



**NOTICE OF
CITY COUNCIL SPECIAL MEETING
CELINA COUNCIL CHAMBERS 112 N. COLORADO ST., CELINA, TX 75009
Tuesday, December 18, 2018 AT 5:00 PM**

AGENDA

I. CALL TO ORDER:

II. ACTION:

- A. Consider and act upon a Pre-Annexation Development Agreement by and between the City of Celina, Texas and Trico Development and Land Company. The property is an approximately 50.363 acre tract of land situated within the Ousley and Ford Survey, Abstract No. 490, Collin County, Texas, and is located within the extraterritorial jurisdiction of the City of Celina, generally west of N. Louisiana Street and south of CR 994. (The Cottages) (McAfee)

III. EXECUTIVE SESSION:

The Celina City Council will convene into Executive Session pursuant to Texas Government Code 551.072, Deliberations Regarding Real Property, to deliberate the purchase, exchange, lease or value of real property.

- A. Discussion regarding property generally located west of SH 289, north of CR 55, east of FM 428, and south of CR 994.

Reconvene into Open Session

- B. Consider and act upon any items discussed in Executive Session

IV. ADJOURN:

City Council Chambers is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf, or hearing impaired, or readers of large print, are requested to contact the City Secretary's Office at 972-382-2682, or fax 972-382-3736 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

The City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Chapter 551. "I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board at City Hall of the City of Celina, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time: _____ at _____ p.m. and remained so posted continuously for at least 72 hours prior to the scheduled time of said meeting."

Vicki Faulkner

Vicki Faulkner, TRMC
City Secretary, City of Celina, TX

Date Notice Removed



Development Services
City of Celina, Texas

Memorandum

To: **Honorable Mayor Terry and the Celina City Council**
 From: Dusty McAfee, Director of Development Services
 CC: Jason Laumer, City Manager
 Date: December 18, 2018
 Re: The Cottages Development Agreement

Action Requested:

Consider and act upon a Pre-Annexation Development Agreement by and between the City of Celina, Texas and Trico Development and Land Company. The property is an approximately 50.363 acre tract of land situated within the Ousley and Ford Survey, Abstract No. 490, Collin County, Texas, and is located within the extraterritorial jurisdiction of the City of Celina, generally west of N. Louisiana Street and south of CR 994. (The Cottages) (McAfee)

Owners:

Richard and Janet Smith
 3532 Twin Lakes Drive
 Prosper, TX 75078

Applicant:

Kirkman Engineering
 4821 Merlot Avenue, Suite 201
 Grapevine, TX 76051

Developer:

Trico Development and Land Company
 102 E. Broadway Street, Suite 940
 Prosper, TX 75078

Background Information:

A development agreement establishes the responsibilities and obligations of both the developer and City. In addition, the agreement determines the level of city participation on various monetary aspects of the development. The applicant is proposing to annex approximately 50.363 acres into the City following the approval of the Pre-annexation Development Agreement. The applicant intends to develop a single-family residential community located west of Business 289 (N. Louisiana Street) on the south side of CR 944. A maximum of 320 single-family homes are planned.

The development, called "The Cottages," will include two types of lot sizes: thirty-five (35) feet in width with access provided via alleys and forty-five (45) feet in width with front facing garages using a shared driveway system (see Driveway Detail). A divided entry feature is shown off CR 994 (future O'Brien

Drive). Two other entries to the property will be provided off CR 994. Additional entries will be provided off future J. Fred Smith Parkway with future phases of the development. Amenities and open space is centered in the project with a round-about for ease of traffic movement north and south through the residential community.

This property is located in Celina's extraterritorial jurisdiction (ETJ). Located approximately one-half mile north of the Old-Town Residential District, the size and architecture of the homes are intended to blend with the downtown residential character which consists of smaller lot sizes along with smaller homes. The residential properties located on the north side of CR 994 are acreage lots - ranging from 10 acres to 20 acres in size - and also located within the ETJ. The properties to the west, south, and east are vacant and likely being held for future development. Between the subject property and N. Louisiana Street are Frisco Construction Services and GBT Celina 10, both industrial uses, with the Construction Services 7.5 acre tract being in the ETJ and Celina 10 being within the city limits. As the downtown area moves northward, demand for homes and other services will naturally encroach into the ETJ with potential conflict with existing land uses.

Board Review/Citizen Input:

At the Planning and Zoning Commission meeting held on November 20, 2018, the Commission recommended approval by a vote of 4 to 1.

At the City Council meeting held on December 11, 2018, Council members tabled the case to the next City Council meeting.

A notice of the City Council public hearing was published in *The Celina Record* on November 2, 2018. Notices of the public hearing have been sent to all owners of property residing within the city limits, as indicated by the most recently approved Collin County tax rolls, who are located within 200 feet of the subject property.

Several county residents spoke in opposition to the proposed development at the public hearing, generally citing concerns with traffic, impacts on their rural lifestyle, and with the lot sizes. The Commission discussed these concerns and recommended approval because the city is in a better position to regulate such concerns than the current county status of the subject property.

Legal Review:

The City Attorney has reviewed the ordinance and deemed it acceptable for form.

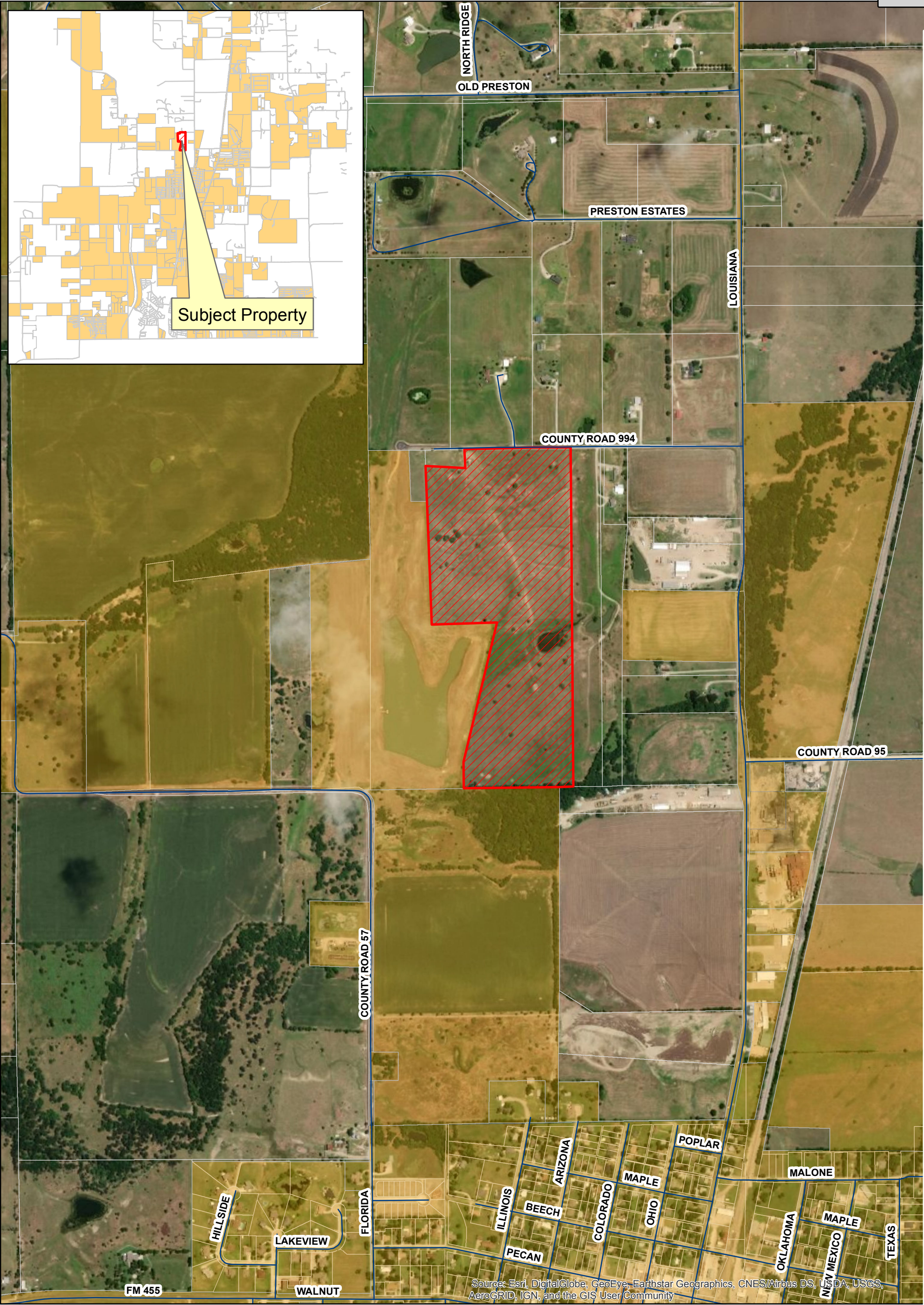
Supporting Documents:

Location Map

Proposed Agreement

Staff Recommendation:

Staff recommends approval.



Attachment: The Cottages Location Map (The Cottages Development Agreement)

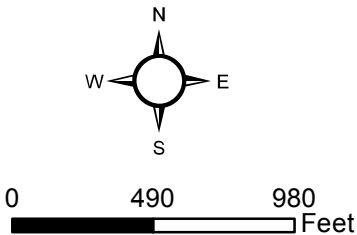


The Cottages Location Map

Date: 10/22/2018

Legend

- Roads
- The Cottages
- Parcels
- City Limits



THE COTTAGES DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into by and between **Trico Development and Land Company**, (the “Developer”) and the **City of Celina** (the “City”), to be effective on the date upon which the last of all of the Parties has approved and duly executed this Agreement (“Effective Date”).

