

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN CONSENTING TO AND AUTHORIZING THE CREATION OF BELL COUNTY MUNICIPAL DISTRICT NO. 2 SUBJECT TO THE TERMS AND CONDITIONS OF A CONSENT AND DEVELOPMENT AGREEMENT; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, the City of Killeen is authorized and empowered by the laws of the State of Texas to promote and protect the general health, safety and welfare of persons residing in and adjacent to the City in the City's extraterritorial jurisdiction; and

**WHEREAS**, WBW Land Investments, L.P., a Texas limited partnership ("Whitis"), has petitioned the City to consent to the creation of a municipal utility district ("MUD") over approximately 1,373 acres of land in the City's extraterritorial jurisdiction; and

**WHEREAS**, the City's consent will allow the MUD to move forward with the MUD administrative creation process provided under state law and, ultimately if so created, hold a confirmation election confirming the creation of the MUD; and

**WHEREAS**, in accordance with Section 54.016 of the Texas Water Code and Section 42.042 of the Texas Local Government Code, land within the City's extraterritorial jurisdiction may not be included within a district without the City's formal consent; and

**WHEREAS**, Whitis has provided the City with a petition requesting the City's consent to the administrative creation of the MUD through the Texas Commission on Environmental Quality ("TCEQ"); and

**WHEREAS**, the City and Whitis have negotiated a mutually beneficial consent and development agreement as provided by law that will regulate the development of the District to

ensure that the general health, safety and welfare of persons inside the City and District are protected and promoted.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.**

**Part 1.** The City Council of the City of Killeen consents to and authorizes the creation of Bell County Municipal District No. 2 (the “District”) over approximately 1,373 acres of land located in the City’s extraterritorial jurisdiction, more specifically described in Exhibit A of the Consent and Development Agreement (the “Agreement”).

**Part 2.** The City Council of the City of Killeen, after due deliberation and negotiation, hereby authorizes the City Manager to finalize and execute the Agreement, which is attached hereto and incorporated herein as if fully stated in this part for all intents and purposes, on behalf of the City of Killeen.

**Part 3.** The City Council of the City of Killeen hereby declares that should the Agreement be terminated, as provided therein for any reason, that the City’s consent to the District is void.

**SECTION II.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.


**SECTION III.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V.** That this ordinance shall be effective after its passage and publication according to law.


**PASSED AND APPROVED** at a special meeting of the City Council of the City of Killeen, Texas, this 30th day of July, 2013, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

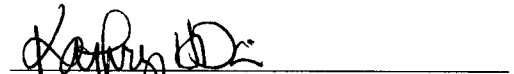


Daniel A. Corbin, MAYOR

**ATTEST:**

  
Dianna Barker, CITY SECRETARY

**APPROVED AS TO FORM:**

  
Kathryn H. Davis, CITY ATTORNEY

ORD 13-058  
Date: 7-30-13



**CONSENT AND DEVELOPMENT AGREEMENT**

**[BELL COUNTY MUNICIPAL UTILITY DISTRICT NO. 2]**

**THE STATE OF TEXAS**           §  
  §  
**COUNTY OF BELL.**                   §

This **CONSENT AND DEVELOPMENT AGREEMENT** (this "Agreement") is between the **City of Killeen, Texas**, a home-rule city located in Bell County, Texas ("the City"), and **WBW Land Investments, LP**, a Texas limited partnership (the "Developer"), effective as of \_\_\_\_\_, 2013 (the "Effective Date"). Upon confirmation of the creation of **Bell County Municipal Utility District No. 2**, a proposed municipal utility district to be created as contemplated by this Agreement (the "District"), by the voters within the District, the District will join in and agree to be bound by certain provisions of this Agreement.

**INTRODUCTION**

The Developer has petitioned the City for its consent to the creation of the District over approximately 1373 acres of land located within the extraterritorial jurisdiction of the City, as more particularly described by metes and bounds on the attached **Exhibit A** (the "Land"). The Developer intends to develop the Land as part of a master-planned, mixed-use community (the "Project") that will include a mix of residential uses, together with commercial and civic uses and private park, recreational, and other facilities to serve the community. Because the Project is a significant development that will occur in phases under a master development plan, the Developer and the City intend that this Agreement constitute a regulatory development agreement and provide certainty with regard to the regulatory requirements applicable to the Land.

Therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I.  
DEFINITIONS**

**Section 1.01 Definitions.** In addition to the terms defined elsewhere in this Agreement, the following terms and phrases, when used in this Agreement, will have the meanings set out below:

Agreement: This Consent and Development Agreement between the City, the Developer, and the District.

Applicable Rules: The City's ordinances, rules, and regulations in effect on the Effective Date, subject to any variances or exceptions approved in this Agreement.

CCN: A certificate of convenience and necessity issued by the Commission.

City: The City of Killeen, Texas, a home-rule city located in Bell County, Texas.

City Manager: The City Manager of the City.

Commission: The Texas Commission on Environmental Quality, or its successor agency.

**Constructing Party:** The Developer or the District, whichever has contracted for and is causing the construction of any On-Site Water and Wastewater Facilities or Major Water and Wastewater Facilities as provided in this Agreement.

**Design Standards:** The design standards applicable to the Land, a copy of which is attached as **Exhibit B**, as amended from time to time in accordance with this Agreement.

**Developer:** WBW Land Investments, LP, a Texas limited partnership, or its successors and assigns under this Agreement.

**District:** Bell County Municipal Utility District No. 2, a political subdivision of the State of Texas, to be created over the Land, as contemplated by this Agreement.

**Drainage Facilities:** Any drainage improvements designed and constructed to serve the Project, or that naturally receive and convey drainage through the Project, including water quality and flood mitigation facilities, storm drain systems, drainage ditches, open waterways, and other related facilities that convey or receive drainage.

**Drainage Standards:** The drainage standards applicable to the Land, a copy of which is attached as **Exhibit C**, as amended from time to time in accordance with this Agreement.

**Land:** Approximately 1373 acres of land located in the City's extraterritorial jurisdiction, described by metes and bounds on **Exhibit A**, together with any additional land which may in the future be added to the Project with the consent of the City.

**Land Plan:** The master development plan for the Land, a copy of which is attached as **Exhibit D**, as amended from time to time in accordance with this Agreement.

**Major Water and Wastewater Facilities:** The off-site water and wastewater improvements and capacity improvements to serve the Project, as reflected on the Utility Plan.

**On-Site Water and Wastewater Facilities:** All water and wastewater facilities and capacity in facilities internal to the Project that are necessary to serve the Land.

**Road Improvements:** The roadways required for the development of the Project.

**Roadway Plan:** The plan depicting the roadways serving the Land, a copy of which is attached as **Exhibit E**, as amended from time to time in accordance with this Agreement.

**Utility Plan:** The conceptual utility plan for the routing of the Major Water and Wastewater Facilities, a copy of which is attached as **Exhibit F**, as amended from time to time in accordance with this Agreement.

## **ARTICLE II. CREATION OF DISTRICT; DIVISION; CITY ANNEXATION**

**Section 2.01 Consent to Creation of District.** Subject to the terms of this Agreement, the City hereby consents to the creation of the District over the Land. As a material part of the consideration of this Agreement, the City will promptly after the Effective Date further evidence its consent to the creation of the District by resolution or ordinance as required by Section 54.016 of the *Texas Water Code* and Section 42.042 of the *Texas Local Government Code* (the "**Consent Ordinance**"). The City agrees that the Consent Ordinance will further evidence the City's consent to the creation of the District within its extraterritorial jurisdiction.

If the District desires to annex additional territory into its boundaries, such annexation will be subject to the City's review and approval by resolution or ordinance, which review and approval will not be unreasonably withheld, conditioned, or delayed. Finally, the Developer hereby covenants and agrees to cause the District to approve, execute, and deliver this Agreement to the City within ninety (90) days following the District's confirmation date.

**Section 2.02 Division of District.** In order to allow for the orderly development of the Land and annexation of the Land by the City, the District may be divided into two or more successor districts pursuant to a plan of division approved by the City, which approval will not be unreasonably withheld, conditioned, or delayed. Each district created by division of the District (a "Successor District") will be bound by the terms of this Agreement and, at the organizational meeting of its board of directors, must join in this Agreement for purposes of evidencing its agreement to be bound by the terms hereof. The City will not be responsible for any costs incurred by the Developer in connection with the creation of the District or any subsequent division thereof. The City acknowledges that minor adjustments (defined as adjustments containing no more than twenty (20) acres of land) to the boundaries of the Successor Districts may be necessary to accommodate the final development plan for the Project. Accordingly, the City agrees that areas of the Land within the Successor Districts may be excluded from a Successor District and added to another Successor District in order to avoid having lots and development areas located in multiple districts. The City consents to any such minor annexation or exclusion adjustments and agrees that no further City consent thereto will be required; however, the City agrees to promptly provide a resolution evidencing its consent if requested by a Successor District or the Developer to do so.

**Section 2.03 City Annexation.**

(a) The City agrees not to annex or dissolve the District, in whole or in part, until: (1) at least 100% by dollar amount of the total water, wastewater, and drainage facilities for which the District's bonds have been authorized ("requisite percentage of District facilities") have been constructed, and (2) either (i) the Developer has been fully reimbursed by the District for the requisite percentage of District facilities in accordance with the rules of the Commission; or (ii) the City has expressly assumed the obligation to reimburse the Developer for such facilities at the time of annexation as required by Section 43.0715, *Texas Local Government Code*. At any time following the satisfaction of the conditions in clauses (1) and (2) above, the annexation process may be completed and the District included within the corporate boundaries of the City. The District will be dissolved on the date and in the manner specified in the City ordinance completing such annexation, but in no event more than 90 days after the effective date of such annexation. Upon the dissolution of a District, the City will immediately succeed to all properties, powers, duties, assets, debts, liabilities, and obligations of the District. Upon annexation of the District, the City will zone the Land consistently with the land uses then in existence, or, for undeveloped land, as shown on the Land Plan, as authorized by Section 212.172, *Texas Local Government Code*. The Developer and the District, including their respective heirs, successors and assigns (including, without limitation, ultimate consumers and subsequent developers) hereby irrevocably and unconditionally consent to the annexation of the Land into the corporate limits of the City in accordance and subject to the terms of this Agreement and hereby waive any and all objections and protests to such annexation, it being understood and agreed that this Agreement shall serve as the petition of the Developer and District, their respective heirs, successors, and assigns, to annexation of the Land in accordance with this Agreement and state law.

(b) The City and the Developer acknowledge and agree that the Land lies wholly within the City's extraterritorial jurisdiction ("ETJ"). The Parties further acknowledge and agree that the creation of the District, and the City's consent thereto, are for purposes that include

promoting the orderly development and extension of the City services to the Land upon annexation.

(c) In furtherance of the purposes of this Agreement, the District and the Developer, on behalf of themselves and their respective successors and assigns, covenant and agree that, except upon written consent of the City, neither the District nor the Developer will: (1) seek or support any effort to incorporate the Land or any part thereof; (2) sign, join in, or direct to be signed any petition seeking to incorporate the Land or seeking to include the Land within the boundaries of any other municipality or any other incorporated entity other than the City.

(d) Within thirty (30) days following the date of the confirmation of the creation of the District, the District shall file in the real property records of Bell County, Texas a notice in the form required by Section 49.452 of the Texas Water Code, as amended.

### **ARTICLE III. WATER AND WASTEWATER FACILITIES AND SERVICES**

**Section 3.01 City To Provide Retail Water and Wastewater Utility Services.** Except as provided in this Section 3.01, the City will be the sole provider of retail water and wastewater services within the District and will provide water and wastewater service to customers within the District in the same manner, at the same in-City rates, on the same terms and conditions, and subject to the same regulations and ordinances, as amended, as the City provides service to other retail customers inside its corporate limits. If the City fails to provide retail water and wastewater service as required under this Agreement, then, in addition to any other rights and remedies available at law or in equity, the District will have the right to be added to the water and/or wastewater CCN of other providers and obtain water and wastewater services from other providers. The City will, at its expense, use good faith and commercially reasonable efforts to cause any areas of the District located within the CCN of any water and/or wastewater utility provider other than the City (a "CCN Holder") to be excluded from the CCN of the CCN Holder and/or added to the water and/or wastewater CCN of the City. The City must obtain the consent of each CCN Holder to such exclusion prior to June 1, 2014 and must submit the appropriate application(s) or documentation, including application(s) or documentation on behalf of the Developer to the Commission within two months after obtaining such consent. The Developer will cooperate with the City in this regard and will provide the City with any information or documentation in its possession reasonably requested by the City in support thereof. The Developer will also cooperate in good faith with Central Texas Water Supply Corporation ("CTWSC") regarding an easement for those portions of CTWSC's existing water transmission line crossing the Yowell Ranch subdivision that are not currently within an appropriate easement. If all of the areas of the District located within the CCN of a CCN Holder have not been excluded from the CCN of such CCN Holder by January 1, 2015, then the District will have the right to obtain water and wastewater services from other providers for the non-released areas. Areas within the District excluded from the CCN of all other CCN Holders as described herein are referred to as the "City Service Areas", and areas within the District not excluded from the CCN of all other CCN Holders as described herein are referred to as "Non-City Service Areas". Except as otherwise provided in this Agreement, the City's water and wastewater ordinances, standard water and wastewater rates, charges, and other fees, including engineering review and inspection fees, that are applicable within the City's corporate limits will be applicable to facilities constructed, connections made, and services provided within City Service Areas. All fees, rates, and charges for water and wastewater service within City Service Areas will be billed and collected by the City. Except as authorized above for Non-City Service Areas or as otherwise contemplated in this Section 3.01, the District will not contract with any

retail public utility other than the City for water or wastewater services and will not provide any retail or wholesale water or wastewater services.

**Section 3.02 Water and Wastewater Facilities.** The Developer or the District will construct or acquire capacity in all Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities that are necessary to serve the Land. All On-Site Water and Wastewater Facilities will be constructed within designated easements or dedicated lands or rights-of-way in accordance with the Applicable Rules. All Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities serving City Service Areas will be designed and constructed in accordance with the Applicable Rules and the regulations of any other governmental entities with jurisdiction and pursuant to plans and specifications approved by the City. The routing of all Major Water and Wastewater Facilities serving City Service Areas will be consistent with the Utility Plan. The initial points of connection to the City's water and wastewater systems for the City Service Areas are shown conceptually on the Utility Plan. All other points of connection to the City's water and wastewater systems for City Service Areas will be subject to approval by the City. If the City requires the Developer to connect any Major Water and Wastewater Facilities serving City Service Areas to a location other than the connection points shown on the Utility Plan, the Developer will not be obligated to pay any costs in excess of the amount that would have been required to construct those facilities as shown on the Utility Plan. In addition, neither the Developer nor the District will be required to pay for or construct any improvements to the City's existing utility systems or other off-site improvements required to serve the Land, except as provided for herein.

**Section 3.03 Service Level.** Except for any Non-City Service Areas, the City agrees and commits to (a) provide sufficient water and wastewater service for the full build-out of all of the Land within the District; (b) provide written confirmation of the availability of service upon the District's request if required in connection with any District bond sale; and (c) provide service as required for development within the Land, including water service at flow rates and pressures sufficient to meet the minimum requirements of the Commission and to provide sufficient domestic fire flows. Upon full execution of this Agreement, the Developer will provide the City with a preliminary development schedule for the Land (the "Preliminary Development Schedule") in order to assist the City with projecting an allocation of the City's water and wastewater resources for the District. It is anticipated that the Preliminary Development Schedule will target 300 lot sales per year; however, the Preliminary Development Schedule will be subject to change and will not be binding on the Developer or the District.

