

DEVELOPMENT AGREEMENT
BETWEEN
THE VILLAGE OF SALADO, TEXAS
AND
KERBY VENTURES, LLC

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DEVELOPMENT AGREEMENT

STATE OF TEXAS §

COUNTY OF BELL §

This Development Agreement (“Agreement”) is between the Village of Salado, Texas, a Texas general law municipality (“Village”) and Kerby Ventures, LLC (“Developer”). In this Agreement, Village and Developer are sometimes individually referred to as a “Party” and collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Developer owns approximately 1,105.60 acres of land (the “Land”) located at 1717 of Mustang Creek Road, in the extraterritorial limits (“ETJ”) of the Village, and more particularly described in **Exhibit A** attached hereto and fully incorporated into this Agreement; and

WHEREAS, the Developer intends to develop the Land for residential and commercial uses to serve the present and future residents and property owners of Village, the Village’s extraterritorial jurisdiction, and Bell County (“County”), as well as tourists and visitors to the area. In this Agreement, the Land, as it will be developed, is sometimes referred to as the “Development”; and

WHEREAS, Village has established a Future Land Use Plan (“Future Plan”) to guide planning for future growth and development. Village has determined that agreements with developers of residential and commercial developments, such as the Development, will benefit Village by annexing and into the Village limits, establishing land use controls, providing for the construction of appropriate and necessary utility and roadway infrastructure, encouraging economic growth, diversifying the tax base, and promoting the welfare of all present and future citizens of the Village; and

WHEREAS, the Developer and Village wish to enter into this Agreement to provide an alternative to the Village’s typical regulatory process for development, encourage innovative and comprehensive master-planning of the Land, provide certainty of regulatory requirements throughout the term of this Agreement, and provide assurances of a high-quality development that will benefit the present and future residents of Village, its extraterritorial jurisdiction, and the County; and

WHEREAS, the Parties desire to establish certain commitments to be imposed and made in connection with the development of the Land; to provide increased certainty concerning development rights, entitlements, arrangements, and commitments, including the obligations and

duties of Developer and Village, for a period of years; and to identify planned land uses and intensity of development of the Land before and after annexation as provided in this Agreement, as allowed by applicable law including, but not limited to Section 212.172 of the Texas Local Government Code; and

WHEREAS, this Agreement runs with the land, and thus shall be notarized and filed in and among the land records of Bell County, and shall be binding upon subsequent purchasers of the Land, or any portions thereof; and

WHEREAS, the Village is statutorily authorized to enter into such agreements with owners of property located in the Village's ETJ pursuant to Texas Local Government Code Section 212.172; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, including the agreements set forth below, Village and Developer agree as follows:

ARTICLE 1 DEFINITIONS

- 1.1 **Agreement:** This development agreement between the Village of Salado and Kerby Ventures, LLC, including all Exhibits, which are incorporated herein for all intents and purposes.
- 1.2 **Applicable Fees:** The fees and charges to be paid by Developer to Village with respect to the development of the land.
- 1.3 **Applicable Rules.** Village rules, regulations, and official policies in effect as of the Vesting Date, which, as modified by the Project Approvals, will be applicable to the development of the Land.
- 1.4 **Board of Aldermen.** The Board of Aldermen of the Village of Salado, Texas.
- 1.5 **Concept Plan.** The conceptual plan of the Project, attached as **Exhibit B**, as it may be amended from time to time in accordance with this Agreement.
- 1.6 **Developer.** Kerby Ventures, LLC, and any successors and assigns; and any subsequent owner(s) not including owners of single-family houses.
- 1.7 **Effective Date.** The date upon which this Agreement is executed by all Parties.
- 1.8 **Impervious Cover Percentage.** The percentage calculated by dividing the total acres of impervious cover on the Land by the total number of acres included in the Land. In the calculation of impervious cover each open space, greenbelt, park, irrigation field, golf course, flood plain, sidewalk adjacent to public roadway, granite or pea gravel trail, pool, deck, water quality and/or drainage facility and/or area, detention facility, swale, irrigation area, playground, sports facility, and similar area shall be deemed pervious cover for all purposes. These areas shall be included in all averaging calculations as pervious cover.

1.9 Initial Term. The term of this Agreement, commencing on the Effective Date and continuing for five (5) years thereafter.

1.10 Land. Approximately 1,105.60 acres of land, in Bell County, Texas, more particularly described in **Exhibit A**, comprising of the Project developed under this Agreement, as shown on the Concept Plan.

1.11 Planning and Zoning Commission. The Planning and Zoning Commission of the Village.

1.12 Project. The Land, as it will be developed under this Agreement.

1.13 Service Commitment. The quantity of wastewater service required for development and buildout of the Project, in accordance with the Concept Plan that is included in the Agreement.

1.14 Vesting Date. The date on which Developer files its first application with the Village for development of the Project.

1.15 Village. The Village of Salado, Texas, a Texas general law municipality.

1.16 Village Administrator. The duly selected and appointed Village Administrator of the Village of Salado, Texas.

ARTICLE 2 PUBLIC BENEFITS, INFRASTRUCTURE, AND AMENITIES

2.1 Orderly Growth. Village has determined that development within its extraterritorial jurisdiction should occur in an orderly manner in order to protect the health, safety, and welfare of its present and future citizens, protect property values and provide for the growth of the Village's tax base. This Agreement will benefit the Village by facilitating the development of a mixed-use development within an appropriate area of the Village's extraterritorial jurisdiction, which will allow for thoughtful and high-quality planning, the development of necessary roadways and utility facilities, the provision of required fire protection services, and the development of a diversified tax base and balanced community that includes commercial, residential, and civic uses.

2.2 Economic Growth. The development of the Project as a master-planned, mixed-use development will benefit Village by providing new employers and an expanded job market for the residents of Village and its extraterritorial jurisdiction, furthering the development of an expanded residential and commercial tax base, and making increased services available to residents of Village and its extraterritorial jurisdiction.

2.3 Wastewater Infrastructure. A properly permitted wastewater system, consisting of wastewater collection lines, wastewater force mains, wastewater lift station(s) and one (1) properly wastewater treatment plant, which shall be constructed for the Project by the Developer, and expanded in the future by the Developer, as needed. The Village shall have the right to acquire and operate the wastewater water system, at any point in the future, under a separate utility purchase agreement between the Developer and the Village. The utility purchase agreement shall include

provisions for engineer certification that construction of the Wastewater Infrastructure was completed in accordance with the plans and specifications prior to dedication to the Village.

2.4 Water Infrastructure. A properly permitted water system, consisting of well (s), pump station (s) treatment facilities, and water mains, which shall be constructed for the Project by the Developer, and expanded by the Developer in the future, as needed. The Village shall have the right to acquire and operate the water system, at any point in the future, under a separate utility purchase agreement between the Developer and the Village. The utility purchase agreement shall include provisions for engineer certification that construction of the Water Infrastructure was completed in accordance with the plans and specifications prior to dedication to the Village.

2.5 Commerce and Tourism. Village has an established tourism industry that attracts visitors to the area. In order to increase the amount of tourism and the availability of resources supporting the tourism industry; and to enhance the attractiveness of the area to tourists, Village seeks to expand its overall service industry. This will also provide new and expanded businesses to serve the residents of the area. The development of the Project, as contemplated by this Agreement, will further these Village goals through the dedication of property in the Project for future retail and commercial development, as to be further determined and outlined in a retail and commercial development plan to be submitted to Village by the Developer before commencement of any retail and commercial construction, and no later than the end of the initial term of this agreement.

2.6 Fees and Revenues. In order to assure that the Village does not incur uncompensated expenses in connection with this Agreement and the development of the Land under this Agreement, the following projected costs and incentives for the Developer and the Village have been established:

Incentives to Developer from Village:

| | |
|----------------------------------|-----------|
| Waived Parkland Development Fees | \$861,000 |
| Waived Parkland Dedication Fee | \$304,804 |

Estimated Costs of Developer

| | |
|---|-----------|
| Construction of Private Parks | \$800,804 |
| Contribution to Playground Fund (Developer) | \$365,000 |

Comparison

| | |
|--|-------------|
| Village of Salado (Incentives & Costs) | \$1,165,804 |
| Developer (Costs) | \$1,165,804 |

2.7 Environmental Protection. Developer will strictly comply with all applicable state, local, and federal natural resource laws, and regulations.

ARTICLE 3 PARTIES' DUTIES

3.1 Developer shall:

1. Petition Village to annex the Land, consisting of 1,105.60 acres, into its corporate limits, prior to beginning construction of any improvements, and within thirty (30) days of the Effective Date of this Agreement.
2. Design guidelines that will control the quality of the development in both residential and commercial projects will be contained in the Declaration of Covenant, Conditions, and Restrictions (CCRs), as depicted in **Exhibit E**.
3. At its sole cost, the Developer shall design, construct, and operate properly permitted water and wastewater systems (including the Water and Wastewater Infrastructure) to serve the Project. The Village shall have the right to acquire and operate the water and/or wastewater water systems, at any point in the future, under a separate utility purchase agreement between the Developer and the Village.
4. Connect all tracts of the platted Project to the water and wastewater systems (“Systems”). Developer hereby agrees that the Systems will be the sole provider of water and wastewater service for all future improvements on the Land and within the Project. Tracts in Phase One of the Project shall have the option of connecting to the wastewater system or having a properly permitted on-site septic system. The tracts in all other phases of the Project shall be connected to the wastewater system.
5. Dedicate 22+ acres of land, as shown on the Concept Plan for the Project, as private park land.
6. At the cost of the Developer, and with approval in advance from the Village, design and construct private park improvements for use by those residing in the Project and their guest(s). The private park improvements shall include at a minimum the following amenities: two (2) club houses; two (2) lakes with surrounding park land; and a trail system. Thirty (30) percent of the private park improvements shall be completed prior to the issuance of the Certificate of Occupancy for the eleventh single-family residence in the Project.
7. Dedicate detention/park land areas and detention areas, as shown on the Concept Plan for the Project, to the Village.
8. Establish a property owners association for the Project that shall have responsibility of maintaining the private park land and improvements, as well as maintaining to Village standards the dedicated detention/park land areas and detention areas in the Project in perpetuity, once constructed.
9. In lieu of payment of a portion of the Park Development Fees, Developer shall contribute \$365,000 to the Village of Salado All-Abilities Playground Fund. Payment shall be made upon execution of this Agreement.
10. Otherwise comply with all current and future Village ordinances and regulations, unless otherwise modified in this Agreement.
11. Comply with dark sky standards for the design and operation of all commercial lighting and streetlights for the Project.
12. Dedicate 15.13 acres within the Project for use as a site for public school to be constructed, owned, and operated by the Salado ISD.
13. Petition the Village to create a Public Improvement District (PID) to fund PID project costs.

3.2 Village shall:

1. Go through the required annexation process for Land upon receipt of a petition requesting annexation.
2. Initiate the zoning process for the Land following completion of the annexation process, at no cost to the Developer.
3. Review, approve plans and issue the necessary building permits for the development to be constructed by the Developer.
4. Review and approve plans for construction of all water and wastewater system improvements (including the Water and Wastewater Infrastructure) both on and off the Land necessary for the provision of water and wastewater service to the Project and monitor construction of said water and wastewater improvements, both at the sole cost and expense of Developer.
5. Accept ownership and operation of the streets lights to be constructed by the Development for the Project.
6. Create a Public Improvement District (PID) within ninety (90) days of receipt of the PID petition from the Developer. At no cost to the Village, the Village will use its best efforts to issue one or more series of PID Bonds secured, in whole or in part, by assessments levied against benefited property within the PID. The net proceeds from the sale of PID Bonds (i.e., PID administration costs, net of costs and expenses of issuance and amounts for debt service reserves and capitalized interest) will be used to pay PID Project Costs.

