

RESOLUTION NO. 39-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE A DEVELOPMENT AGREEMENT WITH OAK NATIONAL HOLDINGS, LLC, REGARDING APPROXIMATELY 363 ACRES OF LAND GENERALLY LOCATED SOUTHWEST OF FM 2932 AND SOUTHEAST OF GRIFFIN LANE IN KAUFMAN COUNTY, TEXAS, LOCATED PRIMARILY WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF MESQUITE AND BEING COMMONLY REFERRED TO AS "FM 2932 DEVELOPMENT" AND AUTHORIZING THE CITY MANAGER TO FINALIZE AND ADMINISTER THE AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, Section 212.171 *et seq.* of the Texas Local Government Code authorizes municipalities to enter into agreements governing the development of land in the municipality's extraterritorial jurisdiction; and

WHEREAS, the City Council has been presented with a proposed development agreement with Oak National Holdings, LLC, regarding approximately 363 acres of land generally located southwest of FM 2932 and southeast of Griffin Lane in Kaufman County, Texas, located primarily within the extraterritorial jurisdiction of the City of Mesquite, Texas ("City"), and being commonly referred to as "FM 2932 Development," a draft of said agreement being attached hereto as Exhibit "A" and incorporated herein by reference (the "Draft Agreement"); and

WHEREAS, upon full review and consideration of the Draft Agreement and all matters attendant and related thereto, the City Council is of the opinion that finalizing and executing the Draft Agreement is in the best interest of the City and will benefit the City and its citizens and desires to authorize the City Manager to conclude negotiations of the final terms and conditions of the agreement (the "Final Agreement") and to execute and administer the Final Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Council finds that the terms and provisions of the proposed Draft Agreement between the City and Oak National Holdings, LLC, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is in the best interest of the City and will benefit the City and its citizens.

SECTION 2. That the City Council hereby authorizes the City Manager to negotiate and finalize the terms and conditions of the Final Agreement to substantially conform to the Draft Agreement and to further execute the Final Agreement and all other documents necessary to consummate the transactions contemplated by the Final Agreement.


SECTION 3. That the City Manager is further hereby authorized to administer the Final Agreement on behalf of the City including, without limitation, the City Manager shall have the authority to: (i) provide any notices required or permitted by the Agreement; (ii) approve amendments to the Agreement provided such amendments, together with all previous amendments approved by the City Manager, do not increase City expenditures under the Agreement in excess of \$50,000; (iii) consent to the assignment of the Final Agreement under the terms and pursuant to any assignment provisions of the Agreement; (iv) approve or deny any matter in the Final Agreement that requires the consent of the City provided, however, notwithstanding the foregoing, any provision of the Final Agreement that requires the consent of the City Council pursuant to the terms of the Final Agreement shall require the approval of the City Council; (v) approve or deny the waiver of performance of any covenant, duty, agreement, term or condition of the Final Agreement; (vi) exercise any rights and remedies available to the City under the Final Agreement; and (vii) execute any notices, amendments, approvals, consents, denials and waivers authorized by this Section 3.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 20th day of May 2019.



Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



David L. Paschall
City Attorney

APPROVED BY CITY COUNCIL
DATE 5.20.19
AGENDA ITEM NO. 8

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is executed between Oak National Holdings, LLC ("Owner"), a Texas limited liability corporation, and the City of Mesquite, Texas ("City"), a Texas home-rule municipal corporation, effective as of ~~May 18~~ ^{June 18} 2019 ("Effective Date"). Owner and City are sometimes individually referred to as a "Party" and collectively as the "Parties."

ARTICLE I
RECITALS

WHEREAS, Owner is the owner of the real property located in Kaufman County, Texas and described by metes and bounds on Exhibit A and depicted on Exhibit B (the "Property"); and

WHEREAS, Owner desires to develop the Property with the construction of approximately 250 single-family homes on one (1) acre tracts (the "Project"); and

WHEREAS, all of the Property is currently located partially within the City's extraterritorial jurisdiction ("ETJ") and partially within the ETJ of the City of Talty, Texas ("Talty"), a general law municipal corporation, but is not within the corporate limits or ETJ of any other municipality; and

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

WHEREAS, the City and Talty are engaged in discussions to adjust ETJ boundaries such that Talty will release to the City that portion of the Property currently in the ETJ of Talty and the City will release to Talty other land area currently in the ETJ of the City; and

WHEREAS, if the City and Talty complete adjustment of their boundaries, the Parties intend for the entirety of the Property to be annexed into the City on or before January 31, 2020 and, pursuant to Section 212.172 of the Texas Local Government Code, be developed within the corporate limits of the City in accordance with this Agreement; and

WHEREAS, if the City and Talty do not complete adjustment of their boundaries, the Parties intend for the City have the right to annex that portion of the Property within the City's ETJ on or before January 31, 2020 and, pursuant to Section 212.172 of the Texas Local Government Code, be developed within the corporate limits of the City in accordance with this Agreement; and

WHEREAS, if the City and Talty do not complete adjustment of their ETJ boundaries and no portion of the Property is annexed into the corporate limits of the City by January 31, 2020, the Parties intend that, pursuant to Section 212.172 of the Texas Local Government Code, all parts of the Property within the City's ETJ shall be developed within the City's ETJ and subject to the City's exclusive jurisdiction to regulate subdivision plats in the ETJ pursuant to Section 242.001(a)(3) of the Texas Local Government Code and the applicable terms of this Agreement; and

WHEREAS, the Talty Special Utility District ("Talty SUD") holds the Certificate of Convenience and Necessity ("CCN") to provide retail water service to the Property; and

WHEREAS, the Parties desire for the City to provide retail water service to the Property and Owner consents to and supports efforts of the City to be the retail provider of water service to the Property; and

WHEREAS, the Parties have the authority to enter into this Agreement pursuant to the City's general contracting authority and pursuant to Section 212.171 *et seq.* 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 and agreed to by the Parties, the Parties agree as follows:

ARTICLE II ETJ BOUNDARY ADJUSTMENT

Owner consents to and will support the efforts of the City, at no cost to Owner, to complete an adjustment of ETJ boundaries with Talty that includes Talty releasing to the City that portion of the Property currently in the ETJ of Talty. Such support by Owner includes providing a letter of support from Owner for such boundary adjustment and Owner attending meetings as requested by City and such other reasonable actions City may request.

ARTICLE III ANNEXATION AND DEVELOPMENT MATTERS

3.1 Consent to Full-Purpose Annexation.

(a) Upon full execution of this Agreement, Owner consents to the City's full-purpose annexation of the Property, or portion thereof, into the City's corporate limits, which consent shall be irrevocable through and including 11:59 p.m. on January 31, 2020. Provided the City and Talty complete an adjustment of ETJ boundaries that results in the entirety of the Property being in City's ETJ, then the City shall have the right, but not the obligation, to full-purpose annex the entirety of the Property. Should City and Talty not complete the ETJ boundary adjustment, City has the right, but not the obligation, to full-purpose annex that portion of the Property in the City's ETJ. Accordingly, **OWNER AND ALL FUTURE OWNERS OF THE PROPERTY (INCLUDING END BUYERS) AND DEVELOPERS IRREVOCABLY AND UNCONDITIONALLY CONSENT TO THE FULL-PURPOSE ANNEXATION OF THE PROPERTY, OR PORTION THEREOF, INTO THE CORPORATE LIMITS OF THE CITY IN ACCORDANCE WITH THIS AGREEMENT AND WAIVE ALL OBJECTIONS AND PROTESTS TO SUCH ANNEXATION. THIS AGREEMENT SHALL SERVE AS THE PETITION OF OWNER AND ALL FUTURE OWNERS AND DEVELOPERS TO THE FULL-PURPOSE ANNEXATION OF THE PROPERTY AND THE IRREVOCABLE AND UNCONDITIONAL CONSENT OF THE OWNER TO THE CITY'S**

ANNEXATION OF THE PROPERTY IN ACCORDANCE WITH THIS AGREEMENT. THIS COVENANT SHALL RUN WITH THE LAND AND SHALL BE BINDING ON ALL PRESENT AND FUTURE OWNERS AND DEVELOPERS. For the purposes of this Agreement, an "End Buyer" is a purchaser of a fully developed and improved lot within the Property.