ARTICLE I RECITALS

WHEREAS, certain terms used herein are defined in Article II; and

WHEREAS, the City is a home-rule municipality of the State of Texas located within Denton County and Collin County; and

WHEREAS, the Developer and the City (which are sometimes individually referred to as a “Party” and collectively as the “Parties”) desire to enter into this Agreement; and

WHEREAS, Richard C. Smith and Janet L. Smith own an approximately 50.363 acre tract of land (the “Property”); and

WHEREAS, the Property is located wholly within the extraterritorial jurisdiction (the “ETJ”) of the City and described by metes and bounds in **Exhibit A** and depicted on **Exhibit B**; and

WHEREAS, the Developer intends to purchase and develop the Property as a master planned residential development, which consists of approximately 322 single-family homes; and

WHEREAS, the Parties intend for this Agreement to establish certain restrictions and impose certain commitments in connection with the development of the Property; and

WHEREAS, the Parties intend that the Property will be developed in accordance with the agreed concept plan (the “Concept Plan”), attached hereto as **Exhibit C-1**, and the development standards set forth in certain proposed development zoning standards (the “Development Standards”), which Development Standards are attached hereto as **Exhibit D**; and

WHEREAS, the Developer intends to construct and/or make financial contributions to certain on-site and/or off-site public improvements to serve the development of the Property (the “Public Infrastructure”); and

WHEREAS, in consideration of the Developer’s agreements contained herein to develop the Property as envisioned by the Parties, including dedication of open space to be owned and maintained by a homeowners’ association, as contemplated by **Exhibit D**, and to provide economic incentives for the development of the Property, the City intends to (a) set roadway capital recovery fees not to exceed \$1,500.00 per single-family residential lot, (b) set water capital recovery fees not to exceed \$1,500.00 per single-family residential lot, (c) set wastewater capital recovery fees

not to exceed \$1,500.00 per single-family residential lot, and (d) waive the requirement for payment of any Impact Fees, and where no other reimbursement or repayment off-site infrastructure or upsizing for the Development in consideration of the reduced capital recovery fees; and

WHEREAS, the Parties agree upon a fixed payment for the Technology Fees, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$500.00 per lot; and

WHEREAS, the Parties agree upon a fixed payment for Park Fees, which includes recreation and open space, to be collected upon the issuance of a single-family residential lot's building permit, not to exceed \$1,500.00 per lot, in lieu of any dedications of land; and

WHEREAS, the City holds the certificates of convenience and necessity (the "CCNs") to provide retail water and wastewater service to the Property and the Parties intend for the City to provide water and wastewater service to the Property; and

WHEREAS, as the Property is within the City's extraterritorial jurisdiction, the Parties have the authority to enter into this Agreement pursuant to Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, the Parties intend that this Agreement is a development agreement as provided for by state law in Section 212.171 *et seq* of the Texas Local Government Code; and

WHEREAS, this Agreement shall constitute a "permit" under Chapter 245 of the Texas Local Government Code and as allowed pursuant to Section 212.172(g) of the Texas Local Government Code.

NOW, THEREFORE, for and in consideration of the mutual covenants 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

GENERAL TERMS AND DEFINITIONS

The recitals to this Agreement are incorporated herein for all purposes. Unless the context requires otherwise, the following terms shall have the meanings hereinafter set forth:

City Council means the City Council of the City of Celina.

City Regulation(s) means any ordinance, rule, regulation, standard, policy, order, guideline or other City-adopted or City-enforced requirement.

Concept Plan means the concept plan as shown in **Exhibit C-1**.

Developer means **Trico Development and Land Company**, a Texas Limited Liability Company.

Impact Fees means as defined in Chapter 395 of the Texas Local Government Code.

Park Fees means the fees paid in lieu of a donation of property to be used as a park.

Property means the real property described by metes and bounds in **Exhibit A** and depicted on **Exhibit B**.

Public Infrastructure means water, wastewater, drainage, roadway, and other public infrastructure necessary to serve the full development of the Property.

Technology Fees means the fees charged for telephone, cable, internet, or similar utility connections in accordance with Section 5.3.

ARTICLE III **PUBLIC INFRASTRUCTURE**

3.1 Public Infrastructure. Except as otherwise expressly provided for in this Agreement, all Public Infrastructure shall be designed, constructed and installed by Developer in compliance with the City Regulations in effect on the Effective Date and the City's uniform engineering design standards in effect on the Effective Date. Construction and/or installation of Public Infrastructure shall not begin until complete and accurate plans and specifications have been approved by the City. Each of such contracts shall require a two-year maintenance bond following completion, which bond shall run in favor of the Party responsible for maintenance of the completed Public Infrastructure. The Public Infrastructure will be installed within the public right-of-way or in easements granted to the City. The following offsite improvements will be required as part of this development:

Phase 1 (up to 125 lots):

- Construct approximately 650 feet of a 15 inch sewer line from J. Fred Smith Parkway to the point of connection with the existing 21 inch sewer line located south of J. Fred Smith Parkway.
- Construct approximately 1,300 feet of O'Brien Drive (CR 994) from N. Louisiana Drive (Business 289) to the eastern edge of the proposed development as an asphalt roadway.

Phase 2 (over 125 lots):

- Construct the 12 inch water line to create a looped system.

Phase 3 (southern half – south of floodplain):

- Construct approximately 700 feet of J Fred Smith Parkway as a 28 feet wide concrete roadway from the western edge of the proposed development to N Florida Drive (CR 57) to serve as a second point of connection.

3.2 Inspections, Acceptance of Public Infrastructure.

(a) Roadway and Storm Infrastructure. The City shall have the right to inspect, at any time, the construction of all roadway and storm water Public Infrastructure, and any related Public

Infrastructure necessary to support the proposed development within the Property, which shall be inspected, designed and constructed in compliance with all statutory and regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(b) Water and Wastewater Infrastructure. The City shall have the right to inspect the construction of all water and wastewater Public Infrastructure at any time, which water and wastewater shall be inspected, designed and constructed in compliance with all statutory and regulatory requirements, including design and construction criteria, and the City Regulations in effect on the Effective Date.

(c) The City's inspections shall not release the Developer from its responsibility to construct, or ensure the construction of, adequate Public Infrastructure in accordance with approved engineering plans, construction plans, and other approved plans related to development of the Property.

(d) From and after the inspection and acceptance by the City of the Public Infrastructure and any other dedications required under this Agreement, such improvements and dedications shall be owned by the City.

(e) Approval of Plats/Plans. Approval by the City, the City's engineer or other City employee or representative, of any plans, designs or specifications submitted by the Developer pursuant to this Agreement or pursuant to City Regulations shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, his engineer, employees, officers or agents for the accuracy and competency of their design and specifications. Further, any such approvals shall not be deemed to be an assumption of such responsibility and liability by the City for any defect in the design and specifications prepared by the Developer or the Developer's engineer, or engineer's officers, agents, servants or employees, it being the intent of the parties that approval by the City's engineer signifies the City's approval on only the general design concept of the improvements to be constructed. All plats and plans of the Developer related to the Property shall meet the requirements of the City Regulations in effect on the Effective Date.

3.3 Eminent Domain. The Developer agrees to use commercially reasonable efforts to obtain all third-party rights-of-way, consents, or easements, if any, required for the Public Infrastructure. If, however, the Developer is unable to obtain such third-party rights-of-way, consents, or easements within ninety (90) days of commencing efforts to obtain the needed easements and right of way, the City agrees to take reasonable steps to secure same (subject to City Council authorization after a finding of public necessity) through the use of the City's power of eminent domain. The Developer shall be responsible for funding all reasonable and necessary legal proceeding/litigation costs, attorney's fees and related expenses, and appraiser and expert witness fees (collectively, "Eminent Domain Fees") paid or incurred by the City in the exercise of its eminent domain powers and shall escrow with a mutually agreed upon escrow agent the City's reasonably estimated Eminent Domain Fees both in advance of the initiations of each eminent domain proceeding and as funds are needed by the City. Provided that the escrow fund remains appropriately funded in accordance with this Agreement, the City will use all reasonable efforts to expedite such condemnation procedures so that the Public Infrastructure can be constructed as soon as reasonably practicable. If the City's Eminent Domain Fees exceed the amount of funds escrowed in accordance with this paragraph, the Developer shall deposit additional funds as

requested by the City into the escrow account within ten (10) days after written notice from the City. City is not required to continue pursuing the eminent domain unless and until the Developer deposits addition Eminent Domain Fees with the City. Any unused escrow funds will be refunded to the Developer with thirty (30) days after any condemnation award or settlement becomes final and non-appealable. Nothing in this subsection is intended to constitute a delegation of the police powers or governmental authority of the City, and the City reserves the right, at all times, to control its proceedings in eminent domain.

3.4 Operation and Maintenance.

(a) Upon inspection, approval, and acceptance of the water and wastewater Public Infrastructure or any portion thereof, the City shall maintain and operate the accepted water and wastewater infrastructure or any accepted portion thereof and provide water and wastewater service to the Property.

(b) Upon inspection, approval, and acceptance of the roadway and storm water Public Infrastructure or any portion thereof, the City shall maintain and operate the roadways and storm water infrastructure or any accepted portion thereof.

(c) A homeowner's association shall be established; it shall maintain and operate the open spaces, including but not limited to those shown on Exhibit D, trails, common areas, right-of-way irrigation systems, right-of-way landscaping, screening walls, and any other common improvements or appurtenances. Said improvements shall not be maintained and operated by the City unless the Parties agree in writing to the terms and conditions of maintenance and operation by the City.

ARTICLE IV **DEVELOPMENT REGULATIONS**

4.1 Full Compliance with City Standards.

(a) Development of the Property shall be subject to the City Regulations and uniform engineering design standards, as amended, except to the extent that the Concept Plan, attached as **Exhibit C** and the Development Standards, attached as **Exhibit D**, may vary from those terms, then the Concept Plan and the Development Standards shall control.