ARTICLE 4 PROPERTY DEVELOPMENT

4.1 Project Approvals and Entitlements.

Applicable Rules: Except as modified by this Agreement, the Project shall be developed in compliance with the land uses and development standards attributable to the Single-Family Residential (SF-7), Single-Family Estate Residential (SF-21), Multi-Family Residential (MF-1), Public Facilities (PF), Single-Family Attached Residential (SFA), Mixed-Use (MU), Commercial (C), and Local Retail (LR) zoning districts. The Developer shall plan, plat, build-out and complete development and infrastructure on the Land in compliance with federal, state, and local laws, ordinances, rules, and regulations as they exist on the Effective Date of this Agreement (“Applicable Rules”), subject to the amendments, variances and waivers to the Village Code hereby agreed to by the Parties as provided in Project Approvals, **Exhibit C** of this Agreement attached hereto, as more particularly set forth below, and this Agreement. The “Project Approvals” are all approvals, variances, waivers and exceptions to the Applicable Regulations approved by the Village that are necessary or required for the development of the Land with the densities and land uses proposed in this Agreement, including but not limited to the exceptions and waivers provided in **Exhibit C**, the Concept Plan, this Agreement and other future regulatory approvals, including plat approval, final zoning designation, site development plans, and building permits.

4.1.1 Project Approvals: The Developer has and shall continue to submit improvement plans to the Village and acquire any required permits from the Village prior to construction of any planned improvements. Such improvements shall comply with the applicable Village Code and

Ordinances, as well as federal, state, and local laws. The Village agrees to not unreasonably delay granting such permits to the Developer upon Developer's proper request and application.

4.1.2 **Concept Plan.** The Village confirms that the Concept Plan, attached as **Exhibit B**, complies with the Village's Future Land Use Plan and that the Concept Plan has been approved by all requisite Village officials, boards, commissions, and by the Board of Aldermen. The Village confirms its approval of the land uses, setbacks, densities, reservations of land for public purposes, exceptions, utility and roadway alignments and sizing and other matters shown on the Concept Plan and as described herein, including the inclusion of fast-food establishments with drive-throughs on those tracts of the Land dedicated for commercial use.

4.1.3 **Land Use.** For purposes of this Agreement the following shall be allowed within areas noted on the Concept Plan: uses permitted in the Village's Single-Family Residential (SF-7), Single-Family Estate Residential (SF-21), Multi-Family Residential (MF-1), Public Facilities (PF), Single-Family Attached Residential (SFA), Mixed-Use (MU), Commercial (C), and Local Retail (LR), under the Village's Regulations, as they existed on the Effective Date, or subsequent regulations that are equivalent.

4.1.4 **Zoning.** It is the intent of the Parties that the Land will develop with land uses described in the Village's zoning classifications of Single-Family Residential (SF-7), Single-Family Estate Residential (SF-21), Multi-Family Residential (MF-1), Public Facilities (PF), Single-Family Attached Residential (SFA), Mixed-Use (MU), Commercial (C) and Local Retail (LR), consistent with this Agreement, the Concept Plan, and the Project Approvals. This intention shall be subject to the process, notices, hearings, and procedures applicable to all other properties within the Village, with such process to be commenced upon receipt of a zoning application that complies with this Agreement and the Applicable Rules. As noted above, Village agrees to waive all fees associated with the zoning application. Pursuant to Section 212.172(b)(8) of the Texas Local Government Code, the Land uses, development, and development intensity shown on and allowed in the Concept Plan, the Project Approvals, and in this Agreement shall be allowed for the Land after annexation during the Term of this Agreement.

4.1.5 **Phasing of Development.** The Project will be developed in three (3) phase (s), as follows:

- a. Phase One consists of 352.29 total acres with 134 single family residential estate lots with each lot being a minimum of 2-acres in size, as depicted on **Exhibit D**.
- b. Phase Two consists of 377.59 total acres with 151 single family residential estate lots with each being 1 to 2 acres in size. In addition, there will be 27.46 acres available for mixed use, 31.41 acres for multi-family mixed use, 20.16 acres for commercial use, 15.13 acres for public facilities (school) use, 7.11 acres for public facilities (wastewater treatment) use, 2.82 acres for public facilities (water storage) use, 18.51 acres for a ranch headquarters and 5.75 acres for existing ranch use, as depicted on **Exhibit E**.
- c. Phase Three consists of 375.44 total acres with 314 single family residential estate lots a minimum of 1-acre minimum in size along with a 1.57 acres amenity center, as depicted on **Exhibit F**.

4.1.6 Signage. Signage for the Project shall comply with the Village of Salado sign regulations in place on the effective date of the Agreement with the exception of the provisions in Section 3.2 of this Agreement and provisions set forth in **Exhibit C**.

4.2 Further Approvals. The Village agrees that any further approvals, as well as any amendments to the Project Approvals will become a part of the Project Approvals.

4.3 Standard for Review: The Village's review and approval of any submissions by Developer will not be unreasonably withheld or delayed. The Village will review any plans, plat, or other filing by Developer in accordance with the applicable Village's ordinances, state law and this Agreement.

4.4 Amendments. The parties agree and acknowledge that minor changes to the Concept Plan that do not result in an increase of the Impervious Cover Percentage of the Project over 70% and which otherwise comply with the Applicable Rules and this Agreement may be approved by the Village Administrator without further public notice or hearing. Similarly, minor variations of a preliminary plan or final plat from the Concept Plan such as specific location of sidewalks, drainage easements and detention, specific alignment of internal streets and roads, and other elements specified by the final sealed design of the Project, and that do not increase the Impervious Cover Percentage of the Project over 70% and which otherwise comply with the Applicable Rules and this Agreement, will not require an amendment to the Concept Plan. All other Amendments shall be in writing and require mutual consent of the parties. Nothing herein shall be construed to bypass Village Ordinances regarding Planning and Zoning Commission and Board of Aldermen approval of changes to zoning classifications within the Project.

4.5 Addition of Land. Should the Developer, in the future, desire to acquire and/or add additional land which has a shared boundary with the Land to the Project subject to this Agreement, such acquisition must occur on or before the expiration of the Initial Term or then-current term, unless otherwise approved by the Village. Developer must give written notice to the Village of the acquisition, which will include a description of the property that has been acquired and in addition submit a proposed concept plan for that additional property showing utilities, proposed land uses, and impervious cover analysis, at a minimum. Village's approval of the addition of property to this Agreement will be processed in accordance with the Applicable Rules and will not be unreasonably withheld or delayed.

4.6 Term of Approvals. The Concept Plan, the Project Approvals, and any preliminary plan or final plat approved pursuant to this Agreement will be effective for the initial term of this Agreement and any extensions unless modified by the Parties as permitted by this Agreement.

4.7 Deed Restrictions: Developer agrees that all restrictive covenants for the Project shall be reviewed and approved in writing by Village to ensure they reinforce the provisions of this section and apply to all builders and subsequent buyers. Developer shall duly file such restrictive covenants, following Village approval

ARTICLE 5 TERM, AUTHORITY, AND VESTING OF RIGHTS

5.1 Term.

5.1.1 Initial Term. The term of this Agreement will commence on the Effective Date and continue for five (5) years thereafter (“Initial Term”), unless sooner terminated under this Agreement. After the Initial Term, the Agreement may be extended by Agreement of the Parties for up to three (3) years, provided Developer has completed at least fifty percent (50%) of the vertical construction described in the Concept Plan on the Land at the time the extension request is made. A request for an extension of the Agreement must be delivered by the Developer to the Village in writing at least 180 (one-hundred-and-eighty) days prior to the last day of the then-current term

5.1.2 Expiration. Except as otherwise provided herein, after the Initial Term and any Extension Period(s), this Agreement will be of no further force and effect, except that termination will not affect any right or obligation arising from Project Approvals previously granted.

5.1.3 Termination or Amendment. This Agreement may be terminated or amended as to all of the Land at any time by mutual written consent of the Village and the Developer or may be terminated or amended only as to a portion of the Land by the mutual written consent of the Village and the owners of only the portion of the Land affected by the amendment or termination.

5.2 Authority. This Agreement is entered into, in part, under the statutory authority of Sections 212.172 and Chapter 380 of the Texas Local Government Code.

5.3 Equivalent Substitute Obligation. If either Party is unable to meet an obligation under this Agreement due to a court order invalidating all or a portion of this Agreement, preemptive state or federal law, an imminent and bona fide threat to public safety that prevents performance or requires different performance, changed circumstances, or subsequent conditions that would legally excuse performance under this Agreement, or any other reason beyond the Party’s reasonable and practical control, the Parties will cooperate, to an extent reasonable, to revise this Agreement to provide for an equivalent substitute right or obligation as similar in terms to the illegal, invalid, or unenforceable provision as is possible and as is legal, valid and enforceable, or other additional or modified rights or obligations that will most nearly preserve each Party’s overall contractual benefit under this Agreement.

ARTICLE 6 GENERAL PROVISIONS

6.1 Assignment; Binding Effect. This Agreement and the rights and obligations of Developer hereunder, may be assigned by Developer to a subsequent purchaser of all or a portion of the undeveloped property within the Project with prior written approval of the Village and provided that the assignee assumes all of the obligations that are assigned. Any assignment must be in writing, specifically describe the property in question, set forth the assigned rights and obligations and be executed by the proposed assignee. A copy of the assignment document must be delivered to the Village and approved prior to becoming effective.

Upon any such assignment affecting the entire Property, Developer will be released of any further obligations under this Agreement as to the property sold and obligations assigned. The provisions

of this Agreement will be binding upon, and inure to the benefit of the Parties, and their respective successors and assigns.

If Developer assigns its rights and obligations hereunder as to a portion of the Project, then the rights and obligations of any assignee and Developer will be non-severable, and Developer will be liable for the nonperformance of the assignee and vice-versa. In the case of nonperformance by one developer, the Village may pursue all remedies against that nonperforming developer, even if such remedies will impede development activities of any performing developer as a result of that nonperformance.

The provisions of this Agreement will be binding upon, and inure to the benefit of the Parties, and their respective successors and assigns. This Agreement will not, however, be binding upon, or create any encumbrance to title as to, any ultimate consumer who purchases a fully developed and improved single-family residential lot within the Project.

Developer agrees to memorialize the terms of this Agreement through inclusion in the plat notes. The Agreement shall be recorded in the County land records to place subsequent purchasers on notice.

6.2 Severability. 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 shall 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 unenforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible.

6.3 Applicable Law and Venue. The interpretation, performance, enforcement, and validity of this Agreement is governed by the laws of the State of Texas without giving effect to its conflict of laws provisions. Venue will be in a court of appropriate jurisdiction in Bell County, Texas.

6.4 No Third-Party Beneficiary. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.

6.5 Default. If either Party defaults in its obligations under this Agreement, the other Party must, prior to exercising a remedy available to that Party due to the default, give written notice to the defaulting Party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the thirty (30) day period, the commencement of the cure within the thirty (30) day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period. The Village may issue Stop Work Orders for violations arising under this Agreement or the regulations applied herein without providing this contractual notice.

