

THE STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND       §

**DEVELOPMENT AGREEMENT**  
(Tejas Trails Subdivision)

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into by and between Fort Bend County, Texas (the "County"), a body politic acting herein by and through its Commissioners Court, and Tejas Trails Development, LLC, a Texas limited liability company, (the "Owner"). The County and the Owner may be individually referred to as a "Party" or collectively as the "Parties."

WHEREAS, the Owner proposes to develop its 49.098 acres of land situated in the H. and T.C. Railroad Company Section Survey No. 34 (R.B. Marshall Survey), Abstract No. 597, in Fort Bend County, Texas as the Tejas Trails Subdivision, ("Tejas Trails") as reflected in Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, Old Needville-Fairchilds Road is a public roadway maintained by the County and adjacent to Tejas Trails; and

WHEREAS, the Parties desire to enter into a Development Agreement to memorialize the terms in which the Owner will submit the subdivision plat to the County for approval of its Commissioners Court, and contribute to the improvements to Old Needville-Fairchilds Road.

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

1. Owner's Responsibilities. The Owner agrees pay to the County a total amount of \$125,000.00 as its contribution to the improvements to Old Needville-Fairchilds Road, (the "Owner Contribution"). The Owner Contribution will be available to the County for the construction costs associated with the improvements to Old Needville-Fairchilds Road, and the County shall, in its sole discretion, be entitled to use at any time, all or a portion of the Owner Contribution in connection with the improvements to Old Needville-Fairchilds Road. The Owner shall pay its Owner Contribution incrementally as follows:

(a) Upon submission of the subdivision plat for Tejas Trails to Commissioners Court for approval, Owner shall contemporaneously submit a payment of \$62,500.00 as the initial incremental payment of the Owner Contribution; and

(b) Prior to the expiration of twelve months from the date of subdivision plat approval by Commissioners Court, the Owner shall submit a payment of \$62,500.00 as the final incremental payment of the Owner Contribution.

2. County's Responsibilities. In exchange for the Owner's commitment to submit subdivision plats meeting the requirements of the County's Regulation of Subdivisions and the payment of the Owner Contribution in accordance with Section 1 above, the County agrees perform the following:

(a) Complete improvements to Old Needville-Fairchilds Road in accordance with County design and construction standards when the County determines, in its sole discretion, that the improvements to Old Needville-Fairchilds Road are feasible; and

(b) Present the proposed subdivision plat for consideration by the County's Commissioners Court for approval.

3. Disclaimer/Waiver of Damages/Liability

(a) The Owner acknowledges and agrees that the County is not providing any guarantee, representation and/or warranty, and County hereby disclaims any guarantee, representation and/or warranty, of any work performed by County, or their agents, employees, representatives, contractors, subcontractors and/or designees, in connection with the construction of Old Needville-Fairchilds Road, in whole or in part.

(b) The Owner acknowledges and agrees that the County shall in no way be liable for any damages, if any, which may be sustained by the Owner and/or Tejas Trails, resulting, in whole or in part, directly or indirectly, from County's failure to complete its responsibilities stated herein by any certain date and/or as set forth in this Agreement.

(c) Owner hereby releases County, its officers, agents, representatives and employees, from and against, and waives any and all rights to, any and all claims and/or demands for damages (personal or property), injury (including death), it/they may have with regard to the construction and/or completion of Old Needville-Fairchilds Road and/or any other act and/or omission relating, directly or indirectly, to Old Needville-Fairchilds Road, in whole or in part, as provided in this Agreement, except to the extent any such claims arise due to, or damages are caused by, the negligence, breach of this Agreement or willful misconduct of County or its authorized officers, agents, representatives or employees

**4. 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 THE OWNER TO THE 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.**

5. Limitations of Agreement. The parties hereto acknowledge this Agreement is limited to the development of Tejas Trails 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.

6. 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 refuse to accept any portion of any public improvements on Tejas Trails and/or associated with the development of Tejas Trails; and/or
- (b) to refuse to finally accept Tejas Trails and/or any portion thereof; and/or
- (c) 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.

7. 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:

Tejas Trails Development, LLC  
Attention: Scott Lease, Manager  
207 Morton Street  
Richmond, Texas 77469

(b) Assignment. This Agreement is not assignable by either Party without the prior written consent of the other Party, 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 State of Texas and shall be performable in Fort Bend County.

(f) Consideration. This Agreement is executed without coercion or duress and for substantial consideration, the truth of which is confessed.

(g) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original for all purposes and all of which together 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 the other parties that necessary action has been taken to authorize the individuals to do so for and on behalf of the party for which his or her signature is being affixed 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.

281-344-  
8727  
Scott Lease  
Dev Agmt  
Vanancee  
Plot  
1295 ext 5

(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.

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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:

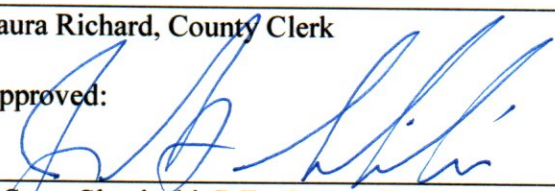
\_\_\_\_\_  
KP George, County Judge

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Laura Richard, County Clerk

Approved:

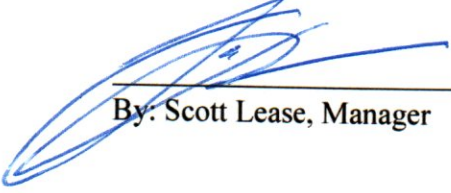
  
\_\_\_\_\_  
J. Stacy Slawinski, P.E., County Engineer

Approved as to legal form:

\_\_\_\_\_  
Marcus D. Spencer, First Assistant County Attorney

OWNER:

Tejas Trails Development, LLC,  
a Texas limited liability company



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By: Scott Lease, Manager

# EXHIBIT A



