhibit G (the “Special Regulations”); (e) amendments to engineering and design standards applicable to public improvements, as may be approved by the City Council from time to time and uniformly applied throughout the City (the “Improvement Design Standards”); and (f) construction plats and final plats for portions of the Property that are approved, from time to time, by the City in accordance with this Agreement (the “Approved Plats”). The Subdivision Regulations, Development Regulations, Building Codes, Special Regulations, and Approved Plats shall hereinafter be referred to as the “Governing Regulations.” Development of the Property shall be governed exclusively by the Governing Regulations, none of which may be amended without the prior written consent of Owner. Notwithstanding the foregoing, any application for a Construction Plat (as defined in Exhibit G attached hereto) or a building permit may be accompanied by a request for a variance from the Governing Regulations (a “Variance Request”). The City Council shall have the authority to grant Variance Requests in accordance with the Texas Open Meetings Act. No public hearing is required in order to grant a Variance Request. Improvement Design Standards shall only be applicable to Construction Plats for which an application is filed after such standards have been approved by the City Council.

2.2 Conflicts. In the event of a conflict between the Subdivision Regulations and either the Special Regulations or the Development Regulations, the Special Regulations and the Development Regulations shall control. In the event of any conflict between the Building Codes and any of the other Governing Regulations, the more restrictive shall control. In the event of any conflict between any Approved Plat and the Subdivision Regulations, the Approved Plat shall control. In the event of any conflict between this Agreement and the Subdivision Regulations, this Agreement shall control.

2.3 Building Permits and Site Plan Review.

(a) Building Permits. Except for the temporary manufactured housing permitted by Section 2.4, building permits shall be required for each building constructed within the Property, and no building shall be occupied until written evidence of substantial compliance with the Building Codes has been obtained or the City has issued a certificate of occupancy in accordance with this Section 2.3.

(1) Building permits shall be issued by, and certificates of substantial compliance prepared by, independent, certified and licensed inspectors hired and paid for by each builder from a list of inspectors that have been approved by the City (which approval shall not be unreasonably withheld) and that have agreed in writing to perform the obligations set forth in this Section 2.3. Each builder shall provide weekly written status reports to Owner, the City, and MUD 4 stating the number of buildings (identified by address and legal description) for which building permits were issued, and the number of buildings for which certificates of substantial compliance were issued, during the preceding week. Records of all inspections shall be maintained by each builder and each inspector, and such records shall be available for copying by Owner, the City, and MUD 4 during normal business hours. Owner and MUD 4 shall each have the right, but not the obligation, to conduct inspections, from time to time, of any building under construction to determine substantial compliance with the Building Codes. In the event any inspection (including those conducted by Owner or MUD 4) results in the “red-tagging” of a building for non-compliance and the builder fails to correct the non-compliance, Owner and MUD 4 shall have the right, but not the obligation, to enforce compliance and to prevent the occupancy of the building until the failure has been corrected to the reasonable satisfaction of the inspector (and all costs and expenses paid or incurred by Owner or MUD 4 in connection with such enforcement action shall be paid by the responsible builder). The City, at its sole cost and expense, shall have the right, but not the obligation, to observe the inspections required by this section. Substantial compliance with the Building Codes is the sole responsibility of each builder, and nothing in this section is intended to create any liability of Owner, the City, or MUD 4 for such compliance.

(2) In lieu of requiring compliance with Section 2.3(a)(1) and notwithstanding anything in this Section 2.3 to the contrary, the City may require compliance with this paragraph, however, the City’s charge for services described by this paragraph may not exceed 125% of the cost for similar services under Section 2.3(a)(1). Building permits shall be issued by the City upon a finding that building plans comply with the Building Codes. The City shall have 45 days from the date of the filing of a completed building permit application to make a determination on the application. Building inspections shall be conducted by the City to determine substantial compliance with Building Codes. The City shall inspect a building within 10 business days after the date the City receives a written request for an inspection. If a building substantially complies with the Building Codes, the City shall issue a certificate of occupancy for that building within five (5) business days after completing the inspection of the building; however, the builder shall pay the City’s fee for plan review and inspection services before the City is obligated to issue the certificate of occupancy. Records of all building permits, certificates of occupancy, and inspections shall be maintained by the City and available for copying during business hours. In the event any City inspection results in the “red-tagging” of a building for non-compliance and

the builder fails to correct the non-compliance, the City shall have the right, but not the obligation, to enforce compliance and to prevent the occupancy of the building until the failure has been corrected to the reasonable satisfaction of the City inspector (and all costs and expenses paid or incurred by the City in connection with such enforcement action shall be paid by the responsible builder). Substantial compliance with the Building Codes is the sole responsibility of each builder, and nothing in this section is intended to create any liability of Owner, the City, or MUD 4 for such compliance. The City may outsource any of the services described by this paragraph.

(b) Site Plan and Landscape Plan. Notwithstanding anything in this Section 2.3 to the contrary, no building permit may be issued until the City has approved a site plan and landscape plan in accordance with this paragraph. Builders shall submit a site plan and landscape plan to the City for review to ensure compliance with the Development Regulations. The City shall have 45 days from the date of the filing of a completed application to either approve or deny the site plan and landscape plan. If the site plan and landscape plan comply with the Development Regulations, the City shall approve the plans. The City may charge a fee for its review provided that the fee does not exceed the City's actual, reasonable cost of reviewing the site plan and landscape plan for compliance with the Development Regulations. The City may outsource any of the services described by this paragraph, or may require the builder to seek the services described by this Section 2.3(b) from a third party inspection company, in which case the third party shall provide the City with written evidence of compliance with the Development Regulations and the City shall have 10 business days to provide the builder with a written objection to the third party's determination. If the City objects to the third party's determination, the City's written objection shall set forth in detail the City's reasons for objecting and the builder shall be required to file a new application for site plan and landscape plan review. If the City does not object to the third party's determination within the time period provided herein, the site plan and landscape plan shall be deemed approved.

2.4 Temporary Manufactured Housing. A maximum of 20 temporary HUD-certified manufactured homes ("Manufactured Housing") are permitted on the Property at any given time as necessary for the creation and administration of MUD 4 or additional municipal utility districts created through the division of MUD 4 pursuant to the terms and conditions of SB 1894. Owner will notify the City of the make, model, HUD number, and 911 address for each unit of Manufactured Housing within 60 days after the unit is occupied. Manufactured Housing will be removed from MUD 4 within 60 days after the later to occur of (a) bond and maintenance tax election, or (b) any other election required by the TCEQ rules to be held within the boundaries of MUD 4. The Governing Regulations (including the plat approval process) do not apply to the Manufactured Housing authorized by this section.

2.5 Emergency Services. The MUD shall provide or Owner shall cause the MUD to provide police, fire, and EMS service to the Property, either directly (pursuant to Chapter 49, Texas Water Code) or indirectly through interlocal agreements between the MUD and the City, Kaufman County, or other providers of such service; however, the level of service shall be determined by the MUD. If such service is provided by Kaufman County or any other entity or political subdivision, notice of the terms and conditions of the service shall be provided to the City, and the City shall be given the opportunity to provide the service on the same terms and

conditions. Owner shall cause the MUD to begin the process of providing police, fire, and EMS service, either directly by the MUD or indirectly through its then-existing interlocal agreements.

ARTICLE III DEVELOPMENT CHARGES

3.1 City Fees and Review Fees. Development of the Property will be subject to the payment to the City of all fees and charges customarily applicable to the filing of applications for construction plats and final plats, including any fees associated with the recordation of plats (collectively, the "City Fees"). Development of the Property will also be subject to the payment of all reasonable costs associated with the review of construction plats, final plats, and engineering plans (collectively, the "Review Fees"), which review may be performed, at City's option, by a third party planner or engineer approved by the City, in which case Owner shall pay the Review Fees directly to the third party rather than to the City. The City Fees shall be adopted by ordinance and shall not exceed the same or similar fees charged to develop property within the City's corporate limits. The City Fees may be amended, from time to time, so long as the changes apply uniformly to the development of property within the City's corporate limits. Notwithstanding the foregoing, however, the City Fees and Review Fees shall not include any fees to inspect the construction or installation of any MUD improvements that are constructed or installed pursuant to the City-approved engineering plans, all of which inspections shall be the sole responsibility of MUD 4. Notwithstanding the preceding sentence, the City, at its sole cost and expense, shall have the right, but not the obligation, to observe such inspections.

3.2 Impact Fees. If the City becomes the retail provider of water or sewer to the Property, the City shall require the payment of water or sewer impact fees, as applicable, for capital improvements or facility expansions that are necessitated by or attributable to the development of the annexed Property ("Impact Fees"), if such Impact Fees are adopted and applied in compliance with Chapter 395 of the Texas Local Government Code. Upon annexation of the Property or any portion thereof, the City may require the payment of roadway impact fees for road improvements or facility expansions that are necessitated by or attributable to the development of the annexed Property ("Roadway Impact Fees"), if such Roadway Impact Fees are adopted and applied in compliance with Chapter 395 of the Texas Local Government Code. With the exception of the Impact Fees, the City may not require the payment of any other impact fees or similar capital recovery fees, charges, or assessments of any kind in connection with the development of the Property unless otherwise agreed to by the Parties in writing.

3.3 Other Fees. The City Fees, Review Fees, Impact Fees, and the fees described by Sections 2.3(a)(2) and 2.3(b) shall be the only fees or charges paid to the City, or to a third party planner or engineer if applicable, in connection with the development of the Property unless otherwise agreed to by the Parties in writing.

ARTICLE IV
JURISDICTIONAL STATUS

The Property shall remain in the ETJ of the City during the Term (hereinafter defined) of this Agreement, and the City guarantees the continuation of the ETJ status of the Property during such Term. Except for portions of the Property that are subject to limited purpose annexation pursuant to the strategic partnership agreement referenced in Section 5.4 of this Agreement, and except for those portions of the Property that are subject to full purpose annexation pursuant to Section 5.6 of this Agreement and Section 4.3 of the strategic partnership agreement referenced in Section 5.4 of this Agreement, to which annexations Owner expressly and irrevocably consents, the Property shall be immune from annexation during the Term of this Agreement, and the City guarantees immunity from annexation during such Term. All annexations of the Property shall be conducted in accordance with the Texas Local Government Code. The City shall take such action as is necessary to amend the 1445 Agreement to include the expansion of the City's ETJ to include the Property.

ARTICLE V
MUD CONSENTS

5.1 MUD Consents. Except as otherwise provided in this Section 5.1, this Agreement, together with the MUD 4 Consent Resolution, constitute the irrevocable and unconditional consent of the City to (i) the undertaking of a road project, as described in Part 2 of the MUD 4 Consent Resolution, pursuant to the terms and conditions of SB 1894; (ii) the continued existence of MUD 4 within the ETJ of the City for the term described in the MUD 4 Consent Resolution; and (iii) the inclusion of the Property in MUD 4 pursuant to the terms and conditions of SB 1894. The consents given by the City in the MUD 4 Consent Resolution shall not be withdrawn or modified, and no further action by the City Council shall be required to evidence such consents. The City shall cooperate in good faith with Owner in the continued existence of MUD 4 including, but not limited to, the execution by the City of such further ordinances, resolutions, documents, or instruments as may be requested from time to time by Owner, MUD 4, the TCEQ, the Texas Attorney General, or any other governmental agency or political subdivision having jurisdiction over MUD 4 or any bonds issued by MUD 4. Except as otherwise provided in this Section 5.1, the consents given by the City in the MUD 4 Consent Resolution, as evidenced by this Agreement and the MUD 4 Consent Resolution, are intended to fully satisfy all requirements of the Texas Water Code, the TCEQ, and SB 1894. MUD 4 shall have the right to exercise all the rights, powers, and authority granted to municipal utility districts under the Texas Constitution, the general laws of the State of Texas, SB 1894, any other applicable special legislation, and under the rules, regulations, and policies of the TCEQ or of any other political subdivision, governmental agency, or regulatory agency having jurisdiction over MUD 4 or any bonds issued by MUD 4. The City's consent in all respects to all matters addressed in the MUD 4 Consent Resolution shall be deemed withdrawn, and all obligations on the part of the City with respect to the MUD under this Section 5.1 shall no longer be binding, in the event the MUD breaches Section 5.2 of this Agreement and such breach is not cured within 60 days after written notice from the City to the MUD.

5.2 No Transfer of Territory. Notwithstanding any provision of state law to the contrary, the MUD shall not authorize a transfer of any of the Property to the extraterritorial jurisdiction of another municipality.

5.3 Financial Information. Within 90 days after the Effective Date, Owner shall provide to City financial information regarding the estimated infrastructure costs to develop the Property. Owner shall provide the City with a copy of all bond applications related to the Property within 10 days after such bond applications are submitted to the TCEQ. Within sixty to thirty days before the 10th anniversary of the Effective Date, Owner shall provide City with financial information regarding infrastructure costs incurred to develop the Property and any debt associated with the construction of such infrastructure. Owner shall compensate the City for its reasonable costs incurred in retaining financial consultants to evaluate such financial information.

5.4 Strategic Partnership Agreement. Owner shall cause the MUDs to enter into an strategic partnership agreement in substantially the same form attached hereto as Exhibit H. The City shall have the right to terminate this Agreement if the MUD 4 has not adopted, executed, and delivered to the City the strategic partnership agreement within 30 days after the Effective Date of this Agreement.