6.6 Remedies for Default. If either Party defaults under this Agreement and fails to cure the default within the applicable period, the non-defaulting Party will have all rights and remedies available under this Agreement or applicable law, including the right to institute legal action to

cure any default, to enjoin any threatened or attempted violation of this Agreement or to enforce the defaulting Party's obligations under this Agreement by specific performance or writ of mandamus, or to terminate this Agreement. All remedies available to a Party will be cumulative and the pursuit of one remedy will not constitute an election of remedies or a waiver of the right to pursue any other available remedy.

The parties agree they will each make reasonable efforts to settle any claim or controversy arising out of this Agreement through communication and negotiation with each other. If such efforts should fail, then the involved dispute shall be submitted to non-binding mediation in Bell County, Texas (or elsewhere as may be agreed by both Parties) before a mutually acceptable mediator. Neither party shall unreasonably withhold acceptance of a mediator, and selection of the mediator shall be made within fifteen (15) days after written notice by one of the parties to the other that mediation is desired. The cost of such mediation, and of any other subsequent alternative dispute resolution procedures agreed to by the parties, shall be shared equally. The parties agree to appear before the mediator and to engage in mediation in good faith. In the event a dispute under this Agreement is placed in litigation, any party, or the court on its own motion, may refer the dispute to mediation.

6.7 Reservation of Rights. To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.

6.8 Attorney's Fees. The prevailing Party in any dispute under this Agreement will be entitled to recover from the non-prevailing Party its reasonable attorney's fees, expenses, and court costs in connection with any original action, any appeals, and any post-judgment proceedings to collect or enforce a judgment.

6.9 Waiver. Any failure by a Party to insist upon strict performance by the other Party of any provision of this Agreement will not, regardless of the length of time during which that failure continues, be deemed a waiver of that Party's right to insist upon strict compliance with all terms of this Agreement. In order to be effective as to a Party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

6.10 Entire Agreement. This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties with proper authority to enter into an amendment. An amendment to this agreement may only be approved by an affirmative vote of a majority of the Village's Board of Aldermen.

6.11. Exhibits, Headings, Construction & Counterparts. All exhibits 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. Each of the Parties has

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 its exhibits. 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. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the Parties.

6.12. **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.

6.13. **Authority for Execution.** The Village certifies, represents, and warrants that the execution of this Agreement has been duly authorized, and that this Agreement has been approved in conformity with Village ordinances and other applicable legal requirements. Developer certifies, represents, and warrants that the execution of this Agreement is duly authorized in conformity with their authority.

6.14. **Property Rights.** Developer expressly and unconditionally waives and releases the Village from any obligation to perform a takings impact assessment under the Texas Private Real Property Rights Act, Texas Government Code Chapter 2007, as it may apply to this Agreement, the Property, and the Project.

6.15. **Notices.** Any notices or approvals under this Agreement must be in writing may be sent by hand delivery, facsimile (with confirmation of delivery) or certified mail, return receipt requested, to the Parties at the following addresses or as such addresses may be changed from time to time by written notice to the other Parties:

VILLAGE:

Original: Village Administrator
P.O. Box 219/301 N. Stagecoach Rd.
Salado, TX 76571

DEVELOPER:

Original: Kerby Ventures, LLC
11701 Bee Cave Road, Ste 240
Austin, TX 78746

6.16. **Exhibits:** The exhibits to this Agreement shall be incorporated herein for all intents and purposes. The exhibits are listed as follows:

Exhibit A – Legal Description of the Land
Exhibit B - Concept Plan – Project
Exhibit C – Project Approvals
Exhibit D – Phase One Plan

Exhibit E – Phase Two Plan
Exhibit F – Phase Three Plan
Exhibit G – Declaration of Covenants, Conditions & Restrictions

THE UNDERSIGNED PARTIES HEREBY EXECUTE THIS AGREEMENT TO BE EFFECTIVE ON January, 19, 2023.





| | |
|--|---|
| VILLAGE OF SALADO: By:  | DEVELOPER By:  Its: <u>MUNICIPAL</u> |
| | |
| ATTEST: By:  | ATTEST: By:  |

EXHIBIT A
PROPERTY DESCRIPTION

STATE OF TEXAS

COUNTY OF BELL

Field notes of a 1105.32-acre tract of land, being all of a 1019.86-acre tract of land described as Tract One, a 75.46-acre tract of land described as Tract Two, and a 10.00-acre tract of land described as Tract Three conveyed from Double B Wildlife Ranch, LLC to Mor-Maur Mustang, LLC described in General Warranty Deed with Vendor's Lien dated June 7, 2022, and recorded in Document No. 2022-038763 of the Real Property Records of Bell County, Texas;

Said 1105.32-acre tract is comprised of the following Original Texas Land Surveys:

- +/- 261.88 acres of the A. Dietz Survey No. 20, Abstract 254,
- +/- 394.55 acres of the W. Chrittenden Survey, Abstract 207,
- +/- 163.90 acres of the S. Kuykendall Survey, Abstract 495,
- +/- 69.77 acres of the W. Bruce Survey, Abstract 1066,
- +/- 87.81 acres of the V. R. Palmer Survey, Abstract 665,
- +/- 84.24 acres of the A. M. Roberts Survey, Abstract 725.
- +/- 42.15 acres of the W. Willingham Survey, Abstract 1125, &
- +/- 1.02 acre of the W. B. Rogers Survey, Abstract 717;

Said 1105.32-acre tract is situated in Bell County, Texas, approximately 6 miles southwest of the city of Salado, and is described by metes and bounds as follows:

Beginning at a 5/8" iron rod found in the north line of F.M. Highway 2843, at the southeast corner of a 141.5-acre tract of land conveyed from J. B. Willis, et ux to Noel Thomas Curb by Deed dated March 25, 1964, and recorded in Volume 895, Page 474 of the Deed Records of Bell County, Texas; at the southwest corner of said 75.46-acre tract, for the southerly southwest corner of this tract;

Thence North $21^{\circ}23'33''$ West along the east line of said 141.5-acre tract, west line of said 75.46-acre tract, and the southwest boundary of this tract, a distance of 1,544.03 feet to a 3" pipe "T" fence corner post found in the east line of said 141.5-acre tract, at the northwest corner of said 75.46-acre tract, westerly southwest corner of said 1019.86-acre tract, for an angle corner of this tract;

Thence North $20^{\circ}11'28''$ West continuing along the east line of said 141.5-acre tract, the southwest boundary of said 1019.86-acre tract, and continuing along the southwest boundary of this tract, a distance of 1,087.84 feet to a 1/2" iron rod found at the northeast corner of said 141.5-acre tract, an interior corner of said 1019.86-acre tract, and interior corner of this tract;

Thence South $68^{\circ}24'09''$ West along the north line of said 141.5-acre tract, a south line of said 1019.86-acre tract, and a south line of this tract, a distance of 2,648.09 feet to a 3" pipe "T" fence corner post found at the northwest corner of said 141.5-acre tract, in the east boundary of a 1021.52-acre tract of land conveyed from N. J. Bradley, et al to John Brooks Bradley by Deed dated November 7, 1959, and recorded in Volume 801, Page 197 of the Deed Records of Bell County, Texas; at a southwest corner of said 1019.86-acre tract, for a southwest corner of this tract;

Thence North $21^{\circ}17'59''$ West along the northeast boundary of said 1021.52-acre tract, southwest boundary of said 1019.86-acre tract, and southwest boundary of this tract, a distance of 3,519.57 feet to a 1/2" iron rod found at a northeast corner of said 1021.52-acre tract, an interior corner of said 1019.86-acre tract, for an interior corner of this tract;

Thence South $69^{\circ}16'37''$ West along a north line of said 1021.52-acre tract, a south line of said 1019.86-acre tract, and a south line of this tract, a distance of 1,925.41 feet to a 3/8" iron rod found at an interior corner of said 1021.52-acre tract, at the northerly southwest corner of said 1019.86-acre tract, for the northerly southwest corner of this tract;

Thence North 20°55'00" West along the northeast boundary of said 1021.52-acre tract, southwest boundary of said 1019.86-acre tract, and southwest boundary of this tract, a distance of 3,824.24 feet to a 2" pipe "T" fence corner post found in the northeast boundary of said 1021.52-acre tract, at the southwest corner of a 521.34-acre tract of land conveyed from Helen Mary Gracy Smith, Trustee of the Helen Mary Gracy Smith Living Trust to The Helen Gracy Smith Family Limited Partnership by Special Warranty Deed dated September 1, 2000, and recorded in Document No. 2011-031867 of the Real Property Records of Bell County, Texas; at the northwest corner of said 1019.86-acre tract, for the northwest corner of this tract;

Thence in a northeasterly direction along the southeast boundary of said 521.34-acre tract, northwest boundary of said 1019.86-acre tract, and northwest boundary of this tract as follows:

North 72°07'45" East, a distance of 765.29 feet to a point,

North 72°07'03" East, a distance of 796.22 feet to a point.

North 72°08'15" East, a distance of 504.27 feet to a point, and

North 72°08'05" East, a distance of 1,747.29 feet to a point in the southeast boundary of a 418.74-acre tract of land conveyed from Helen Mary Gracy Smith, Trustee of the Helen Mary Gracy Smith Living Trust to The Helen Gracy Smith Family Limited Partnership by Special Warranty Deed dated September 1, 2000, and recorded in Document No. 2011-031868 of the Real Property Records of Bell County, Texas; at an angle corner of said 1019.86-acre tract, for an angle corner of this tract;

Thence North 70°29'16" East along the southeast boundary of said 418.74-acre tract, continuing along the northwest boundary of said 1019.86-acre tract, and northwest boundary of this tract, at 492.11 feet pass a 5/8" iron rod found, in all a distance of 542.11 feet to a point in the approximate centerline of Mustang Creek, in the southeast boundary of said 418.74-acre tract, at the west corner of a 385.00-acre tract of land conveyed from Mustang Creek Ranch, LLC to Lampasas River Holdings, LP by Warranty Deed with Vendor's Lien dated January 12, 2012, and recorded in Document No. 2012-002204 of the Real Property Records of Bell County, Texas; at the north corner of said 1019.86-acre tract, for the north corner of this tract;

Thence in a generally southeasterly direction along the approximate centerline of said Mustang Creek, southwest boundary of said 385.00-acre tract, northeast boundary of said 1019.86-acre tract, and northeast boundary of this tract as follows:

South 61°22'15" East, a distance of 108.05 feet to a point,

South 89°19'04" East, a distance of 57.96 feet to a point,

North 65°08'48" East, a distance of 113.32 feet to a point,

South 19°12'41" East, a distance of 125.29 feet to a point,

South 65°22'12" East, a distance of 216.66 feet to a point,

South 33°04'34" East, a distance of 263.04 feet to a point,

South 05°21'20" West, a distance of 165.73 feet to a point,

South 32°17'57" East, a distance of 108.29 feet to a point,

South 65°04'56" East, at 59.41 feet pass the intersection of the occupied fence, whence an "X" marked in concrete bears North 25°23'12" East, 30.05 feet and a 5/8" iron rod found bears South 25°23'12" West, 30.05 feet, in all a distance of 134.40 feet to a point,

South 39°49'19" East, a distance of 227.42 feet to a point.

South 21°17'09" East, a distance of 317.02 feet to a point.