**Section 3.04 Water Storage Tank.** In order to provide the necessary water capacity and volume to satisfy the City's commitment to provide water capacity and fire flow volume to the Land in excess of that required for an estimated 1,554 single-family residences, a water storage tank will be necessary. In order to meet this need, the City will design and construct, at a minimum, a one million (1,000,000) gallon storage tank and associated appurtenances (the "Water Storage Tank") to provide the additional necessary capacity and volume to serve the Land. To facilitate the construction of the Water Storage Tank, the Developer shall grant and convey to the City, without charge, a sufficient amount of property at a location mutually-agreeable to the parties within the Land prior to the City's commencement of engineering design of the Water Storage Tank. The City shall use commercially reasonable and diligent efforts to complete construction of the Water Storage Tank by the time that the connection of the 1,500<sup>th</sup> single-family home within the Land to retail water and wastewater service occurs (the "Water Storage Tank Trigger Date"). Notwithstanding the foregoing, but subject to compliance with applicable law, the City shall not be committed to commencing construction of the Water Storage Tank at an accelerated rate in the event that single-family home connections within the Project exceed 300 per year, said connections estimated by the Developer to commence on or around the second-year anniversary of the Effective Date. In this



event, (i) the City shall be obligated to commence construction of the Water Storage Tank no later than the six-year anniversary of the Effective Date, and (ii) the City will not delay, withhold, or deny any development approvals related to the Project because construction of the Water Storage Tank has not previously commenced or been completed. Following commencement of construction of the Water Storage Tank, the City will use commercially reasonable and diligent efforts to complete the same. Upon receipt of all supporting documentation and evidence of payment by the City, the Developer will be obligated to reimburse the City, as a contractual capacity charge, for the lesser of one-half (1/2) of the City's actual cost of the design and construction of the Water Storage Tank or \$1,250,000 on the schedule and as provided for in this Section 3.04 (the "WST Capacity Charge"). The Developer will pay the WST Capacity Charge in installments annually based upon the following schedule: The first payment shall become due and payable (i) 30 days after the date that the Water Storage Tank is completed and is fully operational and the City has provided written notice of same to the Developer; or (ii) on the first anniversary of the Water Storage Tank Trigger Date, whichever event occurs later (the "WST Payment Commencement Date"). Subsequent payments shall become due and payable each following year on the anniversary of the WST Payment Commencement Date until the WST Capacity Charge has been paid in full; provided, however, that any outstanding balance of the WST Capacity Charge shall become due and payable in full on the tenth (10<sup>th</sup>) anniversary of the WST Payment Commencement Date. Annual payments shall be equal to five hundred dollars (\$500.00) multiplied by the number of water utility connections made in the preceding three hundred sixty-five (365) days. Payments not received when due shall accrue interest at the maximum rate provided by law from the applicable date due until paid. In consideration of the WST Capacity Charge, the Developer will acquire on behalf of the District, and is hereby conveyed, a guaranteed reservation of capacity in the Water Storage Tank based on the number connections for which the WST Capacity Charge has been paid. In consideration of the District's capacity interest, the Developer will be entitled to reimbursement from the District for the WST Capacity Charge as permitted by applicable law.

**Section 3.05 Responsibility for Design, Financing, and Construction.** Unless otherwise specifically provided in this Agreement, the District or the Developer will design, finance, construct, and convey to the City, or other applicable provider, all Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities required to provide retail water and wastewater services to the District, all at no cost to the City. All water and wastewater facilities required to serve the City Service Areas will be designed in accordance with applicable City requirements and design standards as well as any applicable regulations of other governmental entities with jurisdiction. The plans and specifications for such facilities will be subject to review and approval by the City prior to the commencement of construction, which review and approval will not be unreasonably withheld, conditioned, or delayed, and the City will collect all applicable review fees in accordance with its policies and procedures, subject to the terms of this Agreement.

**Section 3.06 Easements and Land.** All On-Site Water and Wastewater Facilities in City Service Areas will be constructed within dedicated utility easements, lands, or public rights-of-way, and all required easements will be dedicated at the earlier of the City's approval of construction plans or a final plat for the land within which the facilities will be constructed. Land and easements required for Major Water and Wastewater Facilities will be conveyed to the City, or other applicable provider, by the Developer or the District at the earlier of the City's approval of construction plans or a final plat for the land within which the facilities will be constructed, but the Developer will be entitled to reimbursement for such lands and easements from the District as permitted under the rules of the Commission. The Developer and the District agree to use reasonable, good faith efforts to acquire all land and easements required for Major Water and Wastewater Facilities located outside the Project through negotiation;

however, if the Developer and the District are unable to obtain any required easement by agreement, the City agrees, upon request, to promptly request City Council approval to acquire the easement in question utilizing the City's power of eminent domain and, upon such approval, to promptly initiate and diligently pursue the condemnation of the easement in question. If the City Council does not approve proceeding with condemnation of any required easement within 60 days of the Developer or the District requesting, in writing, that the City staff initiate a Council action item for such condemnation, then the Developer or the District may request approval of an alternative routing for the facility in question, and the City agrees that its approval of such alternative routing will not be unreasonably withheld, conditioned, or delayed. The City's actual and reasonable cost of acquiring any required easement by eminent domain will be reimbursed by the Developer within 30 days of receipt of an invoice, including all supporting documentation, from the City. The Developer will be entitled to reimbursement by the District for all costs paid by the Developer for offsite easement acquisition as permitted by the rules of the Commission.

**Section 3.07 City's Responsibility for Oversizing.** In the event that the City requests oversizing, the City will be responsible for the cost of oversizing any Major Water and Wastewater Facilities or On-Site Water and Wastewater Facilities in accordance with the Applicable Rules and will reimburse the Developer for such costs within 30 days after substantial completion of the facilities in question.

**Section 3.08 Commencement of Construction; Notice; Inspections.** Following City release of the plans and specifications for each water and wastewater utility project in City Service Areas and prior to the commencement of construction, the Constructing Party will give twenty (20) days' advanced written notice to the City in order to allow the City to assign an inspector. The City will inspect all Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities in City Service Areas for compliance with the released plans and specifications. The City will also, for each connection in City Service Areas, conduct the series of plumbing inspections required by the Texas Plumbing License Law and the Applicable Rules and issue a customer service inspection certificate when all inspections are satisfactorily completed. The City will provide the inspections contemplated by this Section for the standard fees charged by the City for inspections inside the City limits, which fees will be collected by the City from the customer requesting the inspection. The City will retain copies of all inspection reports for the City's applicable records retention period, and provide them to the District upon request.

**Section 3.09 Conveyance to City; Ownership, Operation, and Maintenance of On-Site Water and Wastewater Facilities and Major Water and Wastewater Facilities.** Upon completion of construction of any Major Water and Wastewater Facilities and On-Site Water and Wastewater Facilities constructed by or on behalf of the District in City Service Areas, (a) the City will accept such facilities for operation and maintenance, as documented in a letter from the City to the Developer and the District in accordance with the Applicable Rules, including, without limitation, pre-acceptance final inspections and a one (1) year maintenance bond requirement on all facilities offered for dedication; and (b) the Constructing Party will promptly convey those facilities to the City, subject to (i) the City's obligation to provide service to the District as provided in this Agreement, (ii) a reservation of all capacity in those facilities, excepting capacity associated with oversizing, if any, for the benefit of the District, and (iii) the Developer's right to reimbursement from the District for the cost of those facilities, in consideration of the District's capacity interest, and in accordance with the rules of the Commission. Any such conveyance will not affect the Developer's right to reimbursement from the District for the cost of any facilities or capacity in facilities constructed or financed by the Developer. The Constructing Party will also assign all contract rights, warranties, guarantees, assurances of performance, and bonds related to the facilities conveyed

to the City. The City agrees that its acceptance of such facilities and the related assignments will not be unreasonably withheld, conditioned, or delayed as long as the facilities have been constructed in accordance with the plans and specifications released by the City and otherwise conform to the requirements of this Agreement. Upon any such conveyance and acceptance, the City agrees to operate and maintain such facilities to provide service to the District in accordance with this Agreement.

#### **ARTICLE IV. DEVELOPMENT**

##### **Section 4.01 General Development Matters.**

**(a) Development in Accordance with Land Plan, Design Standards, and Roadway Plan.** The Developer will develop the Land in accordance with the Land Plan, the Design Standards, and the Roadway Plan. The Design Standards shall be incorporated into the Restrictive Covenants (defined below) and shall also identify the City as a third-party beneficiary to such covenants, conditions, and restrictions. The City hereby confirms its approval of the Land Plan, the Design Standards, and the Roadway Plan, including the land uses and densities shown thereon, as applicable. Due to the fact that the Project includes a significant land area and its development will occur in phases over a number of years, the City and the Developer acknowledge that changes to the Land Plan may become desirable due to changes in market conditions or other factors. Variations of a preliminary plat or final plat from the Land Plan that do not increase the allowable density of development of the Project or significantly alter the dispersion of the depicted Parkland and Open Space (as such terms are defined in Section 4.02(b)) will not require an amendment to the Land Plan. Further, the City will approve any minor deviations from the Land Plan called for by technical, site planning, or engineering considerations that promote flexibility in design and are consistent with the intent of the Project. Other changes to the Land Plan, as well as any changes to the Design Standards and the Roadway Plan, will be subject to review and approval by the City, which approval will not be unreasonably withheld, conditioned, or delayed. Although the Land Plan, Design Standards, and Roadway Plan cover the entire Project, revisions of the Land Plan, Design Standards, and/or Roadway Plan that only affect the land within one of the Successor Districts within the Project will only require the consent of the affected district and the City, as applicable.

**(b) Plat and Plan Review.** Plats and construction plans for development within the Land will be subject to review and approval by the City, which review and approval will not be unreasonably withheld, conditioned, or delayed, and the City will collect all applicable plat application and plan review fees in accordance with its policies and procedures for the standard fees charged by the City for development inside the City limits, subject to the terms of this Agreement.

**(c) Development and Construction Standards.** The Developer agrees that the Restrictive Covenants (defined in Section 4.02(a)) will require (i) that all builders comply with the building and construction standards contained in the Applicable Rules; (ii) that a minimum of three inspections (foundation, mechanical/framing, and final) will be performed by a certified independent third-party inspector to confirm compliance with such building and construction standards; and (iii) that the builders will provide the City with a copy of such inspections upon request. If a builder fails to comply with these requirements, the City will not be obligated to provide a water service connection for the structure in question until the non-compliance is corrected.

(d) **Fees.** The City will not charge any fees, including impact fees or capital recovery fees, to the Developer or the District that are not specifically set forth in this Agreement.

(e) **Variations.** The City agrees that this Agreement constitutes approval of variations necessary to develop the Project as contemplated herein.

#### **Section 4.02 Park and HOA Matters.**

(a) **Restrictive Covenants.** The Developer agrees that restrictive covenants enhancing and protecting the standard of development within the Project ("Restrictive Covenants") will be imposed against the land within each phase of development at the time development within that phase is commenced. In order to provide the City with an opportunity to confirm that the Restrictive Covenants are consistent with the requirements of this Agreement, the Restrictive Covenants will be subject to the review and approval of the City prior to recordation, which approval will not be unreasonably withheld, conditioned, or delayed.

(b) **Open Space, Park Land and Improvements.** The Project will be developed as a master-planned community with parkland, open space, greenbelts, trails, common area landscaping, and park improvements (collectively, "Open Space"), as generally depicted on the Land Plan. At least twenty-five percent (25%) of the Land will be comprised of Open Space. No parkland dedication or park fees will be required from the Developer for the Land. Parkland (defined as usable Open Space landscaped for informal, open play areas, or Open Space land developed for active and/or passive recreational uses) and Open Space within the Project will be a collection of privately owned, privately maintained common open space lots designed to (a) serve the recreational needs of the residents of the Project; (b) provide places and opportunities for interaction within the Project; and (c) provide opportunities for interaction with the natural environment. All Open Space and Parkland, including the landscaping for the "Parkway" and "Boulevard" roadways shown on the Roadway Plan, will be owned and maintained by the homeowner's association established under the Restrictive Covenants (the "HOA").

#### **Section 4.03 Drainage; Other Utilities and Services.**

(a) **Drainage.** The Land will be developed with an integrated storm water system and enhanced regional water quality system that will comply with the requirements of the Drainage Standards. The Drainage Facilities within the District (including Drainage Facilities located within the Parkland) will be owned, financed, operated, and maintained by the District and will be constructed within property owned or to be owned by the District or within assignable easements held by the District or dedicated by plat; therefore, customers and developers within the District will not be assessed any City drainage or water quality fees or charges prior to full purpose annexation.

(b) **Other Utilities.** Subject to Section 4.04(a), the Developer will have the right to select the providers of cable television, gas, telephone, telecommunications, and all other utilities and services, or to provide "bundled" utilities within the Land.

(c) **Solid Waste and Recycling Service.** The City shall be granted the exclusive right by the District and Developer to provide solid waste and recycling services within the District provided that it does so for all of the District's residences and for the same in-City rates, in the same manner, on the same terms and conditions, and subject to the same regulations and ordinances, as amended, that the City provides solid waste and recycling services to residences located within the City limits. The District will have no liability for such

charges except for services and charges incurred in the District's name. For City Service Areas, the City's charges for solid waste and recycling services will be included on the City's regular monthly water and wastewater bills to customers within the City Service Areas. Notwithstanding the foregoing, until the City exercises its right to become the exclusive provider of solid waste and recycling services within the District, the District may provide such services as permitted by applicable law.

**(d) Street Lighting.** The Developer will construct street lighting within the boundaries of the District in compliance with the Applicable Rules. Either the District, and each Successor District, or the HOA will operate and maintain the street lighting.

#### **Section 4.04 Roadway Matters.**

**(a) Public Streets and Rights-of-Way Administration.** If permitted by applicable law, the City may administer, manage, regulate, and control the use and the occupation by third parties of the public streets and rights-of-way within the District for the purpose of providing any service or product to adjoining or abutting property or to any other property within the District or the City. No third party may use or occupy any public street or right-of-way within the District for the purpose of providing any abutting, or adjoining property, or any other property within the City or the District, with any utility service, public service, data, voice or video transmission service, cable television, taxi or solid waste collection service, or any similar service or product, without first having obtained a franchise or license from the City, except as otherwise provided by state law. The City may require each such third party to obtain a franchise, license, or permit from the City; pay franchise and license fees to the City; and, as applicable, pay the fees established and collected by the State of Texas to be payable in lieu of a franchise fee for the use and occupancy of the streets; and to cause such fees to be paid to the City. Franchise, license, and use fees payable and paid by such third parties will be the sole consideration receivable by and payable to the City for the services to be provided by the City under this Section. The City will cause the above referenced third parties to repair all cuts, excavations, and damages by them to the streets and rights-of-way within the District. Neither the Developer nor the District is responsible for enforcing this Section. This Section does not apply to any improvements or facilities that are constructed, installed, maintained, or operated by or on behalf of the District.