(b) The Parties agree the Concept Plan was created by the Developer for illustrating the boundary, lot mix, and general layout of the project. Any amendment to the Concept Plan shall be considered an amendment to this Agreement and shall replace the attached Concept Plan and become a part of this Agreement.

4.2 Development Standard Revisions. The City Manager of the City may administratively approve the following "minor revisions" to the Development Standards: (a) an increase in the height of any structure by five percent (5%) or less; (b) a setback reduction of ten percent (10%) or less; (c) an increase in lot coverage of five percent (5%) or less; and (d) a reduction in off-street parking of five percent (5%) or less. The City Council may permit exceptions to strict compliance with the Development Standards when the Developer demonstrates, to the reasonable satisfaction of the City Council, that the requested exception: (a) is not contrary to the public interest; (b) does not cause injury to adjacent property; and (c) does not materially adversely affect the quality of the development.

4.3 Replat. The Developer may submit a replat for all or any portion of the Property. Any replat shall be in general conformance with the Concept Plan, including any amendments.

4.4 Vested Rights. This Agreement shall constitute a “permit” under Chapter 245 of the Texas Local Government Code that is deemed filed with the City on the Effective Date. The Developer does not, by entering into this Agreement, waive any rights or obligations arising under Chapter 245 of the Texas Local Government Code.

4.5 Conflicts. In the event of any conflict between this Agreement and any City Regulation, this Agreement, including any exhibit or attachment, shall control.

ARTICLE V

DEVELOPMENT PROCESS AND CHARGES

5.1 Development, Review and Inspection Fees. Except for any fees related to zoning of the Property as provided in Section 7.2, development of any portion of the Property shall be subject to payment to the City of the applicable fees according to the City Regulations, including without limitation fees relating to platting and any other charges and fees not expressly exempted or altered by the terms of this Agreement.

5.2 Capital Recovery Fees. The Developer is responsible for the construction of all on-site and off-site Public Infrastructure, to the extent such Public Infrastructure is necessitated by and attributable to the development of the Property. The Parties agree that such improvements will include all of the capital improvements and facility expansions necessitated by and attributable to the Property; therefore, pursuant to Section 395.001(4) of the Texas Local Government Code, **no Impact Fees levied by the City will apply to the Property**. Instead, the Developer agrees to pay and City agrees to set (a) roadway capital recovery fees not to exceed \$1,500.00 per single-family residential lot, (b) water capital recovery fees not to exceed \$1,500.00 per single-family residential lot, (c) wastewater capital recovery fees not to exceed \$1,500.00 per single-family residential lot, and (d) waive the requirement for payment of any Impact Fees. All capital recovery fees applicable to individual lots will be due and payable by the Developer at the time building permits are issued for each single-family residential lot.

5.3 Technology Fees. The Parties agree upon a fixed payment for the Technology Fees, to be collected upon the issuance of a single-family residential lot’s building permit, not to exceed \$500.00 per lot.

5.4 Park Fees. The Parties agree upon a fixed payment for the Park Fees, which includes recreation and open space, in lieu of a dedication of land, to be collected upon the issuance of a single-family residential lot’s building permit, not to exceed \$1,500.00 per lot.

5.5 Development Agreement Fees. The Parties agree the Developer shall pay at the time of request for each development agreement application related to the Property a \$2,500.00 fee, plus the cost of fees for professional review, including but not limited to legal, engineering, land planning, and financial analysis, development analysis, and engineering consultant review.

5.6 Required Turn Lanes and ROW Dedication. The Developer shall, either by plat or by deed as requested by the City, dedicate the right-of-way area for roads reflected on the Master

Thoroughfare Plan generally being approximately one-half of the total right-of-way. Developer will be required to construct a right and left turn lanes on J. Fred Smith Parkway to the current engineering design standards established by the City Regulations. In lieu of construction, Developer shall escrow funds necessary for the City to construct a left and right turn lane from J. Fred Smith Parkway at the entrance to the Property, in the amounts and at the time determined by the City Manager under the City Regulations.

5.7 INDEMNIFICATION AND HOLD HARMLESS. THE DEVELOPER AND ITS SUCCESSORS AND ASSIGNS SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICIALS, EMPLOYEES, OFFICERS, REPRESENTATIVES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM AND AGAINST ALL ACTIONS, DAMAGES, CLAIMS, LOSSES OR EXPENSE OF EVERY TYPE AND DESCRIPTION TO WHICH THEY MAY BE SUBJECTED OR PUT: (I) BY REASON OF, OR RESULTING FROM THE BREACH OF ANY PROVISION OF THIS AGREEMENT BY THE DEVELOPER; (II) THE NEGLIGENT DESIGN, ENGINEERING AND/OR CONSTRUCTION BY THE DEVELOPER OR ANY ARCHITECT, ENGINEER OR CONTRACTOR HIRED BY THE DEVELOPER OF ANY OF THE PUBLIC IMPROVEMENTS ACQUIRED FROM THE DEVELOPER HEREUNDER; (III) THE DEVELOPER'S NONPAYMENT UNDER CONTRACTS BETWEEN THE DEVELOPER AND ITS CONSULTANTS, ENGINEERS, ADVISORS, CONTRACTORS, SUB-CONTRACTORS AND SUPPLIERS IN THE PROVISION AND/OR CONSTRUCTION OF THE PUBLIC IMPROVEMENTS; (IV) ANY CLAIMS OF PERSONS EMPLOYED BY THE DEVELOPER OR ITS AGENTS TO CONSTRUCT THE PUBLIC INFRASTRUCTURE; OR (V) ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES, AND/OR TRUSTEES, REGARDING OR RELATED TO THE PUBLIC IMPROVEMENTS OR ANY AGREEMENT OR RESPONSIBILITY REGARDING THE PUBLIC INFRASTRUCTURE, INCLUDING CLAIMS AND CAUSES OF ACTION WHICH MAY ARISE OUT OF THE PARTIAL NEGLIGENCE OF AN INDEMNIFIED PARTY (THE "CLAIMS"). NOTWITHSTANDING THE FOREGOING, NO INDEMNIFICATION IS GIVEN HEREUNDER FOR ANY ACTION, DAMAGE, CLAIM, LOSS OR EXPENSE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE DIRECTLY ATTRIBUTABLE TO THE WILLFUL MISCONDUCT OR SOLE NEGLIGENCE OF ANY INDEMNIFIED PARTY. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS, AND CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE.

IN ITS REASONABLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATIONS HEREUNDER TO DEFEND AND INDEMNIFY THE INDEMNIFIED PARTIES, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. THE INDEMNIFIED PARTIES RESERVE THE RIGHT TO PROVIDE A PORTION OR ALL OF THEIR/ITS OWN DEFENSE, AT THEIR/ITS SOLE COST; HOWEVER, INDEMNIFIED PARTIES ARE UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY AN INDEMNIFIED PARTY IS NOT TO BE CONSTRUED AS

A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND INDEMNIFIED PARTIES OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY INDEMNIFIED PARTIES PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN BUSINESS DAYS OF WRITTEN NOTICE FROM AN INDEMNIFIED PARTY THAT IT IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, INDEMNIFIED PARTIES SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON THEIR OWN BEHALF, AND DEVELOPER SHALL BE JOINTLY AND SEVERALLY LIABLE FOR ALL REASONABLE COSTS INCURRED BY INDEMNIFIED PARTIES.

THIS SECTION 5.7 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

THE PARTIES AGREE AND STIPULATE THAT THIS INDEMNIFICATION COMPLIES WITH THE CONSPICUOUSNESS REQUIREMENT AND THE EXPRESS NEGLIGENCE TEST, AND IS VALID AND ENFORCEABLE AGAINST THE DEVELOPER.

5.8 DEVELOPER'S ACKNOWLEDGEMENT OF THE CITY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/DEVELOPERS' WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(A) THE DEVELOPER ACKNOWLEDGES AND AGREES THAT:

(I) THE PUBLIC INFRASTRUCTURE TO BE CONSTRUCTED UNDER THIS AGREEMENT, AND THE FEES TO BE IMPOSED BY THE CITY PURSUANT TO THIS AGREEMENT, REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:

- (a) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;**
- (b) VIOLATION OF THE TEXAS LOCAL GOVERNMENT CODE, AS IT EXISTS OR MAY BE AMENDED; AND/OR**
- (c) NUISANCE.**

(II) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE AMOUNT OF THE DEVELOPER'S FINANCIAL AND INFRASTRUCTURE CONTRIBUTION FOR THE PUBLIC INFRASTRUCTURE IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT THE DEVELOPER'S ANTICIPATED IMPROVEMENTS AND DEVELOPER'S DEVELOPMENT PLACES ON THE CITY'S INFRASTRUCTURE.

(III) ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER HEREBY AGREES AND ACKNOWLEDGES, WITHOUT WAIVING CLAIMS RELATED SOLELY TO EXACTIONS NOT CONTEMPLATED BY THIS AGREEMENT, THAT: (A) ANY PROPERTY WHICH IT CONVEYS TO THE CITY OR ACQUIRES FOR THE CITY

PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY THE DEVELOPER FOR SUCH LAND, AND THE DEVELOPER HEREBY WAIVES ANY CLAIM THEREFOR THAT IT MAY HAVE; AND (B) ALL PREREQUISITES TO SUCH DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND ANY VALUE RECEIVED BY THE CITY RELATIVE TO SAID CONVEYANCE IS RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF THE PROPERTY ON THE CITY'S INFRASTRUCTURE. ASSUMING NO DEFAULTS UNDER THIS AGREEMENT, THE DEVELOPER FURTHER AGREES TO WAIVE AND RELEASE ALL CLAIMS IT MAY HAVE AGAINST THE CITY UNDER THIS AGREEMENT RELATED TO ANY AND ALL: (A) CLAIMS OR CAUSES OF ACTION BASED ON ILLEGAL OR EXCESSIVE EXACTIONS; AND (B) ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN *DOLAN V. CITY OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.

