

ECONOMIC DEVELOPMENT AGREEMENT**BETWEEN THE CITY OF FORT WORTH****AND WALSH RANCHES LIMITED PARTNERSHIP,
THE WALSH CHILDREN'S TRUSTS,
THE WALSH GRANDCHILDREN'S TRUSTS,
AND F. HOWARD WALSH, JR.,****FOR WALSH RANCH**

This Economic Development Agreement for Walsh Ranch (the "Agreement") is made as of the 6th day of May, 2003, by the **CITY OF FORT WORTH, TEXAS** ("City") and **WALSH RANCHES LIMITED PARTNERSHIP**, a Texas limited partnership ("WRLP"), **THE WALSH CHILDREN'S TRUSTS** (as defined on Schedule 1A attached hereto) (the "C-Trusts"), **THE WALSH GRANDCHILDREN'S TRUSTS** (as defined on Schedule 1B attached hereto) (the "G-Trusts"), and **F. HOWARD WALSH, JR.** ("FHWJr.") (WRLP, the C-Trusts, the G-Trusts, and FHWJr., being collectively referred to herein as "Owner").

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

WHEREAS, Owner owns certain parcels of land situated in Parker and Tarrant Counties, Texas, and consisting of approximately 7,207 acres of land in City's extraterritorial jurisdiction, such property being more particularly described or shown in Exhibit "A" attached and incorporated by reference;

WHEREAS, the 7,207 acres of land described in Exhibit "A", less approximately 379 acres located west of Minor 2 at the northeast corner of FM 1187 and I-20 described or shown in Exhibit "B" (the "Westside Property"), are hereinafter referred to as the "Property";

WHEREAS, Owner desires to develop the Property and the Westside Property with a variety of uses including single-family, multi-family, office, retail, industrial, governmental, open-space and other uses into a quality master-planned, mixed-use community (the "Project");

WHEREAS, Owner desires that the Project be developed in general conformance with the "Concept Plan" (herein so called and referred to herein as same even as amended) attached hereto as Exhibit "C", as same may be amended from time to time;

WHEREAS, City and Owner anticipate that the Property will be annexed for limited purposes and zoned on or before November 1, 2003;

WHEREAS, City and Owner anticipate that the Westside Property will be annexed for limited purposes and zoned when water and wastewater service is available to the Westside Property;

WHEREAS, City and Owner anticipate that the Property will be annexed for full purposes in phases, in conjunction with the submittal of preliminary subdivision plats for portions of the Property, in accordance with the terms of this Agreement;

WHEREAS, because of certain attributes of the Project, City has a substantial interest in the development of the Project;

WHEREAS, development of the Project, pursuant to the terms of this Agreement, will create a valuable addition to City, will enhance City's tax base, is in the best interest of the public, and will otherwise benefit City;

WHEREAS, it is in the best interests of City that the Property, the Westside Property and the future residents of the Project be served by water and wastewater facilities provided by City;

WHEREAS, Owner and City desire that the Property and the Westside Property be served by City's water and wastewater facilities;

WHEREAS, Owner has agreed that any development of the Property and the Westside Property will be in accordance with this Agreement and the applicable development requirements of City, and City and Owner have determined that it is in the best interests of City and Owner for the Property and the Westside Property to be developed in accordance with such development requirements;

WHEREAS, Owner desires to continue to pursue approvals for the development of the Project and to construct the Project in reliance upon the terms of this Agreement;

WHEREAS, City and Owner acknowledge that the Project will be developed over a forty (40) to fifty (50) year period and agree that a stable regulatory environment is desirable for the development of the Project;

WHEREAS, City and Owner agree that this Agreement is further authorized by Texas Local Government Code Chapter 245 and that for purposes of this Agreement the Concept Plan constitutes the first permit in a series of platting permits and approvals required for the development of the Project, and it is the intent of the parties that such permit shall result in the imposition of uniform and consistent requirements as the basis for the consideration of all subsequent permits required for the Project, in accordance with Local Government Code, Chapter 245, except as specifically provided in this Agreement;

WHEREAS, in addition, the City Council of the City of Fort Worth has adopted as one of City's Strategic Goals the promotion of orderly growth in developing areas such as the Project and, in furtherance of such goal, City has created an Office of Economic Development to oversee economic development programs authorized by Texas law and approved by the City Council, including those authorized by Chapter 380 ("Chapter 380") of the Texas Local Government Code, to promote state and local economic development and to stimulate business and commercial activity in the City;

WHEREAS, in the event Owner and City determine that any of the economic benefits that may be conferred on Owner pursuant to this Agreement arise under Chapter 380, the parties agree to cooperate to execute documents required by Chapter 380;

WHEREAS, this Agreement was approved on April 29, 2003, by the Fort Worth City Council (Mayor and Council Communication C-19566);

WHEREAS, City and Owner have determined that the development of the Property and the Westside Property will best be accomplished through this Agreement;

WHEREAS, City and Owner agree that City's development requirements and the terms of this Economic Development Agreement substantially advance a legitimate interest of City;

WHEREAS, in its approval of this Agreement, the City Council has found and determined that the potential economic benefits that will accrue to City under the terms and conditions of this Agreement are consistent with City's established economic development objectives;

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. **THE PROJECT.** Owner is planning and developing a master-planned mixed-use community on the Property and the Westside Property, and in conjunction therewith is proposing to subdivide and obtain various land use approvals for the Property and the Westside Property.

(a) **Concept Plan.** On January 23, 2002 City's Plan Commission approved a Concept Plan for the Project which is attached as Exhibit "C" (the "Concept Plan"). Owner agrees that all future applications for subdivisions of the Property and the Westside Property shall be substantially consistent with the Concept Plan except to the extent otherwise authorized by City or the Plan Commission.