**(b) Chaparral Road Improvements.** In order to facilitate access to the Land and the District, the City will make certain improvements to Chaparral Road from State Highway 195 east to northeastern boundary of the Land, as generally depicted on **Exhibit G** (the "Chaparral Road Improvements"). The Chaparral Road Improvements will include a minimum of four lanes. The City will acquire all right-of-way necessary for construction of the Chaparral Road Improvements (including, if necessary, utilizing the City's power of eminent domain) and, subject to reasonable force majeure events, will commence construction of the Chaparral Road Improvements by the one-year anniversary of the connection of the 1,000<sup>th</sup> single-family home within the Land to retail water and wastewater service (the "Chaparral Trigger Date"). Notwithstanding the foregoing, the City shall not be committed to commencing construction of the Chaparral Road Improvements at an accelerated rate in the event that single-family home connections within the Project exceed 300 per year, said connections estimated by the Developer to commence on or around the second-year anniversary of the Effective Date. In this event, (i) the City shall be obligated to commence construction of the Chaparral Road Improvements no later than the six-year anniversary of the Effective Date, and (ii) the City will not delay, withhold, or deny any development approvals related to the Project because construction of the Chaparral Road Improvements has not previously commenced or been completed. Following commencement of construction of the Chaparral Road Improvements, the City will use commercially reasonable and diligent efforts to complete them.

Upon receipt of all supporting documentation and evidence of payment by the City, the Developer will be obligated to reimburse the City for up to \$4,100,000 of the costs of the Chaparral Road Improvements on the schedule and as provided for in this Section 4.04(b) (the "Chaparral Road Costs"). The Developer will pay the Chaparral Road Costs in installments annually based upon the following schedule: The first payment shall become due and payable (i) 30 days after final completion of the Chaparral Road Improvements and the City has provided written notice of same to the Developer; or (ii) on the first anniversary of the Chaparral Trigger Date, whichever event occurs later (the "CR Payment Commencement Date"). Subsequent payments shall become due and payable each following year on the anniversary of the CR Payment Commencement Date until the Chaparral Road Costs have been paid in full; provided, however, that any outstanding balance of the Chaparral Road Costs shall become due and payable on the tenth (10<sup>th</sup>) anniversary of the CR Payment Commencement Date. Annual payments shall be equal to fifteen hundred dollars (\$1,500.00) multiplied by the number of water utility connections made in the preceding three hundred sixty-five (365) days. Payments not received when due shall accrue interest at the maximum rate provided by law from the applicable due date until paid. The Developer will be entitled to reimbursement from the District for the Chaparral Road Costs as permitted by applicable law. In the event that the City reasonably determines that additional right-of-way is needed from the Developer along the northern boundary of the Land, or land subsequently acquired by the Developer along Chaparral Road, the Developer shall publically dedicate such additional right-of-way at no cost upon the City's request, provided that the need for such additional right-of-way is determined prior to the time that the first subdivision plat within the Project is recorded and the additional right-of-way does not exceed one hundred feet (100') in width. The City, the Developer, and the District, as applicable, may enter into an interlocal agreement with Bell County regarding the ownership and maintenance of the Chaparral Road Improvements. For purposes of this provision, the term "force majeure event" means an event that is not within the control of the City and that the City could not have avoided by the exercise of diligence and care.

**(c) Trimmier Road.** Trimmier Road within the Land will be designed as a 40 m.p.h. roadway. The Roadway Plan includes two four-lane options for Trimmier Road (which is referred as the "Parkway" on the Roadway Plan) within the Project. If a traffic engineer selected by the Developer and approved by the City (such approval not to be unreasonably withheld, conditioned, or delayed) determines that, at full build-out of the Land and assuming Trimmier Road connects to an east-west thoroughfare south of the Land, less than four lanes are necessary in certain sections, but the City nevertheless desires that those sections be improved as a four-lane roadway, then the City will be responsible for the additional costs and will reimburse the Developer for such costs within 30 days after substantial completion of the section(s) of Trimmier Road in question, in accordance with Section 4.04(d) below. In the event that the City decides not to participate in oversizing at the time of road construction, the Developer will reserve such additional right-of-way necessary to construct a four lane road throughout the Project and dedicate the same to the public to facilitate the future expansion of Trimmier Road, said future expansion being conditioned on being constructed to the same standards as the rest of Trimmier Road throughout the Land.

**(d) Roadway Oversizing Costs.** In the event that the traffic engineer selected in Section 4.04(c) above determines that sections of Trimmier Road within the Project do not need to be four lanes, as evidenced by a sealed report providing for and justifying the same, and upon formal request of the City to the Developer, the City will be responsible for all costs of roadway oversizing, except the cost of right-of-way dedicated in Section 4.04(c) above, in accordance with the Applicable Rules and will reimburse the Developer for such costs within 30 days after substantial completion of the roadway in question.

**ARTICLE V.  
FINANCIAL AND BONDS**

**Section 5.01 Tax Rate.** The District will adopt its annual tax rate in compliance with the legal requirements applicable to municipal utility districts based on its debt service and operating and maintenance requirements, report the tax rate set by the District each year to the District's tax assessor/collector, and perform all acts required by law for its tax rate to be effective. Developer and the City anticipate that, once the District levies an ad valorem tax, the District's total annual ad valorem tax rate will be higher than the City's total annual ad valorem tax rate for several years.

**Section 5.02 Filing of Budget and Audit Report.** Upon request by the City, the District will provide the City with a copy of its annual audit and approved budget for each fiscal year.

**Section 5.03 Purposes.** The District may issue bonds or notes for the purposes of the purchase, construction, acquisition, repair, extension, and improvement of land, easements, works, improvements, facilities, plants, equipment, appliances, and capacity or contract rights necessary to (a) provide a water supply for municipal uses, domestic uses, and commercial purposes; (b) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state; (c) gather, conduct, divert, and control local storm water or other local harmful excesses of water in the District; (d) pay expenses authorized by Section 49.155 of the *Texas Water Code*; and (e) if authorized by law, develop and maintain park and recreational facilities as authorized by Subchapter N of Chapter 49 (Sections 49.461, *et seq.*) of the *Texas Water Code*. Further, subject to the approval of the Commission or statutory authorization to do so, the District may design, acquire, construct, finance, and issue bonds for Road Improvements as provided in Section 54.234 of the *Texas Water Code*. The District may also issue bonds for refunding purposes. The District may reimburse the Developer for expenditures authorized by applicable law and this Agreement.

**Section 5.04 Bond Requirements.** All bonds issued by the District shall comply with the following requirements: (a) the maximum maturity of the bonds shall not exceed thirty (30) years from the date of issuance of any one series of bonds; (b) the bonds shall expressly provide that the District shall reserve the right to redeem the bonds at any time beginning not later than the tenth (10<sup>th</sup>) anniversary date of issuance, without premium; (c) no variable rate bonds shall be issued by the District; and (d) no bonds shall be issued having any issuance date more than thirty (30) years from the date of the first issuance of bonds by the District without the City's approval, which will not be unreasonably withheld, delayed or denied.

**Section 5.05 Bonds Requiring Commission Approval.** At the time the District submits any application to the Commission for approval of the issuance of bonds for which Commission approval is required, the District will submit a copy of such application to the City. Any City objection to the bonds must (a) be in writing; (b) be given to the District within 30 days from the date of the City's receipt of the bond application; (c) be signed by the City Manager; and (d) specifically identify non-compliance or default and reference the provision in this Agreement that applies. If a City objection is made in compliance with this Section, the City and the District will use good faith efforts to resolve the City objection within 30 days, during which time the District will not proceed with the sale of the Bonds to which the City objection applies.

**Section 5.06 Refunding Bonds.** In connection with: (a) an advance refunding which (i) has a final maturity no longer than the final maturity on the obligations refunded, (ii) will achieve a net present value savings of at least three percent, and (iii) has savings that are substantially or fairly uniform over each maturity being refunded; or (b) a current refunding which (i) has a final maturity no longer than the final maturity on the refunded obligations,

(ii) will achieve a net present value savings, and (iii) has savings that are substantially or fairly uniform over each maturity of obligations being refunded, no prior notice to or City review or approval will be required; however, the District must deliver a certificate from its financial advisor that demonstrates that the proposed refunding will comply with this Section at least three business days before execution of the purchase agreement for the refunding and must deliver evidence of its compliance with the requirements of this Section to the City within three business days after the execution of the purchase agreement for the refunding.

**Section 5.07 Official Statements.** Within 30 days after the District closes the sale of any series of bonds, the District will provide a copy of the final official statement for such bonds, if applicable, to the City.

**Section 5.08 Other Funds.** The District may obtain and use funds and assets from any available, lawful source to provide for the acquisition, ownership, maintenance, and operation of its facilities, as well as to accomplish any purpose or to exercise any function, act, power, or right authorized by law. Such funds and assets may include revenues from any of the systems, facilities, properties, and assets of the District not otherwise committed for the payment of indebtedness of the District; maintenance taxes; loans, gifts, grants, and donations from public or private sources and revenues from any other source lawfully available to the District.

## **ARTICLE VI. TERM; ASSIGNMENT; COOPERATION**

**Section 6.01 Term.** The term of this Agreement will commence on the Effective Date and continue for 15 years thereafter, unless terminated on an earlier date under other provisions of this Agreement or by written agreement of the City, the District, and the Developer. Upon the expiration of 15 years, this Agreement may be extended, at the Developer's request, with City Council approval, for up to two successive 15-year periods.

**Section 6.02 Termination and Amendment by Agreement.** Except as provided in Section 6.01, this Agreement may be terminated or amended as to all of the Land at any time by mutual written agreement of the City, the Developer and, after its creation, the District, or may be terminated or amended only as to a portion of the Land by the mutual written agreement of the City, the owners of a majority of the portion of the Land affected by the amendment or termination and, after its creation, the District. After full build-out of the District, this Agreement may be amended by mutual written agreement of the District and the City, and the joinder of the Developer will not be required.

**Section 6.03 Assignment.** This Agreement, and the rights of the Developer hereunder, may be assigned by the Developer, to a purchaser of all or a portion of the undeveloped portion of Land. Any assignment will be in writing, specifically setting forth the assigned rights and obligations and be executed by the proposed assignee and a copy provided to the City. If the Developer assigns its rights and obligations hereunder as to a portion of the Land, then the rights and obligations of any assignee and the Developer will be severable, and the Developer will not be liable for the nonperformance of the assignee and vice versa. However, no assignment by the Developer shall release the Developer from any liability that resulted from an act or omission by the Developer that occurred prior to the effective date of the assignment. In the case of nonperformance by one developer, the City may pursue all remedies against that nonperforming developer, but will not impede development activities of any performing developer as a result of that nonperformance. Notwithstanding the foregoing, however, the Developer shall not have the right to assign this Agreement, or any right, title, or interest of the Developer under this Agreement, until the District has become a party to this Agreement. This Agreement is not intended to be binding upon, or create any encumbrance to title as to, any



ultimate consumer who purchases a fully developed and improved lot within the Land, nor is this Agreement intended to confer upon any such person or entity the status of a third party beneficiary.

**Section 6.04 Cooperation.** The City, the District, and the Developer each agree to execute such further documents or instruments as may be necessary to evidence their agreements hereunder. The City agrees to cooperate with the Developer in connection with any waivers or approvals the Developer may desire from Bell County in order to avoid the duplication of processes or services in connection with the development of the Land. In the event of any third party lawsuit or other claim relating to the validity of this Agreement or any actions taken hereunder, the Developer and the City agree to cooperate in the defense of such suit or claim, and to use their respective best efforts to resolve the suit or claim without diminution in their respective rights and obligations under this Agreement.

## **ARTICLE VII. MISCELLANEOUS PROVISIONS**

**Section 7.01 Notice.** Any notice given under this Agreement must be in writing and may be given: (i) by depositing it in the United States mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or (ii) by depositing it with Federal Express or another service guaranteeing "next day delivery", addressed to the party to be notified and with all charges prepaid; (iii) by personally delivering it to the party, or any agent of the party listed in this Agreement, or (iv) by facsimile or email with confirming copy sent by one of the other described methods of notice set forth. Notice by United States mail will be effective on the earlier of the date of receipt or three days after the date of mailing. Notice given in any other manner will be effective only when received. For purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

CITY:	City of Killeen P.O. Box 1329 Killeen, TX 76540-1329 Attn: City Manager/City Attorney
DEVELOPER:	WBW Land Investments, LP 3000 Illinois Street, Ste. 100 Killeen, Texas 76543
DISTRICT:	Bell County Municipal Utility District No. 2 c/o Armbrust & Brown, PLLC Attn: John W. Bartram 100 Congress Ave., Ste. 1300 Austin, Texas 78701

The parties may change their respective addresses to any other address within the United States of America by giving at least five days' written notice to the other party. The Developer and the City may, by giving at least five days' written notice to the other party, designate additional parties to receive copies of notices under this Agreement.

**Section 7.02 Severability; Waiver.** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is

possible. Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver thereof or of any other provision, and such party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

**Section 7.03 Applicable Law and Venue.** The interpretation, performance, enforcement, and validity of this Agreement is governed by the laws of the State of Texas. Venue will be in a court of appropriate jurisdiction in Bell County, Texas.

**Section 7.04 Entire Agreement.** This Agreement contains the entire agreement of the parties. There are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement can be amended only by written agreement signed by the parties. This Agreement supersedes all other agreements between the parties concerning the subject matter.

**Section 7.05 Exhibits, Headings, Construction and Counterparts.** All schedules and exhibits referred to in or attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. The parties acknowledge that each of them have been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement or any exhibits hereto. If there is any conflict or inconsistency between the provisions of this Agreement and otherwise applicable City ordinances, the terms of this Agreement will control. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

**Section 7.06 Time.** Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

**Section 7.07 Authority for Execution.** The City certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with its City Charter and City ordinances. The Developer hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the governing documents of each entity executing on behalf of the Developer.