South 21°37'08" East, a distance of 207.50 feet to a point,

South 19°03'28" West, a distance of 122.87 feet to a point, and

South 41°19'01" East, a distance of 175.30 feet to a point in the approximate centerline of said Mustang Creek, at a southwest corner of said 385.00-acre tract, an interior corner of said 1019.86-acre tract, for an interior corner of this tract;

Thence in a generally easterly direction continuing along the southwest boundary of said 385.00-acre tract, northeast boundary of said 1019.86-acre tract, and northeast boundary of this tract as follows:

North 60°38'28" East, at 142.87 feet pass a ½" iron rod found, in all a distance of 1,253.42 feet to a point, whence a ½" iron rod found bears North 09°55'38" West, 0.46 feet, and

South 29°21'42" East, a distance of 2,059.38 feet to a ½" iron rod found at the south corner of said 385.00-acre tract, an interior corner of said 1019.86-acre tract, for an interior corner of this tract;

Thence North 68°29'58" East along a south line of said 385.00-acre tract, a north line of said 1019.86-acre tract, and a north line of this tract, a distance of 3,466.28 feet to a ½" iron rod found at the east corner of said 385.00-acre tract, in the west boundary of a tract of land conveyed from Walter Wilson Monteith, et al to Eagle Nest Holdings, LTD by Special Warranty Deed dated October 4, 2004, and recorded in Document No. 2007-007581 of the Real Property Records of Bell County, Texas; at a northeast corner of said 1019.86-acre tract, for a northeast corner of this tract;

Thence South 21°44'18" East along the west boundary of said Eagle Nest Holdings, LTD tract, an east line of said 1019.86-acre tract, and an east line of this tract, a distance of 1,026.03 feet to a point in the west boundary of said Eagle Nest Holdings, LTD tract, at a north corner of a 1368.78-acre tract of land conveyed from James R. Grace, et ux to Grace Ranches, LLC by General Warranty Deed dated December 27, 1996, and recorded in Volume 3565, Page 307 of the Real Property Records of Bell County, Texas; at the northerly southeast corner of said 1019.86-acre tract, for the northerly southeast corner of this tract;

Thence South 68°02'55" West along the north boundary of said 1368.78-acre tract, a south line of said 1019.86-acre tract, and a south line of this tract, a distance of 2,847.96 feet to a ½" iron rod found at the northwest corner of said 1368.78-acre tract, at an interior corner of said 1019.86-acre tract, for an interior corner of this tract;

Thence South 14°45'19" East along the west boundary of said 1368.78-acre tract, east boundary of said 1019.86-acre tract, and east boundary of this tract, a distance of 1,987.79 feet to a point in the west boundary of said 1368.78-acre tract, at an angle corner of said 1019.86-acre tract, for an angle corner of this tract; whence a 5/8" iron rod found bears North 70°33'48" West, 1.34 feet;

Thence South 14°54'20" West continuing along the west boundary of said 1368.78-acre tract, east boundary of said 1019.86-acre tract, and east boundary of this tract, a distance of 525.83 feet to a ½" iron rod found at an interior corner of said 1019.86-acre tract, for an interior corner of this tract;

Thence in a generally southeasterly direction continuing along the east boundary of said 1019.86-acre tract and east boundary of this tract as follows:

South 62°52'59" East, a distance of 361.35 feet to a ½" iron rod found,

North 52°55'02" East, a distance of 89.99 feet to a 3" pipe "L" fence corner post found,

South 45°13'13" East, a distance of 1,046.28 feet to a ½" iron rod found,

South 29°52'33" East, a distance of 350.27 feet to a ½" iron rod found, and

South 25°06'33" East, a distance of 1,149.87 feet to a ½" iron rod found in the northwest line of said F.M. Highway 2843, at the southerly southeast corner of said 1019.86-acre tract, for the southerly southeast corner of this tract;

Thence South 64°37'23" West along the northwest line of said F.M. Highway 2843, easterly south line of said 1019.86-acre tract, and south boundary of this tract, a distance of 728.25 feet to a 1/2" iron rod found at the southeast corner of said 75.46-acre tract, at the southerly southwest corner of said 1019.86-acre tract, for an angle corner of this tract;

Thence in a southwesterly direction along the northwest line of said F.M. Highway 2843, easterly south boundary of said 75.46-acre tract, and continuing along the south boundary of this tract as follows:

South 64°22'44" West, a distance of 77.02 feet to a 5/8" iron rod found at the beginning of a curve to the right, and

With said curve to the right having a radius of 2,815.05 feet, an arc length of 200.94 feet, and a chord bearing and distance of South 66°42'09" West, 200.90 feet to a 5/8" iron rod found in the northwest line of said F.M. Highway 2843, at the southeast corner of said 10.00-acre tract, at a south corner of said 75.46-acre tract, at the beginning of a compound curve to the right, for an angle corner of this tract;

Thence continuing in a southwesterly direction along the northwest line of said F.M. Highway 2843, southeast boundary of said 10.00-acre tract, and continuing along the south boundary of this tract as follows:

With said curve to the right having a radius of 2,815.05 feet, an arc length of 310.04 feet, and a chord bearing and distance of South 71°58'19" West, 309.88 feet to a highway concrete monument, and

South 75°02'44" West, a distance of 346.45 feet to a 5/8" iron rod found in the north line of said F.M. Highway 2843, at a south corner of said 75.46-acre tract, southwest corner of said 10.00-acre tract, for an angle corner of this tract;

Thence continuing in a southwesterly direction along the north line of said F.M. Highway 2843, westerly south boundary of said 75.46-acre tract, and continuing along the south boundary of this tract as follows:

South 75°03'34" West, a distance of 325.46 feet to a highway concrete monument at the beginning of a curve to the right,

With said curve to the right having a radius of 2,818.93 feet, an arc length of 638.14 feet, and a chord bearing and distance of South 81°32'50" West, 636.78 feet to a highway concrete monument, and

South 87°55'58" West, a distance of 258.92 feet to the point of beginning, containing 1105.32 acres of land, more or less, subject to all easements of record.

Bearing Basis hereon is Texas State Plane Coordinate System, Reference Frame North American Datum 1983 (2011) (EPOCH 2010.0000), as determined from Global Navigation Satellite System (GNSS) survey equipment by Static, Virtual Reference System (VRS) network and or Real Time Kinematic (RTK). Distances shown hereon are shown as grid Texas State Plane Coordinate System distances.

I, Jason McMillan, Registered Professional Land Surveyor of Texas, do hereby state that this description represents an actual survey made on the ground this the 4th day of August 2022.



A handwritten signature in dark ink, consisting of the letters "Jm" in a cursive, stylized font.

Registered Professional Land Surveyor
Texas Registration No. 6279

*A plat accompanies this metes and bounds description.
Job # 22070006*

EXHIBIT B
CONCEPT PLAN

EXHIBIT C
PROJECT APPROVALS

The following approvals, variances, waivers, and exceptions to the Applicable Rules as defined in the Agreement are approved by the Village for the development of the Land. Use and development shall comply with the zoning requirements and development standards for the Single-Family Residential (SF-7), Single-Family Estate Residential (SF-21), Multi-Family Residential (MF-1), Public Facilities (PF), Single-Family Attached Residential (SFA), Mixed-Use (MU), Commercial (C) and Local Retail (LR) zoning districts, except as hereinafter modified:

1. Developer shall be allowed to provide walking trails throughout the Project in lieu of required sidewalks along roadways.
2. Developer shall be allowed two (2) entrances for the Project.
3. Developer shall be allowed less than the required number of stub outs to facilitate connectivity to future developments adjacent to the Project.
4. Developer shall be allowed a minimum fifty (50) foot wide right of way for streets in the Project.
5. Developer shall be allowed maximum block lengths of more than 1,200 feet within the Project.
6. Developer shall be allowed to have lot widths less than the minimum width required in the Village's Subdivision Ordinance and Zoning Ordinance on residential cul-de-sac tracts.
7. Developer shall be allowed to construct laydown curbs and bar ditches in lieu of stand-up curbs and gutters.

EXHIBIT D
PHASE ONE

Master Plan

Phase I 2 Acre Minimum
Estate Lots

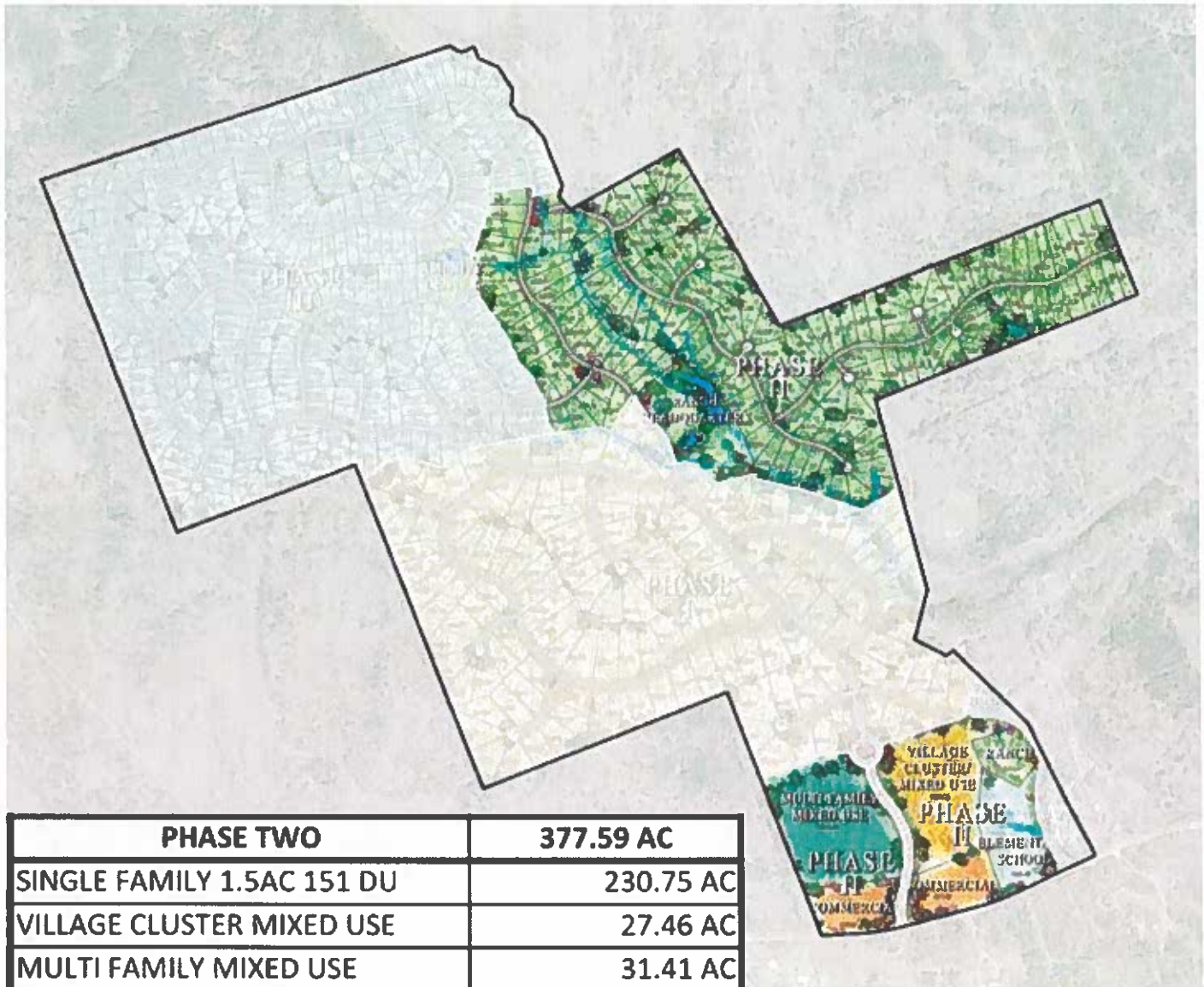


| LAND USE | ACRES |
|----------------------|-----------|
| PHASE ONE | 352.29 AC |
| SINGLE FAMILY 134 DU | 317.47 AC |
| 50' ROW 22,202 LF | 25.48 AC |
| 124' ROW 1,768 LF | 5.03 AC |
| RAB | 4.31 AC |

