

THE STATE OF TEXAS

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COUNTY OF FORT BEND

**DEVELOPMENT AGREEMENT
(CINCO RANCH BOULEVARD)**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into by and between Fort Bend County, Texas (hereinafter referred to as "the County"), a body politic acting herein by and through its Commissioners' Court and LaCenterra at Cinco Ranch, LLC, (hereinafter referred to as "Owner"), a company authorized to conduct business in the State of Texas.

WHEREAS, Owner proposes to complete the development of its LaCenterra at Cinco Ranch property located at Cinco Ranch Boulevard and State Highway 99, (the "Owner Property"); and

WHEREAS, Cinco Ranch Boulevard is a public road classified as a major thoroughfare that is maintained by the County with a portion of which is located adjacent to the Owner Property; and

WHEREAS, County and Owner agree that Owner Property will substantially benefit from the construction of an eastbound right turn lane for Cinco Ranch Boulevard to access the State Highway 99 southbound frontage road (the "Project"); and

WHEREAS, County and Owner agree to jointly participate in the construction of the Project, under the terms agreed to herein; and

WHEREAS, County has investigated and determined that it would be advantageous and beneficial to County and its citizens to participate in the construction of the Project, as provided herein; and

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, County and Owner agree as follows:

1. Owner agrees to:

(a) Dedicate a twelve feet by three hundred feet (12' x 300') strip of land for right of way purposes for the Project, as depicted in Exhibit A attached hereto and incorporated herein for all purposes; and

(b) Pay \$200,000.00 to County as its monetary contribution to partially fund the costs of the Project; and

(c) Perform both obligations under (a) and (b) above, upon the start of construction of any building within Owner Property after the effective date of this Agreement or

within the expiration of thirty (30) calendar days of the effective date of this Agreement, whichever is sooner.

2. County agrees to:

(a) Construct the Project, including specifically, the proposed Cinco Ranch Boulevard eastbound right turn lane to State Highway 99 southbound frontage road; and

(b) Obtain the additional right of way necessary to construct the Project, as indicated on Exhibit A.

3. PARTIES' ACKNOWLEDGEMENT OF COUNTY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/OWNER'S WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

(a) OWNER ACKNOWLEDGES AND AGREES THAT THE CONTRIBUTION MADE BY OWNER TO COUNTY, IN WHOLE OR IN PART, DOES NOT CONSTITUTE A:

- (I) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;**
- (II) VIOLATION OF THE TEXAS TRANSPORTATION CODE, AS IT EXISTS OR MAY BE AMENDED;**
- (III) NUISANCE; AND/OR**
- (IV) CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST COUNTY FOR A VIOLATION OF ANY FEDERAL AND/OR STATE CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION.**

(b) OWNER RELEASES COUNTY FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED ON EXCESSIVE OR ILLEGAL EXACTIONS ARISING OUT OF OR RELATED TO THIS AGREEMENT.

(c) OWNER WAIVES ANY CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST COUNTY FOR A VIOLATION OF ANY FEDERAL AND/OR STATE CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION ARISING OUT OF OR RELATED TO THIS AGREEMENT.

(d) THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

4. Limitations of Agreement. The parties hereto acknowledge this Agreement is limited to the development of Owner Property only. Further, this Agreement does not waive or limit any of the obligations of Owner to County under any other order whether now existing or in the future arising.

5. Default. In the event Owner fails to comply with any of the provisions of this Agreement within sixty (60) business days after Owner's receipt of written notice thereof from County, County shall have the following remedies in addition to County's other rights and remedies, at law or in equity:

- (a) to file this instrument in the Real Property Records of Fort Bend County as a lien and/or encumbrance against Owner and/or the Owner Property; and/or
- (b) to refuse to accept any portion of any public improvements on the Owner Property and/or associated with the development of the Owner Property; and/or
- (c) to refuse to finally accept the Owner Property and/or any portion thereof;
- (d) withhold the Certificate of Compliance to permit occupancy for any building constructed after the effective date of this Agreement; and/or
- (e) to seek specific enforcement of this Agreement.