**Section 7.08 Exhibits.** The following exhibits are attached to this Agreement, and made a part hereof for all purposes:

- Exhibit A** - Metes and Bounds Description of the Land
- Exhibit B** - Design Standards
- Exhibit C** - Drainage Standards
- Exhibit D** - Land Plan
- Exhibit E** - Roadway Plan
- Exhibit F** - Utility Plan
- Exhibit G** - Depiction of Chaparral Road Improvements

\* \* \*

[signature page follows]

**IN WITNESS WHEREOF**, the undersigned parties have executed this Agreement on the dates indicated below.

**CITY:**

**CITY OF KILLEEN, TEXAS**

By: \_\_\_\_\_ *BSO*  
Name: Glenn Morrison  
Title: City Manager

Date: \_\_\_\_\_

**DEVELOPER:**

**WBW LAND INVESTMENTS, LP**, a Texas limited partnership

By: WBW Land Investments GP, LLC, a Texas limited liability company, its General Partner

By: \_\_\_\_\_  
Bruce Whitis, Manager

Date: \_\_\_\_\_

**DISTRICT:**

**BELL COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 2**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
President, Board of Directors

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Secretary, Board of Directors

**EXHIBIT A**  
[Metes and Bounds Description of the Land]

FIELD NOTES  
1373.0 ACRE TRACT  
BELL COUNTY, TEXAS

FIELD NOTES for a 1373.0 acre tract of land in Bell County, Texas, being part of the H. T. & B. RR. Co Survey, Abstract No. 449, the W. L. Blackman Survey, Abstract No. 135, the Washington Co. RR. Co. Survey, Abstract No. 917, the J. W. Fletcher Survey, Abstract No. 335, the W. S. Ellis Survey, Abstract No. 985, the A. S. Harris Survey, Abstract No. 461, the W. C. Pearce Survey, Abstract No. 1241, the Benjamin Ellis Survey, Abstract No. 294, the Benjamin Ellis Survey, Abstract No. 293, the M. Carpenter Survey, Abstract No. 233, the R. H. Gibbs Survey, Abstract No. 1194, and the J. T. Fondren Survey, Abstract No. 334, J. W. Green Survey, Abstract Number 956, the R. H. Gibbs Survey, Abstract Number 1194, part of the J. E. McKenzie Survey, Abstract Number 580, J. B. Stringer Survey, Abstract Number 1189, and the Thomas H. Gatlin Survey, Abstract Number 354 and the land herein described being all of a called 397.433 acre tract designated Exhibit A, Page 1 and 2, all of a called 9.661 acre tract designated Exhibit A, Page 3, all of a called 120.299 acre tract designated Exhibit A, Page 4 and part of a called 641 acre tract designated Exhibit A, Page 5, conveyed to GHW Killeen Ranch, L.P. of record in Document #2009-41130, Official Public Records of Real Property, Bell County, Texas, and being part (5.00 acres designated Save & Except in Doc. #2009-41130) of a called 637.66 acre tract conveyed to Glen H. Womack and wife, Alice M. Womack, of record in Volume 1704, Page 139, Deed Records of Bell County, Texas, all of that certain acre tract described in deed to Whits Land Investments, Ltd. (hereinafter referred to as "WLI") in Volume 7526, Page 488, Official Public Records of Real Property, Bell County, Texas, and all of that certain called 10.21 acre tract described in deed to Whits Land Investments, Ltd. in Volume 8415, Page 686, Official Public Records of Real Property, Bell County, Texas, said 1373.0 acre tract being more particularly described as follows:

**BEGINNING** at a 3/8" iron rod on the south right-of-way line of Chaparral Road (no dedication found) at the northerly northwest corner of said 120.299 acre tract and the northeast corner of a called 7.83 acre tract conveyed to Frederick P. Henry and wife, Joann E. Henry, of record in Volume 1239, Page 267, Deed Records of Bell County, Texas, for the most northerly northwest corner of this tract;

**THENCE N. 69° 35' 50" E., 1067.13 feet,** with the south right-of-way line of said Chaparral Road and the north line of said 120.299 acre tract, to a 1/2" iron rod with cap stamped "M&ASSOC KILLEEN" at the northeast corner of said 120.299 acre tract, being on the west line of a called 120 acre tract conveyed to Thomas E. Whitehead, of record in Volume 2541, Page 239, Official Public Records of Real Property, Bell County, Texas, for the most northerly northeast corner of this tract;

**THENCE S. 20° 35' 36" E., 3966.79 feet,** with the east line of said 120.299 acre tract and the west line of said 120 acre tract, to a 3/8" iron rod at the southeast corner of said 120.299 acre tract and the southwest corner of said 120 acre tract, being on the north line of said 641 acre tract, for an interior corner of this tract;

**THENCE N. 68° 32' 40" E., 125.67 feet,** with the north line of said 641 acre tract and the south line of said 120 acre tract, to a 3/4" iron pipe at the northeast corner of said 641 acre tract, being the northwest corner of the remainder of a called 160 acre tract conveyed to J. Kay Cosper, of record in Volume 2260, Page 446, Deed Records of Bell County, Texas, for an "L" corner of this tract;

**THENCE S. 20° 46' 59" E.,** with the east line of said 641 acre tract and the west line of said remainder of 160 acre tract, at a distance of 3250.00 feet, pass the southwest corner of said remainder of 160 acre tract and the northwest corner of that certain tract conveyed to Donna Ray Hoskins, of record in Document #2007-8403, Official Public Records of Real Property, Bell County, Texas, continuing on same course with the west line of said Hoskins tract for a total distance of 6232.52 feet, to a fence corner post found at an angle corner of said 641 acre tract (deed conflict in this area) and a corner of said Hoskins tract, for an angle corner of this tract;

**THENCE S. 21° 00' 54" W., 49.05 feet,** with fence line to a fence corner post found on the north line of said 397.433 acre tract at the occupied southwest corner of said 160 acre tract, being the northerly southeast corner of said 641 acre tract, for an interior corner of this tract;

**THENCE** in a southeasterly direction with existing fence on the occupied line between said 397.433 acre tract and said 160 acre tract, the following four (4) calls:

1. S. 75° 51' 20" E., 170.97 feet, to a fence corner post, for an angle corner of this tract;
2. S. 65° 06' 04" E., 131.17 feet, to a fence corner post, for an angle corner of this tract;
3. S. 60° 33' 53" E., 255.46 feet, to a fence corner post, for an angle corner of this tract;
4. S. 77° 38' 37" E., 258.24 feet, to a 3/8" iron rod at the most northerly northeast corner of said 397.433 acre tract, being at an angle corner in the west line of a called 163.343 acre tract conveyed to Gary L. McLean, Trustee of the Gary L. McLean 1998 Trust, of record in Volume 5833, Page 505, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

**THENCE S. 23° 56' 01" E., 1662.98 feet,** with the westerly east line of said 397.433 acre tract and the west line of said 163.343 acre tract, to a 5/8" iron rod at an interior corner of said 397.433 acre tract and the southwest corner of said 163.343 acre tract, for an interior corner of this tract;

**THENCE N. 69° 30' 36" E., 1750.30 feet,** with a north line of said 397.433 acre tract and the southerly south line of said 163.343 acre tract, to a 3/8" iron rod with cap stamped "M&ASSOC KILLEEN" at an interior corner of said 397.433 acre tract and the westerly southeast corner of said 163.343 acre tract, for an "L" corner of this tract;

**THENCE N. 20° 30' 33" W., 234.41 feet,** with a west line of said 397.433 acre tract and the westerly east line of said 163.343 acre tract, to a 60D nail at an "L" corner of said 397.433 acre tract and an interior corner of said 163.343 acre tract, for an "L" corner of this tract;

1373.0 Acre Notes (cont'd)

THENCE N. 69° 36' 14" E., 867.04 feet, with a north line of said 397.443 acre tract and the northerly south line of said 163.343 acre tract, to a 3/8" iron rod with cap stamped "M&ASSOC KILLEEN" at an "L" corner of said 397.433 acre tract and the easterly southeast corner of said 163.343 acre tract, being on the west line of a called 290.634 acre tract conveyed to Gary L. McLean and wife, Judith C. McLean, of record in Volume 3416, Page 574, Official Public Records of Real Property, Bell County, Texas, for an "L" corner of this tract;

THENCE S. 21° 06' 22" E., 388.88 feet, with a east line of said 397.443 acre tract and the west line of said 290.634 acre tract, to a 3/8" iron rod with cap stamped "M&ASSOC KILLEEN" at an interior corner of said 397.433 acre tract and the westerly southwest corner of said 290.634 acre tract, for an interior corner of this tract;

THENCE N. 69° 23' 10" E., 2136.36 feet, with a north line of said 397.443 acre tract and the northerly south line of said 290.634 acre tract, to a steel game fence corner post at the northeast corner of said 397.433 acre tract and an interior corner of said 290.634 acre tract, for the most southerly northeast corner of this tract;

THENCE S. 20° 08' 40" E., 1248.93 feet, with game fence on the easterly east line of said 397.443 acre tract and the easterly west line of said 290.634 acre tract, to a steel game fence corner post at the northerly southeast corner of said 397.433 acre tract and the easterly southwest corner of said 290.634 acre tract, being on the north line of a called 211.067 acre tract conveyed to Bryan Zynda, of record in Volume 5092, Page 86, Official Public Records of Real Property, Bell County, Texas, for the northerly southeast corner of this tract;

THENCE S. 69° 41' 54" W., 1081.06 feet, with a south line of said 397.443 acre tract and the north line of said 211.067 acre tract, to a 1/2" iron pipe at an interior corner of said 397.433 acre tract and the northwest corner of said 211.067 acre tract, for an interior corner of this tract, whence a 3/8" iron rod found bears N. 69° 22' 11" E., 17.40 feet;

THENCE S. 20° 23' 00" E., 2701.19 feet, with a east line of said 397.443 acre tract and the west line of said 211.067 acre tract, to a railroad spike at the southerly southeast corner of said 397.433 acre tract and the southwest corner of said 211.067 acre tract, being on the north line of a called 232.63 acre tract conveyed to James Whitis Land Investments of record in Document #2009-32469, Official Public Records of Real Property, Bell County, Texas;

THENCE N. 68° 26' 19" E., 454.34 feet, east along the north line of said W.L.I tract, and south line of said Zynda tract, 454-73/100 feet to a Corps of Engineers Concrete Monument stamped number 4-84 for the northeast corner of said W.L.I tract, also being the southwest corner of a tract described in the deed to the United States of America TRACT No. 412 recorded in volume 915, page 16 of said Deed Records, also being the northwest corner of the tract described in the deed to the United States of America, TRACT No. 504, recorded in volume 896, page 606 of said Deed Records.

THENCE along the east line of said W.L.I tract; and the west line of said TRACT No. 504 with the following courses:

1. S. 08° 40' 04" W., 406.56 feet to a Corps of Engineers Concrete Monument stamped number 5-94;
2. S. 08° 51' 47" W., 329.27 feet to a Corps of Engineers Concrete Monument stamped number 5-93;
3. N. 57° 21' 58" E., 691.51 feet to a Corps of Engineers Concrete Monument stamped number 5-92;
4. S. 32° 38' 49" E., 388.37 feet to a Corps of Engineers Concrete Monument stamped number 5-91;
5. S. 88° 52' 36" E., 756.76 feet to a Corps of Engineers Concrete Monument stamped number 5-90; and
6. S. 12° 07' 03" W., 898.64 feet to a 5/8 inch iron rod set, from said 5/8 inch iron rod set, a Corps of Engineers Concrete Monument found stamped number 5-89 bears S. 12° 07' 03" W., 157.24 feet.

THENCE S. 71° 30' 40" W., 3543.47 feet to a 5/8 inch iron rod in the east margin of Live Oak Cemetery Road, a 60 feet right of way width and being in the west line of said W.L.I tract.

THENCE along said east margin of said Road with the following courses:

1. N. 65° 05' 28" W., 331.63 feet to a 5/8 inch iron rod;
2. N. 64° 23' 53" W., 455.12 feet to a 5/8 inch iron rod;
3. N. 43° 33' 18" W., 276.34 feet to a 5/8 inch iron rod for the most southern corner of the called 23.31 acre tract designated at Exhibit "C" in said W.L.I deed of record, also being the southwest corner of said 10.21 acre tract;

THENCE N. 43° 04' 22" E., 433.10 feet departing the north margin of Live Oak Cemetery Road, to a 5/8 inch iron rod being the southeast corner of said 23.31 acre tract and west line of said 10.21 acre tract to a 5/8 inch iron rod.

THENCE N. 19° 57' 16" W., 2251.08 feet to a 5/8 inch iron rod.

THENCE S. 70° 03' 32" W., 740.12 feet to a 5/8 inch iron rod.



1373.0 Acre Notes (cont'd)

THENCE N. 19° 57' 15" W., 44.84 feet to an iron rod in the south right of way line of Acorn Lane as described in a Final Judgment recorded in Number 95,340-B District Court Records, Bell County, Texas and being in the called west line of said WBH tract

THENCE S. 69° 30' 06" W., 202.43 feet with the original south line of said 397.443 acre tract, the south line of said Acorn Lane to a 3/8" iron rod;

THENCE S. 69° 32' 53" W., with the original south line of said 397.443 acre tract, the south line of said Acorn Lane and over and across said 50.14 acre tract, at a distance of 598.69 feet, pass a 5/8" iron rod with cap stamped "RCS" on the easterly west line of said 50.14 acre tract and the east line of a called 5 acre tract conveyed to Gloria Johnyce Dunn, Linda Sue Carrell and James William Cospur, Jr., of record in Volume 1708, Page 383, Deed Records of Bell County, Texas, continuing on same course with the original south line of said 397.433 acre tract and the south line of said Acorn Lane, over and across said 5 acre tract, for a total distance in all of 913.74 feet, to a point at the original westerly southwest corner of said 397.433 acre tract, for a southwest corner of this tract, whence a 1/2" iron rod bears S. 69° 32' 53" W., 5.64 feet;

THENCE N. 20° 33' 43" W., with a west line of said 397.443 acre tract, at a distance of 60.41 feet, pass a 1/2" iron rod found at the southeast corner of a called 11.25 acre tract conveyed to Arthur W. Lutz, of record in Volume 3867, Page 10, Official Public Records of Real Property, Bell County, Texas, on the north line of said Acorn Lane, continuing on same course with a west line of said 397.433 acre tract and the east line of said 11.25 acre tract, for a total distance in all of 1692.15 feet, to a 1/2" iron rod at an angle corner of said 397.433 acre tract and an angle corner of said 11.25 acre tract, for an angle corner of this tract;

THENCE N. 44° 23' 49" W., 963.35 feet, with a west line of said 397.443 acre tract, the east line of said 11.25 acre tract and the east line of a called 5.82 acre tract conveyed to Arthur W. Lutz, of record in Volume 3326, Page 241, Official Public Records of Real Property, Bell County, Texas, to a 3/8" iron rod found at an angle corner of said 397.433 acre tract and the northeast corner of said 5.82 acre tract, being the northerly southeast corner of said 641 acre tract, for an interior corner of this tract;

THENCE S. 68° 49' 25" W., 254.77 feet, with a south line of said 641 acre tract and the north line of said 5.82 acre tract, to a 1/2" iron rod at the northwest corner of said 5.82 acre tract, being the northeast corner of a called 19.674 acre tract conveyed to Richard J. Sofaly and Karla J. Sofaly, of record in Volume 6151, Page 347, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

THENCE S. 68° 36' 30" W., 152.96 feet, with a south line of said 641 acre tract and the north line of said 19.674 acre tract, to a 3/4" iron pipe at an interior corner of said 641 acre tract and the northerly northwest corner of said 19.674, for an interior corner of this tract;

THENCE S. 07° 48' 16" E., 907.55 feet, with a east line of said 641 acre tract and the west line of said 19.674 acre tract, to a fence corner post at an angle corner of said 641 acre tract and an angle corner of said 19.674, for an angle corner of this tract;

THENCE S. 09° 20' 42" W., 39.12 feet, with a east line of said 641 acre tract and the west line of said 19.674 acre tract, to a 3/4" iron pipe at an angle corner of said 641 acre tract and an angle corner of said 19.674, for an angle corner of this tract;

THENCE S. 12° 47' 58" E., 315.66 feet, with a east line of said 641 acre tract and the west line of said 19.674 acre tract, to a 3/4" iron pipe at the southerly southeast corner of said 641 acre tract and an interior corner of said 19.674 acre tract, for a southeast corner of this tract;

THENCE S. 57° 19' 53" W., 454.18 feet, with a south line of said 641 acre tract and a north line of said 19.674 acre tract, to a 3/4" iron pipe at an angle corner of said 641 acre tract and the southerly northwest corner of said 19.674 acre tract, being the northeast corner of a called 60.5 acre tract designated Second Tract and the east corner of a called 6.3 acre tract designated Third Tract, conveyed to Hulona Ruth Millsaps, of record in Volume 2935, Page 365, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

THENCE S. 88° 16' 26" W., 1884.75 feet, with a south line of said 641 acre tract and the north line of said 6.3 acre tract, to a 1/2" iron rod at the southwest corner of said 641 acre tract and the northwest corner of said 6.3 acre tract, being on the east line of a called 296.02 acre tract designated First Tract, conveyed to Hulona Ruth Millsaps, of record in Volume 2935, Page 365, Official Public Records of Real Property, Bell County, Texas, for an angle corner of this tract;

THENCE N. 20° 41' 14" W., 4066.10 feet, with the west line of said 641 acre tract and the westerly east line of said 296.02 acre tract, to a 1/2" iron rod at the southerly northwest corner of said 641 acre tract and an interior corner of said 296.02, for a northwest corner of this tract;