(B) THIS SECTION 5.8 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE VI

TERM

The term of this Agreement shall be for a period of fifteen (15) years after the Effective Date. The Parties may extend the term of this Agreement if they execute an agreement in writing. Notwithstanding anything to the contrary in this Agreement, this Agreement shall automatically terminate, be *void ab initio* and shall be of no further force or effect if the Developer does not purchase the Property by May 31, 2019.

ARTICLE VII

ANNEXATION AND POST-ANNEXATION MATTERS

7.1 Annexation. Following Developer's acquisition of the Property, and within ten (10) days of being requested to do so by the City which shall not be longer than one (1) year after Developer's acquisition/closing, Developer agrees to (a) submit a voluntary annexation petition for the Property, or (b) if requested by the City, sign a petition for annexation presented to Developer by the City that may contain additional acres (together all acreage the "Petition Property"). Developer agrees to execute and supply any and all instruments and/or other documentation necessary for the City to annex the Petition Property, into the City's corporate limits. The annexation service plan for the Property shall be consistent with the terms of this Agreement. If the City is unable to complete the annexation of the Petition Property for any reason, including but not limited to procedural error or legal challenge, Developer shall execute another voluntary annexation petition for the Petition Property, within ten (10) days of being requested to do so. Prior to annexation of the Petition Property, the City shall have considered this Agreement, shall have submitted to Developer, and Developer shall review and approve, an annexation service plan which service plan shall be considered a binding, and mutually agreed upon, contractual obligation between the City

and Developer. Developer acknowledges and agrees that this Section 7.1 was a material inducement for the City to enter into this Agreement with Developer.

7.2 Zoning of Property. While the Parties expressly acknowledge that the Property will be voluntarily annexed in accordance with Section 7.1 of this Agreement, the Parties agree that the Concept Plan, the Development Standards, and the applicable provisions of this Agreement memorialize the plan for development of the Property as provided for in Section 212.172 of the Texas Local Government Code. The City shall consider zoning the Property consistent with the Development Standards, Concept Plan, and applicable provisions of this Agreement contemporaneously with annexation of the Property. Through this Agreement, the Developer expressly consents and agrees to the zoning of the Property consistent with and as contemplated by this Section.

7.3 Platting. The attached Concept Plan exhibit shall function and serve as an approved preliminary plat for the development, allowing for final plats and civil construction plans to be submitted without a preliminary plat.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

8.1 Events of Default. No Party shall be in default under this Agreement until notice of the alleged failure of such Party to perform has been given in writing (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party has been given a reasonable time to cure the alleged failure (such reasonable time to be determined based on the nature of the alleged failure, but in no event more than 30 days after written notice of the alleged failure has been given). Notwithstanding the foregoing, no Party shall be in default under this Agreement if, within the applicable cure period, the Party to whom the notice was given begins performance and thereafter diligently and continuously pursues performance until the alleged failure has been cured and within such 30-day period gives written notice to the non-defaulting Party of the details of why the cure will take longer than 30 days with a statement of how many days are needed to cure.

8.2 Remedies. If a Party is in default, the aggrieved Party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, or actions for specific performance, mandamus, or injunctive relief. NOTWITHSTANDING THE FOREGOING, HOWEVER, NO DEFAULT UNDER THIS AGREEMENT SHALL ENTITLE THE AGGRIEVED PARTY TO TERMINATE THIS AGREEMENT OR LIMIT THE TERM OF THIS AGREEMENT.

ARTICLE IX

ASSIGNMENT AND ENCUMBRANCE

9.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. The obligations, requirements, or covenants to develop the Property in this Agreement shall be able to be assigned to any affiliate or related entity of the Developer, or any lien holder on the Property, without the prior written consent of the City. The obligations, requirements or covenants to the development of the Property shall not be assigned by Developer to a non-affiliate or non-related entity of the Developer without the prior written consent of the City Manager, which consent shall not be unreasonably withheld if the

assignee demonstrates financial ability to perform. An assignee shall be considered a “Party” for the purposes of this Agreement. Each assignment shall be in writing executed by Developer 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, and shall contain a representation by the assignee acknowledged by a notary public that the assignee has the financial ability to timely perform the assigned obligations. A copy of each fully executed assignment to an assignee shall be provided to all Parties within 15 days after execution. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. Developer shall maintain written records of all assignments made by Developer to assignees, including a copy of each executed assignment and, upon written request from any Party or assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party’s sale, assignment, transfer, or other conveyance of any interest in this Agreement or the Property.

9.2 Encumbrance by City. The City shall not collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of its rights, title, or interest under this Agreement, except for the fees and charges to be collected under Article IV, without the Developer’s prior written consent, which consent shall not be unreasonably withheld.

9.3 Assignees as Parties. An assignee authorized in accordance with this Agreement and for which notice of assignment has been provided in accordance with this Agreement shall be considered a “Party” for the purposes of this Agreement. With the exception of the End-Buyer (as defined in Section 10.1 below) of a lot within the Property, any person or entity upon becoming an owner of land or upon obtaining an ownership interest in any part of the Property shall be deemed to be a “Developer” and have all of the obligations of the Developer as set forth in this Agreement and all related documents to the extent of said ownership or ownership interest.

9.4 No Third-Party Beneficiaries. This Agreement only inures to the benefit of, and may only be enforced by, the Parties. 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.

9.5 Notice of Assignment. In addition to the other requirements in this Agreement, the following requirements shall apply in the event that the Developer sells, assigns, transfers, or otherwise conveys the Property or any part thereof and/or any of its rights or benefits under this Agreement:

- (a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the City;
- (b) the notice must describe the extent to which any rights or benefits under this Agreement have been sold, assigned, transferred, or otherwise conveyed;
- (c) the notice must state the name, mailing address, and telephone contact information of the person(s) acquiring any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance; and
- (d) the notice must be signed by a duly authorized person representing the Developer.

ARTICLE X

RECORDATION AND ESTOPPEL CERTIFICATES

10.1 Binding Obligations. This Agreement and all amendments hereto (including amendments to the Concept Plan as allowed in this Agreement) and assignments hereof shall be recorded in the deed records of Collin County. This Agreement binds and constitutes a covenant running with the Property. Upon the Effective Date, this Agreement shall be binding upon the Parties and their successors and assigns permitted by this Agreement and forms a part of any other requirements for development within the Property. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns as permitted by this Agreement and upon the Property; however, this Agreement shall not be binding upon, and shall not constitute any encumbrance to title as to, any end-buyer/homebuyer of a fully developed and improved lot (“an End-Buyer”) and shall not negate the End-Buyer’s obligation to comply with the City’s Regulations, including but not limited to zoning ordinances, as they currently exist or may be amended.

10.2 Estoppel Certificates. From time to time upon written request of the Developer, if needed to facilitate a sale of all or a portion of the Property or a loan secured by all or a portion of the Property, the City will execute to its reasonable knowledge and belief, a written estoppel certificate in a form and substance satisfactory to the City identifying any obligations of the Developer under this Agreement that are in default. The Developer shall pay the City \$1,000 at the time of the Developer’s requests for an estoppel certificate for each request in excess of one per calendar year.

ARTICLE XI

ADDITIONAL PROVISIONS

11.1 Recitals. The recitals contained in this Agreement: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the City Council of the City; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

11.2 Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to any party shall be deemed to have been received when personally delivered or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

To the City:

Attn: City Manager
City of Celina
142 North Ohio
Celina, TX 75009
Email: jlaumer@celina-tx.gov

With a copy to:

Attn: Julie Fort
Messer, Rockefeller & Fort, PLLC
6371 Preston Road, Suite 200

Frisco, Texas 75034
 Email: julie@txmunicipallaw.com

With a copy to: Attn: Lance Vanzant
 Hayes, Berry, White & Vanzant, LLP
 6371 Preston Road, Suite 200
 Frisco, Texas 75034
 Email: lvanzant@hbwvllaw.com

To the Developer: Adam James
 Trico Development and Land Company
 102 E. Broadway Street, Suite 940
 Prosper, Texas 75078
 Email: adam@tricolandco.com

With a copy to: Richard and Janet Smith
 3532 Twin Lakes Drive
 Prosper, Texas 75078

With a copy to: Steve Rumsey
 4336 Marsh Ridge Road
 Carrollton, Texas 75010
 Email: srumsey@crossdevelopment.net

With a copy to: Attn: James S. Campbell
 Byrd Campbell, PA
 180 Park Avenue North, Suite 2A
 Winter Park, Florida 32890
 Email: jcampbell@byrdcampbell.com

Any party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

11.3 Interpretation. The Parties acknowledge that each has been actively involved in negotiating this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this Agreement. In the event of any dispute over the meaning or application of any provision of this Agreement, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

11.4 Time. In this Agreement, time is of the essence and compliance with the times for performance herein is required.

11.5 Authority and Enforceability. The City represents and warrants that this Agreement has been approved by official action by the City Council of the City in accordance with all applicable

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 duly authorized to do so. The Developer represents and warrants that this Agreement has been approved by appropriate action of the Developer, and that the individual executing this Agreement on behalf of the Developer has been duly authorized to do so. Each Party respectively acknowledges and agrees that this Agreement is binding upon such Party and is enforceable against such Party, in accordance with its terms and conditions and to the extent provided by law.

11.6 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties.

11.7 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) 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.

11.8 Applicable Law; Venue. This Agreement is entered into pursuant to, and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Collin County. Exclusive venue for any action to enforce or construe this Agreement shall be in the Collin County District Court.

11.9 Non-Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material 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 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 purposes 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.

11.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

11.11 Further Documents. The Parties agree that at any time after execution of this Agreement, they will, upon request of another Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement. This provision shall not be construed as limiting or otherwise hindering the legislative discretion of the City Council seated at the time that this Agreement is executed or any future City Council.