5.5 Reimbursement Limitations. Owner shall not be entitled to reimbursement from MUD 4 for any costs or expenses paid by Owner after the dates hereinafter set forth, which costs and expenses would otherwise be eligible to be reimbursed to Owner by MUD 4 pursuant to the rules and regulations of the TCEQ or other applicable law (whether such reimbursement would result from the proceeds of MUD bonds, by operation of law or otherwise), which right to compensation Owner expressly and irrevocably waives:

(a) in the case of each successor district resulting from the division of MUD 4, Owner shall not be entitled to reimbursement for costs or expenses paid after the later of: (1) the expiration of the term of this Agreement, or (2) for each successor district resulting from the division of MUD 4, the date that is the 15th anniversary of the date on which the division election results for each successor district are canvassed by the Board of Directors of MUD 4; and

(b) in the case of the remainder of MUD 4, whether or not all divisions creating successor districts have occurred, 25 years following the Effective Date of this Agreement.

(c) The City shall not, upon annexation of the Property, be liable for any costs or expenses paid by Owner after the expiration of the time periods set forth above and, similarly, shall not be required to assume any obligations of MUD 4 after the expiration of such time periods.

5.6 Annexation. Subject to Article IV of this Agreement, the City agrees that it will not annex the Property for full purposes until:

(a) in the case of each successor district resulting from the division of MUD 4, the later of (1) the expiration of the term of this Agreement or (2) for each successor district resulting from the division of MUD 4, the date that is the 15th anniversary of the date on which the division election results for each successor district are canvassed by the Board of Directors of MUD 4; and

(c) in the case of the remainder of MUD 4, whether or not all divisions creating successor districts have occurred, 25 years following the Effective Date of this Agreement.

ARTICLE VI ADDITIONAL PROVISIONS

6.1 Recitals. The recitals contained in this Agreement are true and correct as of the Effective Date and form the basis upon which the Parties negotiated and entered into this Agreement.

6.2 Reservation of Rights and Claims. This Agreement constitutes a “permit” as defined in Chapter 245, Texas Local Government Code, as amended, that is deemed filed with the City on the Effective Date. Except as provided by this section, Owner does not, by entering into this Agreement, waive: (a) any rights arising under Chapter 245, as amended, or under Chapter 43 of the Texas Local Government Code, as amended, or under any other provision of law; or (b) any claims that City regulation of the Property constitutes an illegal exaction or an inverse condemnation, except to the extent such claims are based on regulation of the Property by application of the Governing Regulations in accordance with this Agreement. Similarly, the City does not waive any defenses it may have to such rights and claims by Owner. The expiration or termination of this Agreement shall not affect the rights or claims preserved by and waived by this section. The rights arising under Chapter 245, as amended, and Chapter 43, as amended, shall not be affected by the fact that a developer or an owner may request or that the City may approve, from time to time, development of the Property in a manner that differs materially from earlier plans for development. The rights of Owner pursuant to Chapter 245, as amended, together with the rights of Owner under this Agreement to develop the Property in accordance with the Governing Regulations, shall continue and be unaffected by any moratorium or similar action by the City that would delay, interfere with, or otherwise adversely affect development of the Property unless such moratorium is the direct result of the unavailability of water or sewer service to serve the Property.

6.3 Term. The term of this Agreement (the “Term”) shall be the maximum period of time authorized by Section 212.172 of the Texas Local Government Code, as amended (but in no event less than 15 years from and after the Effective Date unless mutually agreed upon by the Parties). The Parties may agree to renew this Agreement for the time period authorized by Section 212.172 of the Texas Local Government Code, as amended.

6.4 Assignment by the City. The City shall have the right to assign its rights and obligations under this Agreement to any political subdivision or governmental entity of the State of Texas (“City Assignee”) without the consent of Owner provided: (a) the City remains a Party to this Agreement at all times; (b) the assignment is in writing executed by the City and its assignee; (c) the assignment incorporates this Agreement by reference and binds the City’s assignee to

perform (to the extent of the obligations assigned) in accordance with this Agreement; and (d) a copy of the executed assignment is provided to all the Parties. Any attempted assignment by the City in violation of this section shall be null and void and shall constitute an immediate event of default by the City without notice or opportunity to cure. From and after the effective date of any assignment by the City, Owner agrees to look solely to the City's assignee for performance of the obligations assigned, and the City shall be released from such performance. No assignment by the City shall release the City from any liability to Owner that arose from an event of default by the City (or from any failure by the City which, if not cured, would constitute an event of default) that occurred prior to the effective date of the assignment. The City's assignee shall become a Party to this Agreement when a copy of the executed assignment has been provided to all the Parties.

6.5 Assignment by Owner.

(a) By Owner to Successor Owners. Owner has the right (from time to time without the consent of the City, but upon written notice to the City) to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Owner under this Agreement, to any person or entity (an "Assignee") that is or will become an owner of any portion of the Property. Each assignment shall be in writing executed by Owner and the Assignee and shall obligate the Assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. A copy of each assignment shall be provided to all Parties within 15 days after execution. In addition, within 15 days after execution of each assignment, Owner shall provide to the City a copy of all written information related to Assignee and made available to Owner by Assignee, including but not limited to Assignee's financial information, to the extent such information is not covered by a confidentiality agreement prohibiting Owner from releasing such information. From and after such assignment, the City agrees to look solely to the Assignee for the performance of all obligations assigned to the Assignee and agrees that Owner shall be released from subsequently performing the assigned obligations and from any liability that results from the Assignee's failure to perform the assigned obligations; provided, however, if a copy of the assignment and the Assignee Information is not received by the City within 15 days after execution, Owner shall not be released until the City receives such assignment. No assignment by Owner shall release Owner from any liability that resulted from an act or omission by Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing. Owner shall maintain written records of all assignments made by Owner to Assignees, including a copy of each executed assignment and the Assignee's Notice information as required by this Agreement, and, upon written request from any Party or Assignee, shall provide a copy of such records to the requesting person or entity. Each Assignee shall become a Party to this Agreement when a copy of the executed assignment has been provided to all the Parties.

(b) By Owner to Non-Owners. Subject to the City's prior written approval, Owner has the right, from time to time, to assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of Owner under this Agreement, to any person or entity that is not an owner of any portion of the Property (a "Non-Owner Assignee"). Each assignment shall be in writing executed by Owner and the Non-Owner Assignee and shall obligate the Non-Owner Assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title, or interests being assigned. A copy of each assignment shall be

provided to all Parties within 15 days after execution. If the City approves the Non-Owner Assignee in writing (which approval shall not be unreasonably withheld or delayed if the Non-Owner Assignee can demonstrate, to the reasonable satisfaction of the City, that the Non-Owner Assignee has the financial ability to perform the assigned obligations), then the City agrees to look solely to the Non-Owner Assignee for the performance of all obligations assigned to the Non-Owner Assignee and agrees that Owner shall be released from subsequently performing the assigned obligations and from any liability that results from the Non-Owner Assignee's failure to perform the assigned obligations. If the City fails or refuses to approve the Non-Owner Assignee, the assignment shall nevertheless be effective; however, the Owner shall continue to be responsible, jointly and severally, with the Non-Owner Assignee for the performance of all obligations assigned. No assignment by Owner shall release Owner from any liability resulting from an act or omission by Owner that occurred prior to the effective date of the assignment unless the City approves the release in writing. Owner shall maintain written records of all assignments made by Owner to Non-Owner Assignees, including a copy of each executed assignment and the Non-Owner Assignee's Notice information as required by this Agreement, and, upon written request from any Party or Non-Owner Assignee, shall provide a copy of such records to the requesting person or entity.

6.6 Encumbrance by the City. The City is prohibited from pledging, granting a lien in, granting a security interest in, or otherwise encumbering in any way any right, title or interest of the City under this Agreement without the prior written consent of Owner. Any attempted pledge, grant of security interest or lien, or encumbrance by the City in violation of this section shall be null and void and shall constitute an immediate event of default by the City without notice or opportunity to cure.

6.7 Encumbrance by Owner. Owner shall have the right to pledge, grant a lien or security interest in, or otherwise encumber any right, title or interest of Owner under this Agreement for the benefit of any lender (a "Lender") without the consent of, but with notice to, the City. The pledge, grant of lien or security interest, or encumbrance by Owner for the benefit of a Lender shall not obligate the Lender to perform any obligations under this Agreement and shall not create any liability of the Lender to the City. If there is an event of default by Owner under this Agreement, any Lender shall have the right, but not the obligation, to cure such event of default, which cure shall not obligate the Lender to perform any other obligations under this Agreement and shall not create any other liability of the Lender to the City. A Lender is not a Party to this Agreement unless this Agreement is amended with the consent of the Lender to designate the Lender as a Party.

6.8 Authority. The City represents and warrants that this Agreement has been approved and duly adopted by the City Council in accordance with all applicable public meeting and public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been authorized to do so. Owner represents and warrants that this Agreement has been approved by appropriate action of Owner and that the individual executing this Agreement on behalf of Owner has been authorized to do so.

6.9 Recordation. Pursuant to the requirements of Section 212.172(f) of the Texas Local Government Code, this Agreement shall be recorded in the deed records of Kaufman County,

Texas. Owner shall record this Agreement within 30 days after the date the Agreement is fully executed. Owner shall provide the City with a copy of the recorded Agreement within 10 business days after recordation. This Agreement shall be binding upon: (a) the Parties; (b) Assignees; (c) Lenders; (d) the Property; and (e) future owners of all or any portion of the Property (all of the foregoing collectively referred to as the “Successors”). Notwithstanding the foregoing, however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property as to such lot except for land use and development regulations that apply to specific lots. For purposes of this Agreement: (A) the term “end-buyer” means any owner, developer, tenant, user, or occupant; (B) the term “fully developed and improved lot” means any lot, regardless of the use, for which a final plat has been approved by the City; and (C) the term “land use and development regulations that apply to specific lots” mean the Governing Regulations applied in accordance with this Agreement. A Successor is not a Party to this Agreement unless this Agreement is amended to designate the Successor as a Party.

6.10 No Third Party Beneficiaries. This Agreement only inures to the benefit of, and may only be enforced by, the Parties; however, the MUD 4, and any additional municipal utility districts created through the division of MUD 4 pursuant to the terms and conditions of SB 1894, shall be considered third-party beneficiaries to this Agreement upon execution of the strategic partnership agreement referenced in Section 5.4. No other person or entity shall have any right, title, or interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

6.11 Entire Agreement; Amendment; Severability. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings, whether oral or written, concerning the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties. If any provision of this Agreement is determined by a court to be unenforceable, the unenforceable provision shall be deleted from this Agreement, the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of the Parties, and the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties. Without limiting the generality of the foregoing: (a) if it is determined that, as of the Effective Date, Owner does not own any portion of the Property, this Agreement shall remain in full force and effect with respect to all of the Property that Owner does own; or (b) if it is determined that, as of the Effective Date, any portion of the Property is not within the City’s ETJ, this Agreement shall remain in full force and effect with respect to all of the Property that is within the City’s ETJ.

6.12 Events of Default. Except for the immediate events of default described by this Agreement, no Party shall be in default under this Agreement until: (a) written notice of the alleged failure to perform has been given, which notice shall describe in reasonable detail both the nature of the alleged failure and the action required to cure; and (b) the recipient of the notice has been given a reasonable opportunity to cure based on the nature of the alleged failure. Notice given to Owner or any Assignee of their alleged failure to perform shall not be effective until a copy of the notice has been given to their respective Lenders who have requested a copy (which requests shall be in writing and shall be given to all Parties). A default by a Party shall

only apply to the defaulting Party; and no default by one Party shall constitute a default by any other Party (i.e., there are no cross defaults as among the Parties). In addition, a default by a Party with respect to a particular tract of land within the Property shall only apply to the defaulting Party with respect to the particular tract; and no default with respect to a particular tract shall constitute a default with respect to any other land within the Property regardless of ownership (i.e., there are no cross defaults among different tracts of land within the Property). Notwithstanding the foregoing, a default with respect to one tract of land (whether by an owner, developer, or a MUD) may delay the development of other land until the default is cured if the default involves the failure to construct public improvements (e.g., a water main or sewer trunk line) necessary for the development of such other land.

6.13 Remedies. If a Party is in default under this Agreement, the non-defaulting Party, as its sole and exclusive remedies, shall be entitled to injunctive relief, mandamus relief, specific performance, and, under the circumstances set forth in this section, a limited right of the City to terminate this Agreement. If the City has exhausted its remedies, other than termination, and the defaulting Party remains in default under this Agreement, the City shall have the further right to terminate this Agreement if such default is not fully cured within 90 days after the City gives written notice to the defaulting Party and its Lenders of the City's intent to terminate this Agreement; provided, however, the City's right to terminate shall be limited to that portion of the Property that is owned by or being developed by the defaulting Party and that is the subject of the default. In the event a MUD breaches Section 5.2 of this Agreement and such default is not fully cured within 90 days after the City gives written notice of such default to all Parties, the City shall have the right to terminate this Agreement in its entirety, whereupon this Agreement shall become null and void, including any covenants of the City that survive termination of this Agreement, as provided herein, and to withdraw any consent given to the MUD 4 Consent Resolution or subsequent consent actions. Except as provided in the preceding sentences, no Party shall have the right to terminate this Agreement. Except in the event of a default by the MUD of Section 5.2 of this Agreement (after notice and failure to cure as provided above), no default under this Agreement shall affect, in any way: (a) the obligations, if any, of the City to provide services to developed portions of the Property; (b) the validity or effectiveness of any consents given by the City in the MUD 4 Consent Resolution; (c) the continuation of the extraterritorial status of the Property and its immunity from annexation as provided by this Agreement and the MUD 4 Consent Resolution; (d) the continued existence of MUD 4 within the ETJ of the City; or (e) the performance by MUD 4 of any of its functions including, but not limited to, providing retail utility service and the issuance of their bonds.