(b) Within one (1) business day of execution of this Agreement, Owner shall:
(a) file in the deed records of Kaufman County, Texas Deed Restrictions (the "Restrictions") on the entirety of the Property in the form attached hereto as Exhibit C; and (b) provide City with a file-marked copy of the Restrictions. **The filing and recording of the Restrictions is a condition precedent to City's performance of any and all obligations of City contained in this Agreement.**

3.2 Withdrawal of Consent to Full-Purpose Annexation. If the City has not annexed the Property, or any portion thereof, into the City's corporate limits on or before 11:59 p.m. on January 31, 2020, then Owner and any future owner of the Property may withdraw the consent to the City's full-purpose annexation of the Property by providing City notice of such withdrawal by personal delivery as provided herein and terminating the Restrictions. Owner's consent to City's full-purpose annexation in Section 3.1 remains valid and binding until such time as City is notified by personal delivery of a withdrawal of consent. Any delivery occurring after 5:00 p.m. shall be considered received on the next business day.

3.3 No End Buyer Transfers. Owner covenants and agrees not to convey or otherwise transfer any interest in any part of the Property to an End Buyer on or before January 31, 2020.

3.4 City Services. Provided the Property, or a portion thereof, is annexed by City, Owner agrees to the provision of services by the City consistent with the terms of this Agreement and as will be set forth in an annexation service plan to which the Parties will mutually agree. The service plan shall be considered a binding, and mutually agreed upon, contractual obligation between the City and the Owner. If the Property is not annexed by the City, City is not obligated to provide any services required by this Section 3.4 and the annexation service plan.

3.5 Zoning of the Property. Provided the Property, or a portion thereof, is annexed by the City, the City agrees to consider zoning the annexed Property as a planned development district that allows single-family development at a minimum density of one dwelling unit per net acre, is otherwise consistent with the Development Standards (hereinafter defined), and is in a form acceptable to Owner (collectively, the "Proposed Zoning of the Property"). Notwithstanding the foregoing, nothing in this Agreement shall be interpreted to require the City to approve zoning of any portion of the Property.

3.6 Development of the Property.

(a) If the City annexes the Property, or portion thereof, and approves the Proposed Zoning of the Property, the Property may be developed in accordance the terms of this Agreement.

(b) Notwithstanding anything to the contrary in this Agreement, if the City annexes the Property, or portion thereof, but does not approve the Proposed Zoning of the Property with conditions acceptable to Owner, the Property may be developed in accordance with the Governing Regulations (hereinafter defined).

(c) Notwithstanding anything to the contrary in this Agreement, if the City does not annex the Property, or a portion thereof, the part of the Property within the City's ETJ may be developed in accordance with the Governing Regulations.

3.7 Mandatory Homeowners Association. If the Property, or portion thereof, is annexed into the City's corporate boundaries, Owner will create a mandatory homeowners association ("HOA"), which HOA shall be required to assess and collect from home owners annual fees in an amount calculated to maintain the open spaces, common areas, right-of-way irrigation systems, raised medians and other right-of-way landscaping, detention areas, drainage areas, including but not limited to bar-ditches and culverts within any street right-of-way, screening walls, retaining walls, lake structures, stock ponds, parks, trails, entry way monuments, amenity center, and any other common improvements or appurtenances not maintained and operated by the City (the "HOA Maintained Improvements"). Common areas, including but not limited to all landscaped entrances to the Property and right-of-way landscaping, and all other HOA Maintained Improvements, shall be maintained solely by the HOA. Maintenance of the HOA Maintained Improvements shall comply with City Code provisions, ordinances, design standards, uniform and international building and construction codes, the Manual (hereinafter defined), and other policies duly adopted by the City, as they exist as of the Effective Date and that they may, from time to time, be amended (collectively "City Regulations") and shall be subject to oversight by the City. The documents creating the HOA shall empower the City to assess a maintenance fee for any and all HOA Maintained Improvement(s) in the event the HOA fails to accomplish its maintenance responsibility and in the event the Property is within the corporate boundaries of the City. Owner shall provide the City with a copy of the documents creating the HOA at the time Owner submits a final plat application that includes property governed by the association so that the City may confirm that the association will be responsible for maintenance of the HOA Maintained Improvements.

ARTICLE IV GOVERNING REGULATIONS

4.1 Governing Regulations. If the Property, or portion thereof, is annexed by the City, Development of the annexed Property shall be governed solely by the following regulations (collectively, the "Governing Regulations"):

(a) The Property will be developed in accordance with the Concept Plan attached hereto as Exhibit D ("Concept Plan"), as amended from time to time in accordance with this Agreement, which plan shall be considered a plan for development as provided for in Texas Local Government Code Section 245.002; and

(b) The Subdivision Regulations and City's Engineering Design Manual ("Manual") of the City in effect as of the Effective Date, except as modified herein;

- (c) All City Regulations, other than the City's zoning ordinance, in effect as of the Effective Date, except as modified herein;
- (d) The building codes in effect on the Effective Date (the "Building Codes");
- (e) The development standards set forth on Exhibit E (the "Development Standards");
- (f) 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");
- (g) Revisions to the Development Standards allowed by this Article IV;
- (h) The Development Processes described in Article V;
- (i) The Development Charges described in Article VI;
- (j) The Public Infrastructure provisions of Article VII; and
- (k) The Retail Utility Service provisions of Article VIII.

The Governing Regulations are exclusive, and no other ordinances, rules, regulations, standards, policies, orders, guidelines, or other City-adopted or City-enforced requirements of any kind (including but not limited to any moratorium adopted by the City after the Effective Date) apply to the development of the Property. Nothing in this section shall be construed to limit in any way the City's rights under Section 245.004 of the Texas Local Government Code.

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; (d) a reduction in off-street parking of five percent (5%) or less; (e) and a reduction in density. The City Council may permit exceptions to strict compliance with the Development Standards when Owner 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 development.

4.3 Conflicts

- (a) In the event of a conflict between this Agreement and any of the City Regulations (including the Subdivision Regulations), this Agreement shall control.
- (b) In the event of any conflict between any of the Governing Regulations (other than an Approved Plat) and the Development Standards, the Development Standards shall control.
- (c) In the event of any conflict between any Approved Plat and any of the other Governing Regulations, the Approved Plat shall control.

ARTICLE V
DEVELOPMENT PROCESSES

5.1 **Applicability.** This article applies only to the development of the Property, or portion thereof, within the ETJ or corporate boundaries of the City. **"Public Infrastructure"** for the purposes of this Agreement shall mean water, wastewater, roads, drainage and other public infrastructure necessary and convenient for the development of the Property, but excluding any on-site sewage disposal systems and facilities ("**OSSF**") which shall be constructed and maintained in compliance with all rules and regulations of the State of Texas.

5.2 **Jurisdiction.** Pursuant to the authority of Section 242.001(a)(3), Texas Local Government Code, the City shall have and exercise exclusive jurisdiction over the review and approval of: (a) preliminary plats and final plats; (b) the design, construction, installation, and inspection of Public Infrastructure, except as modified by Article VIII of this Agreement; and (c) the construction and occupancy of structures. Kaufman County shall have and exercise no jurisdiction over such matters.

5.3 **Plat Approval.** Development of the Property shall require approval of preliminary plats and final plats by the City in accordance with the Subdivision Regulations, as modified by the Development Standards.