(b) **Comprehensive Plan.** City acknowledges and agrees that the Concept Plan for the Property and the Westside Property (as adopted on January 23, 2002) is consistent with the land use maps set forth in Appendix C to the Fort Worth 2003 Comprehensive Plan. The parties anticipate that on or before July 15, 2003, Owner will submit an application to zone the Property in substantial conformance with the land uses reflected in the Concept Plan, and the City Council will consider the application on or before November 1, 2003, unless the parties agree to extend the deadlines. City agrees that neither the land use map for the Property and the Westside Property in Appendix C to the 2003 Comprehensive Plan nor any other provision of the 2003 Comprehensive Plan relating specifically to the Property or the Westside Property will be amended before November 1, 2003, without Owner's approval. City further agrees that no amendment to the land use maps and/or other provisions relating to land use in the 2003 Comprehensive Plan or any subsequent comprehensive plan (collectively, the "Comprehensive Plan") that are approved after November 1, 2003, will prevent development of the Property or the Westside Property in accordance with the zoning designations approved by the City Council. City acknowledges that Owner may initiate amendments to the Comprehensive Plan so as to render the Comprehensive Plan consistent with the zoning designations for the Property or the Westside Property, as originally approved or subsequently

amended by the City Council. If Owner elects to submit an amended zoning request for the Property or the Westside Property or any portion thereof, City will consider the amended zoning request and the Comprehensive Plan amendments concurrently. The parties anticipate that City and its staff and governing bodies will support each application by Owner for an amendment to the Comprehensive Plan so long as such application is generally consistent with the zoning designation then in effect.

(c) **Master Thoroughfare Plan.** City acknowledges and agrees that the Concept Plan (as adopted on January 23, 2002) is generally in conformance with the 2002 Master Thoroughfare Plan (the "MTP"). It is anticipated that on or before August 1, 2003, City staff will initiate amendments to the MTP to render it consistent with the Concept Plan in all respects. All application fees relating to such MTP amendments are waived. The parties acknowledge that amendments to the MTP will be subject to Plan Commission and City Council review and approval. If the City Council fails to approve such MTP amendments on or before November 1, 2003, Owner shall have the right to terminate this Agreement.

(d) **Applicable Regulations.** Owner and City agree that the Property will be developed in phases over a forty (40) to fifty (50) year period and will involve numerous subdivisions requiring the platting and full purpose annexation of the Property in accordance with this Agreement. City acknowledges that the feasibility of the Project is dependent on approval by City of the land uses proposed by Owner in the Concept Plan and on a predictable and stable regulatory environment in the design of subdivisions and the design and construction of public improvements. In that regard, City and Owner agree as follows:

- (i) Owner shall file an application for limited purpose annexation of the Property on or before July 15, 2003, unless extended by written agreement by City staff and Owner, and, in connection therewith, shall seek approval by City of zoning regulations for the Property, including permitted land uses and development regulations, in substantial conformance with the Concept Plan.
- (ii) Except as otherwise stated in this Agreement, the version of City's Subdivision Regulations and Community Facilities Policy in effect on January 23, 2002 (the "Regulation Date") (except for design standards for streets and roadways) together with the absence of limitations on impervious cover and the absence of development fees (or similar payment obligations related to development of the Project) and the design standards for streets and roadways approved by the City Council on February 13, 2002, by Mayor and Council Communication G-13532 shall be applicable to development of all portions of the Property for which a preliminary plat is submitted on or before December 31, 2016 and a final plat is subsequently approved and filed in the county records.
- (iii) "Development Regulations" means the version of City's Subdivision Regulations, Community Facilities Policy, impervious cover limitations, absence of development fees, and design standards for streets and roadways applicable to the Property or the Westside Property on the applicable Regulation Date, pursuant to subsections (ii) and (iv).

- (iv) Commencing January 1, 2017, the Development Regulations in effect on January 1 of the years set out below (the "Regulation Dates") shall apply to the development of all portions of the Property or the Westside Property for which a preliminary plat is submitted during the subsequent five-year period, provided that a final plat is approved and filed in the county records, as follows:

<u>Regulation Date</u>	<u>Submission period for preliminary plats</u>
January 1, 2017	January 1, 2017 through December 31, 2021
January 1, 2022	January 1, 2022 through December 31, 2026
January 1, 2027	January 1, 2027 through December 31, 2031
January 1, 2032	January 1, 2032 through December 31, 2036
January 1, 2037	January 1, 2037 through December 31, 2041
January 1, 2042	January 1, 2042 through December 31, 2046
January 1, 2047	January 1, 2047 through December 31, 2051
January 1, 2052	January 1, 2052 through April 29, 2053

- (v) Owner may hereafter prepare and submit to City for approval certain other development standards intended specifically for the Project to be known as the "Walsh Ranch Development Standards" (the "Walsh Ranch Standards"); City shall not unreasonably withhold approval of the Walsh Ranch Standards so long as (i) same are not inconsistent with the Concept Plan, and (ii) same provide the equivalent or better assurances of development quality and aesthetics as are created by the Development Regulations then applicable pursuant to subsections (ii) or (iv) above. If the then-current Walsh Ranch Standards do not provide the equivalent or better assurances of development quality and aesthetics as are created by the version of the Development Regulations applicable under subsections (ii) or (iv), the Development Regulations will control to the extent of such inconsistency. The Walsh Ranch Standards (or, if applicable, the Development Regulations) may be amended from time to time in the same manner (and subject to the same requirements).
- (vi) Notwithstanding anything herein to the contrary, City may (i) charge fees for development permits according to the fee schedule in effect on the date of submittal of each permit application, and (ii) continue to enforce and apply (if applicable throughout the City of Fort Worth) all building codes and environmental regulations.
- (vii) City acknowledges and agrees that the Development Regulations will not apply to ranching, farming, and drilling and production of natural gas on the Property or the Westside Property until such property is annexed for full purposes, except for Subdivision Regulations and other regulations that are enforceable in the City's extraterritorial jurisdiction, which will apply.