EXHIBIT E
PHASE TWO

Master Plan

Phase II 1 ac - 2 ac
Estate Lots

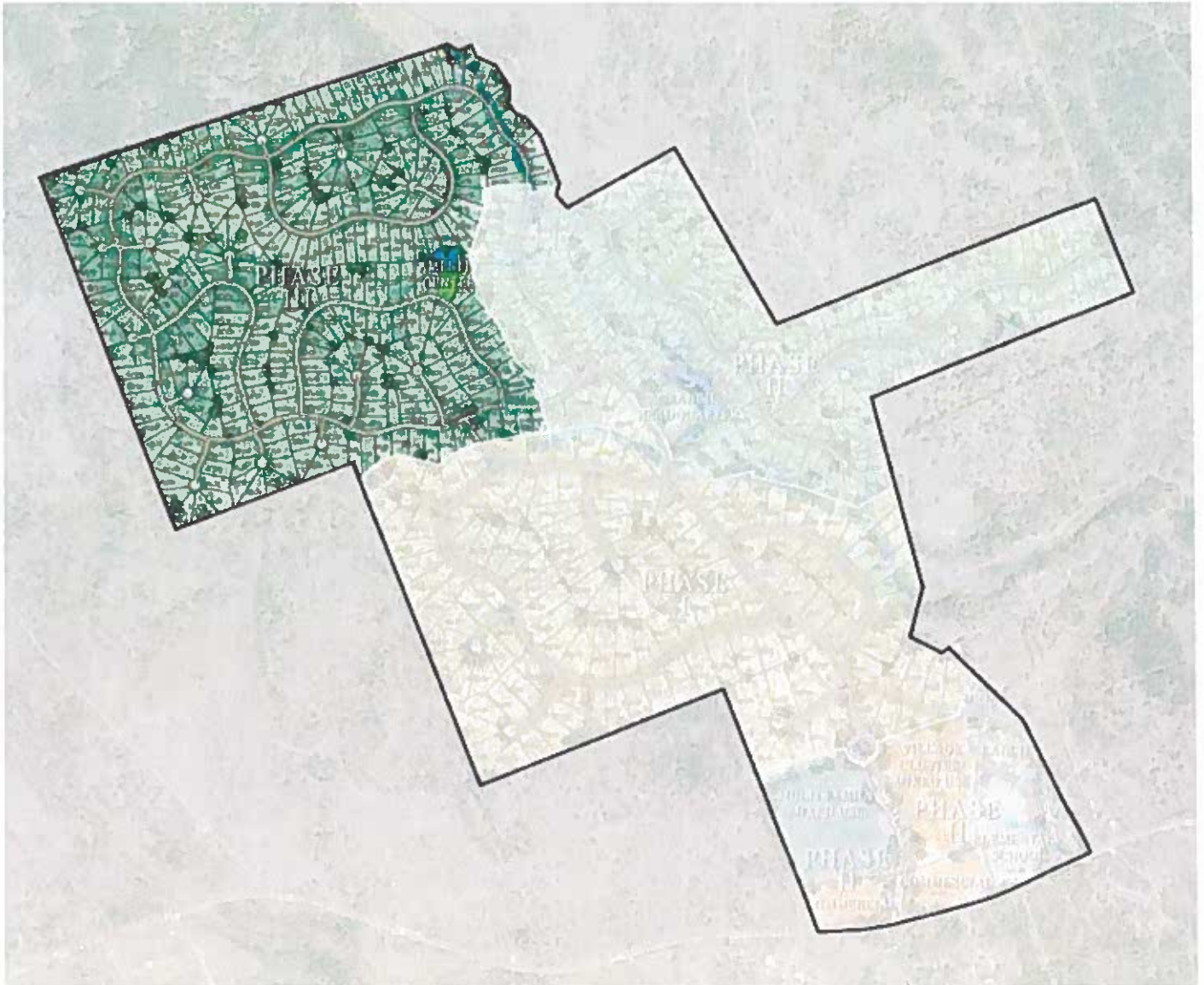


| PHASE TWO | 377.59 AC |
|----------------------------|-----------|
| SINGLE FAMILY 1.5AC 151 DU | 230.75 AC |
| VILLAGE CLUSTER MIXED USE | 27.46 AC |
| MULTI FAMILY MIXED USE | 31.41 AC |
| COMMERCIAL | 20.16 AC |
| ELEMENTARY SCHOOL | 15.13 AC |
| WASTE WATER TREATMENT | 7.11 AC |
| WATER STORAGE | 2.82 AC |
| RANCH HQ | 18.51 AC |
| EXISTING RANCH | 5.75 AC |
| 50' ROW 16,107 LF | 18.49 AC |

EXHIBIT F
PHASE THREE

Master Plan

Phase III 1 ac. - 1.5 ac
Estate Lots



| | |
|---------------------------|------------------|
| PHASE THREE | 375.44 AC |
| SINGLE FAMILY 1 AC 314 DU | 343.16 AC |
| AMENITY CENTER | 1.57 AC |
| 50' ROW 25,793 LF | 30.71 AC |

EXHIBIT G
DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MUSTANG SPRINGS**

THE STATE OF TEXAS §
COUNTY OF BELL §

WHEREAS, MINERVA M2 MUSTANG, LLC, a Texas limited liability company, (herein called "Declarant") is the Owner of a certain tract or parcel of land in Bell County, Texas, being all of that certain tract of land containing a total of 1108 acres, more or less, and being more particularly described at **Exhibit "A"**, (herein called the "Property");

AND, WHEREAS, the Declarant desires to sell Lots (as defined below) within the Property;

AND, WHEREAS, the Declarant proposes to establish and implement a property owners association for the benefit of and to be binding upon all the Owners (as defined below);

AND, WHEREAS, the purposes of this Declaration are to protect Declarant and its successors and assigns and the Owners against improper development and use of the Lots within the Property; to provide for management of the Property; to establish and enforce design and construction standards and criteria to achieve an aesthetically harmonious environment that will promote the general welfare of the Declarant and the Owners within the context of a property owners association.

NOW, THEREFORE, the Declarant hereby declares that (i) all of the Property shall be held, sold, conveyed and occupied subject to the following restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and same shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof; and that (ii) each contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out or referred to in said contract or deed.

**ARTICLE I
DEFINITIONS**

1. **ARC** shall mean the Architectural Review Committee charged with approving plans and specifications for Improvements to be constructed within the Property and on the Lots pursuant to the terms of this Declaration.
2. **Amenity Center** shall mean the Amenity Center located on the Property owned by the Association or otherwise held by the Declarant for the common use and enjoyment of the Owners, and shall be included in the definition of Common Area below.
3. **Association** shall mean and refer to Mustang Springs Property Owners Association (or the property owners association to be formed as described herein under whatever name designated), a Texas non-profit corporation, its successors and assigns, which shall be formed by the Declarant.
4. **Board** shall mean the Board of Directors of the Association.
5. **Certificate of Formation** shall mean the Certificate of Formation for the Association as filed with the Texas Secretary of State, as amended from time to time according to the provisions thereof.
6. **Common Area** shall mean all real property owned by the Association or otherwise held by the Declarant for the common use and enjoyment of the Owners, designated as such on the Plat or as later designated for such use by the Declarant or the Association and any appurtenances to such real property. The Common Area shall be for the common use and enjoyment of the Owners and may be designated as such on the Plat or from time to time and at any time by the Declarant.
7. **Declarant** shall mean and refer to MINERVA M2 MUSTANG, LLC, a Texas limited liability company, and its successors and assigns.
8. **Declaration** shall mean this Declaration of Covenants, Conditions and Restrictions for Mustang Springs, as same may from time to time be supplemented and amended.
9. **Development Period** shall mean the period of time beginning on the date in which this Declaration is recorded in the Official Public Records of Bell County, Texas, and ending at the earlier of (i) such time as twenty years have elapsed from the date the Development Period begins; or (ii) the date on which Declarant terminates the Development Period by recorded instrument executed by Declarant and filed in the Official Public Records of Bell County, Texas. The Development Period is the period of time in which Declarant reserves the right to facilitate the development, construction

and marketing of the Property and the right to direct the size, shape and composition of the Property, including but not limited to the lots, common areas, roads and service areas within the Property. The Development Period does not require that Declarant own any portion of the Property.

10. **Design Guidelines** shall mean such rules and guidelines promulgated by the Declarant or the ARC, as each may deem necessary or beneficial to the development, maintenance, or appearance of the Subdivision, which are filed in the official public records of Milam County.

10. **Improvement** shall mean every permanent structure and all appurtenances of every type and kind, including but not limited to residences, buildings, outbuildings, storage buildings, garages, barns, corrals, patios, tennis courts, xeriscaping, swimming pools, fences, screening walls, retaining walls, stairs, decks, driveways, rainwater harvesting systems, dams, excavation, poles, exterior air conditioning equipment, pumps, wells, tanks, reservoirs, pipes, lines, antennae, towers, and similar facilities used in connection with water, sewer, gas, electric, internet and other utilities.

11. **Lot(s)** shall mean each of those parcels of real property identified as individual lots on the Plat.

12. **Owner(s)** shall mean and refer to the record Owner, whether one or more persons or entities, of equitable title (or legal title if same has merged) of any Lot. The foregoing does not include any persons or entities that hold an interest in any Lot merely as a security for the performance of an obligation, except as stated otherwise herein. The term Owner shall not include a lessee or tenant of an Owner.

13. **Plat** shall mean the plat or plats of record of Mustang Springs filed by Declarant in the county or counties in which the Property is located, including the final plat of record of Mustang Springs, PHASE ONE, being a Subdivision of _____ +/- acres in Bell County, Texas, filed as Plat, ___ Volume, ___ Book, _____ Page ___ in the Plat Records of Bell County, Texas and any plat or plats of subsequent phases of Mustang Springs filed by Declarant in the Plat Records of Bell County, Texas or in the official public records of the county or counties in which such subsequent phases are located. The Plat may be amended from time to time by Declarant at any time during the Development Period.

14. **Primary Residence** shall mean and refer to the primary dwelling unit located on a Lot. Primary Residence shall not include any guest house, detached garage, or accessory structure located on the Lot.

15. **Property** shall mean and refer to that certain real property described on Exhibit

“A” and any additional property made subject to this Declaration.

16. **Residence** shall refer to the main dwelling unit and any other dwelling unit located on a Lot.

17. **Subdivision** shall mean the Property covered by the Plat and any additional property added to the Plat or made subject to this Declaration.