THENCE N. 80° 43' 06" E., 581.76 feet, with a north line of said 641 acre tract and a south line of said 296.02 acre tract, to a 1/2" iron rod with cap stamped "M&ASSOC KILLEEN" at an interior corner of said 641 acre tract and the northerly southeast corner of said 296.02 acre tract, for an interior corner of this tract;

THENCE N. 21° 24' 51" W., 1231.85 feet, with the west line of said 641 acre tract and the easterly east line of said 296.02 acre tract, to a 3/4" iron pipe at an "L" corner of said 641 acre tract and the northeast corner of said 296.02, for an "L" corner of this tract;

CLOSURE REPORT

Wed Feb 21 2013

LINE	Bearing	Distance
BEGINNING		
LINE 1	N 89°45'50" E	1067.17
LINE 2	S 20°35'36" E	3966.79
LINE 3	N 66°22'40" E	125.67
LINE 4	S 20°45'59" E	6232.82
LINE 5	S 21°20'54" W	49.09
LINE 6	S 75°41'20" E	170.97
LINE 7	S 65°26'04" E	101.17
LINE 8	S 60°53'03" E	255.46
LINE 9	S 73°39'37" E	258.24
LINE 10	S 23°26'01" E	1662.98
LINE 11	N 69°20'36" E	1750.30
LINE 12	N 20°30'33" W	294.41
LINE 13	N 69°36'14" E	867.04
LINE 14	S 21°28'22" E	368.88
LINE 15	N 63°23'10" E	2136.06
LINE 16	S 20°03'46" E	1348.93
LINE 17	S 62°41'54" W	1061.06
LINE 18	S 20°23'00" E	2702.19
LINE 19	N 68°28'19" E	454.34
LINE 20	S 08°40'04" W	406.56
LINE 21	S 08°51'47" W	329.27
LINE 22	N 57°21'58" E	691.51
LINE 23	S 32°28'49" E	398.37
LINE 24	S 88°22'36" E	756.26
LINE 25	S 12°07'03" W	899.64
LINE 26	S 77°39'40" W	2543.47
LINE 27	N 65°05'28" W	331.63
LINE 28	N 64°23'53" W	455.72
LINE 29	N 43°33'18" W	176.34
LINE 30	N 43°06'22" E	433.20
LINE 31	N 18°57'16" W	1251.08
LINE 32	S 70°03'32" W	740.12
LINE 33	N 19°57'13" W	44.24
LINE 34	S 69°30'06" W	302.43
LINE 35	S 69°52'53" W	913.74
LINE 36	N 20°33'43" W	1692.15
LINE 37	N 41°22'49" W	363.35
LINE 38	S 65°49'25" W	754.77
LINE 39	S 68°36'30" W	152.96
LINE 40	S 07°49'16" E	907.55
LINE 41	S 00°20'42" W	39.12
LINE 42	S 12°47'58" E	315.66
LINE 43	S 57°19'13" W	454.18
LINE 44	S 86°18'26" W	1884.75
LINE 45	N 20°41'14" W	4066.70
LINE 46	N 82°43'06" E	581.76
LINE 47	N 21°24'51" W	1231.25
LINE 48	S 69°06'01" W	12.65
LINE 49	N 21°16'52" W	2649.55
LINE 50	N 21°06'13" W	137.66
LINE 51	N 20°30'18" W	143.82
LINE 52	N 20°55'42" W	933.30
LINE 53	N 26°51'59" W	13.51
LINE 54	N 39°27'36" W	58.36
LINE 55	N 68°41'40" E	1432.22
LINE 56	N 20°23'55" W	2494.54
LINE 57	N 69°09'30" E	342.07
LINE 58	N 21°09'46" W	497.93
END-BEGINNING		

Closure Error Distance> 6.00000  
 Total Distance> 59690.385  
 Area: 59807805.9 sq Ft, 1373.0 acres



*A. W. Kessler*  
 2-21-13

**EXHIBIT B**  
[Design Standards]

**Exhibit B - Design Standards**  
 Bell County Municipal Utility District No. 2

**A. TOTAL DEVELOPMENT INTENSITY**

The Project shall be limited to a maximum overall gross density of 2.75 dwelling units to the acre, measured in the aggregate.

**B. SINGLE FAMILY RESIDENTIAL USE  
 (DETACHED AND DUPLEX UNITS)**

Development standards:

	Single Family Residential
Front yard (min)	20 ft.
Lot width (min)	45 ft.
Lot depth (min)	100 ft.
Lot size (min)	5,000 sq. ft.
Front yard: garage door (min)	25 ft.
Side yard	5 ft.
Building to building separation on lots 60 ft. and larger	15 ft.
Rear yard (min)	10 ft.
Side and rear yard for accessory building (min)	5 ft. ; 0 ft. for common walls
Building height (max)	35 ht./3 stories

Setback encroachment:

These uses and structures may encroach into a yard or required setbacks as follows.

Type of structure or use	Residential uses
Air conditioning equipment	Any part of the side and rear yard
Arbors and trellises	Any yard, at least 5 ft. from neighbor's Property Line
Awnings	No more than 3 ft. into front, side or rear yard; may hang over easements at no less than 7 ft. in height from grade

Residential lot limitations	Cumulative percentage of permitted dwelling units
No more than 675 lots may be less than 50 feet in width	(18% of 3,750)
No more than 2,250 lots may be less than 60 feet in width	(60% of 3,750)
No more than 3,375 lots may be less than 70 feet in width	(90% of 3,750)
No more than 3,750 lots total	

Maximum Duplex Intensity – No more than 200 duplexes are permitted in the project.

Mandatory Homeowner Association - A mandatory homeowner association shall be created and maintained for all single household and two household residential development.

Building Orientation - Household dwellings must be oriented where the front façade is generally parallel to and facing the street as much as possible, and not another dwelling on an adjacent lot. On corner lots, houses may face the corner of either fronting street.

Exterior Wall Standards - Exterior surface area (all stories) of primary buildings shall consist of clay brick, ledge stone, fieldstone, cast stone, granite, tile, painted or tinted stucco, and factory tinted (not painted) split faced concrete masonry unit, cementitious-fiber planking (not panels) or similar material.

Solid wood planking, decorative cementitious-fiber panels and similar materials may be used for accent features.

Architectural Design - All building fronts shall have at least four different design features to break the wall plan. The following are examples of the types of design features that shall be utilized: horizontal off-sets, recesses or projections, porches, breezeways, porte-cocheres, courtyards, awnings, canopies, alcoves, recessed entries, ornamental cornices, display or other ornamental windows, vertical "elevation" off-sets, peaked roof forms, arches, outdoor patios, architectural details such as tile work or moldings integrated into the façade, integrated planters or wing walls, accent materials, varied roof heights, premium roofing materials such as tile or standing seam metal, or similar design features.

Garages - Garage door articulation shall include detailing and/or relief on the door surface using wood or wood-like finished materials.

Garage doors are limited to 2-car garage size.

Garage – flush with façade - Garage doors flush with the street facing façade require detailing on the façade to de-emphasize the visual impact of the garage, including trim or banding around the garage door.

Garage – side-loaded - Garages that are side-loaded (in relation to the street) are a preferred garage type provided that driveway pavement is generally limited to the minimum necessary for safe vehicular movement.

Corner lot garage placement - Minimize the visual prominence of garage and driveway placement on corner lots by incorporating the following:

Avoid garage placement/driveway access from a side street that is centered on an approaching street.

House plan and façade repetition - Same floor plan, different elevation, same side of the street. When building different elevations of the same plan on the same side of the street, two lots must be skipped before repeating the same elevation.

House plan and façade repetition - Same floor plan, different elevation, opposite side of the street. When building different elevations of the same plan on the opposite side of the street, one and a half lots must be skipped before repeating the same elevation.

House plan and façade repetition - Same floor plan, same elevation, same or opposite side of the street. When building same or similar elevations of the same floor plan on the same or opposite side of the street,

four lots must be skipped before repeating the same elevation. Same elevations may not be facing opposite one another.

Roofs - On the buildings with pitched roofs, the minimum roof pitch is 4:12. Pitched roofs shall be clad in 25-year minimum composition shingles or low reflectivity galvanized metal roofing materials.

Required landscaping:

Front yard of lot – One native tall tree or two native short trees.

Existing native tall and short trees may be used to meet minimum tree planting requirements.

Tree Size - Native tall trees must have a trunk of at least 1.5 in. caliper and 10-12 ft. ht. Native short trees must have a caliper of at least 1.5 in. (combined total inches if multi-trunk) and 8-10' height.

Trees Placement - Trees may be clustered in groups, to present a natural environment and ease maintenance. All trees must be placed on the lot being developed, unless otherwise permitted.

Landscape Maintenance - Trees and vegetation, irrigation systems, fences, walls and other landscape elements are considered elements of the project in the same way as parking, building materials and other site details. The applicant, landowner or successors must be jointly and severally responsible for regular maintenance of all landscaping elements in good condition.

Replacement - Landscape elements that are removed or dead must be promptly replaced.

**C. MULTI-FAMILY RESIDENTIAL USE**

Development standards:

	Minimum
Front yard (min)	15 ft.
Front yard: garage door (min)	25 ft.
Side yard (min)	15 ft.
Rear yard (min)	25 ft.
Side and rear yard for accessory building (min)	15 ft.
Spacing between buildings (min)	20 ft.
Building height (max)	3 stories

Setback encroachment:

These uses and structures may encroach into a yard or required setbacks as follows.

Type of structure or use	Residential uses
Air conditioning equipment	Any part of the side and rear yard
Arbors and trellises	Any yard, at least 5 ft. from neighbors Property Line
Awnings	No more than 3 ft. into front, side or rear yard; may hang over easements at no less than 7 ft. in height from grade
Bay windows, chimneys, overhanging eaves	No more than 3 ft. into any yard
Retaining walls	Any yard on the site
Satellite dishes at least 1 m in	Side and rear yard, at least 10 ft. from Property Line

diameter	
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Maximum Development Intensity – No more than 300 multi-family dwelling units are permitted in the project.

Four-Plex Residential Buildings – Four-plex Residential Buildings are not a permitted use.

Pedestrian connectivity - Connecting walkways, at least 5 feet in width, must link perimeter public sidewalks with building entries.

Dumpster Enclosures - Dumpster enclosures must be located at least 25 feet from a residential use.

Multiple Household Structure Orientation - Buildings must be oriented towards the perimeter streets, or an internal drive, rather than orientation only to internal parking lots.

Service Area Screening - Loading docks, waste disposal areas and similar uses must be screened from public streets, and primary entrances with fencing, walls and/or landscaping.

Connectivity for multi-family residential development - Multi-family development must have pedestrian and vehicular connections to adjacent residential and commercial development.

Circulation - To the maximum extent practicable, pedestrians and vehicles must be separated through walkways or sidewalks.

Exterior Wall Pattern – Street facing facades must be articulated with bays, insets, balconies, porches, or stoops related to entrances and windows.

Four-sided Design - All walls viewed from a public street must include materials and design characteristics consistent with those on the front.

Building Entries - Building entries next to a public street, private drive or parking area must be articulated to providing an expression of human activity or use in relation to building size. Doors, windows, entranceways, and other features such as corners, setbacks, and offsets can be used to create articulation.

Garage Doors - Front loading garage doors on multi-family residential buildings must include the following; every two single-bay garage doors or every double garage door must be offset by at least 4 ft. from an adjacent garage door. Garage doors must integrate into the overall design of the site with color and texture.

Windows and Transparency - All walls and elevations on all floors of multiple household buildings must have windows, except where necessary to assure privacy for adjacent property owners.

Building Roofs - On buildings with pitched roofs, the minimum roof pitch is 4:12. On buildings where flat roofs are the predominant roof type, parapet walls must vary in height and/or shape at least once every no more than 50 ft. along a wall.

Building material - Masonry, stone and/or brick must be used as exterior materials on at least 40% of exterior surface area. Wood, fiber-cement siding, corrugated metal, and stucco are examples of appropriate secondary exterior materials. T-1-11 and other plywood-based siding materials are prohibited.

**Mechanical Equipment Screening** - Rooftop mechanical equipment must be hidden or screened with architecturally integral elements at least as high as the equipment to be screened. Makeshift equipment screens, such as wooden or plastic fences, are prohibited.

**D. COMMERCIAL USE**

Development standards:

Commercial	
Front yard (min)	25 ft.
Side yard (min)	15 ft. when adjoining side street; 10 when adjoining residential lots; 0 ft. for all other instances
Rear yard (min)	0 ft. except that a rear yard of not less than 10 ft. when abutting residential lots
Side and rear yard for accessory building (min)	Same as main building
Spacing between buildings (min)	0 ft. for common walls or 20 ft.
Building height (max)	2 stories

Setback encroachment:

These uses and structures may encroach into a yard or required setbacks as follows.

Type of structure or use	Residential uses
Air conditioning equipment	Any part of the side and rear yard
Arbors and trellises	Any yard, at least 5 ft. from neighbor's Property Line
Awnings	No more than 3 ft. into front, side or rear yard; may hang over easements at no less than 7 ft. in height from grade
Bay windows, chimneys, overhanging eaves	No more than 3 ft. into any yard
Satellite dishes at least 1 m in diameter	Side and rear yard, at least 10 ft. from Property Line

**Connecting walks** - Required sidewalks serving non-residential lots must connect to primary building entrances and parking in the lot.

**Dumpster Enclosures** - Dumpster enclosures must be located at least 25 feet from a residential use.

**Service Area Screening** - Loading docks, waste disposal areas and similar uses must be screened from public streets, and primary entrances with fencing, walls and/or landscaping.

**Lighting** - Light standards shall not exceed sixteen (16') feet in height, and shall be fully shielded to shine solely upon the commercial tract. Light shall not shine on any abutting property or public right-of-way. Wall mounted exterior lighting shall not shine on any abutting property or public right-of-way. Canopy or awning lighting shall be fully shielded or recessed so that the lenses of the lights are, at a minimum, flush with the bottom surface of the canopy or awning.



## **E. STREETS**

Utility Equipment - Electrical meters, switch boxes, panels, conduit, and related utility equipment must be placed in the most inconspicuous location possible.

Landscaping - Trees must be placed at least 10ft. from streetlights and 3 ft. from wet utilities.

Clear zone at intersections - Trees in planter strips must be at least 10 ft. from the curb return corner at street intersections.

Sidewalks - Sidewalks may meander to avoid trees, utility poles and boxes, and other obstacles; and for aesthetics. Sidewalks must connect to existing adjacent sidewalks, or be designed and placed to allow connection to future adjacent sidewalks. Sidewalks must be installed to provide all residential areas with direct access to all neighborhood facilities, including schools, parks and playgrounds, wherever possible.

Shared-Use Paths - Shared-use paths may be used to enhance pedestrian travel where the existing circulation system does not serve these patrons well or provide corridors free of obstacles. Paths must connect to the street and sidewalk system safely and conveniently.

### Traffic Calming:

Horizontal deflection improvements - Traffic calming improvements that use horizontal deflections, including traffic circles, corner neckdowns, chicanes, tapers, landscape medians, are permitted. Horizontal deflection improvements may encroach into the required paved area for a street type, if reasonable access is not obstructed.

## **F. PARKLAND AND OPEN SPACE**

Access - Parkland and common Open Space, as defined in Section 4.02(b) of this Agreement, must be reasonably accessible to all residents of the project. Green links and trails must be provided to common Parkland and Open Space not readily accessible to a public street.

Parkland and Open Space Design - Designated common Open Space may be in a natural, undisturbed state or contain usable open space, including Parkland landscaped for informal, open play areas, or developed for active and/or passive recreational uses. Open Space and Parkland may be located in the 100-year floodplain. A minimum of 5 parks containing usable open space shall be distributed equally within the property for convenient access by residents; the minimum size of said parks shall be two acres and the total aggregate of usable Parkland shall be a minimum of 100 acres.