- (viii) Notwithstanding anything in this Agreement to the contrary, if City adopts or amends a City rule, regulation or ordinance relating to development (including City's financial participation commitments or construction obligations for public infrastructure) that Owner considers more favorable to development of the Project, Owner may elect to comply with and benefit from the amended rule, regulation or ordinance.
- (ix) If Owner is entitled to greater protection with regard to the applicability of development regulations under Chapter 245 of the Local Government Code or any other provision of state law than is afforded by this Agreement, Owner may claim the benefits under state law in lieu of the provisions outlined above.
- (x) Notwithstanding anything in this Agreement to the contrary, in the event City is required by state or federal law or regulation to adopt one or more ordinances that apply to the development of the Property or the Westside Property including, but not limited to, ordinances implementing storm water discharge regulations, such ordinance shall become applicable to the development of the Property upon the effective date of the ordinance unless the ordinance specifies to the contrary, provided, however:
 - (i) Such ordinance must be one generally and uniformly applicable to all development within the City, unless otherwise required by state or federal law; and
 - (ii) Such ordinance must provide that property located within the City and its extraterritorial jurisdiction which upon the effective date of the ordinance is being developed pursuant to one or more approved preliminary or final plats or other permits approved by City shall be exempt from application of the ordinance, to the extent allowable under state or federal law or regulation; provided that
 - (iii) Such ordinance shall exempt the Property, or portion thereof, or portion of such ordinance, which is permitted to be exempted under such state or federal law or regulation by virtue of this Agreement or the commencement of development of the Property.

(e) **Additional Approvals.** Owner shall obtain approvals as required by the Development Regulations and this Agreement prior to its development of any of the Property or the Westside Property. The parties anticipate that City and its staff and governing bodies will support and accept all such subsequent applications for development approvals or permits by Owner, including but not limited to applications for annexation, preliminary plat and final plat approval, so long as such applications comply with the Development Regulations and substantially conform with the Concept Plan and the zoning enacted pursuant to paragraph 2(b) below. Owner agrees to pay the applicable processing/review fees for such future development approvals that are in effect city-wide on the date such subsequent applications are filed.

(f) **Procedure for Development of the Property.** Except as set forth below, prior to commencing construction of any structure on the Property, Owner shall comply with the following procedure: (i) submit a preliminary subdivision plat and request for full purpose annexation for the property, pursuant to paragraph 2(e); (ii) obtain approval of the preliminary plat and the full purpose annexation ordinance; (iii) obtain approval of and file final plat in the county records; and (iv) obtain all required construction permits. Owner may commence construction of one or more temporary construction yards and construction staging areas without complying with the annexation and platting requirements (i) through (iii) set out above. Construction of public infrastructure is subject to compliance with the City's Community Facilities Policy applicable in accordance with paragraph 1(d). The provisions of this paragraph also apply to portions of the Westside Property that are developed after water and wastewater service is available to such property, in accordance with paragraph 2(g). Notwithstanding anything herein to the contrary, Owner may construct structures utilized in farming and ranching or for drilling or production of natural gas without complying with the terms of this paragraph. Further, Owner may construct a maximum of ten (10) model homes and two sales offices without complying with the terms of this paragraph, provided that such structures shall be built to City standards and shall comply with NFPA Standard 1231 (1993) relating to water supplies for suburban and rural firefighting.

(g) **Moratoriums.** Except to the extent required by a court order, City agrees not to impose any development or other moratorium binding upon the Property or the Westside Property that would prohibit the Owner from making applications to City, or prohibit City from approving such applications, related to the development of the Property or the Westside Property for the uses generally described in the Concept Plan. In the event City is served with a court order requiring a moratorium which affects Owner's ability to make or receive applications required for the development of the Property or the Westside Property, City agrees to notify Owner as soon as reasonably possible after service of such order on City so that Owner may be permitted to assert and protect Owner's interest in the matter.

2. ANNEXATION AND ZONING

(a) **Intent.** City acknowledges and agrees that many of the common and mutual objectives herein set forth would be best served if the Property were annexed for limited purposes as contemplated in Subchapter F of Chapter 43 of the Texas Local Government Code (the "Code"). Owner, likewise, has determined that a "limited purpose annexation" would best serve the Project and facilitate development as contemplated by this Agreement. City acknowledges and agrees that Owner's desire to create a planned community with a mix of compatible land uses as set forth in the Concept Plan is in City's best interest and that the land uses set forth or contemplated in the Concept Plan are generally acceptable. Nonetheless, Owner acknowledges that the adoption of the Specified Ordinance defined in paragraph 2(b) will, if it occurs, constitute the formal vesting of the intended zoning rights.

(b) **Application.** With the assistance of City, Owner agrees to submit an application (the "LPA Application") for annexation of the Property for the limited purpose of allowing City to apply its planning, health, safety and zoning ordinances, as contemplated below, on or before July 15, 2003, unless extended by written agreement by City staff and Owner. Concurrently with submitting the LPA Application, Owner shall submit an application to zone the Property pursuant to a specific

and unique zoning ordinance (the "Specified Ordinance") in substantial conformance with the land uses reflected in the Concept Plan. Owner and City acknowledge that any attempt by City to agree by contract to any particular zoning regulations is void as a matter of law. However, City acknowledges that Owner desires the Property to be annexed for limited purposes only for development of the Property in substantial conformance with the Concept Plan. City agrees to consider the LPA Application simultaneously with the zoning application and to allow Owner to withdraw the LPA Application in the event City fails to approve the zoning application. Owner acknowledges that final approval of the actual Specified Ordinance cannot occur unless and until the LPA Application and the Specified Ordinance are each approved by the City Council. City acknowledges and agrees that the LPA Application and the Specified Ordinance will both be approved as submitted or both disapproved and that no partial approvals, amendments, or modifications thereto will be approved by the City Council, unless accepted by Owner. If Owner and City are unable to agree on zoning designations for the Property satisfactory to Owner, Owner may withdraw the LPA Application. City agrees to process such LPA Application (with Specified Ordinance) for approval at the earliest possibility. In the event the City Council fails to approve the LPA Application and Specified Ordinance as submitted by Owner on or before November 1, 2003, Owner shall have the right to terminate this Agreement; provided, however, if the deadline for submittal of the LPA Application and the application to zone the Property is extended, the November 1, 2003, deadline for City Council approval shall be extended by the same period.