6.14 Limited Waiver of Immunity. Owner has relied upon the enforceability of this Agreement as material consideration for entering into this Agreement. To the extent necessary for any Party to pursue its remedies against the City under this Agreement, the City waives governmental immunity from suit and immunity from liability.

6.15 Notices. Any notice or other communication required by this Agreement to be given, provided, or delivered to a Party shall be in writing addressed to the Parties as set forth below. Notices shall be considered "given" for purposes of this Agreement: (a) if by Certified Mail, five business days after deposited with the U.S. Postal Service, Certified Mail, Return Receipt Requested; (b) if by private delivery service (e.g., FedEx or UPS), on the date delivered to the

notice address as evidenced by a receipt signed by any person at the notice address; or (c) if by any other means (including, but not limited to, FAX and E-mail), when actually received by the Party at the notice address.

CITY:

Attn: City Manager
201 E. Nash St.
P. O. Box 310
Terrell, TX 75160
FAX: (972) 551-2743

With a copy to:

Attn: Mary Gayle Ramsey
City Attorney
201 E. Nash St.
P. O. Box 310
Terrell, TX 75160
FAX: (972) 563-4417

SPEZIA INVESTMENTS, LLLP

Attn: Gary Lane
7835 E. Redfield Road, Suite 100
Scottsdale, AZ 85260
FAX: (480) 951-8414
E-mail: garylaicp@aol.com

With a copy to:

Attn: Ike Shupe
Hughes & Luce, LLP
1717 Main Street, Suite 2800
Dallas, Texas 75201
FAX: (214) 939.5849
E-mail: ike.shupe@hughesluce.com

Each Party has the right to change, from time to time, its notice addresses by giving at least 10 days written notice to the other Parties. A Lender may change its address in the same manner by written notice to the Parties. If any time period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the period shall be extended to the first business day following such Saturday, Sunday or legal holiday.

6.16 Time. Time is of the essence in the performance by the Parties of their respective obligations under this Agreement.

6.17 Applicable Law and Venue. This Agreement shall be interpreted in accordance with the laws of the State of Texas. Venue shall be in Kaufman County, Texas.

6.18 Non-Waiver. If a Party fails to insist on strict performance of any provision of this Agreement, such failure shall not be deemed a waiver by such Party of its right to insist on strict performance of such provision in the future or strict performance of any other provision of this Agreement.

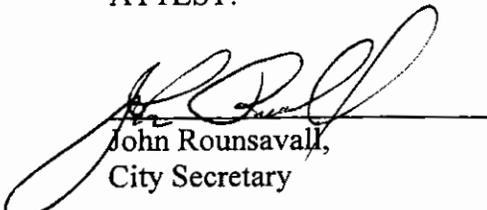
6.19 Further Documents. Each Party shall, upon request of the other Party, execute and deliver such further documents and perform such further acts as may reasonably be requested to effectuate the terms of this Agreement and achieve the intent of the Parties.

6.20 Force Majeure. In the event a Party is unable, due to force majeure, to perform its obligations under this Agreement, then the obligations affected by the force majeure shall be temporarily suspended. Within three business days after the occurrence of a force majeure, the Party claiming the right to temporarily suspend its performance based on the force majeure, shall give written notice to all the Parties, including a complete and detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. The term "force majeure" shall include events or circumstances that are not within the reasonable control of the Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of due diligence and reasonable care.

6.21 Exhibits. The exhibits attached to this Agreement are incorporated as part of this Agreement for all purposes as if set forth in full in the body of this Agreement.

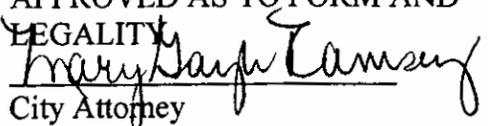
ATTEST:

CITY OF TERRELL, TEXAS

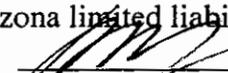

John Rounsavall,
City Secretary

By: 
Frances R. Anderson
Mayor

APPROVED AS TO FORM AND
LEGALITY


City Attorney
Mary Gayle Ramsey

**SPEZIA INVESTMENTS, LLLP, an
Arizona limited liability limited partnership**

By: 
David P. Maniatis, its General Partner

STATE OF ~~TEXAS~~ Arizona §
§
COUNTY OF Maricopa §

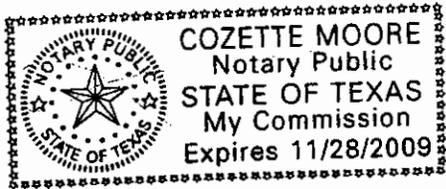
This instrument was acknowledged before me on JULY 27th, 2006, by David P. Maniatis, General Partner for Specira Investments a Limited Liability Partnership on behalf of said Limited Partnership.



Kim Mitchell
Notary Public in and for Arizona

STATE OF TEXAS §
§
COUNTY OF Kaufman §

This instrument was acknowledged before me on August 1, 2006, by Frances R. Anderson, Mayor for City of Jewell, a municipal corporation, on behalf of said City of Jewell.



Cozette Moore
Notary Public in and for Texas

EXHIBIT A
METES AND BOUNDS DESCRIPTION OF THE PROPERTY

488.999-Acre Tract

BEING a tract of land situated in the LEWIS PEARSE SURVEY, ABSTRACT NO. 373, and the JOHN HEATH SURVEY, ABSTRACT NO. 227 in Kaufman County, Texas, and being part of a called 1012.488 acre tract of land described in a deed to AP Dupont Limited Partnership recorded in Volume 2502, Page 77 of the Deed Records of Kaufman County, Texas, a part of a called 10.599 acre tract of land described in a deed to Olen Davis recorded in Volume 1566, Page 114 of said Deed Records, and all of a 113.474 acre tract of land described in a deed to Olen T. Davis & Associates, Inc. recorded in Volume 1068, Page 469 of said Deed Records, and being more particularly described as follows:

BEGINNING at a point in the northwest boundary of said 1012.488 acre tract, said point being the east corner of Emerald Ranch Estates, an addition to Kaufman County according to the plat thereof recorded in Cabinet 2, Slide 464 of the Map records of Kaufman County, Texas;

THENCE North 44 degrees 18 minutes 26 seconds West, along the northeast boundary of said Emerald Ranch Estates tract and the northwest boundary of said 1012.488 acre tract, a distance of 1583.05 feet for the north corner of said Emerald Ranch and the south corner of a called 108.73 acre tract described in a deed to Countryside Helms Trail, L.P., recorded in Volume 1838, Page 286 of said Deed Records;

THENCE North 45 degrees 06 minutes 03 seconds East, along the southeast line of said 108.73 acre tract and a called 18.425 acre tract of land described in a deed to Kaufman Land Partners, Ltd., recorded in Volume 1973, Page 579 of said Deed Records, a distance of 2874.06 feet for the east corner of said 18.425 acre tract;

THENCE North 44 degrees 45 minutes 10 seconds West, along the northeast line of said 18.425 acre tract and the most westerly northwest line of said 1012.488 acre tract, a distance of 1954.78 feet to a point in the approximate center of Helms Trail (undedicated public road) for the north corner of said 18.425 acre tract and the southeast corner of said 113.474 acre tract;

THENCE North 45 degrees 20 minutes 58 seconds West, along the approximate center of Helms Trail and the most northerly northwest line of said 1012.488 acre tract, a distance of 3095.32 feet to a point in the south line of the Union Pacific Railway (100' right-of-way);

THENCE South 88 degrees 06 minutes 52 seconds East, along the south line of said Railway and along the north line of said 1012.488 acre tract, a distance of 781.53 feet to a point for corner;

THENCE South 00 degrees 51 minutes 17 seconds East, a distance of 9582.30 feet to a point on the Talty one-half mile extra-territorial jurisdiction (ETJ) line;

THENCE along the Talty ETJ line the following courses and distances:

Northwesterly, along a non-tangent curve to the left which has a chord that bears North 54 degrees 08 minutes 40 seconds West for 1157.06 feet, a central angle of 25 degrees 19 minutes 01 second and a radius of 2640.00 for an arc distance of 1166.53 feet to the end of said curve;

North 44 degrees 48 minutes 35 seconds West, a distance of 1272.29 feet to the beginning of a tangent curve to the left;

Northwesterly, along the tangent curve to the left which has a chord that bears North 62 degrees 23 minutes 35 seconds West for 1595.03 feet, a central angle of 35 degrees 09 minutes 58 seconds and a radius of 2640.00 feet, for an arc distance of 1620.34 to a point on the southeast line of said Emerald Ranch;

THENCE North 45 degrees 17 minutes 02 seconds East, along the southeast line of said Emerald Ranch, a distance of 799.31 feet to the POINT OF BEGINNING and containing 21,300,810 square feet, or 488.999 acres of land, more or less.

123.853-Acre Tract

BEING a 123.853 acre tract of land situated in the John Heath Survey, Abstract Number 227, in Kaufman County, Texas and being all of a 10.599 acre tract of land described by deed to Olen Davis recorded in Volume 1566, Page 114 of the Deed Records of Kaufman County, Texas (DRKCT) and being all of 113.474 acre tract of land described by deed to Olen T. Davis & Associates, Inc. recorded in Volume 1068, Page 469 (DRKCT) and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod set for the northeast corner of said 10.599 acre tract of land and being located in the center of a Rock Top Road known as County Road No. 211 (Helms Trail) which is fenced approximately 45' in width, said point also being located in the south line of the Texas & Pacific Railway right-of-way (100' wide);

THENCE along the center of said County Road 211 (Helms Trail) and the southeasterly line of said 113.474 acre tract of land as follows:

SOUTH 42°04'26" WEST a passing distance of 140.57 to the northeast corner of said 113.474 acre tract of land, in all a total distance of 499.10 feet to a 5/8 inch iron rod set for corner;

SOUTH 41°28'25" WEST a distance of 732.40 feet to a 5/8 inch iron rod set for corner;

SOUTH 41°14'24" WEST a distance of 840.20 feet to a 5/8 inch iron rod set for corner;

SOUTH 40°52'03" WEST a distance of 1,138.96 feet to a 5/8 inch iron rod set for the southerly corner of said 113.474 acre tract of land;

THENCE departing the center of said County Road 211 (Helms Trail) and following the southwesterly line of said 113.474 acre tract of land, NORTH 48°37'23" WEST a passing

distance of 27.33 feet to a 5/8 inch iron pipe found at the base of a fence post, in all a total distance of 3,373.09 to a 5/8 inch iron rod found for the northwest corner of said 10.599 acre tract of land and being located in the south line of said Texas & Pacific Railway right-of-way;

THENCE along the south line of said Texas & Pacific Railway right-of-way, NORTH 87°45'00" EAST a distance of 4,653.28 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 123.853 acres or 5,395,049 square feet of land more or less all according to that survey prepared by A.J. Bedford Group, Inc., dated March 15, 2005 and signed by Austin J. Bedford, Registered Professional Land Surveyor No. 4132; to which reference for all purposes is hereby made.