11.12 Exhibits. The following exhibits are attached to this Agreement and are incorporated herein for all purposes:

Exhibit A Legal Description of Property

Exhibit B	Survey of Property
Exhibit C-1	Concept Plan
Exhibit C-2	Shared Driveway Detail
Exhibit D	Development Standards

11.13 Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the City does not waive or surrender any of its respective governmental powers, immunities, or rights except as provided in this section. The Parties acknowledge that the City waives its sovereign immunity as to suit solely for the purpose of adjudicating a claim under this Agreement. This is an agreement for the provision of goods or services to the City under Section 271.151 et seq. of the Texas Local Government Code.

11.14 Force Majeure. Each Party shall use good faith, due diligence and reasonable care in the performance of its respective obligations under this Agreement, and time shall be of the essence in such performance; however, 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, shall give notice to all the Parties, including a 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 Party whose performance is suspended and that could not have been avoided by such Party with the good faith exercise of good faith, due diligence and reasonable care.

11.15 Amendments. This Agreement cannot be modified, amended, or otherwise varied, except in writing signed by the City and Developer expressly amending the terms of this Agreement.

11.16 Consideration. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

[signatures on following pages]

EXECUTED by the City and Developer on the respective dates stated below.

Date: _____

CITY OF CELINA

By: _____
Sean Terry, Mayor

ATTEST:

Vicki Faulkner, City Secretary

APPROVED AS TO FORM

Julie Fort, Attorney for City

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ___ day of _____, 2018 by Sean Terry, the Mayor of the City of Celina, Texas on behalf of said City.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires: _____

Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

DEVELOPER:

Trico Development and Land Company
a Texas limited liability company

By: _____

Name: Adam James
Title: Partner

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2018 by _____, a Partner of **Trico Development and Land Company**, a Texas limited liability company on behalf of said limited liability company.

(SEAL)

Notary Public, State of Texas

Name printed or typed

Commission Expires: _____

Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT A Legal Description

BEING a tract of land situated in the Ousley and Floyd Survey, Abstract No. 490, Collin County, Texas, being the same tract of land described to Richard C. Smith and Wife, Janet L. Smith by deed recorded in Volume 4412, Page 78 of the Deed Records of Collin County, Texas (D.R.C.C.T.), and being more particularly described by the metes and bounds as follows (Bearings and distances are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD 83)(US Foot) with a combined scale factor of 1.000152710):

BEGINNING at a 3/8 inch rebar found for the Southwest corner of said Smith tract, same being the Southeast corner of a tract of land described to Old Celina LTD., recorded in Document No. 20060815001168150 of the Official Public Records of Collin County, Texas, and lying on the North line of a tract of land described to G BAR 7, LTD., recorded in Volume 5850, Page 990, (D.R.C.C.T.);

THENCE North 02 Degrees 31 Minutes 13 Seconds East, departing the North line of said G BAR 7, LTD. tract, with the East line of said Old Celina LTD. tract, a distance of 213.74 feet to a 3/8 inch rebar found for corner;

THENCE North 13 Degrees 43 minutes 20 Seconds East, with the East line of said Old Celina LTD. tract, a distance of 1056.81 feet to a 3/8 inch rebar found for the easternmost Northeast corner of said Old Celina LTD. tract, same being an interior ell corner of said Smith tract;

THENCE South 88 Degrees 08 Minutes 58 Seconds West, with the Northeast line of said Old Celina LTD. tract, a distance of 483.98 feet to a point for corner for the westernmost Southwest corner of said Smith Tract, from which a fence post found for reference bears North 12 Degrees 43 Minutes 17 Seconds East, a distance of 0.97 feet;

THENCE North 02 Degrees 17 Minutes 31 Seconds West, with the East Line of said Old Celina LTD., tract, and with the East line of a tract of land conveyed to Community Cemetery Association recorded in Volume 1979, Page 407, (D.R.C.C.T.), in all, a total distance of 1174.51 feet to a point for corner for the westernmost Northwest corner of said Smith tract, same being the Southwest corner of a tract of land conveyed to Community Cemetery Association recorded in Volume 537, Page 346, (D.R.C.C.T.), from which a fence post found for reference bears South 06 Degrees 40 minutes 14 Seconds East, a distance of 1.5 feet;

THENCE South 87 Degrees 58 Minutes 28 Seconds East, departing the East line of the first mentioned Community Cemetery Association tract, with the South line of the second mentioned Community Cemetery Association tract, a distance of 293.70 feet to a 3/8 inch rebar found for the Southeast corner of the second mentioned Community Cemetery Association tract, same being an interior ell corner of said Smith tract;

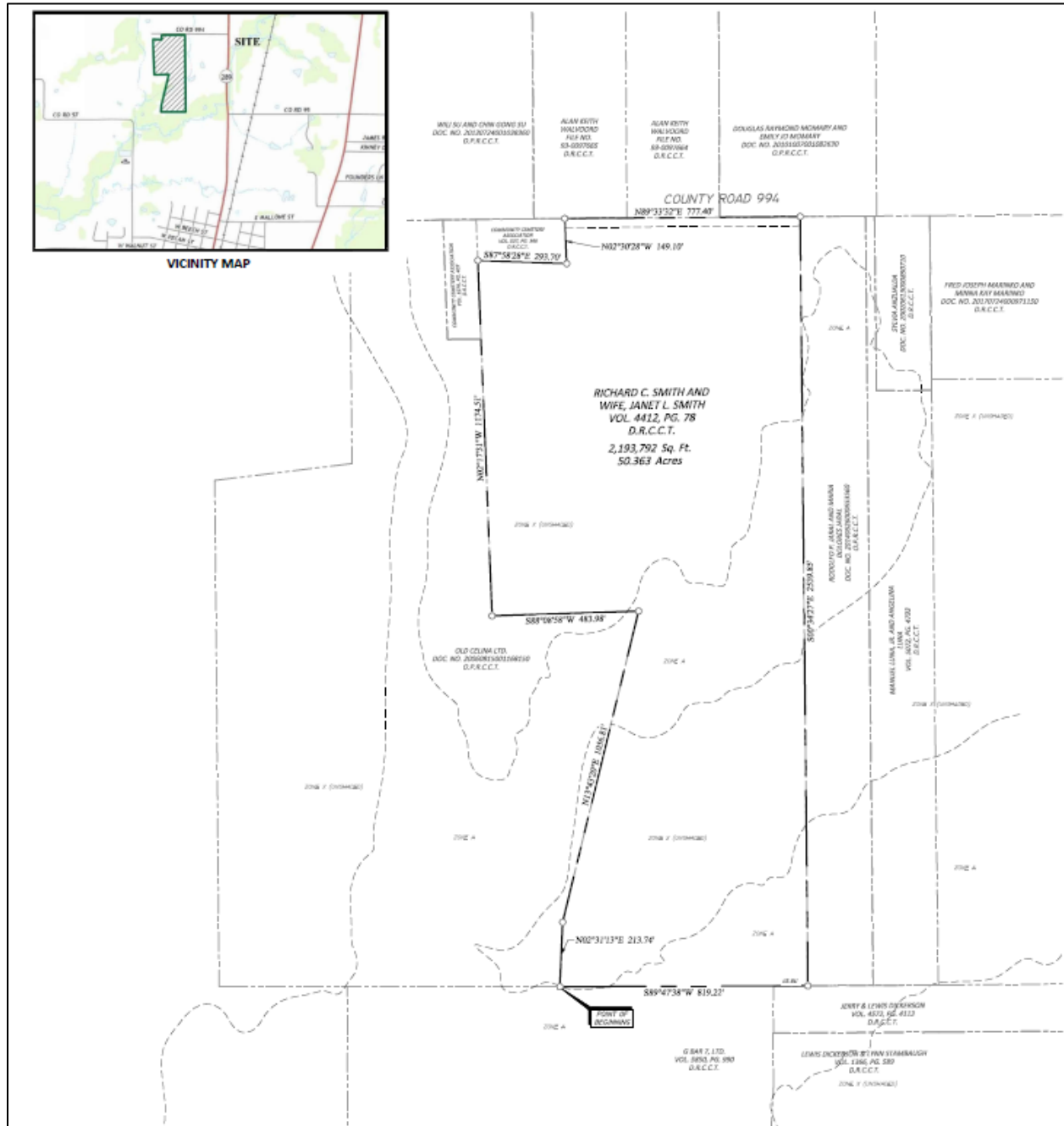
THENCE North 02 Degrees 30 Minutes 28 Seconds West, with the East line of the second mentioned Community Cemetery Association tract, a distance of 149.10 feet to a PK nail set for the northernmost Northwest corner of said Smith tract, same being the Northeast corner of the second mentioned Community Cemetery Association tract, and lying on the South line of a tract of land described to Alan Keith Walvoord by deed recorded in File No. 93-0097665, (D.R.C.C.T.), and on the approximate centerline of County Road 994;

THENCE North 89 Degrees 33 Minutes 32 Seconds East, with the South line said Alan Keith Walvoord tract, the South line of a tract of land described to Alan Keith Walvoord by deed recorded in File No. 93-0097664, (D.R.C.C.T.), the South line of a tract of land described to Douglas Raymond Momary and Emily Jo Momary by deed in Document No. 20101007001082630 of the Official Public Records of Collin County, Texas, and with the approximate centerline of said County Road 994, in all a distance of 777.40 feet to a PK nail set for the Northeast corner of said Smith tract, same being the Northwest corner of a tract of land described to Randolph P. Jaral and Maria Dolores Jaral by deed recorded in Document No. 20140626000653560 of the Official Public Records of Collin County, Texas;

THENCE South 00 Degrees 34 Minutes 27 Seconds East, departing the South line of said Momary tract, with the West line of said Jaral tract, a distance of 2539.85 feet to a point for the Southeast corner of said Smith tract, same being the Southwest corner of said Jaral tract, and lying on the North line of a tract of land described to Jerry & Lewis Dickerson by deed recorded in Volume 4572, Page 4113, (D.R.C.C.T.), from which a wood post found for reference bears North 55 Degrees 41 Minutes 57 Seconds West a distance of 2.26 feet;

THENCE South 89 Degrees 47 Minutes 38 Seconds West, with the North line of said Dickerson tract, and with the North line of said G Bar 7, LTD., tract, a distance of 819.22 feet to the POINT OF BEGINNING and containing 2,193,792 square feet or 50.363 acres of land, more or less.