(c) **Reports/Studies/Hearings.** City shall immediately commence the preparation of all reports, studies and other work necessary for the processing, review and/or approval of the LPA Application as contemplated by Section 43.123 of the Code. In addition, City shall promptly schedule and conduct all public hearings contemplated by Section 43.124 of the Code.

(d) **Full Purpose Annexation Extension.** Notwithstanding the three-year limitation set forth in Section 43.123(d)(2) of the Code, City and Owner hereby each waive such requirement and agree that the date for full purpose annexation of the Property shall be postponed pursuant to Section 43.127(a) of the Code until the sooner to occur of (i) annexation of one or more 1,000-foot strips (or such other width as required by law) to connect portions of the Property, the Westside Property, or property not subject to this Agreement, including property owned by parties other than Owner, to the City limits in order to facilitate annexation of such land; (ii) the dates provided under paragraph (e) below (if such dates are more than three years after the limited purpose annexation); (iii) annexation, at City's option, of any one or more unincorporated enclaves of 400 acres or less surrounded on all sides by portions of the Property and/or the Westside Property that have been created as the result of annexations requested by Owner; or (iv) twenty-three (23) years from the date hereof, unless extended in writing by mutual agreement (the "New Full Purpose Annexation Deadline").

(e) **Full Purpose Annexation of Land.** City and Owner agree that each application for preliminary plat approval for the Property will be accompanied by a concurrent petition for voluntary full purpose annexation within the corporate limits of City with respect to the land subject to the preliminary plat application and, if applicable, other land. The City Plan Commission or staff, as applicable, will consider the application for preliminary plat approval and the City Council will consider the petition for full purpose annexation in accordance with deadlines established by state law. City acknowledges that this Agreement constitutes a written agreement to postpone the date

for full purpose annexation pursuant to Section 43.127(a) of the Code, and that full purpose annexation will occur only in accordance with paragraph 2(d) above.

(f) **Waiver of Capital Improvements Planning.** Insofar as full purpose annexation will proceed as the Property is developed, the parties recognize that annexation of portions of the Property for full purposes is likely to occur less than three years after limited purpose annexation and that annexation of the remainder of the Property could occur over a period of up to fifty (50) years. The parties recognize that capital improvements planning under Section 43.127(b) of the Code for the entire Property within three years after the area is annexed for limited purposes is premature. The parties further recognize that it is likely that Owner will not give City three years notice of each request for full purpose annexation. Accordingly, Owner waives City's performance under Section 43.127(b) and the parties agree to cooperate in identifying future capital improvements projects for the Property, including projects intended to serve the Property in City's adopted capital improvements program, and identifying potential sources of funding for capital improvements as the Property is annexed for full purposes and developed.

(g) **Annexation and Zoning of the Westside Property.** All development of the Westside Property shall be in substantial conformance with the land uses reflected in the Concept Plan and shall be constructed in accordance with City standards. Owner shall file a petition for limited-purpose annexation and an application to zone the Westside Property within 90 days after City completes construction of the Phase IVA Water Facilities and City wastewater service is available to serve the Westside Property. All subsequent development of the Westside Property shall be subject to the procedure set out in paragraph 1(f). Owner shall submit a request for full purpose annexation of portions of the Westside Property that have been developed before the Phase IVA Water Facilities are completed and City wastewater service is available, within 90 days after water and sewer lines are installed within 200 feet of such property.

(h) **Full Purpose Annexation Planning.** In order to assist City in planning for provision of municipal services, Owner and City shall meet periodically, but no less than quarterly, to discuss Owner's plans for full purpose annexation. Owner shall provide City with periodic reports identifying areas for which Owner plans to seek full purpose annexation, which shall be submitted annually or more frequently, at Owner's election; provided, however, failure to submit such reports shall not affect the validity of any annexation request.

3. WATER AND SANITARY SEWER FACILITIES

(a) **General Commitment of Utility Capacity.** City and Owner agree and acknowledge that the proposed development of the Project will require system utility improvements to be made by City in order for water and wastewater utilities to be available to the Property and the Westside Property.

(b) **Utility Capacity Needs.** City shall provide the water and wastewater utilities in accordance with the requirements and timelines set forth in this Agreement in such capacities as may be reasonably necessary to provide the same level of service to the residents and other users in the area proposed to be served thereby as is provided in other areas of City.

(c) **System Improvements Schedule.** Owner and City recognize that the timetable for utility improvements necessary for services to the Project is based on utility systems demand assumptions related to the Project and City will provide utility services and capacities based on actual development of the Project and projected growth, as reported to City by Owner during the development process. Owner recognizes that in order for City to provide utility services other than those specified in paragraph 3(g) below, City and Owner must meet periodically, no less than quarterly, to review development schedules, closing schedules and sales projections within the Project and to schedule utility system improvements to meet anticipated demand and capacity.

(d) **Water and Wastewater Master Plan.** Owner shall provide a Water/Wastewater master plan for the Property and the Westside Property on or before January 1, 2004.