**EXHIBIT B
DEPICTION OF THE PROPERTY**

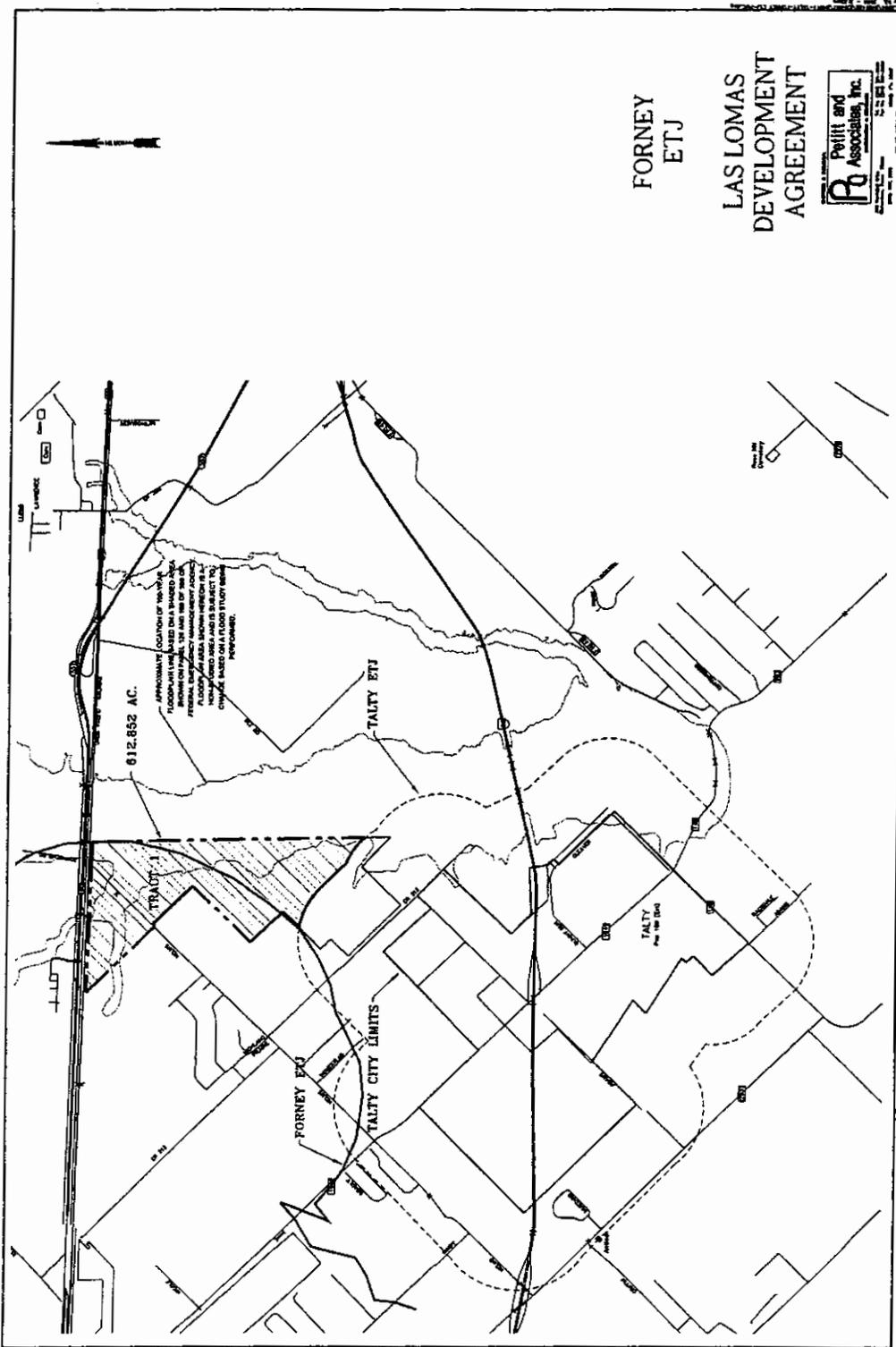


EXHIBIT C CONCEPT PLAN



Lot No.	Area (Acres)	Use	Notes
1	0.15	Office	
2	0.15	Office	
3	0.15	Office	
4	0.15	Office	
5	0.15	Office	
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100	0.15	Office	

- NOTES**
1. ALL LOTS ARE TO BE DEVELOPED WITHIN 18 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 2. ALL LOTS ARE TO BE DEVELOPED WITHIN 24 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 3. ALL LOTS ARE TO BE DEVELOPED WITHIN 30 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 4. ALL LOTS ARE TO BE DEVELOPED WITHIN 36 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 5. ALL LOTS ARE TO BE DEVELOPED WITHIN 42 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 6. ALL LOTS ARE TO BE DEVELOPED WITHIN 48 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 7. ALL LOTS ARE TO BE DEVELOPED WITHIN 54 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 8. ALL LOTS ARE TO BE DEVELOPED WITHIN 60 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 9. ALL LOTS ARE TO BE DEVELOPED WITHIN 66 MONTHS OF THE COMMENCEMENT OF THE PROJECT.
 10. ALL LOTS ARE TO BE DEVELOPED WITHIN 72 MONTHS OF THE COMMENCEMENT OF THE PROJECT.

LAND USE PLAN
TRADITION
WEST SIDE AT BRUSHY CREEK
FORNEY/TERRILL, TEXAS


 Aperion
 DEVELOPMENT

EXHIBIT D
SUBDIVISION REGULATIONS

Subdivision Ordinance, City of Terrell, Ordinance No. 2255 adopted January 18, 2005.

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EXHIBIT E
DEVELOPMENT REGULATIONS

1. **Development Standards.** The Property shall be developed in accordance with the standards contained on Attachment A to this Exhibit E. In addition, single family residential uses shall be developed in accordance with the standards for single family residential on Attachment B, and all other uses shall be developed in accordance with the standards for retail on Attachment B.
2. **Hike and Bike Trail System.** Developments within the Property shall be connected by sidewalks or a hike and bike trail system.
3. **Exterior Construction Standards.** Development of the Property shall be in accordance with the following exterior construction standards:
 - A. **Definitions.**
 - i. **Masonry Construction** – This term shall be construed to mean that form of construction composed of brick, stone, decorative concrete block or tile, or other similar building units or materials (or combination of these materials) laid up unit by unit and set in mortar, and shall exclude wall area devoted to doors and windows. This term shall include the following materials:
 - a. **Hard fired brick** – shall be kiln fired clay or slate material and can include concrete brick if it is to the same American Society for Testing and Materials (ASTM) standard for construction as typical hard fired clay brick. The material shall be Severe Weather grade. Unfired or under-fired clay, sand or shale brick are not allowed.
 - b. **Stone** – includes naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all-weather stone that is customarily used in exterior construction material. Cast or manufactured stone product, provided that such product yields a highly textured, stone-like appearance.
 - c. **Decorative concrete block** – shall be highly textured finish such as split-faced, indented, hammered, fluted, ribbed, or similar architectural finish. Coloration shall be integral to the masonry material and shall not be painted on.
 - d. **Concrete pre-cast or tilt wall panel** – shall be of an architectural finish that is equal to or exceeds the appearance and texture of face brick or stone. Coloration shall be integral to the masonry material and shall not be painted on.

- e. Stucco – an exterior plaster made from a mixture of cement, sand, lime and water spread over metal screening or chicken wire or lath.
 - f. Exterior Insulated Finish System – a synthetic stucco cladding system that typically consists of the these main components:
 - 1. Panels of expanded polystyrene foam insulation installed with adhesive or mechanically fastened to the substrate, usually plywood or oriented strand board;
 - 2. A base coat over the foam insulation panels,
 - 3. A glass fiber reinforcing mesh laid over the polystyrene insulation panels and fully imbedded in the base coat; and
 - 4. A finishing coat over the base coat and the reinforcing mesh.
 - ii. Exterior Wall Surface – All areas of a habitable structure’s wall sections located above the finish floor elevation of the foundation, exclusive of doors and windows.
- B. Minimum Exterior Construction Standards. The following standards and criteria are deemed to be minimum standards and shall apply to all new building construction:
- i. Single-Family. The first floor exterior wall surface of all new single-family shall be of 100% masonry construction. When located along the front or back elevation of a structure, areas of exterior walls located directly beneath covered porches or patios that have a minimum dimension of four feet in depth and eight feet in width shall not be counted as exterior wall surface when calculating the masonry requirement for the first floor. A minimum of 75% of the exterior wall surfaces above the first floor shall be of masonry construction. Architectural trim features such as dormers or gables shall not be counted as exterior wall surface when calculating the masonry requirement above the first floor and may be located on any wall surface.
 - ii. Non-Residential Structures. All exterior wall surfaces of all new non-residential structures shall be of 100% masonry construction. When located along the front or back elevation of a structure, areas of exterior walls located directly beneath covered porches or patios that have a minimum dimension of four feet in depth and eight feet in width shall not be counted as exterior wall surface when calculating the masonry requirement.

- iii. Exemptions. The Minimum Exterior Construction Standards do not apply to:
 - a. Public or governmental facilities;
 - b. Public or private schools;
 - c. Detached accessory buildings having not more than four hundred (400) square feet of floor area when located on the same lot as a single-family or two-family dwelling;
 - d. Temporary construction and material storage buildings utilized during construction of permanent improvements on a parcel of land, within a subdivision or other similar circumstance such as a public works project;
 - e. Barns and farm accessory buildings if such buildings are used solely for agricultural purposes; or
 - f. Remodeling, renovating or expansion of existing single-family when matching materials (or materials that simulate the appearance of the existing exterior) are utilized.

- v. Alternative Exterior Materials. The City Council may approve an alternative exterior construction material only upon a determination that (1) the proposed material is sufficiently durable and fire and weather resistant, (2) the proposed building materials and arrangement of the materials provide consistency of appearance with existing structures on the property or within the neighborhood in which it is located, or (3) the proposed building material creates an appearance that associates a time, a place, an event, or an activity with the development in a thematic manner. All requests to utilize an alternative exterior construction material shall be in writing and shall address the durability of the proposed material along with an explanation of its use as it relates to (2) or (3) above in this paragraph. Such requests shall be accompanied by a site plan and a façade plan in the case of an individual structure or group of structures developed as a single non-residential project. In the case of a residential development involving the utilization of an alternative exterior construction material on a neighborhood-wide basis, a concept plan or approved plat and typical facade treatments shall accompany the request. The City may require the submission of an actual sample of the proposed alternative exterior construction material. A request to utilize an alternative exterior construction material shall be submitted to the Building Official. The City Council shall consider the request within thirty days of submittal. The approval of an alternative exterior construction material shall be on a case by case basis and is solely at the discretion of the City Council.

C. Exception. If any of the materials listed under the definition of masonry construction above is deemed by the City's Building Official to be structurally unsound, that material shall not be used for any future construction from the date the Building Official provides Owner with written notice of such determination except to the extent the material is used to repair or replace existing portions of buildings constructed with the material.

4. **Alleys.** Alleys are permitted only for developments with rear-entry garages.

5. **Minimum Parking Requirements.** Parking shall be provided in accordance with the minimum number of parking spaces required by Attachment B to this Exhibit E. In addition, all single family uses shall have a minimum two-car garage. All garage openings shall be located at least 20 feet from the nearest property line. Carports are prohibited on lots containing single-family uses.

6. **Visibility Easements.** Development of the Property, including construction of new buildings, must comply Section 3.3(f) of the Subdivision Regulations.

7. **Signs.**

A. Definitions:

i. **Billboard** means a sign that advertises a business or service conducted or a product sold on a lot other than the lot on which the sign is located. The term billboard does not include signs that advertise off-site developments on the Property that are under construction or for sale or lease.

ii. **Permanent Detached Sign** means any permanent Monument Sign or Pole Sign.

iii. **Attached Sign** means any sign attached to a building.

iv. **Monument Sign** means a Permanent Detached Sign applied directly onto a grade-level support structure (instead of a pole support) with no separation between the sign and grade.

v. **Pole Sign** means a Permanent Detached Sign supported by, from, or on top of one or more vertical poles or beams.

B. Sign limitations. Billboards, Permanent Detached Signs, and Attached Signs are subject to the restrictions listed in (i)-(v) below. The Parties contemplate that signs that are not Billboards, Permanent Detached Signs, or Attached Signs will be regulated by design guidelines contained within private deed restrictions recorded with Kaufman County, therefore, such signs are not regulated by this

Agreement. A copy of such private deed restrictions shall be submitted with the first construction plat application for the Property.

- i. Billboards are prohibited.
- ii. Except as follows, all Permanent Detached Signs shall be Monument Signs. Pole Signs are permitted on lots adjacent to or within 100 feet of U.S. 80.
- iii. Monument Signs shall not exceed 200 square feet in area or 15 feet in height, and shall have a minimum setback of 5 feet from the public right-of-way.
- iv. Pole Signs shall not exceed 200 square feet in area or 30 feet in height, and shall have a minimum setback of 5 feet from the public right-of-way.
- v. Attached Signs are permitted so long as the cumulative area of all Attached Signs on a building facade does not exceed fifteen percent (15%) of the area of the facade.
- vi. Attached Signs and Permanent Detached Signs are prohibited on lots occupied by residential uses. This provision does not apply to Monument Signs that serve as residential subdivision entry signs if such signs happen to be located on the same lot as a residential use.
- vii. Monument Signs that serve as residential subdivision entry signs may be located on private property, or in the public right-of-way if approved on a construction plat.

C. Permits. Sign permits are not required.

D. Platting. Signs may be installed on unplatted land.

8. **Permitted Uses.** Use of the Property must comply with the permitted uses set forth on Attachment B to this Exhibit E.

9. **Landscaping.**

A. General Requirements.

- i. Each existing tree that is proposed to remain shall be provided with undisturbed, permeable surface area under, and extending outward to, the existing dripline of the tree. All new trees shall be provided with a permeable surface under the dripline a minimum of 5 feet by 5 feet.

- ii. Driveways from the public right-of-way are permitted to encroach on areas required to be landscaped.
- iii. Unless otherwise stated, no required landscaping can be used to satisfy more than one landscaping requirement under this Section 9.

B. Landscape Buffers.

- i. At least one tree that is a minimum of 3 inches in caliper shall be planted for every 50 linear feet or fraction thereof of frontage along all roadways with right-of-way that is 60 feet in width or greater. Such trees shall be planted in the interior parkway of the public right-of-way. Trees may be grouped or clustered to provide a more natural looking arrangement. Attachment C to this Exhibit E generally shows this required landscape buffer.
- ii. A minimum 10 foot landscape buffer shall be planted on private property adjacent to all rights-of-way that are 100 feet in width or greater. At least one tree that is a minimum of 3 inches in caliper shall be planted for every 50 linear feet or fraction thereof of buffer area. Trees may be grouped or clustered to provide a more natural looking arrangement. This landscaped buffer shall be included in determining whether the requirements of Section 9(C) below have been met.

C. Non-Residential Requirements. A minimum of 10% of the street yard of all lots containing non-residential uses shall be permanently landscaped. For purposes of this requirement, the street yard is that area between a property line abutting street right-of-way and the minimum side or front yard setback line, as applicable.