5.4 **Public Infrastructure.** Public Infrastructure shall be designed to comply with the Governing Regulations, and no construction or installation of Public Infrastructure shall begin until plans and specifications have been approved by the City or its designee in accordance with the Subdivision Regulations and Manual, as modified by the Development Standards, which approvals shall not be unreasonably delayed or withheld. All Public Infrastructure shall be constructed and installed in compliance with the Governing Regulations and shall be inspected to determine compliance. Inspections shall be performed by the City's Engineer or his or her designee.

5.5 **Building Permits.** No permanent structure intended for human occupancy (a "**Structure**") shall be constructed unless a building permit has been issued by the City's building official certifying that the plans and specifications for the Structure are in compliance with the Building Codes and Development Standards. Except as otherwise provided below for model homes, no building permit may be issued for a Structure until completion of all Public Infrastructure that will serve the lot on which the Structure is being constructed. Building permits shall be issued for model homes prior to completion of construction of the Public Infrastructure that will serve the lot on which the model home is being constructed, but only after fire hydrants are in place and activated and paved fire lanes have been constructed to serve the lot on which the model home is being constructed; however, no model home may be sold to any End Buyer until a final plat has been recorded and the construction of all Public Infrastructure necessary to serve that lot has been completed and approved by City. **No building permit may be issued to a builder that does not own land within the Property unless such builder agrees in writing to be bound by this Agreement, including but not limited to the consent to**

full-purpose annexation provided in Section 3.1 above, and delivers a copy of such writing to the City Secretary.

5.6 Certificate of Substantial Completion. Except for model homes, no Structure may be occupied until a certificate of substantial completion has been issued by the City's building official certifying that the Structure has been constructed in compliance with the Governing Regulations. Model homes may be occupied for the sole purpose of sales and marketing and may not be used as a residence; however, no model home may be sold to or occupied by an End Buyer until a certificate of substantial completion has been issued.

5.7 Inspections by the City. The City shall have the right to inspect and enforce compliance and to stop work on the Public Infrastructure or any Structure by the issuance of a "stop-work order" if the City determines that any Public Infrastructure or any Structure is not being constructed in compliance with the Governing Regulations until the non-compliance is corrected. If any inspection conducted by the City determines that any Public Infrastructure or any Structure is not being constructed in compliance with the Governing Regulations, all costs and expenses paid or incurred by the City in exercising its rights under this section shall be paid by the contractor or builder, or by the owner of the property on which the work is being performed. Nothing in this section is intended to create any liability of the City to determine whether any Public Infrastructure or Structure is constructed in accordance with the Governing Regulations.

ARTICLE VI DEVELOPMENT CHARGES

6.1 Applicability. This article applies only to the development of the Property, or portion thereof, within the ETJ or corporate boundaries of the City.

6.2 Impact Fees. In consideration of Owner's obligations in this Agreement, Owner will not be subject to the payment to the City of any impact fees or other capital recovery fees and charges of any kind, and the City shall not collect any impact fees from the Owner in connection with the Property.

6.3 No Park Fees. In consideration of the Owner's obligations in this Agreement and except to the extent that such matters are contained within the City's Inspection Fees (defined below), the City waives, relinquishes, and releases any right it might have under a current or future City ordinance or state law to: (a) assess, levy, or collect fees for park, recreation, and open space facilities and purposes in connection with the development of the Property; and (2) require one or more dedications of land for such purposes in lieu of assessing, levying, and collecting such fees for park recreation, and open space facilities.

6.4 Plan Review, Building Permit and Certificates of Substantial Completion. In consideration of Owner's obligations in this Agreement, Owner will be subject to the payment to the City for fifty percent (50%) of any fees for review of building permit applications, review of construction plans and certificates of substantial completion. All such fees shall be paid by the

builder performing the work or by the owner of the property on which the work is being performed.

6.5 Inspection Fees. In consideration of Owner's obligations in this Agreement, Owner will be subject to the payment to the City for fifty percent (50%) of inspection fees ("**Inspection Fees**") according to the fee schedule adopted by the City Council at the time of inspection. Inspection Fees shall be paid for by the Owner or the contractor performing the work or by the owner of the property on which the work is being performed.

ARTICLE VII PUBLIC INFRASTRUCTURE

7.1 Public Infrastructure. Owner, at its sole cost, shall design, construct, and install all Public Infrastructure. The City shall have no obligation to pay for any Public Infrastructure. Owner shall not be required to construct or pay for off-site improvements or oversized improvements not expressly described in this Agreement or otherwise necessary to serve the development of the Property.

7.2 INDEMNIFICATION AND HOLD HARMLESS. OWNER (INCLUDING FOR PURPOSES HEREOF ANY SUCCESSOR THERETO OR ASSIGNEE THEREOF, INCLUDING, WITHOUT LIMITATION, A PURCHASER OF ANY PORTION OF THE PROPERTY) AGREES TO RELEASE, DEFEND, HOLD HARMLESS, AND INDEMNIFY THE CITY FROM AND AGAINST ALL THIRD PARTY CLAIMS, SUITS, JUDGEMENTS, DAMAGES, AND DEMANDS (TOGETHER, "CLAIMS") AGAINST THE CITY, INCLUDING REASONABLE ATTORNEY'S FEES AND OTHER COSTS, ARISING OUT OF THE NEGLIGENCE OF OWNER IN CONNECTION WITH THE DESIGN OR CONSTRUCTION OF ANY PUBLIC INFRASTRUCTURE, STRUCTURE, OR OTHER FACILITIES OR IMPROVEMENTS THAT ARE REQUIRED OR PERMITTED BY THE CITY REGULATIONS OR ANY OTHER GOVERNING REGULATIONS AND THAT ARE DEDICATED OR OTHERWISE CONVEYED TO THE CITY.

7.3 Maintenance Bond and Acceptance of Public Infrastructure. This section 7.3 is subject to modifications made in Article VIII of this Agreement. If the Property is annexed by the City, the City shall be the beneficiary of the required two-year maintenance bond the Owner shall provide for all Public Infrastructure. If the City finds that such Public Infrastructure has been completed in accordance with the final plans and specifications approved by the City (or any modifications thereof approved by the City), and in accordance with all other applicable laws and City Regulations, the City shall accept the same whereupon ownership of such improvements shall be transferred to the City and be operated and maintained by the City at its sole expense other than those improvements that the HOA Maintained Improvements. If the Property is not annexed by the City, the City will not accept any Public Infrastructure and shall not be responsible for the maintenance or operation of any Public Infrastructure.

ARTICLE VIII
RETAIL UTILITY SERVICE

8.1 **Retail Water Service.** Talty SUD currently holds the CCN to provide retail water service to the Property. Owner consents to and will support efforts of the City to become the retail provider of water service to the Property at no cost to Owner. Such support by Owner includes providing a letter of support from Owner and Owner attending meetings as requested by City and such other reasonable actions City may request. In the event City does not become the retail provider of water service to the Property, City shall have no obligation to provide water service to the Property.

8.2 **Temporary Water Service.** The Parties agree and understand there may be a period of time during which it may be necessary that the Property be served by Talty SUD. The Parties agree to cooperate in facilitating any such temporary service by Talty SUD with the objective of the City eventually becoming the retail water service provider to the Property.

8.3 **Water Utility Infrastructure.** All water utility infrastructure constructed on the Property shall conform to City Regulations or applicable Talty SUD regulations, whichever are more stringent, unless a variance is obtained in accordance with corresponding City Regulations or Talty SUD regulations.

8.4 **Maintenance Bond and Acceptance of Water Service Public Infrastructure.** If Talty SUD is the initial retail water service provider to the Property, Owner agrees that Talty SUD shall be the beneficiary of a required and assignable two-year maintenance bond the Owner shall provide for all water service Public Infrastructure. In such event, Talty SUD and City may determine whether such water service Public Infrastructure has been completed in accordance with the final plans and specifications approved by the City and Talty SUD (or any modifications thereof approved by the City and Talty SUD), and in accordance with all other applicable laws, City Regulations and Talty SUD regulations (whichever are the more stringent), and Talty SUD may accept the same whereupon ownership of such improvements shall be transferred to Talty SUD and be operated and maintained by Talty SUD at its sole expense. The Parties agree and understand that if the Property, or portion thereof, is annexed by the City, it is the intent of the Parties that City will eventually take ownership of the water service Public Infrastructure in the annexed Property.