ARTICLE II GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

1. Additions to the Property

During the Development Period, Declarant, its successors and assigns, shall have the unilateral right, in its sole and absolute discretion, to bring within the scheme of this Declaration additional property and properties in future stages of the development (including without limitations, subsequent sections of Mustang Springs) without the consent or approval of any owners of any Lots (other than Declarant). Declarant shall also have the unilateral right to further define or change boundary lines of any Lot with the consent of the owner of the Parcel. As additional properties are added, Declarant shall, with respect to said properties, record Supplemental Declarations for each phase which may incorporate this Declaration by reference, and which may supplement or modify this Declaration with such additional covenants, restrictions and conditions which may be appropriate for those properties. Upon filing of additional survey(s) or plats for a subsequent phase or phases of Mustang Springs and the filing of a Supplemental Declaration containing restrictive covenants applicable to the additional property described therein, then and thereafter, the Owners of all Lots in all phases of Mustang Springs subdivision shall have the rights, privileges and obligations with respect to all Property then subject to this Declaration (including such additional properties) in accordance with, and to the extent set forth in, this Declaration and each such Supplemental Declaration.

2. Land Use

(a) **Use.** Each Lot may be used only for single family residential use. Any business activities within the Residence or on the Lot must comply with the provisions regarding Business Activities contained herein. The terms Residence and Primary Residence shall expressly exclude mobile homes, house

trailers, modular and prefabricated homes, which shall not be allowed on any lot.

(b) Construction.

- (1) No Improvements of any kind shall be constructed, modified or expanded upon any portion of the Property or the Lots unless approved in advance and in writing by the ARC. This provision shall not apply to improvements made or directed to be made by Declarant.
- (2) The Primary Residence shall consist of no less than 2,100 square feet of air conditioned and heated space. Any guesthouse or guesthouse constructed shall consist of no less than 600 square feet of air conditioned and heated space.
- (3) Pursuant to Section 5.03 of this Declaration, additional Design Guidelines promulgated by Declarant or the ARC shall also apply to development of the Lots; provided a variance to such guidelines may be granted by the ARC in its sole discretion.
- (4) The installation and maintenance of septic systems must conform with all county and municipal laws (as applicable), regulations and permitting requirements.

(c) Recreational Vehicles. Recreational vehicles not designed for permanent occupancy, including RVs, fifth wheels and trailers used for travel (collectively "RVs"), shall be stored in an ARC approved garage or dwelling or behind the home so as not to be visible from the public street and at no time, be visible to adjacent property owners.

(d) All-Terrain Vehicles. No all-terrain vehicles ("ATVs"), trail bikes, three and/or multi wheelers, dune buggies, or other externally mounted engine vehicles shall be permitted in the development, including the Common Property, except for ingress and egress. Golf carts and small utility vehicles shall be permitted; however, all such vehicles shall be properly muffled so as not to disturb occupants of the surrounding property and must not be an annoyance to others.

(e) Leases. All rentals or leases of any property must be for a minimum of five days in duration unless a lease for a shorter amount of time is approved by the Association. All leases must be in writing.

- (a) Under no circumstances shall a lease for an outbuilding or guest quarters be permitted. Any usage of outbuilding or guest quarters must be as part of a lease of the entire property under the terms herein.
- (b) Lot Owners are fully responsible for their tenants and must give written notice to the Association of their intent to lease or rent their property in advance. Additionally, the Association must be supplied with name of each lessee, their contact information and a signed rental agreement at least forty-eight hours prior to lessee occupying the property.
- (c) Property Owners shall not be allowed to lease their property if their tenants do not abide by the rules set forth in this section.

(f) Business Activities. No business of any kind will be conducted on any residence with the exception of the business of Declarant and the transferees of declarant in developing all of the lots. The only business which will be conducted on any lot will be the business of Declarant and the transferees of declarant in developing all of the lots.

(g) Boats and Trailers. Boats and boat trailers may be stored in the driveway of a house for no more than five days out of any thirty (30) day period. Boats and boat trailers may be stored in the garage. Boats or trailers shall be removed immediately upon request of Declarant or Association.

(h) Campers and Trailers. No campers or utility trailers may be stored on a Lot unless they are stored in a garage or behind home so as not to be visible from a public street or by an adjacent neighbor.

(i) Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without prior written consent of the Association, except as specifically provided herein. This includes, but is not limited to, parking in any of the roadways or streets that serve the subdivision, or the cul-de-sacs, or the Common Property.

(j) Manufactured Home or Mobile Homes. No manufactured home or mobile home of any type shall be used or located on any Lot at any time whether temporarily or permanently.

(k) Clotheslines. No clotheslines or outside drying area shall be located on any parcel or Lot.

(l) Propane Tanks. All liquid propane tanks must be properly screened

with plant materials, fencing, or buried so they cannot be seen from any road in the subdivision or an adjoining property.

(m) Sewage Disposal. No outside toilets shall be permitted with the exception of a temporary construction toilet maintained by the builder. Installation of septic tanks and soil absorption sewage disposal systems shall be in accordance with all applicable municipal, county, LCRA and State of Texas requirements.

(n) Garbage and Refuse Disposal. Each Lot shall be maintained in an attractive condition. No Lot and no part of the Property shall be used or maintained as a dumping ground for rubbish or trash. Trash, garbage and other waste shall not be kept on any Lot except in sanitary containers. No trash, ashes or other refuse may be deposited on any portion of the Property. Each Owner must contract with a trash disposal service and containers must be stored inside a garage or behind a wall or fence.

(o) Nuisances. No Lot shall be used in whole or in part for any illegal activity or for the storage of rubbish of any character whatsoever or for the storage of any property or thing that will cause such Lot to appear in any unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding property.

(p) Signs. No advertising signs of any manner shall be permitted except during the 12 months of construction. During construction, one sign may be placed on the Lot advertising the construction company's name. This sign shall not exceed 24 inches by 24 inches in size and shall be removed at the completion of the home. No more than one sign may be placed on a Lot at a time without written approval of the Association. Construction signs shall not be placed upon a Lot until construction commences. The ARC may set forth additional signage restrictions by the filing of Design Guidelines.

(q) For Sale Signs and Real Estate Agents. No For Sale signs shall be placed on a Lot within the first 90 days of purchasing said Lot, or until such time as eighty percent of the Property has been conveyed by Declarant, or until the Declarant turns over control of the Association, or three years from the recording of this Declaration, whichever occurs first. The For Sale sign shall not exceed 18 inches by 18 inches in size and shall be constructed in the same manner and color as the original Lot sign. No generic For Sale sign nor shall there be any signs permitted at the entrance of the property. The ARC may set forth additional signage restrictions by the filing of Design

Guidelines.

- (r) Fencing.** Fencing shall be located so that it does not interfere with any rights-of-way or impede access to any easement. All fencing is to be constructed of new materials and of a quality and appearance approved by the ARC. No chain link fencing is allowed except on a dog kennel.
- (s) Landscaping.** All residents must do a reasonable amount of landscaping. The reasonableness of the amount of landscaping done is to be determined by the Association. Each lot shall be maintained in a neat and attractive condition including but not limited to mowing and/or weed eating so as not to become an eyesore to adjoining lots. Landscaping must be completed within 12 months of construction.
- (t) Ponds and Water Flow.** No building of ponds, redirection or restriction of water flow in any creek, stream, branch, or spring is permitted. Maintenance of existing ponds, creeks, streams, branches, or springs is allowed. This restriction is reference to affecting natural water flow and would not restrict the building of the building self-contained bio pool, swimming or ornamental ponds.
- (u) Land Disturbing Actives.** No mining, quarrying, drilling, or other such land disturbing activities shall be permitted on any portion of said property, provided, however, land disturbing activities as necessary for construction of road, trails, utility lines, house sites, driveways, septic tanks and drain fields shall be permitted so long as all disturbances for any and all such land disturbing activities
- (v) Erosion Control.** Owners must construct erosion control methods such as siltation fences and/or screens, etc. during the home building process.
- (w) Noises.** No loud or obnoxious noise, including but not limited to, incessant dog barking, shall be permitted.
- (x) Livestock, Pets Poultry and Other Animals.** No animals, livestock, or poultry of any kind will be raised, bred, or kept on any lot or on the common area except on a property of five (5) acres or more, in such case one horse may be kept or if seven (7) acres or more than 2 horses may be kept, unless prohibited by any local government ordinance or law. However, dogs, cats, and other household pets may be kept on lots subject to such rules and regulations as may be adopted by the association, as long as they are not kept, bred, or maintained for commercial purposes.

(y) Inoperative Vehicles. No junk, wrecking or auto storage shall be located on any Lot. No discarded, abandoned, unlicensed or inoperative automobile, other vehicle or trailer shall be kept, stored or permitted to remain on any Lot unless stored in a garage or shop and out of plain sight. A vehicle shall be considered inoperative if it has not been moved under its own power for more than thirty (30) days.

(z) Mineral Production. No oil or gas drilling, oil or gas operations or quarrying or mining operations of any kind will be permitted on any Lot.

(aa) Temporary Structures. Temporary structures, including but not limited to tents, shacks and shelters are prohibited; provided temporary structures necessary for the storage of tools or equipment necessary for the construction of a Residence may be installed on a Lot if approved in advance in writing by the ARC.

(bb) Trees. Lot Owners shall make every effort to maintain as much of the natural tree canopy as possible. Cutting for views must be approved by the Declarant or the Association and Owners shall only remove 10 percent of the trees on their Lot without the prior written consent of the Association. Furthermore, no tree with a diameter of 8 inches or larger may be removed without the consent of the Association. All trees that have been cut must be entirely removed from property immediately.

(cc) Flags. Owners are permitted to display only Permitted Flags on the Owner's Lot. "Permitted Flag" shall mean the flag of the United States of America; the flag of the State of Texas; an official or replica flag of any branch of the United States Military; or a flag with the official insignia of a college, university or sports team. Any freestanding flagpole must be no more than twenty (20) feet in height and any Permitted Flag displayed on a Lot must be no more than three feet in height by five feet in width. No other flags are allowed unless approved in writing in advance by the ARC.

(dd) Antennas and Satellite Dishes. No large antenna or satellite dishes of more than 18 inches in diameter are permitted.

(ee) Maintenance. Each Owner is responsible, at such Owner's sole cost and expense, for maintaining their Lot in an attractive condition, removing litter, mowing, pruning, repairing driveways and sidewalks, if present, and maintaining all Improvements located on such Owner's Lot, provided a Lot consisting of two acres or more may contain a pasture area in which natural grasses shall not exceed two feet in height.

(ff) Firearms.

(1) No person shall, except in justifiable self-defense and when reasonably necessary for the protection of life, fire or discharge any rifle, shotgun, air rifle or air pistol on the Property.

(2) No bow hunting, bow shooting or discharge shall be allowed within 200 feet of any structure on the Property, or in accordance with local, state and federal law.

3. Subdivision and Combination of Lots.

(a) Subdivision of any lot is prohibited.

(b) Two contiguous lots may be re-platted to create one larger lot with written approval of the Developer or the ARC provided all applicable municipal and county requirements for such a replat are met. Once a Lot has been replatted to create one larger Lot, such Lot shall not be combined with any additional Lot or Lots.

(c) An Owner may elect to combine two contiguous Lots which are identified as separate contiguous Lots on the original Plat of the Subdivision so that the two Lots are only assessed as one larger single Lot (a "Combined Lot") for purposes of Annual Assessments as described herein, provided (i) the two Lots have identical Owners and ownership; (ii) no Owner of either of the Lots being combined has previously made such an election for any Lot in the Subdivision; (iii) once a Lot is combined for this purpose, such Lot may not be combined with any additional Lot or Lots for this same purpose by any current or subsequent Owner or Owners; (iv) the combined Lot shall contain no more than one Primary Residence; and (v) the Owner has given notice to the Board in writing of such election which will be effective as of the date of such notice. In the event two Primary residences are constructed on a combined Lot, each Lot will, upon commencement of construction of a second Primary Residence, be assessed thereafter by the Board as two separate Lots for purposes of the Annual Assessment, but the Owner shall only receive one (1) member vote for the combined Lots.