D. Non-Residential Parking Lots. Each parking lot serving a non-residential use shall include a minimum of 15 square feet of landscaped area for each parking space. All landscaped areas within parking lots must be a minimum of 50 square feet in area. A minimum of one tree that is at least 2 caliper inches is required for every 10 parking spaces or fraction thereof. No parking space shall be located more than 60 feet from the nearest tree. Attachment C to this Exhibit E illustrates these parking lot landscaping requirements.

E. Residential Requirements. The following landscaping requirements apply to all residential construction:

- i. A minimum of 2 trees that are a minimum of 2 inches in caliper shall be on lots that are 60 feet in width or greater.

- ii. A minimum of 1 tree that is a minimum of 2 inches in caliper shall be planted on lots that are less than 60 feet in width.
- iii. Unimproved portions of a lot be landscaped with sod or other live ground cover.

10. Open Storage. Open storage of materials, commodities, or equipment shall be screened with a masonry wall that is a minimum of 6 feet in height, and shall not be visible from the street or from adjacent property. The wall shall be maintained at the property line adjacent to the area to be screened and no outside storage may exceed the height of the fence. Outside storage that does not meet these requirements shall be allowed by resolution of the City Council.

Attachment A - Development Standards

**Attachment A
Development Standards**

	Single Family Residential		Retail
	SF-9	SF-8	
Minimum Lot Area	9,600	8,400	None
Minimum Lot Width*	80'	70'	20'
Minimum Lot Depth	120	120'	None
Minimum Front Yard Setback	25**	25**	20'
Minimum Side Yard Setback	5' interior; 10' corner	5' interior; 10' corner	15' if adjacent to or across an alley from residential; otherwise none
Minimum Rear Yard Setback	20	20	15' if adjacent or across an alley from residential; otherwise none
Maximum Height	The greater of 35' or 2.5 stories	The greater of 35' or 2.5 stories	N/A
Maximum Lot Coverage***	55%	55%	N/A
Minimum Dwelling Unit Floor Area	1,800 square feet per unit	1,800 square feet per unit	N/A
Maximum Number of Acres	N/A	N/A	50
Maximum Number of Dwelling Units****	385	385	N/A

* Minimum lot width shall be measured at the front yard setback line.

** The minimum front yard setback for any lot in SF-8 or SF-9 may be reduced by up to 10 feet if the lot is served by an alley.

*** Measurement of maximum lot coverage shall include only the under the roof square footage for the first story of the primary structure and any detached garage. Under the roof square footage does not include the area under roof eaves and overhangs.

**** The single-family residential categories may be located anywhere within the Property; however, the number of units in each category shall not exceed the maximum shown. If, however, the number of units in any category is less than the maximum allowed, then the difference may be added, in any combination, to any category containing larger lots.

Notwithstanding the foregoing, however, the total number of residential units for all of the foregoing residential categories (single family and attached) shall not exceed 770 units.

Corner lots shall be considered to have front yards along both street frontages. The yard opposite from the street frontage to which the main entrance to the structure is oriented shall be considered the rear yard. The remaining yard shall be considered to be a side yard.

Attachment B
Permitted Uses and Parking Requirements

Legend ✓ Allowed by right C Allowed by resolution of the City Council following recommendation by P&Z (no public hearing required)	Single Family Residential	Retail	Parking Ratio (Minimum Parking Requirement)
Amenity Center	✓		1 space : 300 sf
Accessory Uses	✓		None
Agricultural	✓	✓	None
Ambulance Service		✓	1 space : 500 sf
Animal Kennel		✓	1 space : 500 sf
Antique Shop		✓	1 space : 200 sf
Apparel Shop		✓	1 space : 200 sf
Aquarium		✓	1 space : 500 sf
Art Gallery		✓	1 space : 500 sf
Auction House		✓	1 space : 100 sf
Auto Parts Sale (No Outside Storage or Display)		✓	1 space : 200 sf
Auto Parts Sale (With Outside Storage or Display)		✓	1 space : 200 sf
Automobile Sales (Primarily New)		✓	1 space : 300 sf
Automobile Service Station (including automobile wash as accessory use)		✓	1 space : 200 sf
Automobile Wash (Attended)		✓	3 spaces: washing capacity of module
Automobile Wash (Unattended)		✓	3 spaces: washing capacity of module
Automotive Repair Services (No outside work) or storage		✓	1 space : 500 sf
Awning Manufacture – Cloth, Metal, and Wood		C	1 space : 1,000 sf
Bakery – Retail (Inside Service Only)		✓	1 space : 200 sf
Bakery – Retail (With Drive-Thru Service)		✓	1 space : 200 sf
Barber and Beauty Shops		✓	1: 200 sf
Bed and Breakfast		✓	2 plus 1 per guest room
Bird and Pet Shops (Retail Only)		✓	1: 200 sf
Book or Stationery Shop (Retail Only)		✓	1: 200 sf
Bowling Alley (Air-conditioned and Sound Proofed)		✓	4: lane

Legend ✓ Allowed by right C Allowed by resolution of the City Council following recommendation by P&Z (no public hearing required)	Single Family Residential	Retail	Parking Ratio (Minimum Parking Requirement)
Bus or Truck Storage		C	1: 1,000 sf
Cabinet and Fixtures Shop		✓	1: 500 sf
Camera, Photographic Supply and Film Developing (Retail Only)		✓	1: 200 sf
Candy and Other Confectionary Products Manufacture		✓	1: 1,000 sf
Candy, Cigars, Tobacco (Retail Only)		✓	1: 200 sf
Carpenter Shop		✓	1: 500 sf
Carpet and Rug Cleaning Plant		C	1: 1,000 sf
Catering Service		✓	1: 500 sf
Ceramic Products Manufacture		✓	1: 500 sf
Church	✓	✓	1 per 4 seats in sanctuary
Clinic		✓	1: 300 sf
Clothing Manufacture		✓	1: 500 sf
Coffin Manufacture		C	1: 1,000 sf
Cold Storage Plants		C	1: 1,000 sf
Commercial Amusement (Outdoors)		✓	None
Commercial Amusement (Indoors)		✓	1: 100 sf
Commercial Laundry and Cleaning Plants		✓	1: 1,000 sf
Community or Social Buildings	✓	✓	1: 300 sf
Construction Contractor with Storage Yard		C	1: 1,000 sf
Cutlery, Hand tools and General Hardware Manufacture		C	1: 1,000 sf
Day Care	C	✓	1 per 3 children
Day Nursery (6 children or less)		✓	2
Department, Hardware, Sporting Goods, Toys, Paints, Wallpaper, and Clothing Stores (Retail Only)		✓	1: 200 sf
Drive-in Theater		C	1 per speaker
Driving Range		✓	2 per tee box
Drug Store (Retail Only)		✓	1: 200 sf
Dwelling - Temporary Manufactured Home (per Art.2, Sec.2.4)	✓	✓	1 per dwelling
Dwelling – Single Family	✓		2 per dwelling
Eating Establishment (Inside Service Only)		✓	1: 150 sf
Eating Establishment (With Drive-Thru Service)		✓	1: 150 sf

Legend ✓ Allowed by right C Allowed by resolution of the City Council following recommendation by P&Z (no public hearing required)	Single Family Residential	Retail	Parking Ratio (Minimum Parking Requirement)
Electrical Repair – (Domestic Equipment and Autos)		✓	1: 1,000 sf
Electro-plating / Electro-typing		✓	1: 1,000 sf
Electronic Goods (Retail Only)		✓	1: 200 sf
Engraving Plant		✓	1: 1,000 sf
Envelope Manufacture		✓	1: 1,000 sf
Exterminating Company		✓	1: 300 sf
Farm or Orchard	✓	✓	None
Feed Store		✓	1: 500 sf
Financial Institutions (No motor bank services)		✓	1: 300 sf
Financial Institutions (With motor bank services)		✓	1: 300 sf
Fix-it Shops – Bike Repair, Saw Filing, Mower Sharpening (No outdoor storage)		✓	1: 500 sf
Florist (Retail Only)		✓	1: 200 sf
Furniture and appliance Store (Retail Only)		✓	1: 500 sf
Furniture Repair and Upholstering (Retail Only – All Storage Within Building)		✓	1: 1,000 sf
Garage or Yard Sales	✓		None
Gift or Card Shop (Retail Only)		✓	1: 200 sf
Golf Course	✓	✓	6 per hole
Grocery Store		✓	1: 200 sf
Health Club		✓	1: 300 sf
Hobby Supply Store (Retail Only)		✓	1: 200 sf
Home Occupations	✓	✓	None
Hospital		✓	1 per bed
Hotel and Motel		✓	1 per room plus 1 : 220 sf of common facilities
Ice Cream Manufacture / Ice Manufacture		C	1: 1,000 sf
Indoor Commercial Recreation and Entertainment		✓	1: 200 sf
Institutions of Religious, Educational or Philanthropic Nature	C	✓	1: 200 sf
Jewelry Store		✓	1: 200 sf
Laundromat		✓	1: 200 sf
Laundry and Cleaning Pickup Station (Retail Only)		✓	1: 200 sf
Leather Products Manufacture		C	1: 1,000 sf
Library, Rental		✓	1: 300 sf

Legend ✓ Allowed by right C Allowed by resolution of the City Council following recommendation by P&Z (no public hearing required)	Single Family Residential	Retail	Parking Ratio (Minimum Parking Requirement)
Lumber Yard		✓	1: 500 sf
Machine Shop		✓	1: 1,000 sf
Manufacture Homes Sales		C	1: 5,000 sf of land area
Marble Working and Finishing		✓	1: 1,000 sf
Market - Open Air, Flea		C	1: 200 sf
Mattress – Making and Renovating		✓	1: 1,000 sf
Meat and Fish Market (Retail Only)		✓	1: 200 sf
Milk Depot - Wholesale		✓	1: 1,000 sf
Miniature Golf Course		✓	3 per hole
Mirror Resilvering		✓	1: 1,000 sf
Mortuary		✓	1 per 4 seats
Motion Picture Studios – Commercial Films		✓	1: 300 sf
Motion Picture Theatre		✓	1 per 4 seats
Motor Freight Transportation and Storage		✓	1: 1,000 sf
Moving and Storage Company		✓	1: 1,000 sf
News Printing		✓	1: 1,000 sf
Nursery (Retail Sale of Plants and Trees)		✓	1: 1,000 sf of sales area
Office, Professional and Business		✓	1: 300 sf
Optical Goods Manufacture		✓	1: 1,000 sf
Orthopedic, Prosthetic, Surgical Appliances and Supplies Manufacture		✓	1: 1,000 sf
Outdoor Sales		C	1: 5,000 sf of land area
Paint Mixing (Excludes Cooking or Baking of Paints, Varnish, and lacquers)		✓	1: 1,000 sf
Painting and Refinishing Shop		✓	1: 500 sf
Paper Products and Paper Box Manufacture		✓	1: 1,000 sf
Parking Lot or Garage for passenger cars and trucks of less and one (1) ton capacity		✓	None
Pattern Shop		✓	1: 1,000 sf
Petroleum Products Storage			1: 1,000 sf
Pharmacy (Retail Only)		✓	1: 200 sf
Photo Engraving Plant		✓	1: 1,000 sf
Photographer's Studio		✓	1: 300 sf
Piano and Musical Instruments (Retail Only)		✓	1: 200 sf
Plastic Products – Molding, Casting and Shaping		✓	1: 1,000 sf

Legend ✓ Allowed by right C Allowed by resolution of the City Council following recommendation by P&Z (no public hearing required)	Single Family Residential	Retail	Parking Ratio (Minimum Parking Requirement)
Print / Copy Shop		✓	1: 200 sf
Printing Equipment, Supplies, and Repairs	✓	✓	1: 500 sf
Private Club		C	1: 100 sf
Public Assembly (Auditorium, Gymnasium, Stadium etc.)	C	✓	1 per 4 seats
Public Building – City, County, State or Federal Government	✓	✓	None
Public Park, Playground	✓	✓	None
Public Utility Installations	✓	✓	None
Publishing and Printing Company		✓	1: 500 sf
Radio, Television and Communications Tower		C	None
Railroad Yards – Round House or Shop			1: 1,000 sf
Recreational Vehicle Park		C	1.5 per RV pad
Residential Health Care Facility		✓	Greater of 1 per 3 beds or 1.5 per dwelling
Retail Store or shop for custom work (retail on premises)		✓	1: 200 sf
School – College or University	C	✓	10 per: classroom plus 2 per office
School-Elementary (Public or Denominational)	✓	✓	2 per classroom and office
School-High School (Public or Denominational)	✓	✓	8 per classroom plus 2 per office
School-Junior High (Public or Denominational)	✓	✓	3 per classroom plus 2 per office
School-Other Than Public or Denominational	C	✓	Same as public or denominational
School-Vocational		✓	1 per student
Seamstress, Dressmaker, or Tailor (Retail Only)		✓	1: 200 sf
Seed Store		✓	1: 500 sf
Sheet Metal Shop		✓	1: 1,000 sf
Sheltered Care Facility		✓	1 per 3 beds or 1.5 per dwelling
Shoe Repair Shop (Retail Only)		✓	1: 200 sf
Shoe Store (Retail Only)		✓	2: 200 sf
Skating Rink		✓	1: 200 sf