In the event of County's default under this Agreement, Owner will be entitled to seek any remedy available to them at law or in equity.

6. Miscellaneous.

(a) Notice. Any notice required to be sent under this Agreement must be in writing and may be served by depositing same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to County, to:

Fort Bend County Engineering
Attention: County Engineer
301 Jackson Street
Richmond, Texas 77469

With a copy to:

Fort Bend County
Attention: County Judge
401 Jackson Street
Richmond, Texas 77469

If to Owner, to:

LaCenterra at Cinco Ranch, LLC
Attention: Woody Mann, Jr., President
1117 Eldridge Parkway
Houston, Texas 77077

(b) Assignment. This Agreement is not assignable by Owner without the prior written consent of County, which consent shall not be unreasonably withheld.

(c) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed.

(d) Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties hereto.

(e) Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Fort Bend County, Texas.

(f) Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

(g) Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

(h) Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

(i) Savings/Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(j) Representations. Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.

(k) Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

(l) Sovereign Immunity. The parties agree that County has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

(m) No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

(n) Attorneys' Fees. In any legal proceeding brought to enforce the terms of this Agreement, the prevailing party may recover its reasonable and necessary attorneys' fees from the non-prevailing party as permitted by Section 271.159 of the Texas Local Government Code, as it exists or may be amended.

(o) Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of County and the Owner and/or its authorized representatives.

(p) Owner's Warranties/Representations. All warranties, representations and covenants made by Owner in this Agreement or in any certificate or other instrument delivered by Owner to County under this Agreement shall be considered to have been relied upon by County and will survive the satisfaction of any fees and/or payments made under this Agreement, regardless of any investigation made by County or on County's behalf.

(q) Indemnification. The parties agree that the Indemnity provisions set forth in Paragraphs 3 and 4 herein are conspicuous, and the parties have read and understood the same.

(r) Waiver. Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date executed by County.

FORT BEND COUNTY:

Robert E. Hebert, County Judge

Date

Attest:

Laura Richard, County Clerk

Approved:

Richard W. Stolleis, P.E., County Engineer

Approved as to legal form:

Marcus D. Spencer, First Assistant County Attorney

LaCenterra at Cinco Ranch, LLC
a Delaware limited liability company

By: Plazas Cinco Ranch GP, Ltd.,
a Texas limited partnership, its Manager

By: Vista Cinco Ranch, LLC,
a Texas limited liability company,
its General Partner