4. Water Bodies and Waterways

(a) By acceptance of a Lot in the Subdivision, each Owner acknowledges that the water levels of ponds, lakes, retention ponds, drainage ditches and water features within the Property may fluctuate and that each Owner is responsible for determining how such varying water levels may affect development on their

Lot prior to beginning any development or construction.

(b) Dumping of any substance into water bodies, waterways, or wells located on or adjacent to the Property, either directly or indirectly, is prohibited, including but not limited to the disposal of wastewater or gray water of any kind.

5. **Utilities**

(a) **Utility Easements.** The Declarant, its successors and assigns, and the Association shall have alienable and permanent easements and rights-of-way in, through, across, over and under the Common Areas, the Property and the Lots, and under private and dedicated streets, for ingress and egress, and installation, maintenance, use, repair and replacement of all public and private electric and water utilities and related equipment (including, without limitation, pipes, poles, wires, cables, conduits, lines, mains and meter boxes); provided, that the exercise of any easement hereby granted shall not unreasonably interfere with the permitted use and enjoyment of the Lots and, except in an emergency, entry onto any Lot shall be made only after reasonable prior notice given to such Lot Owner or occupant.

(b) **Utility Equipment.** Each local electric utility and water provider hereby is granted a permanent easement and right-of-way through and across the Common Areas and the Lots for ingress and egress, and installation, reading, maintenance, use, repair and replacement of all utility conduits, lines, meters, boxes and other equipment at any time located within the Property.

6. **Permanent Easements.** The Declarant, its successors and assigns, and the Association shall have alienable and permanent easement and rights-of-way in through, across, over and under the Common Areas, any service areas, the Property and the Lots and under private and dedicated streets, for ingress and egress and development of all roads, drainage, utilities and other development that Declarant, its successors and assigns, determine is necessary, convenient or beneficial to the development of the Property.

**ARTICLE III
PROPERTY OWNERS ASSOCIATION**

1. **Association**

(a) The Developer shall organize the Association as a Texas non-profit corporation. The purposes of the Association are (i) to administer and enforce

the covenants and restrictions set forth in this Declaration; (ii) to provide for the upkeep and maintenance of the Common Areas; (iii) to make and collect annual assessments, special assessments, and working capital assessments as described in this section 3.01, for the payment of expenses of the Association, including, but not necessarily limited to (a) costs of maintaining common areas and existing structures in the common areas; (b) ad valorem taxes assessed against any common areas of the Subdivision; (c) liability insurance associated with the property of the Association; (d) directors' and officers' insurance for the persons serving on the Board; (e) costs, including attorney's fees and other costs of litigation to administer and enforce the covenants and restrictions set forth in this Declaration; and (f) other activities of the Association.

(b) The Association will be governed by the Bylaws of the Association. A copy of the Bylaws of the Association will be provided to each Owner upon request.

(c) All annual assessments made by the Association shall be divided equally among the Lot Owners, but specifically excluding the Declarant.

(d) Each Owner of a Lot shall be a member of the Association ("Member") and have a membership in the Association. Except as provided in this paragraph, there is one membership for each Lot, one membership for any two Lots combined, and in those instances where a single Lot is owned by more than one party, the multiple Owners of such Lot shall designate a representative to vote on their behalf on all matters that come before the Members for vote. Where an Owner owns two Lots and where such Owner has made the election for such Lots as described in Section 2.03(c) of this Declaration, such Owner will have the number of votes that corresponds with the number of Lots on which the Owner is allocated assessments in all matters in which the Owner or Owners is entitled to vote.

(e) The Board is empowered to levy annual, special and individual assessments on each Lot for the purposes of the Association. The Board shall establish a fund (the "Fund") into which shall be deposited all monies paid to the Association and from which disbursements shall be made for the purposes of the Association.

(f) Prior to the beginning of each calendar year, the Board shall estimate the expenses to be incurred by the Association during such year for the purposes of the Association, including a reasonable provision for contingencies and appropriate reserves and shall levy an annual assessment on the Owners. If the sums assessed or collected prove inadequate for any reason, including non-payment by any individual Member, the Board may propose a special assessment to the Members.

(g) All annual assessments shall be billed on or before January 1st of each year and shall be deemed late if not received by the Association by the tenth (10th) day of February. All special assessments shall be due when they are billed on January 1st of each year and shall be deemed late if not received by the Association within thirty (30) days of approval and notice to the Members. The initial annual assessment is \$1,000.00, and may be paid quarterly in \$250.00 installments. The initial annual assessment will be prorated as of the date the Owner acquires legal title to the Lot.

(h) Individual assessments may be levied by the Declarant, or the Association, or the ARC on an individual Lot for amounts incurred in enforcing the provisions of this Declaration, interest, collection fees and repairs.

(i) Each Lot owner that is not the Declarant will pay a one-time working capital assessment (the "Capital Assessment") to the Association in the amount of \$500.00. The Capital Assessment will be due and payable to the Association by the transferee immediately upon each transfer of title of a Lot to any purchaser, subsequent purchaser or transferee thereof. The Capital Assessment may be used to discharge operating expenses or capital expenses, as determined from time to time by the Board. The levy of a Working Assessment will be effective only upon the recordation of a written notice signed by the Declarant or a duly authorized officer of the Association, setting forth the amount of the Capital Assessment and the Lots to which it applies.

Notwithstanding the foregoing provision, the following transfers will not be subject to the Capital Assessment: (a) foreclosure of a deed of trust lien, tax lien or an assessment lien of the Association; (b) transfer to, from, or by the Association; (c) voluntary transfer by an Owner to one or more co-owners or two the Owner's spouse, child or parent. The Capital Assessment will be in addition to, and not in lieu of any other assessments levied in accordance with this Declaration and will not be considered an advance payment of any such assessment.

(j) All assessments, if not timely paid as specified herein, shall be deemed delinquent and in default. The amount of any delinquent assessment, initial administrative/maintenance fee of \$100.00 per month, plus interest on the amount of the assessment at the per annum rate of eight percent (8%) and all costs of collection, including attorney' fees, shall be the personal obligation of the Member and shall be secured by a lien on the Member's Lot. No Owner may waive or otherwise escape liability for any assessment by abandonment of his or her Lot. A certificate executed and acknowledged by the Board stating the indebtedness secured by such lien shall be conclusive upon the Association as to

the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner upon request at a reasonable fee. Each Owner, by his assertion of title or claim of Ownership or by his acceptance of a deed to any portion of the Property, whether or not it shall be so recited in such deed, shall conclusively grant to, and does hereby grant to the Association and its agents the right, power and authority to take all action which the Association shall deem proper for the collection of assessments and charges and to enforce the aforesaid lien by all methods available for the collection of such debts and the enforcement of such liens, including the use of judicial means to collect unpaid assessments, or the foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale and foreclosure in connection with said lien. The lien created hereunder shall be considered a contract lien and shall be governed by the terms and provisions of Section 51.002 of the Texas Property Code.

(k) Notwithstanding any other provision set forth in this Declaration, no lien created herein shall defeat or render invalid the rights of the Beneficiary under any recorded Mortgage of first and senior priority now or hereafter given upon any portion of the Property made in good faith and for value. However, after a foreclosure or a conveyance in lieu of foreclosure, such portion of the Property shall remain subject to the covenants, conditions and restrictions set forth in this Declaration, and shall thereafter be liable for all assessments levied after completion of such foreclosure or conveyance in lieu of foreclosure. The personal debt and obligation of any Lot Owner for debts to the Association shall not be affected or extinguished by any foreclosure.

(l) Neither the Declarant nor the Association shall be liable to any Owner for enforcing or a failure to enforce any of the covenants, conditions, or restrictions contained in this Declaration.

ARTICLE IV BOARD OF DIRECTORS

1. **Board.** The Board shall consist of not less than three (3) persons ("Directors") initially appointed by the Declarant and replaced by the Declarant during the Development Period or after the Development Period by a majority vote of the Members. The following persons are hereby designated as the initial Directors of the Board: John Guerra, Charles Nichols and Teresa Summerlin.

2. **Action by the Board.** Items presented to the Board shall be decided by a majority vote of the Directors.

3. **Term.** Each Director shall hold office until such time as he has resigned or has been removed or his successor has been appointed by Declarant during the Development Period or after the Development Period by a majority vote of the Members of the Association, as provided herein.

4. **Declarant's Rights of Appointment.** Declarant shall have the initial right to appoint and remove Directors, and, except as otherwise provided herein, the Declarant shall have the right, but not the obligation, to appoint and remove members of ARC at any time in the Declarant's sole discretion during the Development Period. At the expiration of the Development Period, the Owners/Members shall have the right to appoint and remove Directors and members of the ARC.

5. **Adoption of Rules.** The Board may from time to time adopt, amend and modify such procedural and substantive rules and guidelines not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties or beneficial to the development or maintenance of the Subdivision by the unanimous consent of the Board.

6. **Approval of ARC.** Whenever in this Declaration the approval of the ARC is required, it shall have the right to consider all of the plans and specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, it deems relevant.

7. **Meetings of the Board.** The Board shall meet from time to time as necessary to perform its duties hereunder. The Board may, by resolution unanimously adopted in writing, designate one of its members to take any action or perform any duties for and on behalf of the Board, except the granting of variances as hereinafter provided. In the absence of such designation, the vote of a majority of all of the Directors taken without a meeting shall constitute an act of the Board.

8. **No Waiver of Future Approvals.** The approval or consent of the ARC to any request by an Owner shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any other matters whatsoever, subsequently or additionally submitted for approval or consent by the same or a different person.

9. **Non-liability of Board Members.** Neither the Board, nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Board or any Director, as the case may be.

4.10 Contract with Management Company. The Board may, at its discretion, contract with a management company to manage the Association and may delegate any of its authority or powers, including the power to levy and collect annual, special, and individual assessments to such management company for the duration of such contract.

ARTICLE V ARC

1. **Designation of ARC.** The Architectural Review Committee (the "ARC") shall consist of not less than three (3) natural persons. The following persons are hereby designated as the initial members of the ARC: _____, _____.

Declarant shall have the right to appoint and remove members of the ARC for the duration of the Development Period or until such time as Declarant assigns such rights to the Association. Subsequent members of the ARC shall be appointed and removed by the Board in its sole discretion.

2. **Function of the ARC.** Following the date of recording of this Declaration, no Improvement, except those constructed by Declarant, shall be erected, constructed, placed, altered (by addition or deletion), or be permitted to remain on any portion of the Property until plans and specifications, and any other information pertaining thereto, in such form and detail as the ARC may deem necessary, shall have been submitted to and approved in writing by the ARC. The decision of the ARC shall be final, conclusive, and binding upon the applicant.

3. **Adoption of Rules.** The Declarant and the ARC may each promulgate, amend and modify such rules and Design Guidelines not in conflict with this Declaration, as the Declarant or the ARC may deem necessary or beneficial to the development, maintenance, or appearance of the Subdivision ("Design Guidelines"). Such rules and Design Guidelines shall become effective upon filing of such rules and guidelines in the official public records of Bell County, Texas and shall be in addition to, and not in lieu of, the restrictions provided herein.