ARTICLE IX
CONSTRUCTION PROPERTY SALES TAX

9.1 Owner shall use reasonable efforts to cause the purchase of Construction Property to be situated in the City for sales tax purposes. "Construction Property" means any materials and/or taxable services purchased by Owner, builder or a designee for construction of improvements on the Property.

ARTICLE X
TERM OF AGREEMENT

10.1 The term of this Agreement shall be 15 years after the Effective Date (the "Term"), unless extended or shortened by mutual written agreement of the Parties. The Term shall not be affected by any full-purpose annexation of the Property, or portion thereof, by the City.

ARTICLE XI
EVENTS OF DEFAULT; REMEDIES

11.1 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 (which notice shall set forth in reasonable detail the nature of the alleged failure) and until such Party is given a reasonable time to cure the alleged failure (such reasonable time determined based on the nature of the alleged failure, but in no event less than 30 days after written notice of the alleged is given). In addition, 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. Notwithstanding the foregoing, however, a Party shall be in default of its obligation to make any payment required under this Agreement if such payment is not made within five (5) business days after it is due.

11.2 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, specific performance, mandamus, and injunctive relief. Notwithstanding the foregoing, however, no default under this Agreement shall:

(a) entitle the aggrieved Party to terminate this Agreement; or

(b) entitle the aggrieved Party to suspend performance under this Agreement unless the portion of the Property for which performance is suspended is the subject of the default (for example, the City shall not be entitled to suspend its performance with regard to the development of "Tract X" by "Developer A" based on the grounds that Developer A is in default with respect to any other tract or based on the grounds that any other developer is in default with respect to any other tract); or

(c) adversely affect or impair an obligation of the City to provide water or any other service to any developed portion of the Property, or to any undeveloped portion of the Property unless the undeveloped portion of the Property is the subject of the default;
or

(d) entitle the aggrieved Party to seek or recover monetary damages of any kind;
or

(e) limit the Term of this Agreement.

11.3 Governmental Powers; Waivers of Immunity. By its execution of this Agreement, the City does not waive or surrender any of its governmental powers, immunities, or rights except as follows:

(a) The City waives its governmental immunity from suit as to any action brought by a Party to pursue the remedies available under this Agreement, but only to the extent necessary to pursue such remedies. Nothing in this section shall waive any claims, defenses, or immunities that the City has with respect to suits against the City by persons or entities other than a Party to this Agreement nor shall this Article or Agreement be construed to waive any immunities, whether governmental, sovereign, legislative, official, qualified or otherwise, except as clearly set forth in this section.

(b) Nothing in this Agreement is intended to delegate or impair the performance by the City of its governmental functions.

ARTICLE XII ASSIGNMENT AND ENCUMBRANCE

12.1 Assignment by Owner to Successor Owners. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties. 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 (an "Assignee") (a) without City consent, but with Notice to the City, if the Assignee is a lienholder or an affiliate or related entity of Owner; or (b) with the City Manager's prior written consent (which consent shall not be unreasonably withheld if the Assignee demonstrates financial ability to perform), if to any other person or entity. If the City Manager fails to provide the Owner or Assignee with a written objection to an assignment request within thirty (30) days of receiving a request pursuant to clause (b), then the assignment shall automatically be deemed approved by the City. 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. 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 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.

12.2 Assignment by the City. The City shall not assign this Agreement, in whole or in part, and including any obligation, right, title, or interest of the City under this Agreement, without the prior written approval of Owner.

12.3 Encumbrance by Owner and Assignees. Owner and Assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement for the benefit of their respective lenders without the consent of, but with prompt written notice to, the City. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the lender's interest, including Notice (hereinafter defined) information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement and shall be given a reasonable time to do so in addition to the cure periods otherwise provided to the defaulting Party by this Agreement; and the City agrees to accept a cure offered by the lender as if offered by the defaulting Party. A lender is not a Party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. Any purchaser from or successor owner through a lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured.

12.4 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 without Owner's prior written consent.

12.5 Assignees as Parties. An Assignee shall be considered a "Party" for the purposes of this Agreement.

ARTICLE XIII

RECORDATION, RELEASES AND ESTOPPEL CERTIFICATES

13.1 Binding Obligations. Pursuant to the requirements of Section 212.172(c)(4) of the Texas Local Government Code, this Agreement and all amendments hereto (including amendments to the Concept Plan) shall be recorded in the deed records of Kaufman County. In addition, all assignments to this Agreement shall be recorded in the deed records of Kaufman County. This Agreement, when recorded, shall be binding upon the Parties and their successors and assigns 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 except for annexation, land use and development regulations that apply to specific lots.

13.2 Estoppel Certificates. From time to time upon written request of Owner, the City Manager shall execute a written estoppel certificate identifying any obligations of the Parties under this Agreement that are in default or, with the giving of notice or passage of time, would be in default; and stating, to the extent true, that to the best knowledge and belief of the City, the Parties are in compliance with their duties and obligations under this Agreement.

ARTICLE XIV
ADDITIONAL PROVISIONS

14.1 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, 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.

14.2 Notices. All notices required or contemplated by this Agreement (or otherwise given in connection with this Agreement) (a "Notice") shall be in writing, shall be signed by or on behalf of the Party giving the Notice, and shall be effective as follows: (a) on or after the fifth (5th) business day after being deposited with the United States mail service, Certified Mail, Return Receipt Requested; (b) on the day delivered by a private delivery or private messenger service (such as FedEx or UPS) as evidenced by a receipt signed by any person at the delivery address (whether or not such person is the person to whom the Notice is addressed); or (c) otherwise on the day actually received by the person to whom the Notice is addressed, including, but not limited to, delivery in person and delivery by regular mail. Notices by E-mail are not permitted. Notices given pursuant to this section shall be addressed as follows; provided, however, that any Party shall have the right to change such Party's address for notice purposes by giving the other Party at least fifteen (15) days prior written notice of such change of address in the manner set forth herein:

To the City:

By Mail
Attn: City Manager
City of Mesquite, Texas
P.O. Box 850137
Mesquite, Texas 75185-0137

By Personal Delivery
Attn: City Manager
City of Mesquite, Texas
1515 North Galloway Avenue
Mesquite, Texas 75149

With copy to: By Mail
Attn: City Attorney
City of Mesquite, Texas
P.O. Box 850137
Mesquite, Texas 75185-0137

By Personal Delivery
Attn: City Attorney
City of Mesquite, Texas
1515 North Galloway Avenue
Mesquite, Texas 75149

To Owner: By Mail and Personal Delivery
Kevin Webb
5763 S. State Highway 205
Rockwall, Texas 75032

With copy to: By Mail
Arthur J. Anderson
Winstead PC
2728 N. Harwood Street
Dallas, Texas 75201

14.3 Reservation of Vested Rights. This Agreement constitutes a "permit" within the meaning of Chapter 245, Texas Local Government Code, as amended. Owner does not, by entering into this Agreement, waive (and Owner expressly reserves) any right that Owner may now or hereafter have with respect to any claim of "vested" or "protected" development or other property rights arising from Chapters 43 or 245, Texas Local Government Code, as amended, or otherwise arising from common law or other state or federal law.

14.4 Expiration of Permits.

(a) Any permit secured pursuant to this Agreement, but excluding this Agreement so far as it constitutes a permit, shall expire two years from the date it is issued if no progress has been made toward completion of the Project, as provided by Section 245.005(c) of Chapter 245 of the Local Government Code. In the event the permit expires, neither the Owner nor any person authorized by the Owner shall perform any work for which the permit was originally issued without filing a new permit application and complying with the City Regulations in effect on the date of application as permitted by law.