(e) **Temporary Onsite Facilities.** Owner may install water wells and temporary wastewater collection/disposal facilities on the Property and the Westside Property at Owner's sole expense in accordance with this paragraph, in order to facilitate development of the Property and the Westside Property in accordance with this Agreement prior to the availability of City services and to supplement such services thereafter. Such wells and temporary wastewater collection/disposal facilities shall be designed and constructed as Owner deems appropriate, provided they comply with all requirements of state and federal laws and regulations. All structures constructed on the Property and the Westside Property shall be connected to City sewer and water systems (by and at the expense of parties other than City) within 90 days after the water and sewer mains and taps are installed and these systems are connected to City's system. All temporary wastewater collection/disposal facilities for a structure shall cease operation within 90 days after City's system is available to such structure and operational and such temporary facilities shall be removed from the Property or the Westside Property, as applicable, within 30 days thereafter; services for uses such as construction, drilling, irrigation and other purposes for which potable water is not required may continue. Upon connection of a structure to the City water system, the property owner may continue to use on-site wells for irrigation and other outdoor purposes but shall disconnect the well from plumbing in accordance with City codes.

(f) **Permanent Onsite Facilities.** Except as otherwise set forth in this Agreement, Owner will install and construct with normal participation by City all onsite water and wastewater mains/facilities necessary to serve the proposed development of the Property and the Westside Property in accordance with City standards. Owner will submit a water and wastewater study to City's Water Department for each phase of the development as a condition of approval of the preliminary plat.

(g) **General City Obligations.** City agrees to design and construct, at City's expense, the water and sanitary sewer mains to serve the water volume needs of the Project in conformance with the time schedules set forth herein. Such design and construction shall include, at City's expense, lift stations, pump stations, force mains, sanitary sewer mains, water mains, water booster pumps, elevated water storage facilities, and other lines and facilities described in paragraphs 3(h) and 3(j) and shown in Exhibit "D" entitled "Walsh Ranch Sanitary Sewer Exhibit (the "City Sewer Plan")", and Exhibit "E" entitled "Walsh Ranch Water Exhibit" (the "City Water Plan"), attached and incorporated herein.

(h) **Specific City Water Obligations.** City shall design, construct and operate at its sole cost and expense, the following **WATER FACILITIES** adequate to serve the Property and the Westside Property, as well as anticipated customers west of the Property (as further shown and described on the City Water Plan), in accordance with the schedule corresponding thereto:

<u>FACILITY</u>	<u>SCHEDULE</u>
<p>1. <u>“Phase I Water Facilities”</u> (water line from Westland Ground Storage Tank to Westside IV Elevated Tank Site; includes Westside IV Elevated Storage and Pump Station)</p>	<p>Design and easement acquisition to be complete on or before eighteen (18) months after the date hereof.</p> <p>Construction to be complete prior to the earlier to occur of (i) third (3rd) anniversary of the date hereof or (ii) eighteen (18) months after completion of the design and easement acquisition phase described above.</p>
<p>2. <u>“Phase II Water Facilities”</u> (water line from FM 2871 to Westside III Reservoir Site and Westside IV Booster Pump Station; includes Westside III Ground Storage Tank and Westside IV Pump Station)</p>	<p>Design, easement acquisition, and construction must be completed on such schedule as may be necessary to meet any capacity needs which cannot be met by City-constructed Phase I Water Facilities and Owner-constructed Phase III Water Facilities. (City shall not be obligated to commence design until Owner has commenced design of Phase III Water Facilities.)</p>
<p>3. <u>“Phase IVA Water Facilities”</u> (Westside V Booster Pump Station at end of Phase I Line, and Westside V Elevated Storage)</p>	<p>Design, easement acquisition and construction shall be completed on the same schedule as applies to Owner’s schedule for Phase IVB Water Facilities below.</p>

(i) **Specific Owner Water Obligations.** Subject to contribution by City in an amount not less than the amounts set forth in City's normal participation policies, Owner shall construct (and City shall operate and maintain) the following **WATER FACILITIES** (as further shown and described on the City Water Plan), and City shall complete easement acquisition, in accordance with the schedule corresponding thereto:

<u>FACILITY</u>	<u>SCHEDULE</u>
1. <u>"Phase III Water Facilities"</u> (water line connecting Phase I water line at I.H. 30 and Walsh Ranch Parkway southeasterly to serve the property north and south of Overlook interchange)	Design, easement acquisition and construction shall be according to Owner's development schedule.
2. <u>"Phase IVB Water Facilities"</u> (water line connecting Westside V Pump Station to Westside V Elevated Storage Tank)	Design, easement acquisition and construction shall be according to Owner's development schedule.

Water service shall be provided in accordance with the same policies and ordinances in effect for all City water customers. Potable water shall comply with all federal, state and local requirement for potable water. Water service rates shall be the same as those rates applicable to other similarly classified City water customers.

(j) **Specific City Sewer Obligations.** In addition, City shall construct and operate, at its sole cost and expense (except for the Phase III Sewer Facilities) the following **SEWER FACILITIES** adequate to serve the Property and the Westside Property (as further shown and described on the City Sewer Plan) in accordance with the schedule corresponding thereto:

FACILITY

SCHEDULE

<p>1. <u>“Phase IA, IB, IC and ID Sewer Facilities”</u> (as shown and identified on the City Sewer Plan; Phase IC line shall be limited to 10,000 linear feet)</p>	<ul style="list-style-type: none">• Design and easement acquisition to be complete on or before eighteen (18) months after the date hereof.• Construction to be complete on or before the earlier to occur of (i) third (3rd) anniversary of the date hereof or (ii) eighteen (18) months after completion of the design and easement acquisition phase described above.
<p>2. <u>Phase II Sewer Facilities</u> (as shown and identified on the City Sewer Plan)</p>	<ul style="list-style-type: none">• Design and easement acquisition to be complete on or before eighteen (18) months after the date hereof.• Construction to be complete on or before eight (8) months after Owner’s application for preliminary plat or annexation for the area (or portion thereof) to be served by such facilities, but completion shall not be required earlier than twelve (12) months after completion of design and easement acquisition (which shall be complete on or before eighteen (18) months after the date hereof).
<p>3. <u>Phase III Sewer Facilities</u> (as shown and identified on the City Sewer Plan)</p>	<ul style="list-style-type: none">• Design and easement acquisition to be complete on or before eighteen (18) months after the date hereof.• Construction shall be the responsibility of Owner or others and shall be subject to the “per acre” policy of the City.