Legend ✓ Allowed by right C Allowed by resolution of the City Council following recommendation by P&Z (no public hearing required)	Single Family Residential	Retail	Parking Ratio (Minimum Parking Requirement)
Stone Monument Engraving		✓	1: 1,000 sf
Stone Monuments-retail sales only		✓	1: 500 sf
Storage Facility-Self Service(Mini-warehouse)		✓	1: 10 units
Studios-Art, Dance, Music, Drama, Health, Massage, and Reducing		✓	1: 200 sf
Studios for Display and Sale of Glass, China, Art, Cloth, and Draperies		✓	1: 200 sf
Taxi Cab Storage and Repair		✓	1: 500 sf
Taxi Stand		✓	1: 500 sf
Temporary Concrete Batching Plant	✓	✓	None
Temporary Construction Sales and Storage Trailer	✓	✓	None
Warehouse		C	1: 1,000 sf
Water Distillation		✓	1: 1,000 sf
Wedding Chapel		✓	1 per 4 seats
Welding Shop		✓	1: 1,000 sf
Wholesale Trade-Nondurable Goods		✓	1: 500 sf
Wood Container Manufacture		✓	1: 1,000 sf
Wood Products Manufacture		C	1: 1,000 sf
Wood Working Shops		✓	1: 1,000 sf
Home Improvement Store		✓	1: 1,000 sf

Attachment C Landscaping Illustration

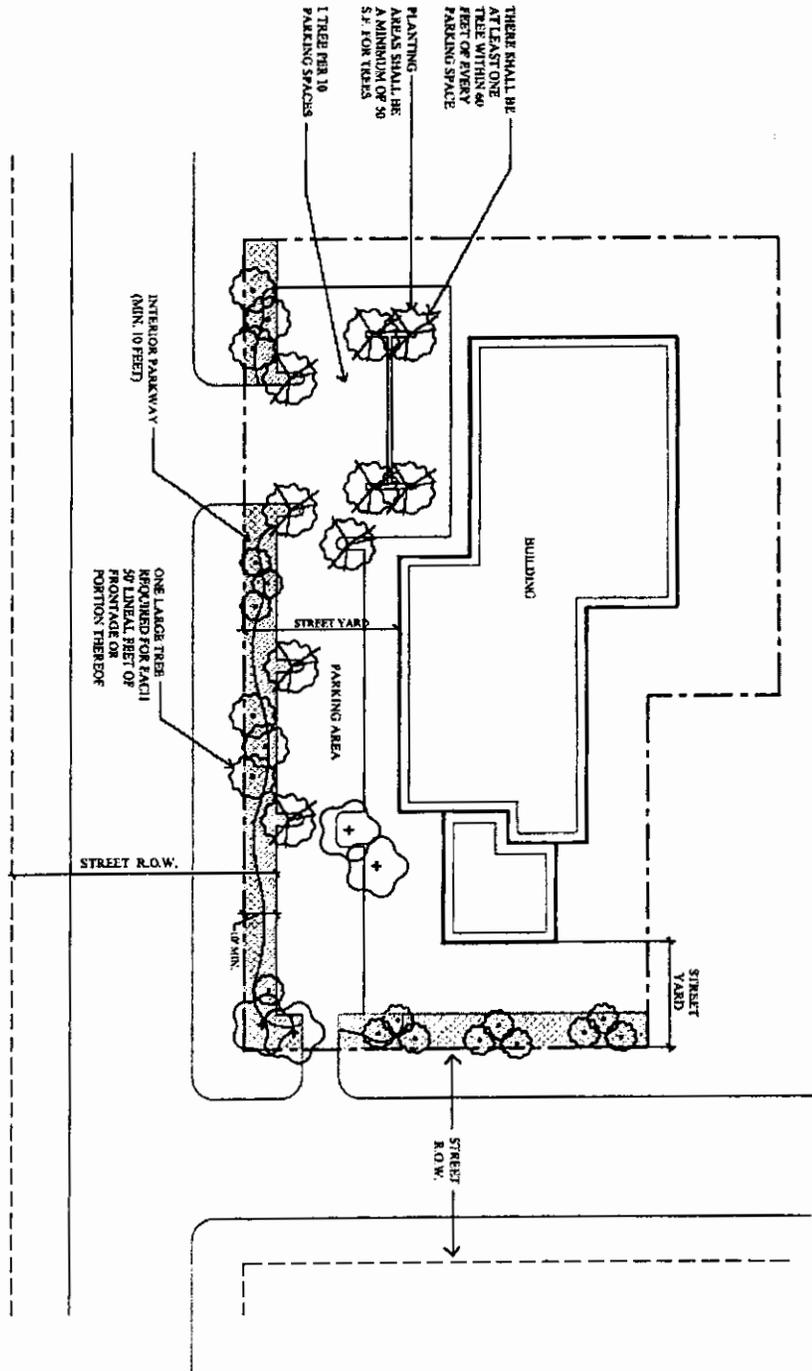


EXHIBIT F
BUILDING CODES

The International Building Code, International Residential Code, International Mechanical Code, International Plumbing Code, International Fire Code, International Energy Code, Conservation Code, National Life and Safety Code, National Electrical Code (all of the foregoing as amended, including local amendments, if any, adopted by the City and uniformly applied throughout the City's corporate limits).

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EXHIBIT G
SPECIAL REGULATIONS

The following definitions shall apply for the purposes of these Special Regulations:

- a. "City Engineer" means the city engineer as defined in the Subdivision Regulations.
 - b. "Comprehensive Plan" means the City's comprehensive plan as defined in the Subdivision Regulations including, but not limited to, the plans, policies, purposes, standards, and requirements contained or referenced therein.
 - c. "Concept Plan" shall be the concept plan attached to this Agreement as Exhibit C, including subsequent revisions.
 - d. "Construction Plat" means a construction plat as defined in the Subdivision Regulations.
 - e. "Developer" means any owner or developer of any portion of the Property.
 - f. "Engineering Plans" mean engineering plans as defined in the Subdivision Regulations.
 - g. "Final Plat" means a final plat as defined in the Subdivision Regulations.
 - h. "Plat" means a Construction Plat or Final Plat.
 - i. "Open Space" shall be land designated as floodplain, hike and bike trails, all public school property, land used for a public or private park, and land used for private common areas including, but not limited to, amenity centers and other recreational facilities. "Open Space" shall also include land in any drainage area or easement shown on a Construction Plat, utility corridors, and parkways provided that such areas are usable for public or private recreation and are connected to or integrated with open space areas described in the preceding sentence. Parking areas shall not be included in the calculation of open space unless they are constructed for the sole purpose of serving the open space, such as parking lots that provide parking for a park. School property shall only be considered Open Space if the property is used as a public park or otherwise used pursuant to a joint use agreement between either (i) the City and the school district, (ii) the school district and MUD 4, or (iii) the school district and a property owners association.
1. Compliance with Concept Plan. Development of the Property shall comply with the Concept Plan. The Concept Plan may not be revised without the approval of the City Council.
 2. Pre-Application Conference. Pre-application conferences are not required prior to the submittal of Final Plat applications. The City shall conduct Construction Plat pre-application conferences within 30 days after a written request by the applicant or the requirement for the conference shall be deemed to be waived.

3. Lapse of Construction Plat. An approved Construction Plat does not lapse provided that (a) Engineering Plans are submitted to the City within 183 days after approval of the Construction Plat, and (b) construction of improvements commences within 365 days after the City Engineer approves the Engineering Plans.
4. Park Board Review. Park Board review of Plats is not required.
5. Updated Traffic Study Requirement. Each application for a Construction Plat shall be accompanied by an updated traffic study in accordance with Section 7 of this exhibit.
6. Open Space and Neighborhood Park Requirement. The aggregate land area within all approved Construction Plats shall include, at all times, a minimum of 15% Open Space, which amounts to more than 118 acres of Open Space upon full development of the Property. The aggregate land area within each individual approved Construction Plat shall include a minimum of 5% Open Space, unless waived by the City Council. Section 4.4 of the Subdivision Ordinance shall not apply. Each Construction Plat shall include a minimum of three acres of neighborhood parkland ("Neighborhood Parks") for every 1,000 estimated residents, which shall be estimated at the ratio of 3 residents per dwelling unit. Neighborhood Parks count as required Open Space. Neighborhood Parks shall consist of a minimum of five contiguous acres.
7. Traffic Studies. To ensure that off-site roadways have the necessary added capacity to accommodate the traffic from Los Lomas and other developments, a Master Traffic Study shall be finalized for purposes of identifying improvements and their costs for the following existing or planned off-site intersections: U.S. 80 at F.M. 148; I.H. 20 at S.H. 34; U.S. 80 at Windmill Farms; and I.H. 20 at F.M. 1641. Following review and evaluation of the Master Traffic Study by the Parties, which shall occur within 120 days of the Effective Date of this Agreement, the Parties shall apportion the costs of the improvements that are fairly attributable to traffic from Las Lomas and other existing and planned development projects among such contributors, and shall amend this paragraph to include such apportionment. Payment of costs attributable to Las Lomas shall be made by Owner or the MUDs, which shall be a condition of development approval. No plat applications for the Property shall be presented to or accepted or processed by the City until the amendments to this section are finalized by the Parties. Developer hereby expressly waives any claims that the City's failure to accept or process plat applications pending amendments to this section constitutes a violation of statutory, contractual or constitution rights, including any claims for damages; or that submittal of any plat application prior to such amendments vests any development rights or results in such plat application being deemed approved under state law by inaction of the City.
8. Engineering Plans and Site Development Permits. Engineering Plans shall be submitted to the City Engineer no later than 183 days after approval of each Construction Plat. The City Engineer shall have 60 days during which to review the plans and provide detailed written comments to the applicant (and the failure to provide written comments within such period shall constitute approval of the plans). The City Engineer shall approve the Engineering Plans if they comply with: (a) the North Texas Council of Government's "Standard Specifications for Public Works Construction," as amended; (b) the City's Technical Construction Standards and Specifications, as amended; (c) the Subdivision Regulations; and (d) this Agreement. Approved

Engineering Plans do not lapse so long as construction commences within 365 days after the plans are approved. The City Engineer shall hold pre-construction conferences with the applicant and approve applications for site development permits in a timely manner to assure that construction may commence within 365 days after Engineering Plan approval.

9. Early Grading. Grading and site-clearing activities may begin when Engineering Plans have been submitted to the City, when all then-current Texas Pollution Discharge Elimination System program requirements have been complied with, and when the City has been notified in writing of such compliance. Such activities shall be at the sole risk of the Developer and shall be subject to changes required by the City Engineer based upon a review of the Engineering Plans.

10. Assurance for Completion of Public Improvements. Prior to filing an application for a Final Plat, the Developer may provide the City with assurances of security for completion of all public improvements by filing Performance Bonds or letters of credit in a form reasonably acceptable to the City Engineer and City Attorney. Performance Bonds or Letters of Credit shall serve as satisfactory assurances if they provide for 100% of the cost for completion.

11. Final Plat Application. An application for a Final Plat may be submitted for approval at any time after approval of a Construction Plat provided the City has determined that all public improvements are complete or that satisfactory assurances of security for completion of public improvements have been provided. As a condition to filing an application for a Final Plat before construction of all public improvements is completed, the City may also require the execution of an interlocal agreement between the applicable District and the City that guarantees the completion of construction; however, if the City fails or refuses to enter into such an agreement, the requirement for such agreement shall be deemed to be waived.

12. Screening. Developer may elect to comply with Section 5.7 of the Subdivision Regulations through use of any of the screening alternatives listed below:

A. living/landscaped screen with decorative metal (e.g., wrought iron) fence sections with masonry columns;

B. a combination of berms and living/landscaped screening, either with or without decorative metal or "WoodCrete" type of fence with masonry columns;

C. a combination of berms, decorative masonry retaining walls (no taller than six feet in height were facing or visible to a public street) and living/landscaped screening, either with or without a decorative metal or "WoodCrete" type of fence with masonry columns; or

D. some other creative screening alternative may be approved if it meets the spirit and intent of Section 5.7 of the Subdivision Regulations, if it is demonstrated to be long-lasting and generally maintenance free, and if the City Council finds it to be in the public interest to approve the alternative screening device.

13. Compliance with Comprehensive Plan. Conformance with the City's Comprehensive Plan shall not be the basis for the denial of any Plat.

14. Compliance with Zoning Ordinance. Conformance with the City's Zoning Ordinance (or with any other land use ordinances, plans, policies, purposes, standards, or requirements) shall not be required as part of any Plat application and shall not be the basis for the review and approval of any Plat.

15. Applicability of Landscape Ordinance. Section 5.7(c) of the Subdivision Regulations pertaining to the City's Landscape Ordinance does not apply.

16. Applicability of Sign Ordinance. Section 5.7(d) of the Subdivision Regulations pertaining to the City's Sign Ordinance does not apply.

17. Maintenance of Parks and Open Space. Except for public school property, all Open Space and Neighborhood Parks must be privately maintained or maintained by MUD 4. For public school property, Neighborhood Parks and any portion of Open Space dedicated to park use shall be privately maintained or maintained by MUD 4 and the portion dedicated to a school use shall be maintained by the Terrell Independent School District. Assurances of maintenance of all Open Space in the form of a property owners association or other entity, including but not limited to MUD 4, shall be provided to the City at the time of final plat approval.