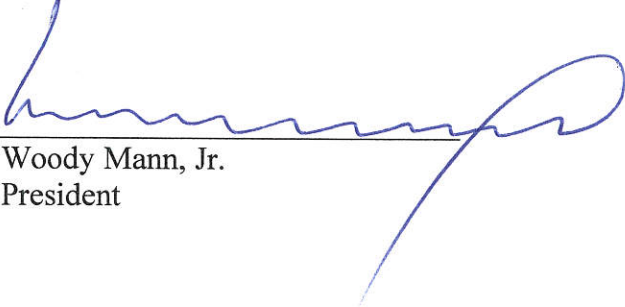
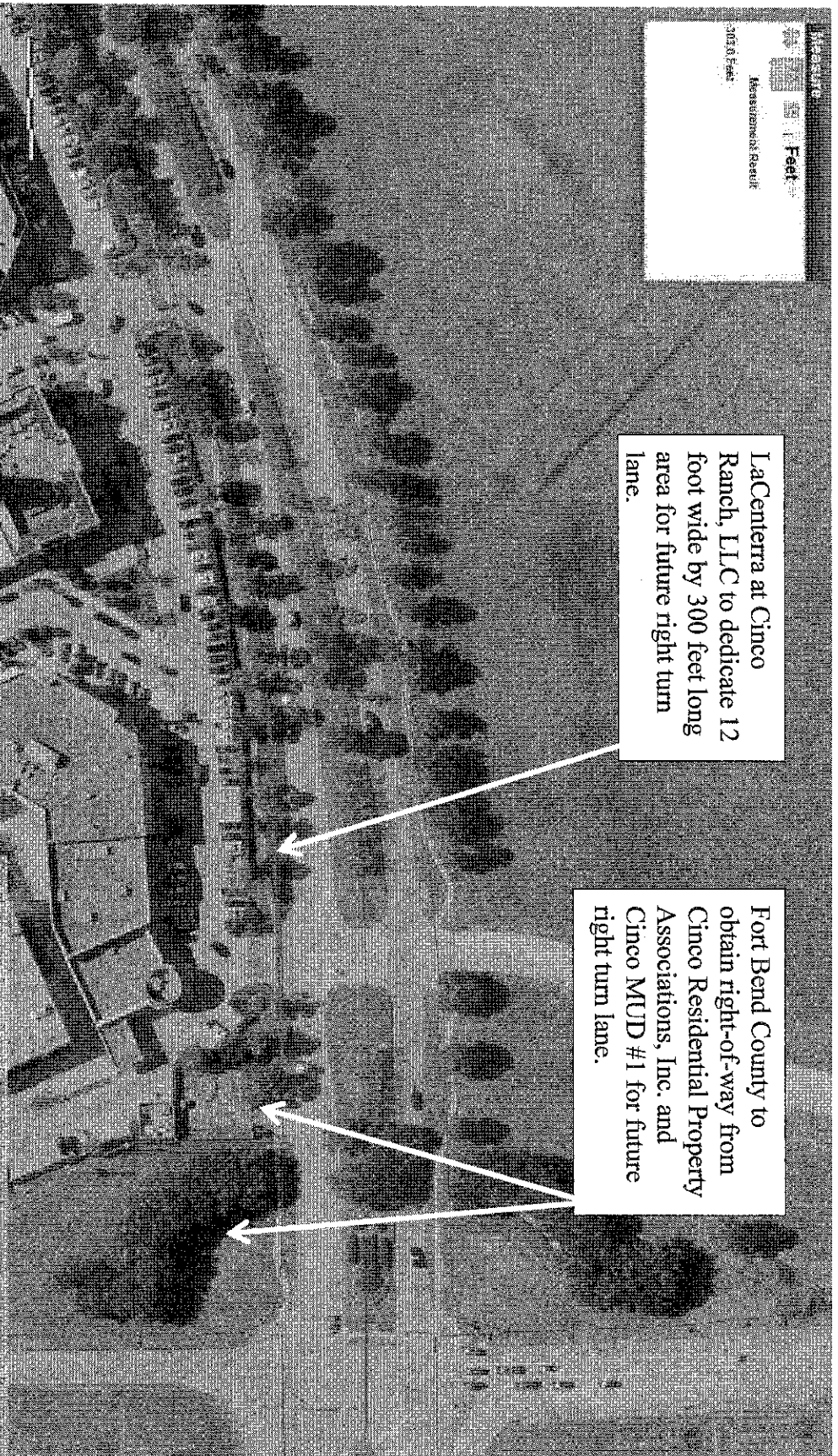
By: 
Name: Woody Mann, Jr.
Title: President

EXHIBIT A

Exhibit A



CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

LaCenterra at Cinco Ranch, LLC
Houston, TX United States

Certificate Number:
2017-198863

Date Filed:
04/26/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

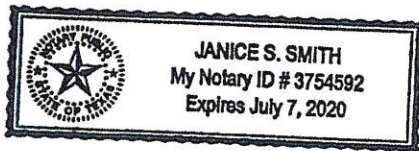
LaCenterra Phase IV
Development Agreement

| 4 | Name of Interested Party | City, State, Country (place of business) | Nature of interest (check applicable) | |
|---|--------------------------|--|--|--------------|
| | | | Controlling | Intermediary |
| | Mann, Jr., Woody | Houston, TX United States | | X |
| | AGL Equity Fund I, LLC | Denver, CO United States | X | |
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5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



[Signature]
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Woody Mann, Jr., this the 26th day of APRIL, 2017, to certify which, witness my hand and seal of office.

[Signature]
Signature of officer administering oath

JANICE S. SMITH
Printed name of officer administering oath

NOTARY
Title of officer administering oath