<p>4. <u>Phase IVA Sewer Facilities</u> (from existing 21' sewer in Lost Creek westward to the Project as shown on the City Sewer Plan)</p>	<p>Design and easement acquisition to be complete on or before eighteen (18) months from the date of this Agreement.</p> <p>Construction to be complete on or before twelve (12) months after submittal of a preliminary plat of any area to be served by such facilities, but completion shall not be required earlier than twelve (12) months after completion of design and easement acquisition (which shall be complete on or before eighteen (18) months after the date hereof).</p>
<p>5. <u>Phase IVB Sewer Facilities</u> (includes two gravity lines in Lost Creek and Walnut Creek lift station and force main as shown on the City Sewer Plan)</p>	<p>Design and easement acquisition for 2 gravity lines to be complete on or before eighteen (18) months from the date of this Agreement.</p> <p>Design and easement acquisition for the lift station and force main shall be completed within eight (8) months after a Community Facilities Agreement is submitted to City which provides for construction of the Phase III Water Facilities by Owner (the "<u>Phase III Water CFA</u>").</p> <p>Construction of the 2 gravity lines to be complete on or before eight (8) months following Owner's submittal of the Phase III Water CFA.</p> <p>Construction of the lift station and force mains to be complete within twelve (12) months after outside date for completion of design for same.</p>

Wastewater service shall be provided to portions of the Property and the Westside Property after full purpose annexation, pursuant to state law, and shall be in accordance with the same policies and ordinances in effect for all City wastewater customers. Wastewater service rates shall be the same as those rates applicable to other similarly classified City wastewater customers.

(k) **Owner's Construction Rights.** Notwithstanding anything herein to the contrary, Owner shall have the right to construct the following at Owner's expense:

- (i) Up to five (5) sanitary sewer lift stations shown and identified on the City Sewer Plan or "Phase V"; such lift stations shall connect to the Phase IC Sewer Facilities drainage area. If constructed, such lift stations shall be accepted, operated and maintained by City (unless same are constructed to serve a single user, in which case the maintenance shall be such user's responsibility).
- (ii) A sanitary sewer lift station and force mains shown and identified on the City Sewer Plan as "Phase VI"; such facilities shall connect to the Walnut Creek water shed. If constructed, such facilities shall be accepted, operated, and maintained by City (unless same are constructed to serve a single user, in which case the maintenance shall be such user's responsibility).

(l) **Raw or Effluent Water.** Upon written request by Owner, City shall use reasonable efforts to provide Owner access to (1) "raw water"; and/or (2) treated effluent water if, as, and when either becomes available on or adjacent to the Property. In the event that either type of water becomes available in the vicinity of the Property, Owner may request that City use reasonable efforts to extend a pipeline within a reasonable time for transport of such water to the Property. In such event, City shall be responsible for obtaining all necessary rights of way and the cost of the pipeline shall be borne, at Owner's election, either (i) by Owner on a "payment upon completion" basis or (ii) by Owner on a "cost recovery" basis wherein City will add a surcharge to the otherwise prevailing raw or effluent water rates in an amount sufficient to amortize the hard costs of the pipeline extension over a reasonable period of not less than ten (10) years. Except as provided in the preceding sentence, all raw or effluent water will be delivered to City and sold to Owner at the prevailing rate for such water. City will timely seek and obtain the required Texas Commission on Environmental Quality approvals for the use of raw or effluent water for the Project.

(m) **Right-of-Way.** City shall obtain all conveyances, easements and rights-of-way outside of the Property as may be necessary to construct and operate the various Water Facilities and Sewer Facilities contemplated by this Agreement and shall complete such acquisitions on or before the dates set forth in paragraphs 3(g) and 3(i) above. Owner agrees to cooperate with and assist City, at no cost to Owner, with City's efforts to obtain such rights-of-way; in such regard, Owner agrees to make the initial contacts with affected land owners and to make initial offers, as directed by City, to acquire same on behalf of City. Owner shall have no obligation to incur any costs or pursue acquisitions beyond the initial contact and offer.

(n) **CCN Proceedings at TCEQ.** Owner will not oppose, and will actively support, any application filed at the Texas Commission on Environmental Quality ("TCEQ") or any successor

agency by City to amend its existing water certificate of convenience and necessity ("CCN") to include areas covering any or all of the Property and the Westside Property. Further, Owner will not support any other application for a water CCN to provide retail water service to the Property and the Westside Property, or any attempts by any developer or other utility to provide retail water service to the Property and the Westside Property. Notwithstanding the foregoing, if City does not obtain the amendment to expand its existing water CCN within eighteen (18) months of the date of this Agreement, Owner may pursue other options for water service for any areas not covered by City's CCN, including supporting third parties who may seek a water CCN, and City shall have no obligation to provide potable water service to any portion of the Property or the Westside Property not covered by City's CCN; provided that, if City is diligently pursuing such a water CCN amendment but protests have been filed against it, then City shall have two years from the date of this Agreement to obtain the CCN amendment.

(o) **City's Exclusive Right to Serve.** Subject to the provisions of paragraph (n) immediately above, Owner agrees that City shall have the exclusive right to provide retail water service to the Property and the Westside Property, and no other person or entity shall have the right to provide retail water service to the Project, except as determined by City in its sole discretion.

