

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

DEVELOPMENT AGREEMENT

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 Woodmere Development Company, Ltd., a Texas limited partnership (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 land and present multiple subdivision plats to the County for the approval of Commissioner Court in accordance with the Fort Bend County Regulations of Subdivisions (the "Regulations");

WHEREAS, Courageous Trail is a public road classified as a major thoroughfare that will be maintained by the County, a portion of which is located adjacent to the Owner's property;

WHEREAS, County and Owner agree that County is relying on Owner's commitment to assist in the improvements to Courageous Trail to approve the subdivision plats meeting the requirements of the Regulations;

WHEREAS, County and Owner agree that the property will substantially benefit from the improvements to Courageous Trail from Band Road to State Highway 36 (the "Project"), as depicted in Exhibit A; and

WHEREAS, County has investigated and determined that it would be advantageous and beneficial to County and its citizens to enter into this Agreement, as provided herein.

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

1. The Owner shall dedicate by street dedication subdivision plat, all necessary land for use as right of way to accommodate the Project prior to construction of the Project and construct the Project as follows:
 - (a) The Owner shall design and construct one half boulevard of Courageous Trail from Briarwood Crossing Drive to Band Road ("Phase 1"). The Owner shall commence construction of Phase 1 no later than March 31, 2022;
 - (b) Upon the completion of the portion of the Owner's property to subdivided by plat as Section 19, the Owner shall design and construct the other half of Courageous Trail from Courageous Trail from Briarwood Crossing Drive (E) to Briarwood Crossing Drive (W). ("Phase 2");

- (c) Upon the completion of the portion of the Owner's property to subdivided by plat as Section 21, the Owner shall design and construct the other half of Courageous Trail from Briarwood Crossing Drive (W) to Band Road ("Phase 3"); and
- (d) Upon commencing the final phase of development of the Owner's property ("Phase 4"), the Owner shall dedicate, or cause to be dedicated, to the County or the Public, at no cost to the County, all necessary land for use as right of way for the remainder of Courageous Trail to State Highway 36 and construct such portion of the roadway.

2. The County agrees to approve subdivision plats submitted by the Owner for future development of its property located adjacent to Courageous Trail meeting the requirements of subdivision plat approval provided in the Fort Bend County Regulations of Subdivisions and in effect at the time of submission.

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 the Owner's property adjacent to Courageous Trail 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 any portion of Owner's property adjacent to Courageous Trail; and/or

(b) to refuse to accept any portion of any public improvements within Owner's property adjacent to Courageous Trail and/or associated with the development of Owner's property adjacent to Courageous Trail; 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.

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:

Woodmere Development Co., Ltd.
Richard Rue, President
15915 Katy Freeway, St. 405
Houston, Texas 77094

(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) Waiver. The Parties agree that the Waiver and Releases set forth in Paragraph 3 herein are conspicuous, and the Parties have read and understood the same. 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.

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:

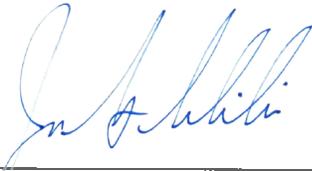
KP George, County Judge

Date

Attest:

Laura Richard, County Clerk

Approved:

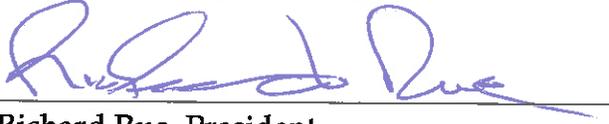


J. Stacy Slawinski, P.E., County Engineer

Approved as to legal form:

Marcus D. Spencer, First Assistant County Attorney

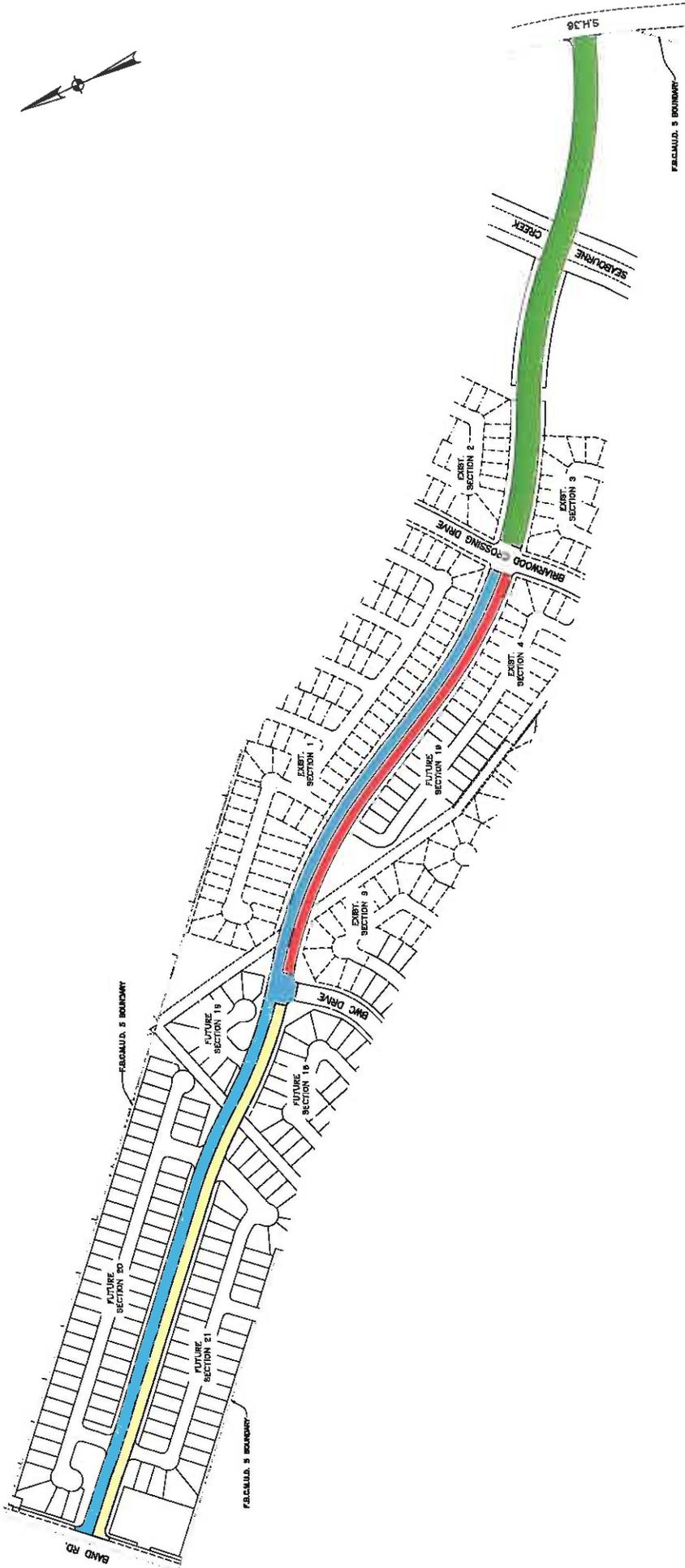
Woodmere Development Co., Ltd.,
a Texas limited partnership



Richard Rue, President

Date: July 29, 2020

EXHIBIT A



LEGEND:

- PHASE 1 (CYAN)
- PHASE 2 (RED)
- PHASE 3 (YELLOW)
- PHASE 4 (GREEN)

*ACTUAL ALIGNMENT SUBJECT TO CHANGE

**COURAGEOUS TRAIL
CONSTRUCTION
PHASING**



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DATE: JAN 2020 10:02 1:00:27