Property Owner's Association - All private Open Space, Parkland and structures thereon, if any, shall be conveyed to and permanently owned and maintained by a Home Owner's Association (HOA) or other responsible entity. The HOA may adopt rules and regulations regarding access, permitted uses, security (policing) and maintenance responsibilities for the Open Space and Parkland areas.

**EXHIBIT C**  
**[Drainage Standards]**

## Exhibit C - Design Standards

### Bell County Municipal Utility District No. 2

#### 1. DRAINAGE POLICY

- 1.1. The Design Engineer shall study downstream tributaries to demonstrate post-developed 100-yr runoff does not inundate structures (not previously subject to 100-yr storm event inundation) or cause water velocities to become more erosive ("Adverse Impact"). The Design Engineer may utilize and/or require detention facilities to remediate an Adverse Impact. Furthermore, and as a part of each Final Plat, the Design Engineer shall review (in Zone AE) or establish (in Zone A) Base Flood Elevations and minimum Finish Floor Elevations (FFE) for each lot adjacent to Special Flood Hazard Areas (SFHA). Neither a LOMR nor a CLOMR application will be prepared or submitted to FEMA for this Development.
- 1.2. Drainage infrastructure located within Publically dedicated rights of ways shall be accepted for ownership and maintenance upon annexation of District.
- 1.3. The Design Engineer shall provide City with HEC RAS models for the affected watersheds.
- 1.4. Drainage easements for storm drains shall be a minimum of 15 feet in width or 1.5 times the depth of the storm drain, whichever is greater. The drainage easement for a flume shall be equal to 10 feet or the width of the flume, whichever is greater. Fences shall not cross or be constructed within drainage easements. Fences may cross easements with underground facilities provided the design engineer can illustrate how conveyance for the 100-year storm event is unobstructed.
- 1.5. Drainage channels and detention shall be contained within drainage easements. A minimum 10-foot wide drainage easement for access shall be provided for drainage channels and detention ponds. Ramps no steeper than 5 feet horizontal to 1 foot vertical shall be provided to allow access to drainage channels and detention ponds. The minimum bottom width for a trapezoidal channel with vegetative side slopes shall be 4 feet. V-ditches are only allowed with side slopes no steeper than 4 feet horizontal to 1 foot vertical.
- 1.6. Development shall be subject to City of Killeen's adopted Drainage Design Manual (DDM) section 1.2.6.D.5 dated 11/8/2011, however, roof overhangs shall be allowed within easements.
- 1.7. Development shall be subject to City of Killeen's adopted Drainage Design Manual (DDM) section 1.2.10.B through 1.2.10.D dated 11/8/2011.
- 1.8. Final Plat applications must include a site grading and drainage plan that includes drainage computations and a detailed site grading plan. The site grading plan shall include arrows indicating direction of runoff for each lot. All lots must have positive drainage away from structures.

#### 2. DETERMINATION OF STORM RUNOFF

- 2.1. When analyzing drainage infrastructure for this development the design engineer shall assume this development to be fully developed.
- 2.2. Rational Method shall be used for drainage areas less than 200 acres. Runoff coefficients (C Factors) shall be consistent with DDM tables 2-2 and 2-3.
- 2.3. SCS Method shall be used for drainage areas greater than 200 acres. Curve Numbers (CN) shall be consistent with TR-55.
- 2.4. Times of Concentration (TC) shall be calculated using Kerby, TR-55, or other generally accepted industry standard methods. TC calculations shall not allow for sheet flow to exceed 100 feet in length.
- 2.5. HEC-HMS shall be used to determine channel flows if hydrograph routing is determined necessary by Design Engineer.
- 2.6. HEC-RAS shall be used to determine Base Flood Elevations (BFE).
- 2.7. Sheet flow may not be assumed when flow length exceeds 100 ft.

#### 3. STREET FLOW

##### 3.1. General

- 3.1.1. Concentrated discharge into roadways is only allowed with Director of Public Works, or their appointee, approval.
- 3.1.2. Capacity shall be determined using Manning, Modified Manning, or other generally accepted engineering methods.
- 3.1.3. 100-yr storm event shall be contained within the Right of Way (ROW) or Drainage Easements (DE).

##### 3.2. Parkway

- 3.2.1. Streets shall have a ¼" per foot crown slope (2.08%) except within super elevations
- 3.2.2. Shall have one open lane, ten feet wide, in each direction during 25-yr storm event.
- 3.2.3. Depth, within the ten foot lane, shall not exceed three inches during the 100-yr storm

##### 3.3. Boulevard

- 3.3.1. Streets shall have a ¼" per foot crown slope (2.08%) except within super elevations and where the street is designed to convey storm water runoff across the street.
- 3.3.2. Valley gutters shall be used where storm water is conveyed across roadway. Maximum depth at the valley gutter shall not exceed maximum allowable street depth.
- 3.3.3. Shall have one open lane, eight feet wide, in each direction during 25-yr storm event.
- 3.3.4. Depth, within the eight foot lane, shall not exceed six inches during the 100-yr storm event .

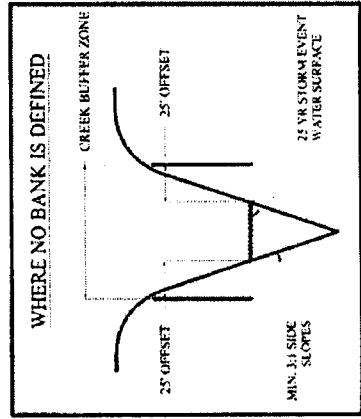
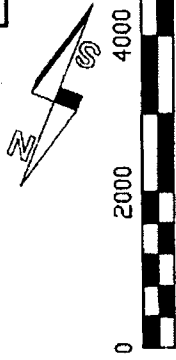
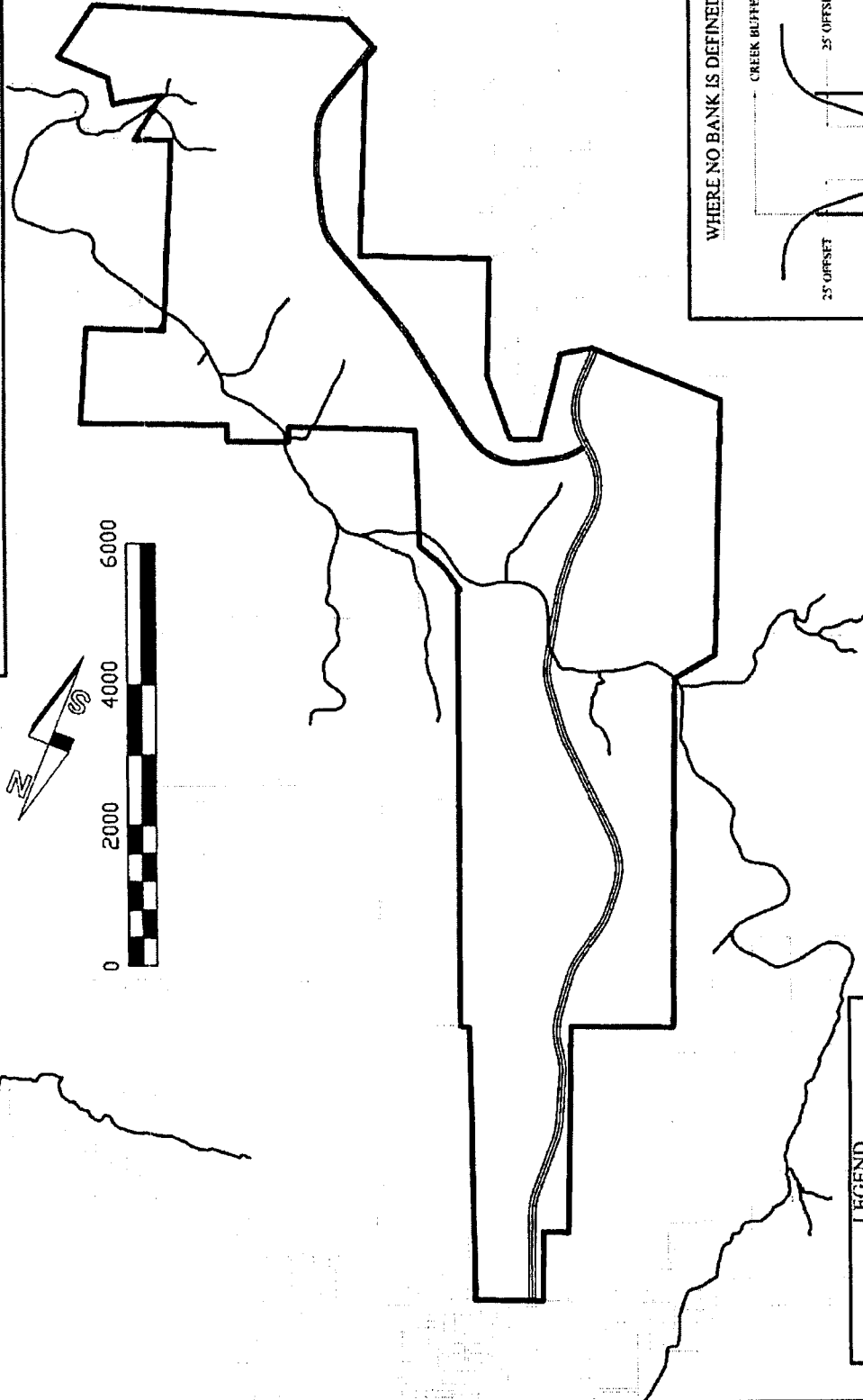
##### 3.4. Residential Streets

- 3.4.1. Streets shall have a ¼" per foot crown slope (2.08%) except within super elevations and where the street is designed to convey storm water runoff across the street.
- 3.4.2. Valley gutters shall be used where storm water is conveyed across roadway. Maximum depth at the valley gutter shall not exceed maximum allowable street flow depth.
- 3.4.3. Shall not exceed three inches over top of curb (TOC) during 25-yr storm event.
- 3.4.4. 100-yr storm event shall be contained within the Right of Way (ROW) or Drainage Easements (DE).

#### 4. INLETS

- 4.1. Inlets on streets of less than 0.60% grade shall be considered sag-condition inlets.
- 4.2. Inlets shall be designed using Winstorm or other generally accepted engineering methods.
- 4.3. The hydraulic grade line elevation shall not exceed the water surface elevation at inlets or other points of relief.
- 4.4. Grate Inlets shall be designed using a 50% clogging factor.
5. STORM DRAINS
  - 5.1. HDPE may be used except under roadways so long as the HDPE pipe is installed and backfilled according to manufacturer specifications. RCP, or other City accepted material, shall be used under roadways. RCP shall be Class III with minimum 2' of cover in all cases (paved and unpaved) without an engineering analysis. If minimum cover cannot be attained, Design Engineer shall use higher strength (Class IV or V) pipe sufficient to support the expected load.
  - 5.2. Storm drain pipes shall be designed using Winstorm or other generally accepted engineering methods.
  - 5.3. Junction boxes must be used for horizontal alignment breaks exceeding forty-five degrees. Pre-fabricated fittings may be used for alignment breaks when such break is within fifteen feet of an inlet, junction box, or other access point or when the horizontal alignment break is less than or equal to forty-five degrees.
  - 5.4. Velocities within storm drains, during the design storm, shall not be less than 2.5 fps.
  - 5.5. Energy dissipation shall be used at outfalls where maximum outfall velocities exceed fifteen feet per second unless the earthen conditions in the immediate area are determined to be erosion resistant for these velocities.
  - 5.6. Pipe diameter shall not be less than eighteen inches (inside diameter).
  - 5.7. Storm drain access shall be provided a minimum of every 500 feet.
  - 5.8. Storm sewer bedding shall be to 6 inches above the top of pipe or to Applicable Rules (whichever is greater).
6. OPEN CHANNELS
  - 6.1. Earthen Channels
    - 6.1.1. Channels shall be designed so that velocities during the 100-yr storm event do not exceed six feet per second (velocities may exceed six feet per second if the side slopes are stabilized or the Design Engineer determines the channel slopes are not subject to erosion).
    - 6.1.2. Channels less than or equal to four feet deep shall be designed with a 3:1 (H:V) side slope. Channels greater than four feet deep shall be designed with a 4:1, or flatter, side slope. The Design Engineer may determine steeper side slopes are permissible if the slopes are stabilized or the design engineer determines the channel slopes are not subject to erosion.
    - 6.1.3. Channels freeboard shall be equivalent to the 100-yr storm event velocity head.
    - 6.1.4. Channels, not adjacent to roadways, shall have a fifteen foot maintenance bench. The maintenance bench shall not be inundated during the 5-yr storm event. The maintenance bench may have ten percent cross slope.
    - 6.1.5. Channels steeper than 6:1 must be designed and constructed so that top-of-bank is not within two feet of property line or respective drainage easement.
    - 6.1.6. Constructed channels shall be seeded or stabilized using other erosion control methods.
  - 6.2. Concrete channels shall be designed according to City of Killeen's adopted Drainage Design Manual (DDM) dated 11/8/2011.
  - 6.3. Drop structures and energy dissipators shall be designed according to Sections 6.5-6.7 City of Killeen's adopted Drainage Design Manual (DDM) dated 11/8/2011. Drop structure or energy dissipater may be designed using HEC-11 (Design of Riprap Retement), HEC-14 (Hydraulic Design of Energy Dissipators for Culverts and Channels), or other generally accepted engineering methods.
7. CULVERTS/BRIDGES
  - 7.1. Culverts and bridges shall be designed using HY-8, HEC RAS, or other generally accepted engineering methods.
  - 7.2. Water surface elevation for the 100-yr storm event may not be more than 6" over residential TOC and 3" over parkway/boulevard/collector TOC. Culverts shall be design to convey the 25-yr storm event without roadway over-topping.
  - 7.3. Outfall improvements shall be designed using HEC 11, HEC 14 or other generally accepted engineering methods.
8. EROSION AND SEDIMENT CONTROL
  - 8.1. Development shall be designed to State of Texas and Bell County Erosion Control Standards.
  - 8.2. Developer shall provide the City of Killeen with a copy of the Storm Water Pollution Prevention Plan.
9. POST CONSTRUCTION ORDINANCE
  - 9.1. Development shall be subject to City of Killeen's adopted Drainage Design Manual Section 9 dated 11/8/2011 so long as property located in Killeen's ETJ is subject to the Post Construction Ordinance at the time this agreement is executed.
  - 9.2. Creek Buffer Zones shall be the area within a 25 ft offset from the top of bank on each side of the Creek Buffer Zone Center Lines (see below illustration). If top-of-bank locations are indeterminate, the illustration inset shall be used to determine Creek Buffer Zone boundaries.