(p) **Water Storage Design.** Owner shall have the right to approve the design and exterior materials of all water storage facilities (surface and elevated), such approval not to be unreasonably withheld.

(q) **No Waiver of Defenses or Immunities.** At no time does City by execution of this Agreement waive any defenses or immunities available to City against claims or lawsuits for the temporary inability to provide water and wastewater services when such failure results from the damage or failure of one or more components of City's water treatment, water distribution, wastewater collection and/or wastewater treatment systems; provided, Owner's performance of any of its obligations under this Agreement shall be excused to the extent of City's non-performance or in the event City's failure renders Owner's performance impossible or more costly.

4. **OTHER WATER, SEWER, ROADWAY MISCELLANEOUS MATTERS**

(a) **Water Costs.** City shall pay and be solely responsible for, without reimbursement or contribution of any kind from Owner except as specifically set forth herein, all costs of the following facilities, including, without limitation, all costs of design, easements, review, permitting, construction, financing, operation, and maintenance: Phase I Water Facilities, Phase II Water Facilities, and Phase IVA Water Facilities. As contribution for these facilities, City will collect a \$400.00 fee from the retail customer (for the purpose of recovering a pro rata cost of extending the infrastructure) for each water tap in addition to the standard water tap/impact fee. Owner shall pay for the Phase III and Phase IVB Water Facilities, subject to standard City participation policy.

(b) **Sewer Costs.** City shall pay and be solely responsible for, without reimbursement or contribution of any kind except as specifically set forth herein, all costs of the following facilities, including, without limitation, all costs of design, easements, review, permitting, construction, financing, operation, and maintenance: Phase IA, IB, IC, and ID Sewer Facilities, and Phase II, Phase III (except for construction), Phase IVA and Phase IVB Sewer Facilities. The costs shall be

paid initially by City but shall be subject to recovery in accordance with City's normal prevailing development policies, with the costs of same being allocated on a per-acre basis over the entire area (inside the Project and beyond the Project) served or to be served by such line as each final plat is filed of record. This "per acre" fee shall be in addition to the standard sewer tap/impact fee. Owner shall pay for and be responsible for the lift stations and required force mains indicated as Phases V and VI; however, following construction, City shall accept, operate and maintain said facilities.

(c) **Interstate Access, Roadway and Interchange Costs.** In general, the costs of all interstate and highway access, roadways and highway interchanges built within the Project shall be borne and allocated in accordance with City's normal prevailing development policies; either City or Owner may, at its option, pay costs beyond the share for which it is normally obligated. Both parties recognize the importance to the Project of interstate access, roadways and interchanges. In the event City and Owner agree in writing that the interest of both parties will be better served, City and Owner may, from time to time, agree upon cost allocations for interstate/highway access, roadways and/or interchanges different from prevailing policies, including without limitation provision of state and/or local matching funds for a federal program in the event the State of Texas, any agency of the State of Texas, or City declines to participate or does not participate fully in the program. At Owner's request, City may, at City's option, collect as a condition of final plat approval on property located within the Project, a roadway impact fee or other fee equal to Owner's costs incurred pursuant to this paragraph, and provide such funds to Owner upon receipt, to the extent permitted by law. Owner agrees to furnish City with all documentation relative to actual and anticipated costs. If City staff decides against collecting this impact fee or other fee, City agrees that the matter will be taken to the City Council for final action. In addition, at Owner's request, City will support the creation of public improvement districts, road utility districts or other similar mechanisms allowed by law to finance costs incurred pursuant to this paragraph, provided such funding mechanism is at no cost to City other than reasonable and customary administrative costs. In the event Owner and City take action under this paragraph pursuant to Chapter 380 of the Local Government Code, Owner and City agree to execute documents required by Chapter 380.

(d) **City Roadway Costs.** Notwithstanding the provisions of paragraph 4(c) above, City shall pay (or cause to be paid) and be solely responsible for, without reimbursement or contribution of any kind from Owner (directly or indirectly), the costs of constructing the portion of the roadway designated "Minor 1" on the Concept Plan running between "Minor 4" and Interstate Highway 30 (being the road on the eastern boundary of the Project adjacent to the "Westside Landfill"); such obligation shall include all costs of design, review, permitting, construction, financing, operation and maintenance, provided, however, City may collect normal and customary ad valorem taxes on portions of the Property and the Westside Property within the City, and Owner shall dedicate all right-of-way necessary for construction of such roadway. The schedule for construction of such roadway shall be at City's discretion, provided, however, before City accepts dedication by Owner of the community park west of Minor 1, as shown on the Concept Plan, City shall construct Minor 1 or provide other access to such park that does not encroach upon the Project.

(e) **Thoroughfare Naming.** Owner shall retain the right, and City hereby grants to Owner the right, to name all major streets and thoroughfares traversing or serving the Property, including the following roads and/or road segments as shown on the Concept Plan, provided City's Fire Department does not object to any name selected by Owner because of conflict with existing

street names and City shall not incur costs that exceed normal and customary costs incidental to naming streets and installation of street signs:

- Walsh Ranch Parkway
- "Minor 1" (from Westpoint to Walsh Ranch Parkway)

(f) **Obligations Under Prior Agreements.** City remains obligated for all work required to be performed by City under that certain agreement dated May 13, 1983, by and between City and F. Howard Walsh and Mary D. Walsh (the "1983 Agreement"), a copy of which is attached hereto as Exhibit "F", including, without limitation, the construction and installation of certain utility sleeves under Interstate Highway 20; provided, however, Owner is responsible for the construction of the sleeve required for the Phase III Water Facilities. The remaining sleeves to be installed under the 1983 Agreement shall be designed by Owner, at Owner's expense, in accordance with the 1983 Agreement, and shall be included within a Community Facilities Agreement for other improvements to the Property. City agrees that the actual cost to install those remaining sleeves shall be borne by City and the applicable Community Facilities Agreement for those improvements shall provide for City participation for the sleeves.