(b) The Project shall expire five years from the Effective Date if no progress has been made towards completion of the Project, as provided by Section 245.005(c) of

Chapter 245 of the Local Government Code. In the event the Project expires, neither the Owner nor any person authorized by the Owner shall perform any work on the Project without filing a new permit application and complying with the City Regulations in effect on the date of application as permitted by law.

14.4 Interpretation. The Parties acknowledge that each of them 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.

14.5 Authority and Enforceability. The City represents and warrants that this Agreement has been duly adopted by official action of the City Council 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. 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 duly authorized to do so.

14.6 Entire Agreement: Amendments. 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, including all Exhibits to this Agreement, shall not be modified, amended or otherwise varied except in writing signed by the Parties expressly amending the terms of this Agreement.

14.7 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, 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. 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 then own or thereafter acquires.

14.8 Applicable Law; Venue. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Texas, and all obligations of the Parties are performable in Kaufman County. Exclusive venue for any action to enforce or construe this Agreement shall be in the state courts of appropriate jurisdiction of Kaufman County.

14.9 Non Waiver. Any failure by a Party to insist upon strict performance by another 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.

14.10 Legislative Discretion. Nothing contained in this Agreement shall be construed as creating a contractual obligation that controls, waives or supplants the City Council's legislative discretion.

14.11 No Third Party Beneficiaries. Except as otherwise provided in this section, this Agreement only inures to the benefit of, and may only be enforced by, the Parties. An End Buyer shall be considered a third-party beneficiary of this Agreement, but only for the limited purposes for which an End Buyer is bound by this Agreement. 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.

14.12 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 the Party whose performance is suspended and that could not have been avoided by such Party with the exercise of good faith, due diligence and reasonable care. Notwithstanding the foregoing, a force majeure does not include any financial or economic hardship, changes in market or economic conditions, or insufficiency of funds.

14.13 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.

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

14.15 Conflicts. In the event of any conflict between this Agreement and any other ordinance, rule, regulation, standard, policy, order, guideline, or other City-adopted or City-enforced requirement, whether existing on the Effective Date or hereafter adopted, this Agreement shall control.

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

14.17 Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by the Parties hereto or by any third party to create the relationship of principal and agent, or of partnership, joint venture or any association whatsoever between any one or more of the Parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the Parties hereto shall be deemed to create any relationship between the Parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Agreement.

14.18 Captions. The descriptive captions of this Agreement are for convenience of reference only and shall in no way define, describe, limit, expand or affect the scope, terms, conditions, or intent of this Agreement.

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

- Exhibit A Metes and Bounds Description of the Property
- Exhibit B Depiction of the Property
- Exhibit C Deed Restriction
- Exhibit D Concept Plan
- Exhibit E Development Standards

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Executed by Owner and the City to be effective on the Effective Date.

CITY OF MESQUITE, TEXAS

Date: May 24, 2019

Cliff Keheley
Cliff Keheley, City Manager

ATTEST:

Erwan House
for City Secretary

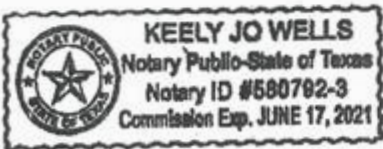
APPROVED AS TO FORM:

[Signature]
City Attorney

STATE OF TEXAS §

COUNTY OF DALLAS §

This instrument was acknowledged before me on the 24 day of May, 2019 by Cliff Keheley, City Manager of the City of Mesquite, Texas, on behalf of said city.



Keely Jo Wells
Notary Public, State of Texas

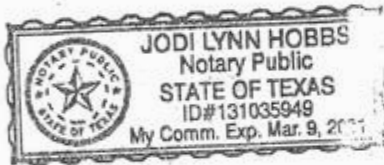
OAK NATIONAL HOLDINGS, LLC

Date: 6/28/19

By: [Signature]
Name: Kevin Webb
Title:

STATE OF TEXAS §
 §
COUNTY OF Rockwall §

This instrument was acknowledged before me on the 28 day of May, 2019 by Kevin Webb, VP of Law of Oak National Holdings, LLC, on behalf of said Oak National Holdings, LLC.



[Signature]
Notary Public, State of Texas

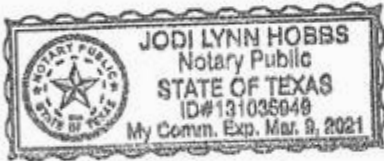


EXHIBIT A

Metes and Bounds Description of the Property



WARREN SURVEYING
16339 F.M. RD. 849
LINDALE, TEXAS 75771
OFFICE: 903-882-3605 FAX: 903-882-7122
EMAIL: wwarren@suddenlink.net

**363.225 ACRE TRACT
PAGE 1 OF 3**

All that certain lot, tract or parcel of land within the J. Moore Survey, Abstract No. 309, Kaufman County, Texas, and being part of that tract of land in Distribution Deed from Anella Slaughter Bauer, (the "decedent"), Carrol W. Phillips and Richard Blake Rogers, Co-Executors to Richard Slaughter Bauer and recorded in Volume 2674 on Page 243 of the Official Public Records of Kaufman County, Texas, and this 363.225 acre tract being more fully described as follows:

BEGINNING at a 5/8" Iron Rod found at the base of a 4" concrete right-of-way monument, for the East corner of this 363.225 acre tract and being in the Southwest right-of-way of F.M. Road 2932, (100' wide right-of-way) also being the North corner of a called 313-1/2 acre tract (First Tract) in Deed to A.J. Layden, Jr., and Mary Ann Layden, Co-Trustees of the Layden Land Trusts and recorded in Volume 1073 on Page 231;

THENCE South 45 deg. 39 min. 55 sec. West, a distance of 956.71 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 44 deg. 37 min. 59 sec. West, a distance of 348.24 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 45 deg. 24 min. 37 sec. West, a distance of 1,658.90 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 45 deg. 33 min. 57 sec. West, a distance of 349.52 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 45 deg. 01 min. 12 sec. West, a distance of 499.74 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 44 deg. 48 min. 08 sec. West, a distance of 283.98 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 44 deg. 02 min. 07 sec. West, a distance of 293.96 feet, with the Southeast line of same and Northwest line of said 313-1/2 acre tract, to an X-Tie Fence corner found for the South corner of said 363.225 acre tract;

THENCE North 45 deg. 50 min. 17 sec. West, a distance of 292.04 feet, to a fence corner found for a reentrant corner of said 363.225 acre tract;



WARREN SURVEYING
16339 F.M. RD. 849
LINDALE, TEXAS 75771
OFFICE: 903-882-3605 FAX: 903-882-7122
EMAIL: wwarren@suddenlink.net

**363.225 ACRE TRACT
PAGE 2 OF 3**

THENCE South 49 deg. 07 min. 57 sec. West, a distance of 19.36 feet, to a fence corner found for a reentrant corner of said 363.225 acre tract and being in the Northeast line of a called 52 acre tract (Second Tract) in Deed to A.J. Layden, Jr., and Mary Ann Layden, Co-Trustees of the Layden Land Trusts and recorded in Volume 1073 on Page 231

THENCE North 45 deg. 43 min. 39 sec. West, a distance of 882.60 feet, with the division line of said tracts, to a 5/8" Iron Rod found for the East corner of Lot 32 of Dallas East Estates as shown for record in Cabinet 1, Envelope 94 of the Plat Records;

THENCE North 44 deg. 29 min. 20 sec. West, a distance of 543.00 feet, to a 2" Iron Pipe found for the East corner of Lot 1 of said Dallas East Estates;

THENCE North 44 deg. 26 min. 26 sec. West, a distance of 1,858.02 feet, with the Southwest line of said 363.225 acre tract and Northeast line of Dallas East Estates to a 1/2" Iron Rod found for the West corner of said 363.225 acre tract and the North corner of Lot 21 of Dallas East Estates, and in the South right-of-way of Lake Street (40' right-of-way);

THENCE North 44 deg. 52 min. 04 sec. East, a distance of 4,402.08 feet, with the Northwest line of said 363.225 acre tract and the Southeast right-of-way of Lake Street and Southeast line of a called 50 acre tract in Deed to Preston W. Henderson, III, in Volume 1245 on Page 781, to a 3/8" Iron Rod found for the North corner of this 363.225 acre tract and East corner of said 50 acre tract, also being in the Southwest right-of-way of F.M. Road 2932;

THENCE South 45 deg. 24 min. 17 sec. East, a distance of 181.90 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to a Concrete Monument found;

THENCE South 44 deg. 48 min. 24 sec. East, a distance of 700.75 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to a Concrete Monument found;

THENCE South 45 deg. 01 min. 28 sec. East, a distance of 2,100.81 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to a Concrete Monument found;

THENCE South 45 deg. 04 min. 22 sec. East, a distance of 622.00 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to the POINT OF BEGINNING AND CONTAINING 363.255 ACRES OF LAND.