18. Floodplain. Developer may develop within the FEMA floodplain if a Letter of Map Amendment or Letter of Map Revision is provided to the City. Developer shall not start construction within a floodplain until developer has submitted to the City a Conditional Letter of Map Revision.

19. Conveyances. The conveyance of a portion of the Property by metes and bounds description (a "Director Lot") to a person for the purpose of qualifying such person to serve on the board of directors of MUD 4 is not a subdivision of land requiring a Plat; provided, however, no utilities may be connected to a Director Lot until the lot is platted in accordance with this Agreement. Owner will advise the City in writing of the location of all Director Lots, including a diagram or depiction showing the general location of such lots.

20. Design Guidelines. Developer shall provide the City with a copy of the design guidelines for the Property, for review and approval, which shall not be unreasonably withheld, prior to the submittal of the first Construction Plat application. These guidelines shall be binding unless amendments are approved by the City.

21. Deed Restrictions. Developer shall provide the city with a draft copy of the private deed restrictions prior to the submittal of the first Construction Plat application.

WHEREAS, the City desires to annex the commercial use areas of the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such areas; and

WHEREAS, subject to the terms and conditions of this Agreement, the Districts are willing to allow the City to annex commercial use areas of the Development for the sole and exclusive purpose of imposing and collecting sales and use taxes within such areas; and

WHEREAS, the Districts are willing to limit bond issuance for capital improvements and reimbursement contracts with the Owner to certain time periods; and

WHEREAS, to facilitate the limited purpose annexation by the City of the commercial use areas of the Development, the Owner submitted to the City a petition requesting and consenting to the limited purpose annexation of the portion of the Development depicted on Exhibit C and described on Exhibit D attached to this Agreement (the "Original Limited Purpose Property"); and

WHEREAS, pursuant to the Act and the Owner's petition for limited purpose annexation, the Parties desire to enter into this Agreement to accomplish the annexation by the City of the Original Limited Purpose Property for the sole and exclusive purpose of imposing and collecting sales and use taxes within the commercial use areas of the Original Limited Purpose Property; and

WHEREAS, the Districts provided notice of two public hearings in accordance with all applicable laws; and

WHEREAS, the board of directors of the Districts (the "Boards") conducted two public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence regarding this Agreement were given the opportunity to do so; and

WHEREAS, the Boards approved and adopted this Agreement on _____, 2006, in open session at a meeting held in accordance with all applicable laws; and

WHEREAS, the City provided notice of two public hearings in accordance with all applicable laws; and

WHEREAS, the City Council of the City (the "City Council") conducted two public hearings in accordance with all applicable laws at which members of the public who wished to present testimony or evidence were given the opportunity to do so; and

WHEREAS, the City Council approved and adopted this Agreement on _____, 2006, in open session in accordance with all applicable laws, which approval and adoption occurred after the Board approved and adopted this Agreement; and

WHEREAS, all notices, hearings and other procedural requirements imposed by law for the adoption of this Agreement have been met; and

WHEREAS, in accordance with the requirements of Subsection (p)(1) of the Act, this Agreement does not require the Districts to provide revenue to the City solely for the purpose of obtaining an agreement with the City to forego annexation of the Districts; and

WHEREAS, in accordance with the requirements of Subsection (p)(2) of the Act, this Agreement provides benefits for the City and the Districts that are reasonable and equitable.

NOW THEREFORE, for and in consideration of the mutual agreements contained in this Agreement, and for the good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the District and the City agree as follows:

ARTICLE I. RECITALS

Section 2.1 The recitals set forth above are true and correct and are incorporated herein and made a part hereof as findings for all purposes;

ARTICLE II. ADOPTION OF AGREEMENT AND LIMITED PURPOSE ANNEXATION OF PROPERTY

Section 2.1 Public Hearings. The Parties acknowledge and agree that prior to the execution of this Agreement, the Board and the City Council conducted public hearings to consider the adoption of this Agreement and that such hearings were noticed and conducted in accordance with all applicable laws.

Section 2.2 Effective Date. The effective date of this Agreement (the "Effective Date") is the date it is approved and adopted by the City Council.

Section 2.3 Filing in Property Records. This Agreement shall be filed in the Real Property Records of Kaufman County, Texas.

Section 2.4 Limited Purpose Annexation of Original Limited Purpose Property. The Parties agree that the City may annex the Original Limited Purpose Property for the sole and limited purpose of collecting sales and use taxes authorized by Chapter 321 of the Texas Tax Code (the "Tax Code") to be imposed by the City on sales consummated within the Original Limited Purpose Property. The Districts acknowledge and agrees that the City Council may adopt a limited purpose annexation ordinance applicable to the Original Limited Purpose Property at a meeting conducted in accordance with Chapter 551 of the Texas Government Code and that no further notices, hearings, or other procedures shall be required to adopt such limited purpose annexation ordinance. The City may commence limited purpose annexation of the Original Limited Purpose Property upon the Effective Date.

Section 2.5 Limited Purpose Annexation of Additional Commercial Property. If in the future any non-commercial land within the Districts as of the Effective Date is converted to any commercial use that contains eligible commercial activities for purposes of imposing sales and use taxes as allowed by the Tax Code, the Parties agree that the City may annex such additional commercial land (the "Additional Limited Purpose Property") for the sole and exclusive purpose of imposing sales and use taxes pursuant to this Agreement. The Districts acknowledge and agree that the City Council may adopt a limited purpose annexation ordinance applicable to the

Additional Limited Purpose Property at a meeting conducted in accordance with Chapter 551 of the Texas Government Code and that no further notices, hearings, or other procedures shall be required to adopt such limited purpose annexation ordinance.

Section 2.6 Limited Purpose Annexation of Connecting Land. The Parties further agree that the City may limited purpose annex additional land within the Districts (up to a maximum width of 1,001 feet) as reasonably necessary to connect the Original Limited Purpose Property or any Additional Limited Purpose Property to the corporate or extraterritorial limits of the City (the "Connecting Limited Purpose Property"). The City may annex Connecting Limited Purpose Property for the sole and exclusive purpose of imposing sales and use taxes pursuant to this Agreement. The District acknowledges and agrees that the City Council may adopt a limited purpose annexation ordinance applicable to the Connecting Limited Purpose Property at a meeting conducted in accordance with Chapter 551 of the Texas Government Code and that no further notices, hearings, or other procedures shall be required to adopt such limited purpose annexation ordinance.

Section 2.7 Limited Purpose Property and Sales and Use Tax Revenues. For purposes of this Agreement, the Original Limited Purpose Property, Additional Limited Purpose Property, and Connecting Limited Purpose Property shall collectively be referred to as the "Limited Purpose Property"; and the sales and use taxes collected within the Limited Purpose Property shall be referred to as the "Sales and Use Tax Revenues").

Section 2.8 Consent to Limited Purpose Annexation. THE DISTRICTS ON BEHALF OF THEMSELVES AND ALL PRESENT AND FUTURE OWNERS OF LAND WITHIN THE DISTRICTS, HEREBY REQUEST THAT THE CITY ANNEX THE LIMITED PURPOSE PROPERTY SOLELY FOR THE PURPOSES PROVIDED IN THIS AGREEMENT. THE DISTRICTS CONSENTS TO SUCH ANNEXATIONS, FROM TIME TO TIME, AND TO THE COLLECTION OF SALES AND USE TAX REVENUES BY THE CITY WITHIN THE LIMITED PURPOSE PROPERTY. SUCH CONSENT SHALL BIND THE DISTRICTS AND EACH OWNER AND FUTURE OWNER OF LAND WITHIN THE DISTRICTS.

Section 2.9 Limited District. The Districts are not a limited districts as defined in Subsection (a)(2) of the Act.

ARTICLE III. TAXATION

Section 3.1 Collection of Sales and Use Tax Revenues. The City may impose a sales and use tax within the Limited Purpose Property pursuant to Subsection (k) of the Act. The sales and use tax may be imposed on all eligible commercial activities at the rate allowed under the Tax Code. Collection of Sales and Use Tax Revenues shall take effect on the date described in Section 321.102 of the Tax Code.

Section 3.2 Payment of Sales and Use Tax. The City shall pay to the Districts an amount equal to 40% of the Sales and Use Tax Revenues collected within the Limited Purpose Property (the "District Share") commencing upon the effective date of the limited purpose annexation of the Limited Purpose Property and terminating upon the full purpose annexation or disannexation of the Limited Purpose Property. The City shall pay the District Share within 30 days after the City receives the sales tax report reflecting such revenues from the Comptroller of Public

Accounts of the State of Texas (the “Comptroller”). Any payment of the District Share not made within such 30-day period shall bear interest calculated in accordance with Section 2251.025 of the Texas Government Code. The City shall retain all Sales and Use Tax Revenues that do not constitute the District Share (the “City Share”).

Section 3.3 Use of the Sales and Use Tax Revenues. The Districts may use the District Share for the following purposes and in the following order of priority: (i) FIRST, to pay for police, fire, and EMS services within the Districts, including the construction of public safety buildings (as set forth in the “Development” Agreement between the City and Spezia Investments, LLLP); (ii) SECOND, for the retirement of District bonds after the 10th anniversary of issuance; (iii) THIRD, to reimburse owners and developers of land within the Districts for the cost to design and construct improvements that are otherwise eligible for reimbursement through the issuance of District bonds (“Infrastructure”); and (iv) LAST, to pay for the operation, maintenance, repair, and replacement of Infrastructure. The City shall use the City Share for any lawful purpose.

Section 3.4 Delivery of Sales Tax Reports to District. The City shall include with each payment of the District Share a condensed version of each sales tax report provided by the Comptroller relating to Sales and Use Tax Revenues within 30 days of the City’s receipt of such sales tax report.

Section 3.5 Notification of Comptroller. The City shall send notice of this Agreement, together with other required documentation, to the Comptroller in the manner provided by Tax Code, Section 321.102, after the City Council annexes the Limited Purpose Property for limited purposes.

Section 3.6 Termination of Sales and Use Tax Sharing. Upon termination of this Agreement, the City shall have no further financial obligation to the District pursuant to this Agreement, and all Sales and Use Tax Revenues shall be retained by the City.

Section 3.7 City Records and District Audit Rights. The District may audit the Sales and Use Tax Revenues to determine whether the District Share has been paid in accordance with this Agreement. The City shall provide reasonable accommodations for the District to perform the audit. Any audit shall be made at the District’s sole cost and expense and may be performed at any time during the City’s regular business hours on 30 days’ Notice (as defined in Section 7.2). For purposes of any such audits, the City shall maintain and make available to the District’s representatives all books, records, documents and other evidence of accounting procedures or practices to reflect the amount of Sales and Use Tax Revenues received by the City from within the Limited Purpose Property. Notwithstanding the foregoing, however, if any audit conducted by the District reveals that the District Share has been underpaid by more than two percent (2%), the City shall reimburse the District for the reasonable costs and expenses of the audit.

ARTICLE IV. FULL PURPOSE ANNEXATION AND LIMITATION ON INDEBTEDNESS

Section 4.1 Subsection C-1 Full Purpose Annexation. The Development is exempt from the municipal annexation plan requirements pursuant to Section 43.052(h)(3)(B) of the Texas Local Government Code. Consequently, the Districts consent, on their own behalf and on behalf of all

current and future owners of land included within the Districts, to the full purpose annexation of the Development in accordance with the procedures set forth in Chapter 43, Subchapter C-1, of the Texas Local Government Code, as amended.

Section 4.2 Conversion Date Full Purpose Annexation. Pursuant to Subsection (h) of the Act, the Limited Purpose Property shall be deemed to be within the full-purpose boundary limits of the City upon the Full Purpose Annexation Conversion Date without any further action by the City Council. For purposes of this Section 4.2, the Full Purpose Annexation Conversion Date is the date upon which the City Council adopts an ordinance that includes the Limited Purpose Property within the full-purpose boundary limits of the City. The Full Purpose Annexation Conversion Date may be altered only by mutual agreement of the Districts and the City.

Section 4.3 Partial Full Purpose Annexation. In the event that the requisite number of voters and property owners submit a petition to the City requesting incorporation pursuant to and in compliance with Section 43.041 of the Texas Local Government Code or successor statute, the City shall have the right, to the extent permitted by law, to full purpose annex the entire District within which such voters reside and such property is located. For purposes of this Section 4.3, the Full Purpose Annexation Conversion Date is also the date upon which the City Council adopts an ordinance that includes such land within the full-purpose boundary limits of the City.

Section 4.4. Limitation on Bonded and Contractual Indebtedness. The Districts agree that each shall not issue debt or incur contractual indebtedness for purposes of reimbursing the Owner for any costs or expenses paid by Owner after the dates hereinafter set forth, which costs and expenses would otherwise be eligible to be reimbursed to Owner by the Districts pursuant to the rules and regulations of the TCEQ or other applicable law, and expressly and irrevocably waive any claims against the City for repayment of such indebtedness following full purpose annexation:

(a) in the case of land in MUD 1 or MUD 2, the earlier to occur of (1) the date that is the 15th anniversary of the date the first construction plat is approved by the City for each of the MUDs or (2) 25 years following the Effective Date of this Agreement; and

(b) in the case of land in a successor district resulting from the division of MUD 4, the later of (1) the expiration of the term of the Development Agreement or (2) the date that is the 15th anniversary of the date on which the division election results are canvassed by the Board of Directors of MUD 4; and

(c) in the case of land in the remainder of MUD 4, and whether or not all divisions creating successor districts have occurred, 25 years following the Effective Date of the Development Agreement with Owner.