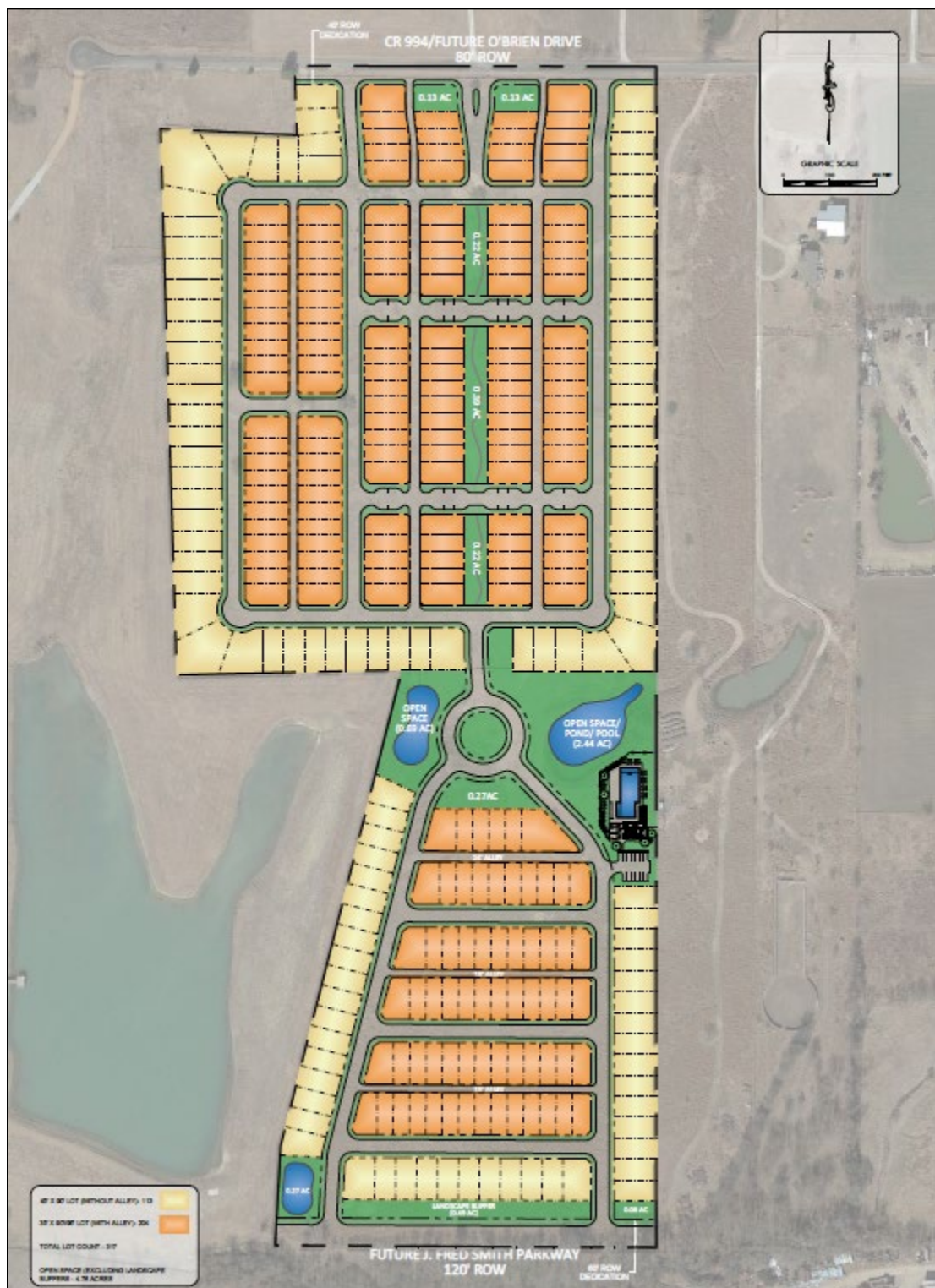
EXHIBIT B Survey of Property



Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

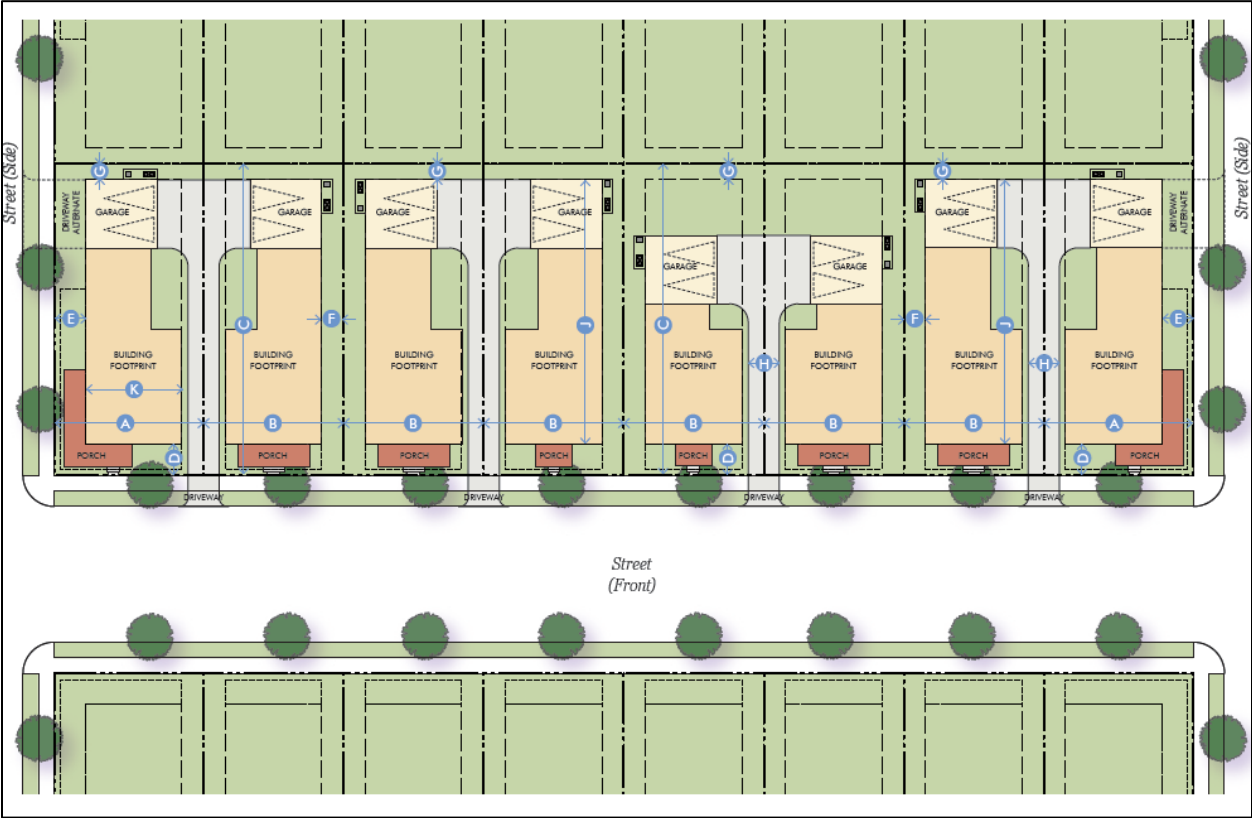
EXHIBIT C-1

Concept Plan



Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT C-2
Shared Driveway Detail



Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT D

Development Standards

1.0 PROJECT OVERVIEW

The purpose of these Development Regulations is to create a well-designed, environmentally sensitive community that creates open spaces and trails that link the various areas of the development to encourage and promote outdoor activity among the residents. The open space areas shown on the Concept Plan shall consist of existing corridors, and proposed usable open space dedication (dedicated to, and owned and maintained by the HOA), trails, ornamental trees and shade trees. This development will promote a sense of community, environmental stewardship and a healthy and robust relationship with one's neighbors.

2.0 PROJECT LOCATION

The project is located on the south side of CR 994, approximately 850 feet west of Business 289 (N. Louisiana Street). For a 50.363-acre tract of land out of the Ousley and Floyd Survey, Abstract No. 490 in the City of Celina ETJ and Collin County, Texas as described in Exhibit A, Legal Description and as depicted graphically in Exhibit C-1, Concept Plan.

3.0 DEFINITIONS

Except as otherwise defined in this Agreement, terms used herein shall be the same as those found in Section 14.01.007 of the Zoning Ordinance for the City of Celina, Texas, in effect on the effective date of this Agreement (the "Zoning Ordinance").

4.0 HOMEOWNERS/PROPERTY OWNERS ASSOCIATION

A homeowners association shall be established and shall be responsible for the ownership and maintenance of all common areas, including all private open space areas shown on the Concept Plan.

5.0 PROPOSED THOROUGHFARES/ACCESS/CROSS SECTIONS

CR 994 is designated on the Thoroughfare Plan as a future two-lane collector to be called "O'Brien Drive." Future J. Fred Smith Parkway, shown on the Thoroughfare Plan as a six-lane divided major arterial, is planned to be generally adjacent to the southern property line. These roadways will provide the access to the property. Roadways within the property are planned to be standard residential sections of 29 feet of paving within a 50 feet right-of-way.