WARREN SURVEYING
16339 F.M. RD. 849
LINDALE, TEXAS 75771
OFFICE: 903-882-3605 FAX: 903-882-7122
EMAIL: wwarren@suddenlink.net

**363.225 ACRE TRACT
PAGE 3 OF 3**

See Map 8183A prepared in conjunction with these field notes. The bearings hereon were derived from TOPCON G.P.S. equipment and oriented to True North. I, Willie H. Warren, Jr., do hereby state that the above field notes were prepared from a survey made under my supervision during the month of September, 2014 and December, 2015.
GIVEN UNDER MY HAND & SEAL, this the 2nd day of December, 2015.

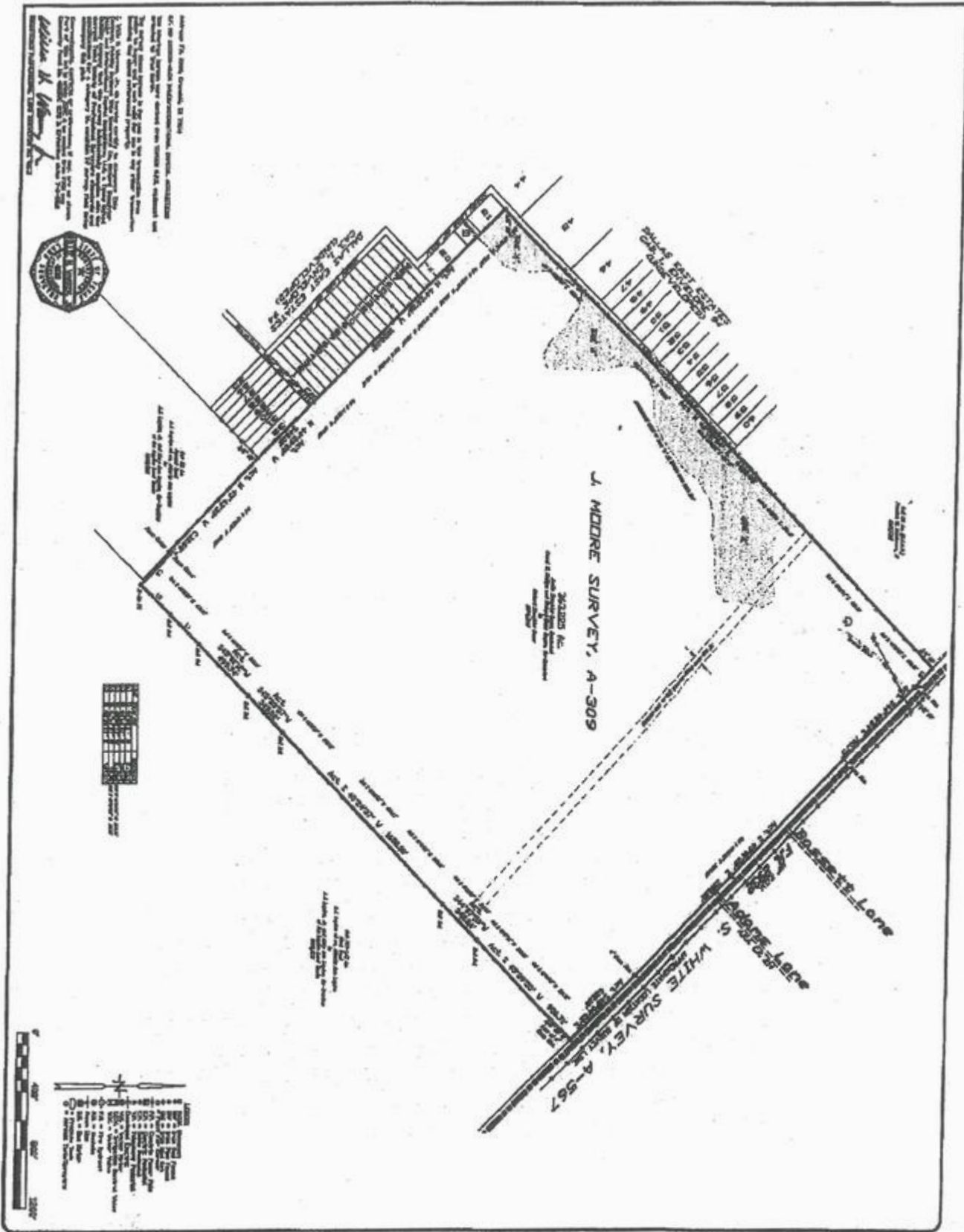
Willie H. Warren

Willie H. Warren, Jr.
Registered Professional Land Surveyor
State of Texas No. 4038



EXHIBIT B

Depiction of the Property



8183A	DATE	BY

PLAT OF SURVEY
CALLED 363.737 ACRES
J. MOORE SURVEY, A-309
KAUFMAN COUNTY, TEXAS
SCALE: 1" = 400'

WARREN SURVEYING

10000 FM 2616
SUITE 100
DALLAS, TEXAS 75249
PHONE: 972-412-1111
FAX: 972-412-1112
WWW.WARRENSURVEYING.COM

DATE	BY

EXHIBIT C

DEED RESTRICTIONS

DEED RESTRICTIONS AND PETITION FOR VOLUNARY ANNEXATION

THE STATE OF TEXAS §

§ KNOWN ALL PERSONS THESE PRESENT:

COUNTY OF KAUFMAN §

I.

The undersigned Oak National Holdings, LLC ("Owner") is the owner of real property generally described as ~~Block 10, Mesquite Estates~~ and more particularly described in Exhibit 1 to these Deed Restrictions ("Restrictions") and incorporated herein by reference (the "Property").

II.

The following definitions apply to these Deed Restrictions:

- A. "End Buyer" shall mean a purchaser of a fully developed and improved lot within the Property.
- B. "City" shall mean the City of Mesquite, Texas.

III.

Owner does hereby impress all of the Property with the following Restrictions, to wit:

OWNER AND ALL FUTURE OWNERS OF THE PROPERTY (INCLUDING END BUYERS) AND DEVELOPERS IRREVOCABLY AND UNCONDITIONALLY CONSENT TO THE FULL-PURPOSE ANNEXATION OF THE PROPERTY, OR ANY PORTION THEREOF, INTO THE CORPORATE LIMITS OF THE CITY AND WAIVE ALL OBJECTIONS AND PROTESTS TO SUCH ANNEXATION. THIS AGREEMENT SHALL SERVE AS THE PETITION OF OWNER AND ALL FUTURE OWNERS AND DEVELOPERS TO THE FULL-PURPOSE ANNEXATION OF THE PROPERTY AND THE IRREVOCABLE AND UNCONDITIONAL CONSENT OF THE OWNER TO THE CITY'S ANNEXATION OF THE PROPERTY. THIS COVENANT SHALL RUN WITH THE LAND AND SHALL BE BINDING ON ALL PRESENT AND FUTURE OWNERS AND DEVELOPERS.

IV.