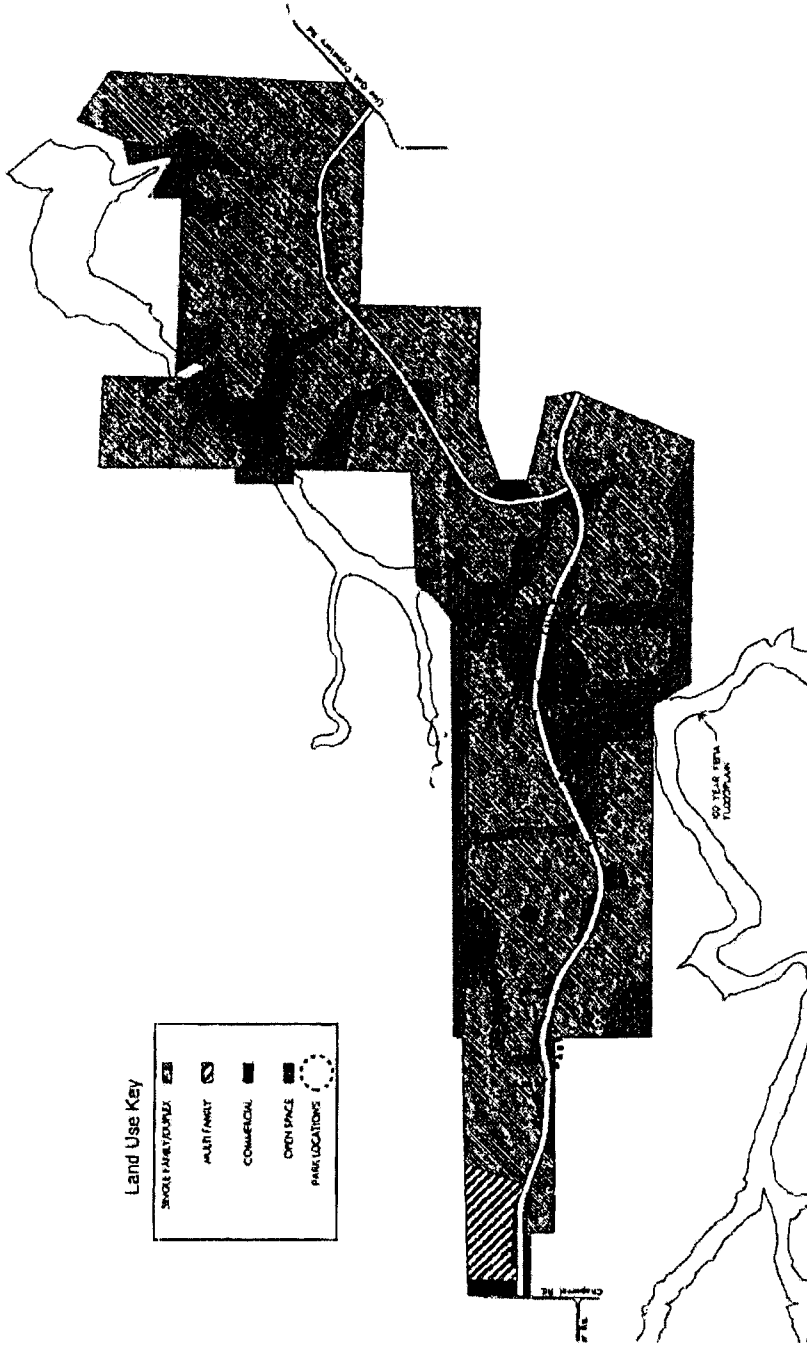
# CREEK BUFFER ZONE MAP



**LEGEND**

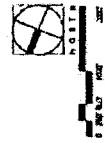
PROPERTY BOUNDARY	—
CREEK BUFFER ZONE	—
CENTER LINES	—
ROADWAYS	—

**EXHIBIT D**  
[Land Plan]



Land Use Key

SINGLE FAMILY/DOUBLE	[diagonal hatching]
MULTI FAMILY	[cross-hatching]
COMMERCIAL	[solid black]
OPEN SPACE	[stippled]
PARK LOCATIONS	[dashed circle]

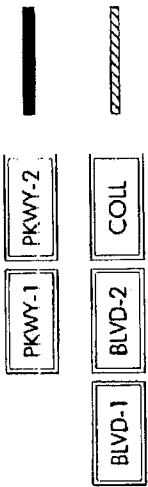


Bell County Municipal Utility District No. 2  
 Exhibit D Land Plan  
 Feb 8, 2013

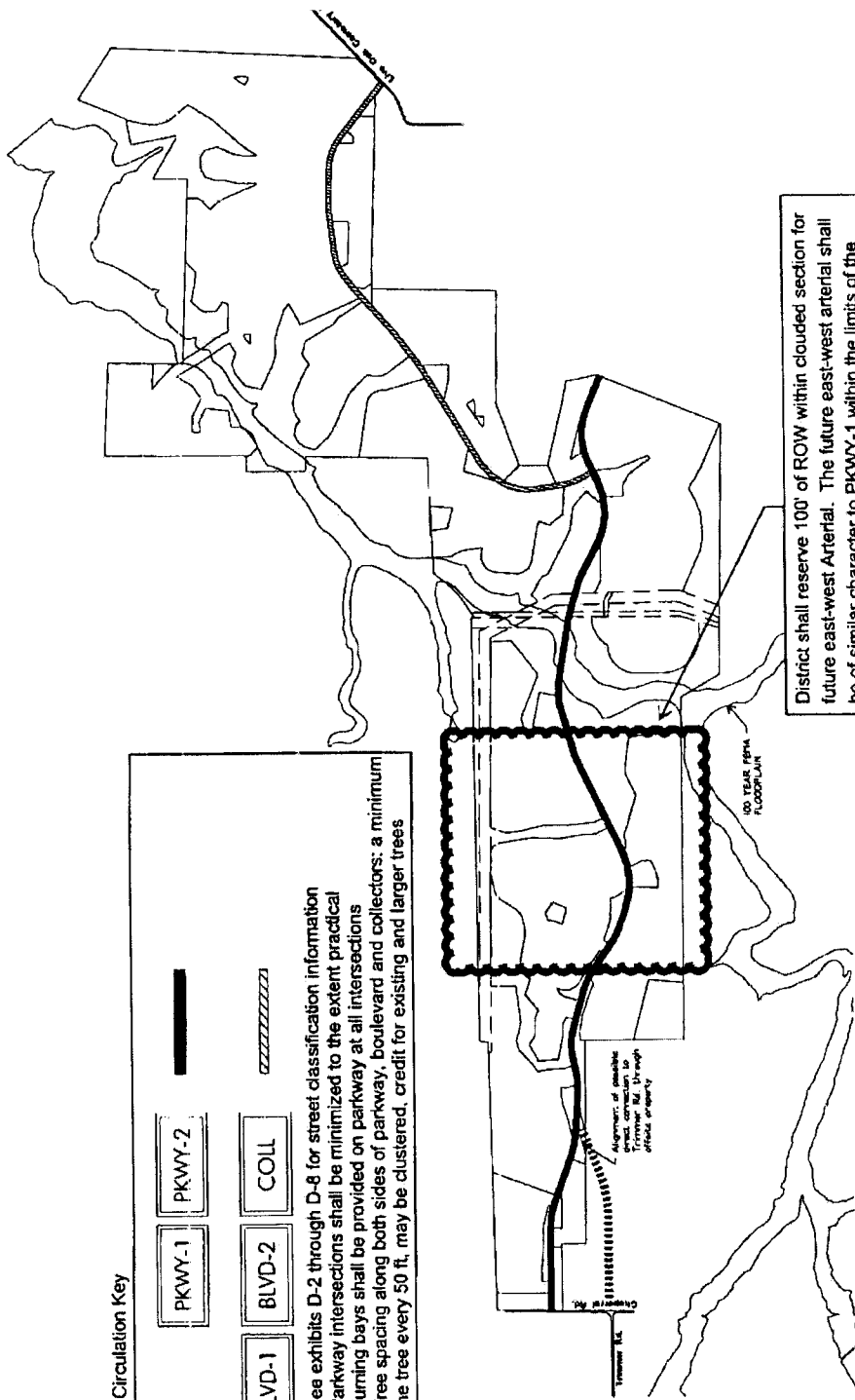
**EXHIBIT E**  
[Roadway Plan]



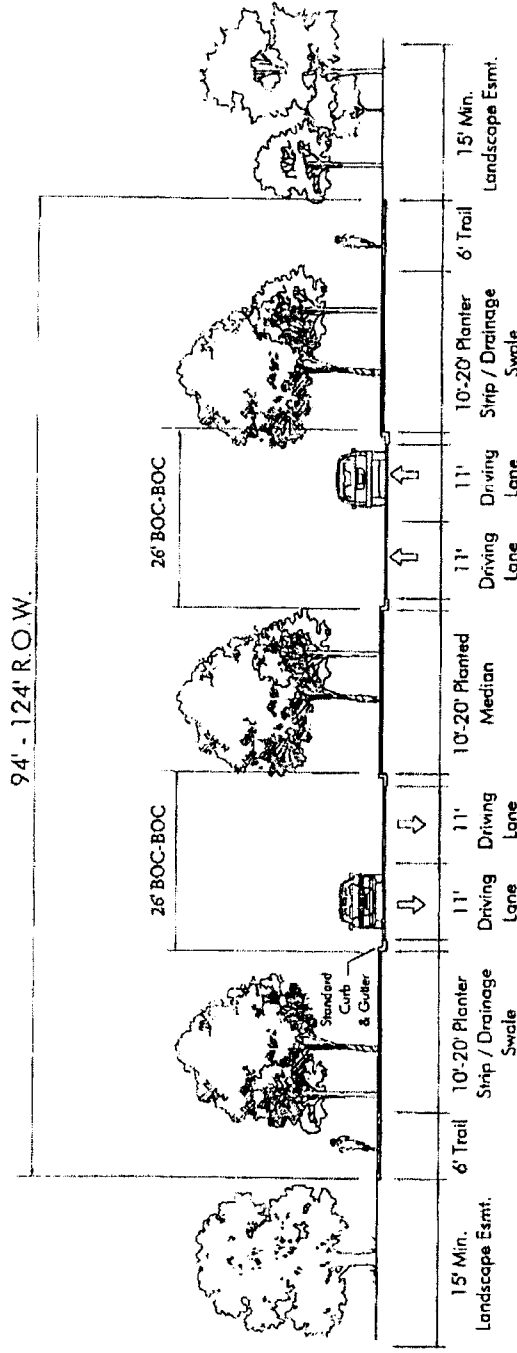
Street Circulation Key



1. See exhibits D-2 through D-8 for street classification information
2. Parkway intersections shall be minimized to the extent practical
3. Turning bays shall be provided on parkway at all intersections
4. Tree spacing along both sides of parkway, boulevard and collectors: a minimum of one tree every 50 ft. may be clustered, credit for existing and larger trees



District shall reserve 100' of ROW within clouded section for future east-west Arterial. The future east-west arterial shall be of similar character to PKWY-1 within the limits of the subject District and shall be constructed by others.



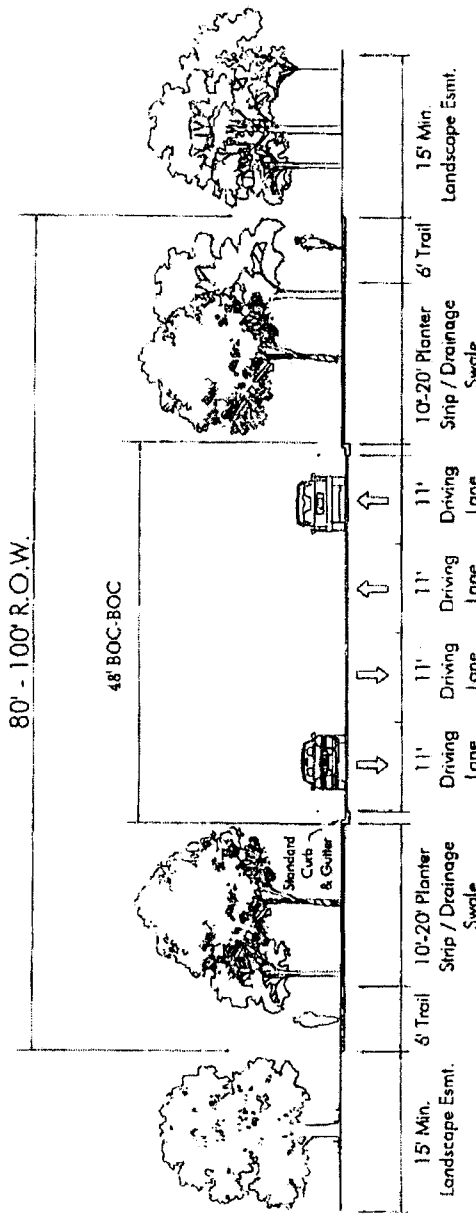
Street Features

- \* Travel Lanes 11'
  - \* Median Width 10' - 20'
  - \* Design Speed 40 mph
  - \* Multi-use Trails 6'
  - \* Planting Strips / Drainage Swales - 10' - 20'
  - \* Median Can Have a Swale for Natural Drainage
  - \* Streets can consist of parabolic crown, straight crown or 2% straight grade or cross slope
  - \* 6' Curb and gutter or mountable curb
- \* No Single-Family/Residential Buildings Fronting
  - \* Trails May be on Either or Both Sides

**Bell County Municipal Utility District No. 2**  
**Exhibit E-2 Parkway (Arterial) Street & Pedestrian Circulation Street Sections**



February 8, 2013



Street Features

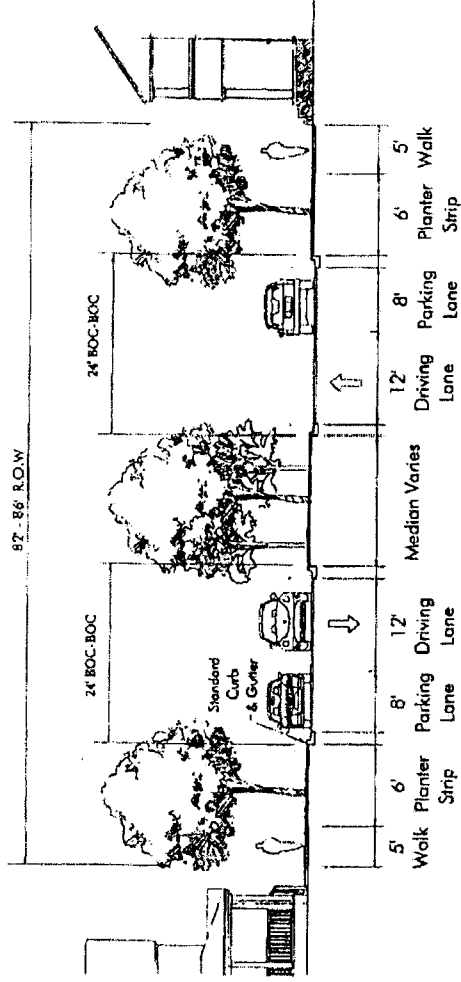
- \* Travel Lanes 11'
- \* Design Speed 40 mph
- \* Multi-use Trails 6'
- \* Planting Strips / Drainage Swales - 10' - 20'
- \* Streets can consist of parabolic crown, straight crown or 2% straight grade or cross slope
- \* 6" Curb and gutter or mountable curb

- \* No Single-Family/Residential Buildings Fronting
- \* Trails May be on Either or Both Sides

**Bell County Municipal Utility District No. 2**  
**Exhibit E-3 Parkway without Median (Arterial) Street & Pedestrian Circulation Street Sections**