6.0 LAND USES

The following uses are permitted by right except as otherwise noted:

1. Single-family detached
2. Temporary marketing and sales centers associated with the development of the Property
3. Temporary construction offices and storage yards associated with development of the Property
4. Public works related facilities necessary to serve the development.
5. Parks, playgrounds, trails, swimming pools, and other forms of improved and unimproved open space
6. Recreation/Amenity centers, pools, cabana buildings and/or locker/changing rooms

7. All other SF-R single family residential district uses listed in the Zoning Ordinance, as it exists or may be amended

7.0 CONCEPT PLAN

The concept plan calls for three types of lots: street-facing lots with shared front driveways, street-facing lots with alley-loaded garages, and mews-facing lots with alley-loaded garages. The first type lot will be located on the periphery of the subject property and the remaining two lot types will be on the interior of the site. The amenity center and open space/detention areas will be located near the center of the property where the floodplain transverses the tract.

8.0 FIRE

For Fire Code purposes, the requirement for a 2nd point of access beyond the 30th home is granted an exception and supported by the Fire Department due to dwelling units (beyond the first 30 dwelling units) being fire sprinklered. Once a 2nd point of access is provided, in compliance with the adopted Fire Code, fire sprinklered homes are not required thereafter. In all cases, all lots facing a mews shall be fire sprinklered.

9.0 DEVELOPMENT REGULATIONS

Development shall meet the standards as required in the Subdivision Regulations except as follows:

1. Block length - The maximum internal block length shall be 750 feet (measured from intersections such as elbows, tees and cross intersections) and shall contain no more than twenty (20) lots on each side of the street. Other exceptions to this block length requirement may be granted for special circumstances or conditions affecting the property in question; exceptions shall be applied for as a subdivision ordinance variance and presented to the Planning & Zoning Commission and City Council at the time of Construction/Preliminary Plat consideration for approval. Pecuniary interests standing alone shall not be justification for the granting of a variance.
2. Cul-de-Sac Length and Diameter - The maximum cul-de-sac length is 250 feet.
3. Temporary Dead-End Streets - temporary dead end streets, which are less than or equal to 150 feet in length, are not required to have a temporary turnaround at the end of the street, even if the dead end street has lots facing it.
4. Extensions - Unless construction has commenced, plats expire two (2) years.

10.0 RESIDENTIAL DESIGN GUIDELINES

10.1 Area Regulations. General Area regulations for residential uses are set forth in the table and notes below that contains the exclusive lot size, setback, height, dwelling size, and lot coverage requirements for the Property.

	Lot Type A	Lot Type B
Minimum Lot Size	3,150 SF	4,050 SF
Maximum Building Height	45 feet	45 feet
Minimum Front Yard Setback	10 feet	10 feet
Minimum Side Yard Setback (Interior Side)	3 feet (10 feet between adjacent residential lots)	3 feet (10 feet between adjacent residential lots)
Minimum Side Yard Setback	10 feet	10 feet

(Corner Side)		
Minimum Rear Setback	5 feet	5 feet
Minimum Lot Width	35 feet	45 feet
Minimum Lot Depth	90 feet	90 feet
Minimum Dwelling Unit Size	900 square feet	900 square feet
Maximum Lot Coverage	No Maximum	No Maximum

1. The lot widths shall be measured along the arc of the front building line.
2. Lot coverage is defined as the footprint of the primary residential structure, excluding without limitation patios (covered or uncovered), pools, driveways, sidewalks and other improvements which are not part of an enclosed building.
3. For street corner lots with a side touching and adjacent to the front yard of a lot behind it, the side yard on the street side of the lot shall be the same width as the adjacent lot front yard.
4. Alleys other than those serving mews-facing homes shall be fifteen (15) feet in width with 12 feet of pavement.

10.2 Design Standards in General. Exterior building facades for residential structures shall abide by the governing architectural design standards of the zoning ordinance.

1. Cottage/Craftsman style architecture is allowed within the development. This will specifically allow a deviation from the masonry requirements of the Zoning Ordinance and allow the use of cementitious wood planking (such as Hardiboard) or treated, engineered wood planking too achieve the historic aesthetic of the development. Other architectural features will be required to augment and enhance the chosen architectural style. The allowed architectural styles are attached on Exhibit E.
2. Up to thirty percent (30%) of the total number of homes may be constructed with a single enclosed parking space. The remainder of the homes must include a two-car enclosed parking space.
3. Shared driveways shall be constructed per Exhibit C-1, Concept Plan and Exhibit C-2, Driveway Detail. When platted, a mutual access easement for the property owners on either side of the shared driveway shall be provided.
4. Front facing garage doors with access from the street shall be allowed provided the garage doors are located at or behind the front building line. Front facades shall be defined as the front of a building, or any face of a building given special architectural treatment. In order for a front porch to be treated as the front of the building, it must extend the entire portion of the facade not encompassed by a garage and must be covered.
5. The primary roof pitch for residential building types shall not be less than 4:12. The minimum pitches do not apply to porches, specialty roofs, awnings, dormers, or other similar architectural features.
6. No building shall exceed a height of more than forty-five (45) feet, measured at the mid-point between the top plate and the dominate roof ridge.

10.3 Design Standards for Mews Lots

1. Cottage/Craftsman style architecture is allowed within the development. This will specifically allow a deviation from the masonry requirements of the Zoning Ordinance and allow the use of cementitious wood planking (such as Hardiboard) or treated, engineered wood planking too achieve the historic aesthetic of the development. Other architectural features will be required to augment and enhance the chosen architectural style.

2. Up to thirty percent (30%) of the total number of homes may be constructed with a single enclosed parking space. The remainder of the homes must include a two-car enclosed parking space.
3. Alleys that serve the mews-facing homes must be either twenty-four (24) feet in width or the home along the mews must be equipped with automatic fire sprinklers. If the homes are fire sprinklered, the alley width serving mews-facing homes may be reduced to twenty (20) feet in width.
4. The alleys serving the mews-facing lots shall be dedicated as a fire lane easement on any future plat and striped as such to prevent vehicle parking within the fire lane.
5. The rear-entry garages along the alleys that serve the mews-facing lots shall have a setback from the property line of either three (3) feet or twenty (20) feet with no other setback allowed.
6. A trash-collection pad shall be provided wholly outside the fire lane/alley location.
7. Mews widths must be a minimum of forty (40) feet with either two five-foot wide sidewalks on both sides of the mews or one six-foot wide sidewalk through the center of the mews.
8. Notwithstanding the above sidewalk provisions, pedestrian connectivity within the development and stub-outs to future developments must be provided. Generally, a six foot wide sidewalk is required down the middle of a mews, or if sidewalks down each side of the mews is preferred, the sidewalks may be five foot in width.
9. Wayfinding signs with street addresses must be provided at the terminus of every mews.
10. Side yards of mews-facing lots may not be paved.
11. Maximum block length for mews lots is 500 feet.

11.0 OPEN SPACE & TRAILS

This section shall satisfy the requirements in 14.03.008 SF-R, single-family residential district for open space dedication, amenities and improvements for the Property.

1. Open space areas within The Cottages containing trails shall be open to the public. Amenity centers, common areas, mews, multi-use fields, playground equipment, or other amenities shall be privately owned, maintained, and used by the The Cottages Homeowners Association and residences only.
2. The amenity center and pool shall be constructed prior to the issuance of the 100th home permit within Phase 1.
3. Any retention pond shall be amenitized with a fountain for aeration.
4. A minimum of five (5) acres (approximately ten percent (10%) of the total planned development acreage), shall be retained as open space. Such open space may be located anywhere on the Property. For the purposes of this Exhibit D, the term "open space" means natural areas, floodplain, areas used for drainage and detention, perimeter landscape buffers, common areas and parkway and landscape easements. Open space shall be privately owned. Open space shall not consist of any area platted for residential dwellings or road right-of-way.
5. Trails, a minimum of 10 feet in width, shall be provided through the open space located at the center of the development and shall provide future connections to developments that may be located to the east or west in the future.
6. All open space areas shall be owned and maintained by the HOA.

12.0 PERIMETER SCREENING & LANDSCAPE BUFFERS

1. A variable width landscape buffer, with an average width of twenty (20) feet and a minimum width of ten (10) feet, shall be provided along CR 994 (O'Brien Drive).
2. A combination of decorative metal fencing (i.e. wrought iron) with evergreen screening and solid masonry screening wall shall be provided along CR 994 (O'Brien Drive).
3. A forty (40) foot landscape buffer shall be provided along J. Fred Smith Parkway.
4. A six-foot tall solid masonry screening wall shall be required for screening along J. Fred Smith Parkway.
5. Where adjacent to large open space areas, wrought iron or decorative metal fencing with appropriate landscaping shall be provided.

13.0 DEVELOPMENT AMENITIES

1. A divided entry with landscaping on both sides of the main entrance from CR 994 is planned, as shown on the Concept Plan.
2. An amenity center with swimming pool will be constructed with Phase 1 of the development. Amenitized open space/detention areas will be located adjacent to both the amenity center and the traffic round-about located generally in the center of the development.
3. The design of the mews, perimeter landscaping, amenity center area, entrance feature, and open spaces shall generally develop per the attached Exhibit F. A comparable alternative is also allowed so that strict application does not impede future design at time of permitting, so long as the design is of comparable quality.

EXHIBIT E Architectural Exhibit

ARCHITECTURAL VARIETY

AMERICAN CLASSICAL



ARCHITECTURAL VARIETY

AMERICAN CLASSICAL

The American Classical Style is the American adaptation of the Georgian style brought over to the colonies by masons and carpenters in the 1700's. The American Classical style simplified the ornate classical details and introduced the use of clapboard siding in addition to the more traditional brick cladding.

FACADE COMPOSITION

Single rectangular forms with a regular, repetitious composition of windows and doors, often symmetrical.

Ornamentation is typically limited to the entry, stoop, or porch details.

MATERIALS AND COLOR

Exterior cladding is typically smooth finished wood or cementitious 6" exposure lap siding or brick.