These Restrictions shall continue in full force and effect from the date of execution until amended or terminated in the manner specified in this document.

V.

These Restrictions are not intended to restrict the right of the City Council of the City to exercise its legislative duties and powers insofar as zoning of the Property is concerned.

VI.

Owner agrees that these Restrictions inure to the benefit of the City. Owner hereby grants the City the right to enforce these restrictions by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against any person violating or attempting to violate these Restrictions, either to enforce the Restrictions, prevent a violation of the Restrictions or to require correction of a violation of the Restrictions. If the City substantially prevails in a legal proceeding to enforce these Restrictions, Owner agrees the City shall be entitled to recover reasonable attorneys' fees and court costs from the party violating the Restrictions. For further remedy, Owner agrees that the City may withhold any certificate of substantial completion, certificate of occupancy or final inspection necessary for the lawful use of the Property until these Restrictions are complied with by the party violating the Restrictions. The right of the City to enforce these Restrictions shall not be waived, expressly or otherwise.

VII.

OWNER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY FROM AND AGAINST ALL CLAIMS OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THE PROVISIONS OF THIS DOCUMENT.

VIII.

The provisions of this document are hereby declared covenants running with the land and are binding on all successors, heirs, and assigns of the Owner who acquire any right, title, or interest in or to the Property, or any part thereof, including but not limited to builders, developers and End Buyers. Any person who acquires any right, title, or interest in or to the Property, or any part thereof, thereby agrees and covenants to abide by and fully perform the provisions of this document.

IX.

The Owner understands and agrees that this document shall be governed by the laws of the State of Texas.

X.

The invalidation of any provision in this document by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

EXECUTED on this the 28 day of June, 2019.

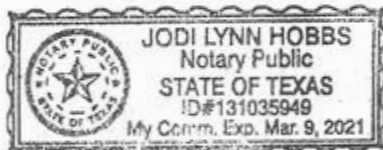
OAK NATIONAL HOLDINGS, LLC

Date: 6/28/19

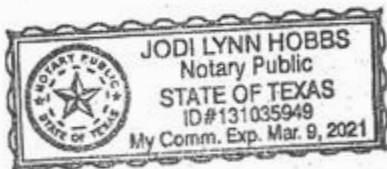
By: [Signature]
Name: Kevin Webb
Title:

STATE OF TEXAS §
 §
COUNTY OF Rockwall §

This instrument was acknowledged before me on the 28th day of June, 2019 by Kevin Webb, VP of Land of Oak National Holdings, LLC, on behalf of said Oak National Holdings, LLC.



[Signature]
Notary Public, State of Texas



*EXHIBIT 1 TO DEED RESTRICTIONS
PROPERTY DESCRIPTION*



WARREN SURVEYING
16339 F.M. RD. 849
LINDALE, TEXAS 75771
OFFICE: 903-882-3605 FAX: 903-882-7122
EMAIL: wwarren@suddenlink.net

**363.225 ACRE TRACT
PAGE 1 OF 3**

All that certain lot, tract or parcel of land within the J. Moore Survey, Abstract No. 309, Kaufman County, Texas, and being part of that tract of land in Distribution Deed from Anella Slaughter Bauer, (the "decendent"), Carrol W. Phillips and Richard Blake Rogers, Co-Executors to Richard Slaughter Bauer and recorded in Volume 2674 on Page 243 of the Official Public Records of Kaufman County, Texas, and this 363.225 acre tract being more fully described as follows:

BEGINNING at a 5/8" Iron Rod found at the base of a 4" concrete right-of-way monument, for the East corner of this 363.225 acre tract and being in the Southwest right-of-way of F.M. Road 2932, (100' wide right-of-way) also being the North corner of a called 313-1/2 acre tract (First Tract) in Deed to A.J. Layden, Jr., and Mary Ann Layden, Co-Trustees of the Layden Land Trusts and recorded in Volume 1073 on Page 231;

THENCE South 45 deg. 39 min. 55 sec. West, a distance of 956.71 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 44 deg. 37 min. 59 sec. West, a distance of 348.24 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 45 deg. 24 min. 37 sec. West, a distance of 1,658.90 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 45 deg. 33 min. 57 sec. West, a distance of 349.52 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 45 deg. 01 min. 12 sec. West, a distance of 499.74 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 44 deg. 48 min. 08 sec. West, a distance of 283.98 feet, with the division line of said tracts, to a Nail set in fence;

THENCE South 44 deg. 02 min. 07 sec. West, a distance of 293.96 feet, with the Southeast line of same and Northwest line of said 313-1/2 acre tract, to an X-Tie Fence corner found for the South corner of said 363.225 acre tract;

THENCE North 45 deg. 50 min. 17 sec. West, a distance of 292.04 feet, to a fence corner found for a reentrant corner of said 363.225 acre tract;



WARREN SURVEYING
16339 F.M. RD. 849
LINDALE, TEXAS 75771
OFFICE: 903-882-3605 FAX: 903-882-7122
EMAIL: wwarren@suddenlink.net

**363.225 ACRE TRACT
PAGE 2 OF 3**

THENCE South 49 deg. 07 min. 57 sec. West, a distance of 19.36 feet, to a fence corner found for a reentrant corner of said 363.225 acre tract and being in the Northeast line of a called 52 acre tract (Second Tract) in Deed to A.J. Layden, Jr., and Mary Ann Layden, Co-Trustees of the Layden Land Trusts and recorded in Volume 1073 on Page 231

THENCE North 45 deg. 43 min. 39 sec. West, a distance of 882.60 feet, with the division line of said tracts, to a 5/8" Iron Rod found for the East corner of Lot 32 of Dallas East Estates as shown for record in Cabinet 1, Envelope 94 of the Plat Records;

THENCE North 44 deg. 29 min. 20 sec. West, a distance of 543.00 feet, to a 2" Iron Pipe found for the East corner of Lot 1 of said Dallas East Estates;

THENCE North 44 deg. 26 min. 26 sec. West, a distance of 1,858.02 feet, with the Southwest line of said 363.225 acre tract and Northeast line of Dallas East Estates to a 1/2" Iron Rod found for the West corner of said 363.225 acre tract and the North corner of Lot 21 of Dallas East Estates, and in the South right-of-way of Lake Street (40' right-of-way);

THENCE North 44 deg. 52 min. 04 sec. East, a distance of 4,402.08 feet, with the Northwest line of said 363.225 acre tract and the Southeast right-of-way of Lake Street and Southeast line of a called 50 acre tract in Deed to Preston W. Henderson, III, in Volume 1245 on Page 781, to a 3/8" Iron Rod found for the North corner of this 363.225 acre tract and East corner of said 50 acre tract, also being in the Southwest right-of-way of F.M. Road 2932;

THENCE South 45 deg. 24 min. 17 sec. East, a distance of 181.90 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to a Concrete Monument found;

THENCE South 44 deg. 48 min. 24 sec. East, a distance of 700.75 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to a Concrete Monument found;

THENCE South 45 deg. 01 min. 28 sec. East, a distance of 2,100.81 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to a Concrete Monument found;

THENCE South 45 deg. 04 min. 22 sec. East, a distance of 622.00 feet, with the Northeast line of said 363.225 acre tract and Southwest right-of-way of F.M. Road 2932, to the POINT OF BEGINNING AND CONTAINING 363.255 ACRES OF LAND.



WARREN SURVEYING
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363.225 ACRE TRACT
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See Map 8183A prepared in conjunction with these field notes. The bearings hereon were derived from TOPCON G.P.S. equipment and oriented to True North. I, Willie H. Warren, Jr., do hereby state that the above field notes were prepared from a survey made under my supervision during the month of September, 2014 and December, 2015.
GIVEN UNDER MY HAND & SEAL, this the 2nd day of December, 2015.