February 8, 2013



Street Features

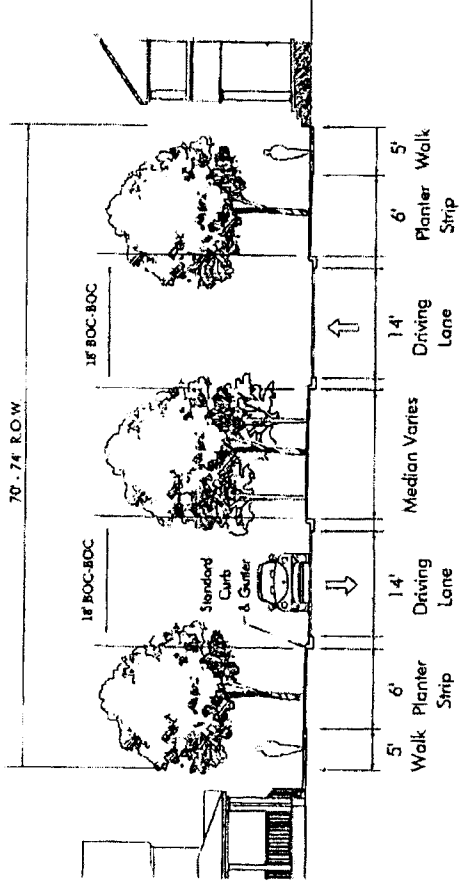
- \* Median Width dimensions vary
- \* 2(12') Travel Lanes and 2(8') Parking Lanes
- \* On-street parking allowed on outside of each travel lane.
- \* 6' Planting Strips
- \* Design Speed 25 MPH
- \* Median May Have Swale for Surface Drainage
- \* 6" Curb and gutter or mountable curb

## Bell County Municipal Utility District No. 2

Exhibit E-4 Boulevard (Collector) Street & Pedestrian Circulation Street Sections



February 8, 2013



Street Features

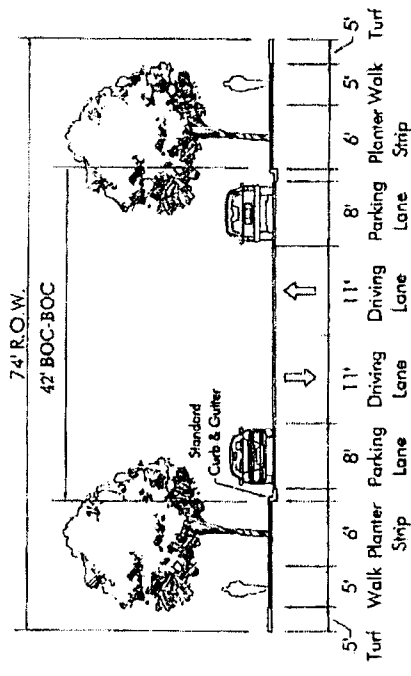
- \* Median Width dimensions vary
- \* 2(14') Travel Lanes
- \* 6' Planting Strips
- \* Design Speed 25 MPH
- \* Median May Have Swale for Surface Drainage
- \* 6" Curb and gutter or mountable curb

**Bell County Municipal Utility District No. 2**

Exhibit E-5 Boulevard 2 (Collector) Street & Pedestrian Circulation Street Sections

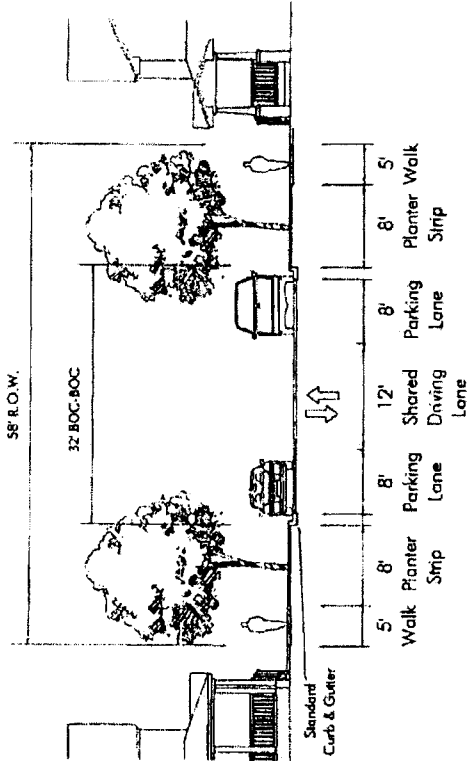


February 8, 2013



Street Features

- \* (11') Travel Lanes and (8') Parking Lanes on both sides
- \* Sidewalks 5' on both sides
- \* Design Speed 25 MPH
- \* 6" Curb and gutter or mountable curb



Providing access to housing and open space.

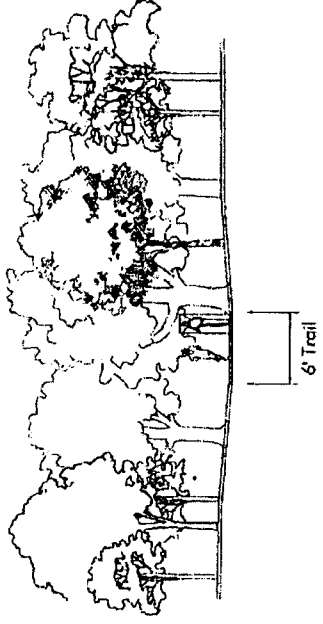
Street Features

- \* 12' Shared Travel Lane With 8' Parking on both sides
- \* 8' Planting Strips / Drainage Swales
- \* Sidewalks 5' on Each Side
- \* Design Speed 25 MPH
- \* 6" Curb and gutter or mountable curb

**Bell County Municipal Utility District No. 2**  
**Exhibit E-7 Residential Street & Pedestrian Circulation Street Sections**



February 8, 2013



Path Features

\* Width 6' Min.

\* Link Between Homes and Parks

## Exhibit E-8 Shared Use Path

Street & Pedestrian Circulation

Street Sections

# Bell County Municipal Utility District No. 2

Exhibit E-8 Trail Street & Pedestrian Circulation Street Sections



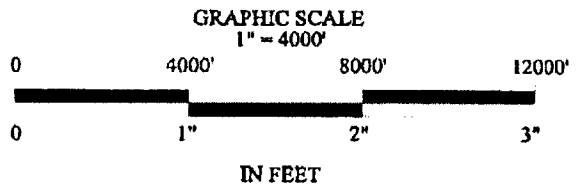
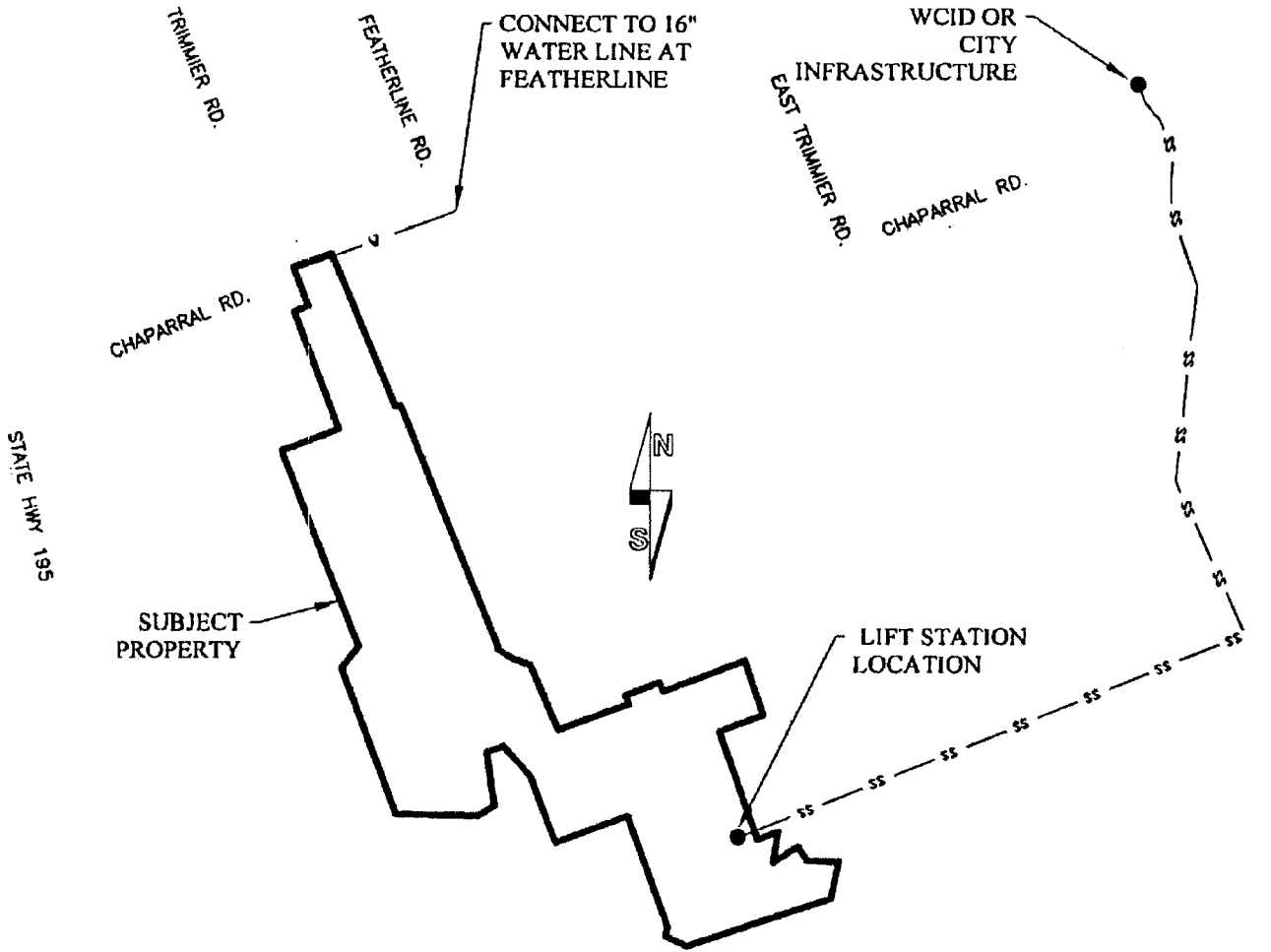
February 8, 2013



**EXHIBIT F**  
**[Utility Plan]**

# EXHIBIT F OFFSITE UTILITY

The intent of this "exhibit" is to pictorially show the approximate location of proposed offsite utilities. It is not intended as an actual survey.



**EXHIBIT G**  
[Chaparral Road Improvements]



**Regular** **07-30-13**  
**Item #** **OR-1**

**CITY COUNCIL MEMORANDUM FOR ORDINANCE**

**AGENDA ITEM**

**Bell County Municipal Utility  
District, No. 2**

**ORIGINATING DEPARTMENT**

**City Attorney**

**BACKGROUND INFORMATION**

On January 7, 2013, the City was presented with a Notice of Intent to Introduce a Bill Relating to the Creation of Bell County Municipal Utility District No. 2 (the "District") by the law firm of Armbrust & Brown, PLLC., on behalf of WBW Land Investments, L.P. ("Whitis"). The purpose of the legislation was to introduce a bill to the Texas Legislature advocating for the passage of a special law that would facilitate the creation of the District. The District was proposed to encompass approximately 1373 acres generally located near Trimmier Road and Chaparral Road, immediately outside the current City limits.

Following City Council consideration, on January 22, 2013 a resolution was passed conditionally consenting to the creation of the District (CCM/R 13-012R), subject to the successful negotiation of a mutually-beneficial consent and development agreement ("Agreement") that would govern the development. City Council discussed the proposed District and associated issues at each of its meetings throughout the remainder of January and February, 2013 and, on March 5, 2013, voted the Agreement down and terminated negotiations with Whitis. Subsequently, Whitis withdrew the Bill from legislative consideration, purchased the subject property, submitted a preliminary plat encompassing the entirety of the property and proceeded with the statutory process to administratively create the District. On May 9, 2013, the City received a petition requesting the City's consent to the creation of a municipal utility district (the "Petition"), which was the first step in this statutory creation process (provided by the Texas Local Government Code, Chapter 42, and the Texas Water Code, Chapter 54).

Following receipt of Petition, numerous discussions were held with City Council in May and June, 2013 to consider the range of options available to the City in response to the Petition. At Council's direction received on July 9, 2013, City staff re-engaged Whitis to further explore the Agreement and seek additional concessions necessary to mitigate the impact of the proposed development. Following this direction, City staff continued negotiations where it had left off with Whitis in March, 2013. As a result of those negotiations and subsequent consideration and modification of the same by City Council on July 16 and 23, 2013, the Agreement is brought forward, as revised, for City Council's final consideration.

## **DISCUSSION/CONCLUSION**

The attached ordinance contemplates the creation of the District and represents the City's consent to its creation, subject to the incorporated Agreement between the City and Whitis. The Agreement addresses numerous issues relating to the development of the proposed District. The District will be located entirely within the City's extraterritorial jurisdiction and, therefore, City Council negotiations have been directed at ensuring that the District's proposed build out of approximately 3,750 residential dwelling units will not adversely affect the City's current citizens. Another focus in negotiations was a desire to ensure that the property, once developed over the course of the next 15 to 20 years, would be developed in accordance with standards generally applicable inside the City. The purposes behind this focus were to encourage quality development that would be annexed at a future date and to ensure that the development's residents would be protected from the potential adverse impacts of a development progressing without minimum standards.

Among the numerous issues reduced to writing, the Agreement addresses the following critical issues:

1. Consent (Section 2.01);
2. District Division (Section 2.02);
3. City Annexation (Section 2.03);
4. Retail Water/Wastewater Service and Facilities (Sections 3.01 - 3.09);
5. Project Development (Section 4.01);
6. Parkland (Section 4.02);
7. Drainage and Stormwater (Section 4.03);
8. Roadway Matters (Chaparral and Trimmier) (Section 4.04);
9. District Financing (Sections 5.01- 5.09);
10. Agreement Term, Termination and Assignment (Sections 6.01-6.03); and
11. Miscellaneous Provisions (Sections 7.01-7.09).

The Agreement also incorporates various exhibits identifying the legal description of the land, the design and drainage standards applicable to the land, a land use, roadway and utility plan, and the depiction of the extent of the proposed Chaparral Road improvements.

The benefits of entering into the Agreement include: 1) the ability of the City to exercise development control and oversight that the City would not otherwise have due to the development's location in the County; 2) the realization of approximately \$5,125,000.00 in reimbursements for the construction of improvements necessary to mitigate the community impact of the development and serve the development and surrounding areas; 3) the reduction of the density of the project from a possible 4,816 residential dwelling units to a maximum of 3,750 residential dwelling units; 4) control relating to the design and construction of water, wastewater and storm water drainage infrastructure to ensure compliance with City standards; 5) generation of additional revenue from the provision of water, wastewater and solid waste services, without the typical offset expense associated with debt issuance necessary to construct master plan projects within the City; 6) a commitment from the developer to preserve 25% of the property as open space, including a commitment to provide a minimum of 100 acres of parkland; 7) control relating to District bond issuance to add a measure of predictability and facilitate the future annexation of the District; and 8) control regarding development setbacks, architectural and building standards and materials, landscaping, lighting, street

standards, and a host of other provisions typically not within the City's jurisdiction or control in the County.

### **FISCAL IMPACT**

There is no immediate fiscal impact associated with this action. However, the long term fiscal impacts associated with this action include numerous factors including: 1) a commitment by Whitis to contribute \$4,100,000 to the construction of improvements to Chaparral Road; 2) a commitment by Whitis to contribute \$1,250,000 towards the construction of an elevated water storage tank; 3) a commitment by the City to provide fire flow volume and capacity to the development, which will necessitate the construction of an elevated storage tank in approximately 6-7 years at an estimated cost of \$2,500,000; 4) the provision of water, wastewater, and garbage collection services to the development leading to additional rate paying customers for the respective City enterprise funds; 5) the collection of various inspection and property development fees associated with the project's development; and 6) a commitment by the City to acquire the associated Certificate of Convenience and Necessity that is necessary to provide water service to the development.

### **RECOMMENDATION**

Recommend that City Council consider the attached ordinance and Agreement for adoption and, if so adopted, authorize the City Manager to enter into and execute the Agreement on behalf of the City.