ARTICLE V. TERM

Section 5.1 This Agreement commences on the Effective Date and continues until the City annexes the Limited Purpose Property for full purposes or disannexes the Limited Purpose Property. For annexation pursuant to section 4.3 of this Agreement, the Agreement terminates with respect to annexed property on the date such annexation is effective.

ARTICLE VI. BREACH, NOTICE AND REMEDIES

Section 6.1 Notification of Breach. If either Party commits a breach of this Agreement, the non-breaching Party shall give Notice to the breaching Party that describes the breach in reasonable detail.

Section 6.2 Cure of Breach. The breaching Party shall commence curing the breach within 15 calendar days after receipt of the Notice of the breach and shall complete the cure within 30 days from the date of commencement of the cure; however, if the breach is not reasonably susceptible to cure within such 30-day period, the non-breaching Party shall not bring any action so long as the breaching Party has commenced to cure within such 30-day period and diligently completes the work within a reasonable time without unreasonable cessation.

Section 6.3 Remedies for Breach. If the breaching Party does not substantially cure the breach within the stated period of time, the non-breaching Party may, in its sole discretion, and without prejudice to any other right under this Agreement, law, or equity, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus and injunctive relief; provided, however, that the non-breaching Party shall not be entitled to terminate this Agreement. The Parties specifically waive any right that they have or in the future may have to terminate this Agreement. Damages, if any, to which any non-breaching Party may be entitled shall be limited to actual damages and shall not include special or consequential damages. In addition, the prevailing party in any such action shall be entitled to reasonable attorney's fees and costs of litigation as determined in a final, non-appealable order in a court of competent jurisdiction.

ARTICLE VII. ADDITIONAL PROVISIONS

Section 7.1 Voting. Pursuant to Subsection (q) of the Act, Chapter 43, Subchapter F, of the Texas Local Government Code does not apply to the limited purpose annexation of the Limited Purpose Property. Consequently, Section 43.130(a) of the Texas Local Government Code, providing that qualified voters of an area annexed for limited purposes may vote in certain municipal elections, does not apply to the voters within the Limited Purpose Property.

Section 7.2 Notices. Any notices, certifications, approvals, or other communications (a "Notice") required to be given by one Party to another under this Agreement shall be given in writing addressed to the Party to be notified at the address set forth below and shall be deemed given: (i) when the Notice is delivered in person to the person to whose attention the Notice is addressed; (ii) 10 business days after the Notice is deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid; (iii) when the Notice is delivered by Federal Express, UPS, or another nationally recognized courier service with evidence of delivery signed by any person at the delivery address; or (iv) 10 business days after the Notice is sent by FAX (with electronic confirmation by the sending FAX machine) with a confirming copy sent by United States mail within 48 hours after the FAX is sent. If any date or period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the Notice shall be extended to the first business day following the Saturday, Sunday, or legal holiday. For the purpose of giving any Notice, the addresses of the Parties are set forth below.

The Parties may change the information set forth below by sending Notice of such change to the other Party as provided in this Section 7.2.

To the City:

Attn: _____

To the District:

Attn: _____

Section 7.3 No Waiver. Any failure by a Party to insist upon strict performance by the other Party of any provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purpose for which it is given. No waiver by any Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

Section 7.4 Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas, as they apply to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The Parties acknowledge that this Agreement is performable in _____ County, Texas and hereby submit to the jurisdiction of the courts of _____ County, Texas and hereby agree that any such court shall be a proper forum for the determination of any dispute arising hereunder.

Section 7.5 Authority to Execute. The City represents and warrants to the District that the execution of this Agreement has been duly authorized by the City Council and that the person executing this Agreement on behalf of the City has been duly authorized to do so by the City Council. The Districts represent and warrant to the City that the execution of this Agreement has been duly authorized by the Boards and that the person executing this Agreement on behalf of the Districts has been duly authorized to do so by the Boards.

Section 7.6 Severability. The provisions of this Agreement are severable and, in the event any word, phrase, clause, sentence, paragraph, section, or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held or determined to be invalid, illegal, or unenforceable for any reason, and the extent of such invalidity or unenforceability does not cause substantial deviation from the underlying intent of the Parties as expressed in this Agreement, then such provision shall be deemed severed from this Agreement with respect to such person, entity or circumstance, without invalidating the remainder of this Agreement or the application of such provision to other persons, entities or circumstances, and a

new provision shall be deemed substituted in lieu of the provision so severed which new provision shall, to the extent possible, accomplish the intent of the Parties as evidenced by the provision so severed.

Section 7.7 Changes in State or Federal Laws. If any state or federal law changes so as to make it impossible for the City or the Districts to perform its obligations under this Agreement, the parties will cooperate to amend this Agreement in such a manner that is most consistent with the original intent of this Agreement as legally possible.

Section 7.8 Additional Documents and Acts. The Parties agree that at any time after execution of this Agreement, they will, upon request of the other Party, execute and/or exchange any other documents necessary to effectuate the terms of this Agreement and perform any further acts or things as the other Party may reasonably request to effectuate the terms of this Agreement.

Section 7.9 Assignment. This Agreement shall not be assignable without the other Party's written consent. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors, and assigns as permitted by this Agreement. This Agreement shall also be binding upon any new district that results from the division of the Districts.

Section 7.10 Amendment. This Agreement may be amended only with the written consent of the Parties and with approval of the governing bodies of the City and the Districts.

Section 7.11 Interpretation. This Agreement has been negotiated by the Parties, each of which has been represented by counsel; consequently, the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

Section 7.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the City and the District, and neither the City nor the District intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit or enforceable rights under this Agreement or otherwise upon anyone other than the City and the Districts.

Section 7.13 Governmental Powers. Neither Party waives or surrenders any of its respective governmental powers, immunities or rights, except as specifically waived pursuant in this Section 7.13. Each Party waives its respective governmental immunity from suit and liability only as to any action brought by the other Party to pursue the remedies available under this Agreement. Nothing in this Section 7.13 shall waive any claims, defenses or immunities that either Party has with respect to suits against them by persons or entities not a party to this Agreement.

Section 7.14 Incorporation of Exhibits by Reference. All exhibits attached to this Agreement are incorporated into this Agreement by reference for the purposes set forth herein, as follows:

- Exhibit A Depiction of the Development
- Exhibit B Legal Description of the Development
- Exhibit C Depiction of the Limited Purpose Property

Exhibit D Legal Description of the Limited Purpose Property

Section 7.15 Counterpart Originals. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF _____
ON _____, 200__.

ATTEST: CITY OF _____

City Secretary

By: _____
Printed Name: _____
Title: _____

APPROVED AS TO FORM AND
LEGALITY:

City Attorney

APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE
_____ DISTRICT ON _____, 200__.

[DISTRICT]
By: _____
Printed Name: _____
Title: President, Board of Directors

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me, on the __ day of _____, 200 __, by _____,
the _____ of the City of _____, Texas on behalf of the city.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me, on the __ day of _____, 200 __, by _____,
the _____ of the [DISTRICT] on behalf of the district.

Notary Public, State of Texas

Exhibit A
Depiction of the Development

Exhibit B
Legal Description of the Development

Exhibit C
Depiction of the Original Limited Purpose Property

Exhibit D
Legal Description of the Original Limited Purpose Property

Exhibit "A"
Legal Description of the Property

488.999-Acre Tract

BEING a tract of land situated in the LEWIS PEARSE SURVEY, ABSTRACT NO. 373, and the JOHN HEATH SURVEY, ABSTRACT NO. 227 in Kaufman County, Texas, and being part of a called 1012.488 acre tract of land described in a deed to AP Dupont Limited Partnership recorded in Volume 2502, Page 77 of the Deed Records of Kaufman County, Texas, a part of a called 10.599 acre tract of land described in a deed to Olen Davis recorded in Volume 1566, Page 114 of said Deed Records, and all of a 113.474 acre tract of land described in a deed to Olen T. Davis & Associates, Inc. recorded in Volume 1068, Page 469 of said Deed Records, and being more particularly described as follows:

BEGINNING at a point in the northwest boundary of said 1012.488 acre tract, said point being the east corner of Emerald Ranch Estates, an addition to Kaufman County according to the plat thereof recorded in Cabinet 2, Slide 464 of the Map records of Kaufman County, Texas;

THENCE North 44 degrees 18 minutes 26 seconds West, along the northeast boundary of said Emerald Ranch Estates tract and the northwest boundary of said 1012.488 acre tract, a distance of 1583.05 feet for the north corner of said Emerald Ranch and the south corner of a called 108.73 acre tract described in a deed to Countryside Helms Trail, L.P., recorded in Volume 1838, Page 286 of said Deed Records;

THENCE North 45 degrees 06 minutes 03 seconds East, along the southeast line of said 108.73 acre tract and a called 18.425 acre tract of land described in a deed to Kaufman Land Partners, Ltd., recorded in Volume 1973, Page 579 of said Deed Records, a distance of 2874.06 feet for the east corner of said 18.425 acre tract;

THENCE North 44 degrees 45 minutes 10 seconds West, along the northeast line of said 18.425 acre tract and the most westerly northwest line of said 1012.488 acre tract, a distance of 1954.78 feet to a point in the approximate center of Helms Trail (undedicated public road) for the north corner of said 18.425 acre tract and the southeast corner of said 113.474 acre tract;

THENCE North 45 degrees 20 minutes 58 seconds West, along the approximate center of Helms Trail and the most northerly northwest line of said 1012.488 acre tract, a distance of 3095.32 feet to a point in the south line of the Union Pacific Railway (100' right-of-way);

THENCE South 88 degrees 06 minutes 52 seconds East, along the south line of said Railway and along the north line of said 1012.488 acre tract, a distance of 781.53 feet to a point for corner;

THENCE South 00 degrees 51 minutes 17 seconds East, a distance of 9582.30 feet to a point on the Talty one-half mile extra-territorial jurisdiction (ETJ) line;

THENCE along the Talty ETJ line the following courses and distances:

Northwesterly, along a non-tangent curve to the left which has a chord that bears North 54 degrees 08 minutes 40 seconds West for 1157.06 feet, a central angle of 25 degrees 19 minutes 01 second and a radius of 2640.00 for an arc distance of 1166.53 feet to the end of said curve;

North 44 degrees 48 minutes 35 seconds West, a distance of 1272.29 feet to the beginning of a tangent curve to the left;

Northwesterly, along the tangent curve to the left which has a chord that bears North 62 degrees 23 minutes 35 seconds West for 1595.03 feet, a central angle of 35 degrees 09 minutes 58 seconds and a radius of 2640.00 feet, for an arc distance of 1620.34 to a point on the southeast line of said Emerald Ranch;

THENCE North 45 degrees 17 minutes 02 seconds East, along the southeast line of said Emerald Ranch, a distance of 799.31 feet to the POINT OF BEGINNING and containing 21,300,810 square feet, or 488.999 acres of land, more or less.

123.853-Acre Tract

BEING a 123.853 acre tract of land situated in the John Heath Survey, Abstract Number 227, in Kaufman County, Texas and being all of a 10.599 acre tract of land described by deed to Olen Davis recorded in Volume 1566, Page 114 of the Deed Records of Kaufman County, Texas (DRKCT) and being all of 113.474 acre tract of land described by deed to Olen T. Davis & Associates, Inc. recorded in Volume 1068, Page 469 (DRKCT) and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod set for the northeast corner of said 10.599 acre tract of land and being located in the center of a Rock Top Road known as County Road No. 211 (Helms Trail) which is fenced approximately 45' in width, said point also being located in the south line of the Texas & Pacific Railway right-of-way (100' wide);

THENCE along the center of said County Road 211 (Helms Trail) and the southeasterly line of said 113.474 acre tract of land as follows:

SOUTH 42°04'26" WEST a passing distance of 140.57 to the northeast corner of said 113.474 acre tract of land, in all a total distance of 499.10 feet to a 5/8 inch iron rod set for corner;

SOUTH 41°28'25" WEST a distance of 732.40 feet to a 5/8 inch iron rod set for corner;

SOUTH 41°14'24" WEST a distance of 840.20 feet to a 5/8 inch iron rod set for corner;

SOUTH 40°52'03" WEST a distance of 1,138.96 feet to a 5/8 inch iron rod set for the southerly corner of said 113.474 acre tract of land;

THENCE departing the center of said County Road 211 (Helms Trail) and following the southwesterly line of said 113.474 acre tract and, NORTH 48°37'23" WEST a passing distance of 27.33 feet to a 5/8 inch iron pipe found at the base of a fence post, in all a total distance of 3,373.09 to a 5/8 inch iron rod found for the northwest corner of said 10.599 acre tract of land and being located in the south line of said Texas & Pacific Railway right-of-way;

THENCE along the south line of said Texas & Pacific Railway right-of-way, NORTH 87°45'00" EAST a distance of 4,653.28 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 123.853 acres or 5,395,049 square feet of land more or less all according to that survey prepared by A.J. Bedford Group, Inc., dated March 15, 2005 and signed by Austin J. Bedford, Registered Professional Land Surveyor No. 4132; to which reference for all purposes is hereby made.