Colors are typically whites with white accents, light colors with white trim, or dark red bricks with white trim, dark contrasting shutters.

Roof colors are typically green, gray, charcoal, or black.

PORCHES AND STOOPS

Covered entry stoop or a simple 1-story porch with small square, chamfered, or turned columns.

ROOFS

Roofs are moderately pitched (6:12 to 8:12).

The main roof form is typically side-gabled, but occasionally hipped or with a cross gable.

CORNICES, EAVES, & RAKES

Shallow eaves with a simplified classical cornice.

DOORS AND WINDOWS

Windows are vertically proportioned equal sash single- or double-hung windows with 6 over 6 or 9 over 9 pane configurations.

Doors are typically either solid with 4 or 6 raised panels; or 1/2 to 3/4 glass with panes of similar size and proportion to the windows.

Elaborate door surrounds and door assemblies with transoms and sidelights are common in this style.

Cable attic windows on front facing gables are common in this style.

SHUTTERS

Shutters are very common, except on accent windows and are typically raised panel or louvered.

DORMERS

Typically gabled, occasionally hipped.



EXHIBIT E
Architectural Exhibit

ARCHITECTURAL VARIETY

EUROPEAN ROMANTIC



ARCHITECTURAL VARIETY

EUROPEAN ROMANTIC

The European Romantic style is an amalgamation of Tudor, French Country, and other picturesque European styles. The style developed as a derivative of Medieval Revival architecture and as the style evolved, it began to emulate the English Renaissance styles of the 16th and 17th centuries. The style was popularized in U.S. in the 20th Century by returning troops who served in Europe.

FACADE COMPOSITION
Facades are typically asymmetrical and commonly L-shaped with a front facing gable. There is often a dominant central massing with added secondary dependencies.

MATERIALS AND COLOR
Exterior cladding is typically brick, stone, or light colored stucco, sometimes used in combination. Decorative half-timbering is occasionally used as a gable detail. Heavy trim and wood or stone lintels are common in this style. Horizontal wood or cementitious lap siding is less common in this style. Colors are typically brick in dark clay colors, white painted brick, or varied earth tones with varied dark trim. Roof colors are typically green, brown, or gray.

STOOPS
Entrances are typically recessed with a small stoop. Full or partial width porches are less common in this style.

ROOFS
Roofs are steeply pitched (≥12:12). The roof form typically consists of side gable main roof form with cross gables & dormers. Gable variations common in this style include nested, asymmetrical eaves (not side), sweeping eaves, and clipped.

CORNICES, EAVES, & RAKES
Eaves and rakes are typically right to the facade with shallow overhangs and with decorative brick corbels in the gable.

DOORS & WINDOWS
Entrances are typically composed with multiple window sizes, gabled windows, oversized first floor windows, and small accent windows. Windows are typically vertically proportioned casement windows with small vertically proportioned panes. If single- or double-hung windows are used instead of casements, they shall be vertically proportioned equal sash windows with 4 over 4 or 6 over 6 pane configurations. Doors are typically either solid or primarily solid board and batten, plank, or paneled, often with a small glass pane or speakeasy. 1/2 to 2/3 glass doors are less common, but when used shall have panes of similar size and proportion to the windows. Arched top doors are common in this style.

SHUTTERS
Typically board and batten, occasionally raised panel.

DORMERS
Typically gabled or hipped, occasionally gabled or eyebrow.



A>Prominent front-facing cross gable E>Nested gables C>Asymmetrical eaves D>Clipped gable E>Sweeping eaves F>Shed dormer G>Decorative half-timbering H>Gabled windows I>Brick or stone corbels

EXHIBIT E
Architectural Exhibit

ARCHITECTURAL VARIETY

CRAFTSMAN



ARCHITECTURAL VARIETY

CRAFTSMAN

The Craftsman Style is rooted in the Arts and Crafts movement that influenced much of the architecture popular in the early part of the 20th century. The Craftsman style emphasizes an expression of the house's structure in its form and detail. Craftsman homes have been easily adapted to various regions of the country both as modest cottages and as larger homes.

FACADE COMPOSITION
Symmetrical and balanced asymmetrical compositions.

MATERIALS & COLOR
Craftsman style houses are clad in a variety of materials based on regional construction practices.
Typical regional cladding includes smooth or rough finished wood or conventional 6" exposure lap siding or shingles, stucco, stone or brick.
Brick or stone is often used as a base for porch columns and as waterable detail.
Colors are typically light colors with white trim, light earth tones with light trim, or dark earth tones with dark trim.
Roof colors are typically red, green, brown, or gray.

PORCHES & STOOPS
Generous full or partial porches with tapered or straight square columns on stone, stucco, or brick base are a prominent feature of this style.

ROOFS
Roofs are shallow to moderately pitched (6:12 to 8:12) with deep overhangs. Roof forms are typically front or side gabled roof. Hipped roof forms are found in the style, but are less common.

CORNICES, EAVES, & RAKES
Deep eaves and rakes with exposed, often elaborate roof beams, rafter ends, and brackets.

DOORS & WINDOWS
Windows are often grouped horizontally and oversized on the first floor. Windows are vertically proportioned equal ash single- or double-hung windows with multiple panes on the upper ash over a single pane lower ash. Small square second windows are sometimes found in gables. Gable attic windows are common in this style.
Doors are typically 1/3 to 2/3 glass with panes of similar size and proportion to the windows.

DORMERS
Typically shed, occasionally gabled or eyebrow.



A Tapered square columns with a brick or stone base. B Gabled windows. C Deep eaves with exposed rafters or rafter tails. D Deep rake with decorative brackets. E Shed Dormer

Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT E
Architectural Exhibit

ARCHITECTURAL VARIETY

TEXANA FARMHOUSE



ARCHITECTURAL VARIETY

TEXANA FARMHOUSE

The Texana Farmhouse style is derived from eastern Texas and Louisiana vernacular house designs and is similar to the very simple Folk Victorian style of rural America.

FACADE COMPOSITION
Symmetrical and balanced asymmetrical compositions with simple lines and little ornamentation.

MATERIALS AND COLOR
Exterior cladding is typically smooth finished wood or cementitious 6" exposure lap siding or board and batten siding. Brick or stone is occasionally used as exterior cladding, but is more commonly found as part of a water table detail.
Colors are typically light colors with white trim, whites with white trim and dark accents, or varied earth tones, brick, or stone with light trim.
Roof colors are typically red, brown, green, gray, or charcoal.

PORCHES
Porches are a prominent feature of this style and are typically a simple 1-story porch with small square, chamfered, or turned columns.

ROOFS
Roofs are moderately to steeply pitched (8/12).
Roof forms are typically gabled, with the main roof form typically being side gabled.

CORNICES, EAVES, & RAKES
Simple eaves with over returns on the gable end.
Brackets and rather balls are occasionally found as ornamentation on this style.

DOORS & WINDOWS
Windows are vertically proportioned equal sash single- or double-hung windows with 2 over 2, 1 over 1, 4 over 4, or 6 over 6 pane configurations. Doors are typically either solid with 3 or 4 raised panels, or 1/2 to 3/4 glass with panes of similar size and proportion to the windows.

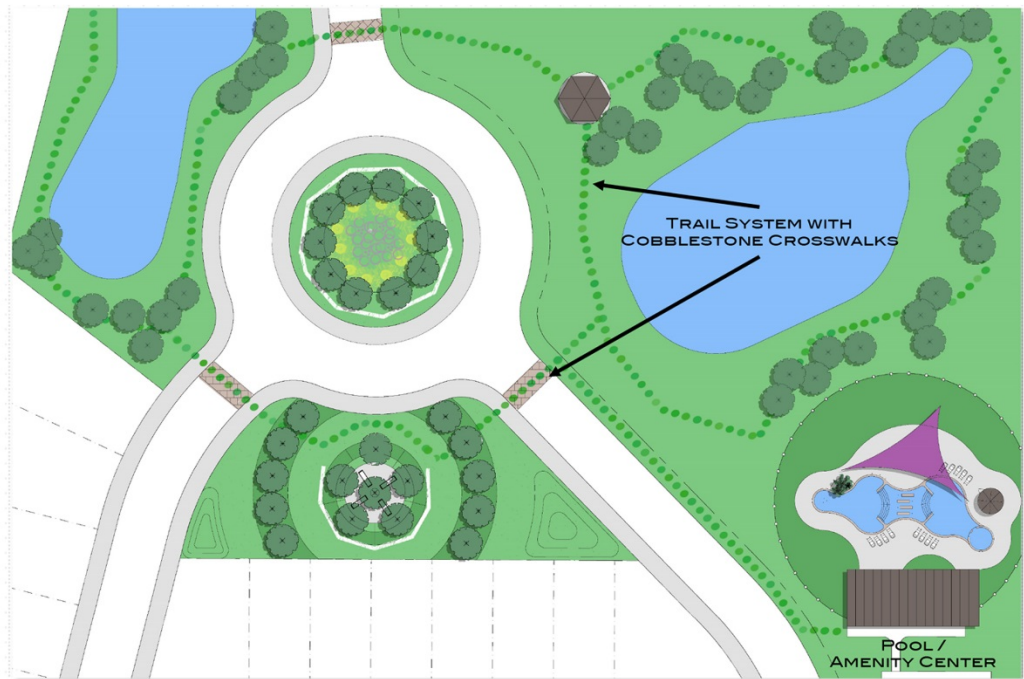
SHUTTERS
Not typical, but if used are raised panel, louvered, or board and batten.

DORMERS
Shed or gable.



A: Prominent front porch; B: Bracket detail on rake; C: Gabled rafter tails; D: Gable returns; E: Gable pediment detail; F: Shed dormer; G: Stone accent on chimney; H: Sash vents or windows

EXHIBIT F
Landscape Amenities



Attachment: The Cottages Development Agreement (The Cottages Development Agreement)

EXHIBIT F
Landscape Amenities



Mews Design and Open Space