4. **Variations.** The ARC may, in its discretion, permit such variations or exceptions to the restrictions herein contained as it deems necessary or desirable.

5. **Failure of the ARC to Act.** The ARC shall approve such plans and specifications or reject them as being inadequate within thirty (30) days after receipt thereof. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ARC may reject them as being inadequate or may approve part, conditionally or unconditionally, and reject the balance. If the ARC shall fail to respond to any Owner within thirty (30) days after its verifiable receipt of any original or revised plans and specifications submitted hereunder, such plans and specifications shall be deemed to have been approved by the ARC.

6. **Limitation of Liability.** Neither Declarant, the ARC, nor any of the members of the ARC shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

7. **Inspection of Work.**

(a) **Completed Work.** Inspection of completed work and correction of defects therein shall proceed as follows:

- (1) Upon the completion of any improvement for which the final plans and specifications were approved under this Declaration, the Owner shall give written notice of completion to the ARC.
- (2) The ARC or its duly authorized representative may inspect such improvement within fifteen (15) days of receipt of notice of completion. If the ARC finds that such work was not done in strict compliance with all approved plans and specifications, it shall notify the Owner in writing of such noncompliance within fifteen (15) days, specifying in reasonable detail the particulars of non-compliance and shall require the Owner to remedy the same.
- (3) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, The ARC, upon notice to the Owner with an opportunity to attend, shall conduct a hearing at which it shall determine whether there is noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days following the announcement of the ARC's ruling. If the Owner does not comply with the ARC's ruling within such period, the Declarant, at its option, may either remove the non-complying improvement, remedy the non-compliance or seek appropriate injunctive relief and other available legal redress from a court of competent jurisdiction, and the Owner shall reimburse the Declarant upon demand for all expenses incurred in connection therewith.
- (4) In the event the Improvement shall be deemed to be in accordance with the ARC's approved plans and specifications, and upon request by

Owner and payment of a fee of \$250.00, the ARC shall issue and record a "Certificate of Compliance" in a form suitable for recording. The certificate shall identify the Lot and the improvement and shall certify only that the improvements thereon are not in violation of the covenants of the Declaration, or if they are in violation, that a variance has been granted. THE CERTIFICATE SHALL NOT BE CONSTRUED TO CERTIFY THE ACCEPTABILITY, SUFFICIENCY OR APPROVAL BY THE ARC OF THE ACTUAL DESIGN OR CONSTRUCTION OF THE IMPROVEMENTS OR OF THE WORKMANSHIP OR MATERIALS THEREOF. THE OWNER IS HEREBY NOTIFIED THAT THE CERTIFICATE IN NO WAY WARRANTS THE SUFFICIENCY, ACCEPTABILITY OR APPROVABILITY BY THE ARC OF THE DESIGN, CONSTRUCTION, WORKMANSHIP, MATERIALS OR EQUIPMENT OF THE IMPROVEMENTS. RECORDATION OF SUCH A CERTIFICATE SHALL BE AT THE EXPENSE OF THE OWNER OF THE IMPROVED LOT.

- (b) Work in Progress. The ARC may inspect all work in progress and give notice of noncompliance with the Declaration. If the Owner denies that such noncompliance exists, the procedures set out in Subparagraph 8(a) above shall be followed, except that no work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the ARC should ultimately find that non-compliance exists.

8. **Enforcement.** Declarant or the Association, through its, Directors shall have the authority and standing to enforce in courts of competent jurisdiction the decisions of the ARC established in this Article. This Article may not be amended without Declarant's written consent, so long as Declarant owns any land subject to this Declaration.

ARTICLE VI GENERAL

1. Remedies in the event of default. In the event of any default by any Owner under the provisions of the Declaration, the Association and/or any Owner of a Lot within the Property, shall have each and all of the rights and remedies which may be available at law or in equity, and may prosecute any action or other proceeding against such defaulting Owner for enforcement. The enforcement of the provisions of this Declaration, whether for damages or injunction, or specific performance or for judgment of the payment of the money and collection thereof, or for any combination of the remedies, or for any other relief, may be pursued at law or in equity. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy, and if the Association, and/or any Owner who seeks to enforce the

provision of this Declaration prevails, then the Association and/or such Owner shall also be entitled to recover their costs and attorneys' fees. Any and all of such rights and remedies may be exercised at any time and from time-to-time, cumulatively or otherwise, by the Association or any Owner.

2. **Term and Amendments.** The covenants and restrictions set forth in this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless more than sixty-seven percent (67%) of the Owners of the Lots vote to terminate the covenants and restrictions set forth in this Declaration, which termination shall be by a written instrument signed by sixty-seven (67%) of the Owners of the Lots and properly recorded in the Real Property Records of the county or counties in which the Property is located. This Declaration may be amended by an instrument signed by the Owners of the Lots constituting not less than sixty-seven percent (67%) of the Owners of the Lots.

3. **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain, in full force and effect.

4. **Reserved Right of Declarant.** Notwithstanding any other provision herein, to the extent allowed by law, Declarant reserves the right to (i) to unilaterally amend or terminate this Declaration by the recording of an instrument executed and acknowledged by the Declarant acting alone until the expiration or termination of the Development Period; and (ii) to unilaterally amend this Declaration for purposes of correction, reformation or improvement, for so long as Declarant owns any portion of the Property by the filing of an amended Declaration in the Official Public Records of Bell County, Texas.

5. **Rights and Obligations.** The provisions of this Declaration and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of and be binding upon each and all the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the acceptance and recording of a deed conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration, whether or not mention thereof is made in said deed.

Executed to be effective upon recording.

Minerva M2 Mustang, LLC

By: Minerva, Ltd, its Manager

By: Mopac Financial Inc., its General Partner

By: _____
Douglas B. Kadison, its President

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared Douglas B. Kadison, President of Mopac Financial Inc., the General Partner of Minerva, Ltd., the Manager of Minerva M2 Mustang, LLC.

SUBSCRIBED AND SWORN TO BEFORE ME, this _____ day of _____, 2022.

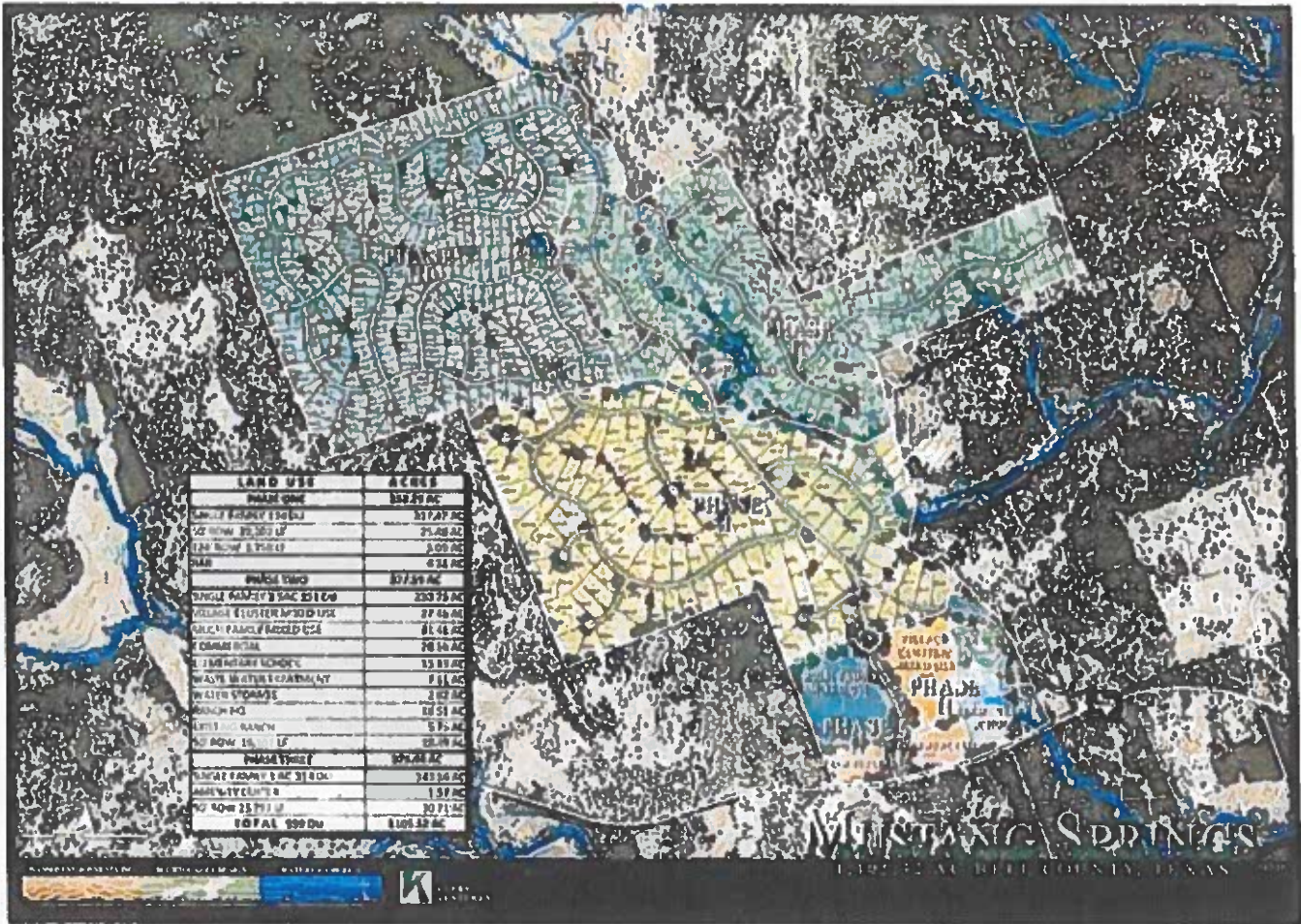
Notary Public in and for the State of Texas

EXHIBIT "A"

Phase 1

All of that property described in that certain plat of Mustang Springs, including but not limited to Lots _____ through _____ of Mustang Springs, being a Subdivision of 1108+/- acres in Bell County, Texas, filed for record on _____, 2022 as Documents No. _____ in the Plat Records of Bell County, Texas.

Land Use Plan Exhibit A



| LAND USE | ACRES |
|----------------------------|--------------------|
| PHASE ONE | 352.29 AC |
| SINGLE FAMILY 134 DU | 317.47 AC |
| 50' ROW 22,202 LF | 25.48 AC |
| 124' ROW 1,768 LF | 5.03 AC |
| RAB | 4.31 AC |
| PHASE TWO | 377.59 AC |
| SINGLE FAMILY 1.5AC 151 DU | 230.75 AC |
| VILLAGE CLUSTER MIXED USE | 27.46 AC |
| MULTI FAMILY MIXED USE | 31.41 AC |
| COMMERCIAL | 20.16 AC |
| ELEMENTARY SCHOOL | 15.13 AC |
| WASTE WATER TREATMENT | 7.11 AC |
| WATER STORAGE | 2.82 AC |
| RANCH HQ | 18.51 AC |
| EXISTING RANCH | 5.75 AC |
| 50' ROW 16,107 LF | 18.49 AC |
| PHASE THREE | 375.44 AC |
| SINGLE FAMILY 1 AC 314 DU | 343.16 AC |
| AMENITY CENTER | 1.57 AC |
| 50' ROW 25,793 LF | 30.71 AC |
| TOTAL 599 DU | 1,105.32 AC |