Willie H. Warren

Willie H. Warren, Jr.
Registered Professional Land Surveyor
State of Texas No. 4038



EXHIBIT D
CONCEPT PLAN

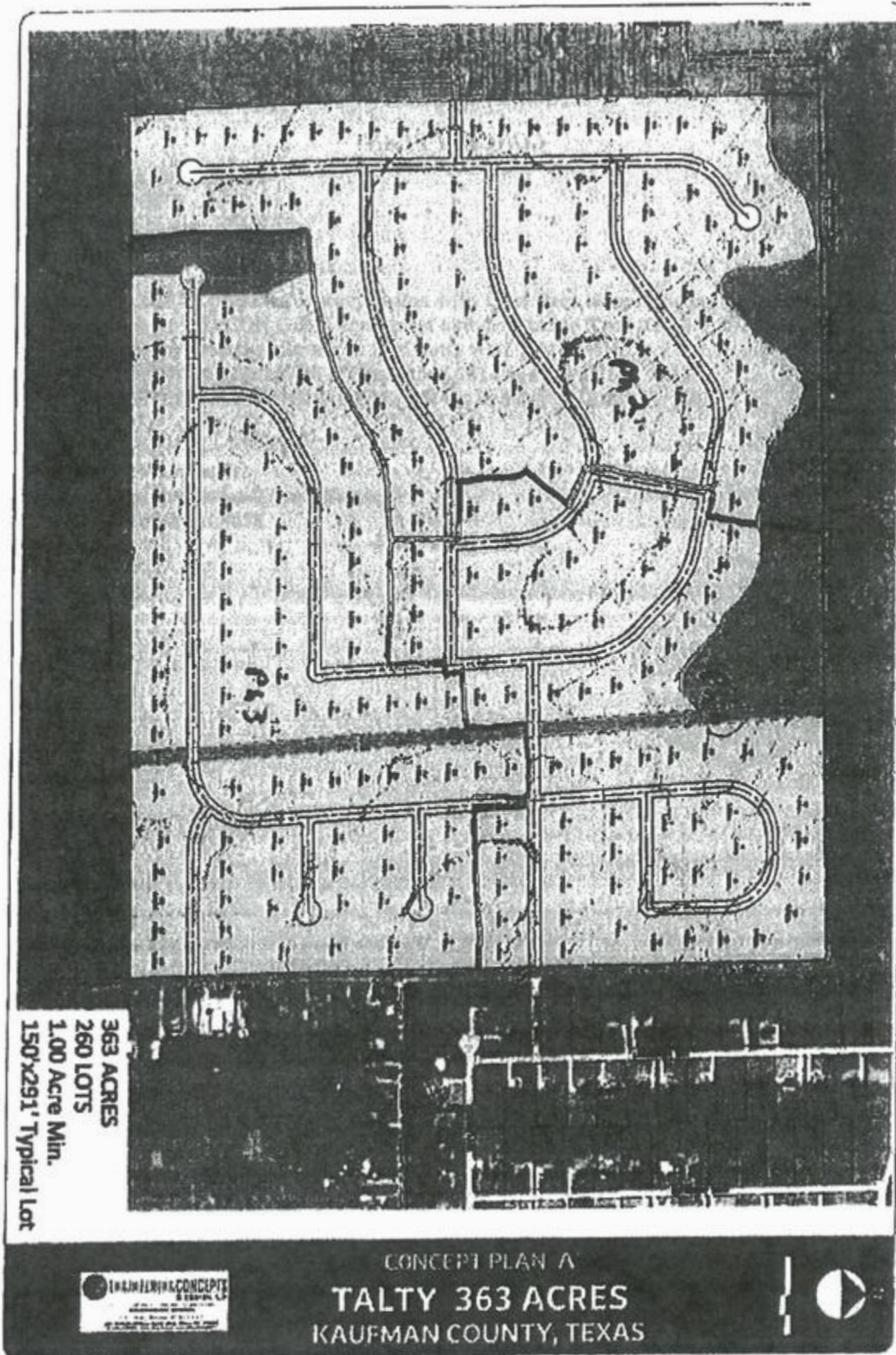


EXHIBIT E

Development Standards

The following Development Standards shall apply to the development of the Property:

1. The minimum lot size shall be one acre. The minimum lot width shall be 100 feet, and shall be measured at the minimum front yard building setback line). The minimum lot depth shall be 200 feet. The determination of the minimum lot area may include areas contained within easements (utility, drainage, or otherwise) located within the boundaries of a platted lot. The minimum front yard building setback shall be 40 feet, measured from the front lot line. The minimum side yard building setback shall be 20 feet, measured from the side lot lines. The minimum rear yard building setback shall be 30 feet, measured from the rear lot line. No corner lot shall be considered to have two front yards. For lots adjacent to floodplain or easement boundaries, the front yard setback may be reduced to 30 feet and the rear yard setback to 20 feet.
2. The street section shall be a rural street section with side ditches, with a 26-foot wide six-inch concrete pavement section with a thickened edge, on 28-foot wide six-inch lime stabilized subgrade within a 50-foot wide right-of-way. Streets shall be 4,000 psi concrete, reinforced with No. 4 reinforcing steel at 18-inch centers (both ways). Alleys and sidewalks shall not be required.
3. In accordance with the 2015 International Fire Code with amendments, turnarounds are required for all dead-end access roads having a length of 151 feet to 500 feet and all dead-end access roads having a length of 501 feet to 750 feet. The turnarounds required are either a 120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac. A dead-end access road greater than 750 feet requires special approval. In accordance with the 2015 International Fire Code with amendments, there shall be no more than 30 dwelling units constructed on a dead-end street.
4. There shall be no maximum or minimum block length.
5. Screening of lots backing to FM 2932 shall consist of a decorative metal fence and a minimum ten-foot wide landscaped buffer. A conceptual screening detail shall be submitted with the preliminary plat application. Wood fences shall be prohibited within an Atmos gas easement.
6. Sewer service to each residence may be provided by installing a septic system. Effluent shall not be sprayed into utility easements. Septic systems shall not be installed within the 100-year floodplain.
7. Improvements (or escrows in lieu of improvement) to perimeter streets shall not be required. Dedication of one-half of the right-of-way necessary to widen FM 2932 to a width of 120-feet is required.
8. Owner agrees to provide a drainage plan to the City for approval identifying the 100-year fully developed flood plain in the subdivision. Owner shall design all drainage in the

subdivision including bar-ditches and lot to lot drainage for a 100-year event and shall submit such plan to the City for approval. The study of the 100-year fully developed floodplain shall not be submitted to any other jurisdictional authority, including the Federal Emergency Management Agency (FEMA) and therefore is not intended to revise the existing 100-year floodplain as depicted on the FEMA Flood Insurance Rate Maps. For purposes of this Development Agreement the 100-year fully developed floodplain study is defined as follows: A hydrologic analysis of the 100-year storm event which includes existing land uses where developed and rural residential land use where undeveloped upstream of the subdivision and within the subdivision includes the use of bar ditches, lot-to-lot drainage, and any proposed detention with the subsequent hydraulic analysis of the drainage conveyance courses which affect area within or immediately adjacent to the subdivision.

9. Platted lots may contain areas located within a 100-year floodplain as long as no permanent structures are constructed within the 100-year fully developed floodplain. All structures shall be constructed such that the lowest living area finished floor elevation, including any basement, is 2-feet or more above the 100-year fully developed floodplain. See paragraph 8 above for the definition of the 100-year fully-developed floodplain.
10. Compliance with City landscaping and tree preservation requirements shall not be required.
11. All dwellings shall be constructed with an exterior of at least 90% brick, stone and stucco. The 90% brick, stone and stucco requirement shall not apply to any portion of the façade at or above the roof.
12. Owner shall submit for approval by the City and install entry features identifying the subdivision at all entrances to the subdivision along FM 2932. Entry features shall be landscaped in a manner consistent with landscape buffer along FM 2932 and shall be maintained by the HOA.
13. Owner shall phase construction of infrastructure and lots to allow for a second point of access from FM 2932 prior to the construction of the 31st structure within the development including model homes.