(g) **Schedules/Self-Help.** City will cause the improvements outlined in Section 3 to occur based on the schedules set forth herein or other schedule subsequently agreed to in writing by City and Owner. Not less than five (5) months prior to the start of City's fiscal year, Owner will provide City with an estimation and explanation of the water and sanitary sewer improvements required by the Project for the forthcoming City fiscal year to the extent not covered herein (the "Non-Specified Improvements"). Should City be unable to meet the commitments and requirements anticipated in this Agreement, Owner shall have the right to construct the infrastructure facilities required to meet the Project schedule. In the event Owner performs under this section, Owner shall award any contract for the construction of public facilities in accordance with the Policy for the Installation of Community Facilities. In such event, City shall reimburse Owner for all costs incurred plus the maximum statutory interest rate allowed by law.

(h) **Extraordinary Participation.** City and Owner acknowledge that, except as otherwise set forth herein, City shall not be obligated for any extraordinary participation in the construction of any road, drainage, utility, park or any other public facility improvements that are reasonable and customary to support the Project, but may, at its option, participate beyond customary levels.

(i) **Community Facilities Agreement.** No construction related to the installation of any community facility shall be commenced without the execution of a Community Facilities Agreement in accordance with the Community Facilities Policy applicable under paragraph 1(d).

(j) **PIDs/Sub-PIDs/ Other Districts.** Subject to City approval as required by law, Owner hereby reserves the right to create and establish one or more "public improvement districts" ("PID") and/or other similar districts for such purposes as Owner may deem appropriate, including, without limitation, imposing a finance system or other fee or assessment mechanism allowed by law to finance all or any part of Owner's development, pre-development, construction and other Project costs and expenses, such as but not limited to: studies, planning and consulting costs, on-site and

off-site access and transportation improvements, park and green space improvements, and costs to maintain or repair any or all such items. Owner may also create separate PID's or "sub-districts" or other districts, which may be allocable to specific areas or specific improvements. It is anticipated the City and its staff and governing bodies will support all of Owner's efforts with respect to such PID's or other districts, including, if Owner elects, the use of bonds to finance all or part of such costs and expenses, provided City will incur no costs other than reasonable and customary administrative costs. Further, City acknowledges and agrees that Owner's application or other request may be considered concurrently with (or, if Owner elects, following) consideration of Owner's LPA Application and that full annexation shall not be required for consideration and approval of any PID, "Sub-PID" or other district, unless required by law.

5. DONATION OF LAND AND EASEMENTS FOR CITY FACILITIES

(a) **Donation of Land.** Owner has heretofore agreed to donate to City, at no cost to City, parcels of land for certain future public facilities on an "as needed" basis, including future fire station facilities, police station facilities, water and wastewater facilities, storage tanks, and such other requested land dedications out of the Property as may be mutually acceptable to City and Owner, not to exceed in any event thirty (30) acres in the aggregate. Property shall be conveyed, as needed, surface only, by special warranty deed (each being a "Donation Deed") in the form attached hereto as Exhibit "G", free and clear of all liens and encumbrances other than (i) normal customary easements existing on the date hereof, (ii) such restrictions, reservations and conditions as may be included in each Donation Deed of the type generally set forth in the form attached hereto, and (iii) such other encumbrances as may be acceptable to City. Any donation of property pursuant to this paragraph is in addition to normal and customary dedication requirements for parkland, streets, and other public facilities required by City subdivision regulations; provided, however, parkland dedications shall not exceed the quantities shown on the Concept Plan and shall not be required in any location not shown on the Concept Plan as a "greenspace" or "park" area; the quantities of park or greenspace shown on the Concept Plan may be re-allocated and/or redistributed by Owner within the Project. Nothing on the Concept Plan shall obligate Owner to dedicate more parkland, greenspace or open space than may be required under City's applicable development regulations.

(b) **Donation of Easements.** In addition to the conveyances under (a) above, Owner has heretofore agreed, at no cost to City, to donate such on-site easements as may be necessary for the water and sanitary sewer mains on the Property and the Westside Property to be constructed by City, subject to Owner's normal and customary reservations and conditions, including, without limitation, a reservation of surface use rights, provided such surface use rights do not interfere with City's construction and maintenance of facilities. Such easements shall be conveyed in form and substance acceptable to Owner and City. To the extent allowed by law, it is City's and Owner's intent that the easements granted by Owner to City pursuant to this paragraph shall be used only for City water and sewer facilities. If City receives a request from any other entity to install facilities in such easements, City will notify Owner of such request. City hereby acknowledges and agrees that Owner shall have the right, from time to time, to grant, reserve and otherwise create easements, licenses, restrictions and other rights (hereinafter referred to collectively as the "Common Services Easement") with respect to the Project (or portions thereof) for the purpose of facilitating, obtaining, providing, maintaining, installing, repairing, supplementing and otherwise dealing with any and all types of communications, technology, and other services, including, without limitation, telephone,

cable, internet, intranet, video-on-demand, security monitoring, e-commerce, natural gas, electricity, and other services. To the extent allowed by law, City and Owner intend that the utility easements granted by Owner to the City shall be inferior to the Common Services Easement, provided that Owner shall require grantees of the Common Services Easement to observe customary engineering and construction practices to ensure that the Common Services Easement does not interfere with City's construction and maintenance of water and sewer facilities. In the event that an easement granted under the Common Services Easement lies within or across the easements granted herein to City, Owner agrees to submit plans to City for approval prior to construction or installation of the proposed utility.

(c) **Effect of Termination of Agreement on Easements.** If this Agreement is terminated prior to the construction of Phase I Water Facilities and Phase IA, IB, 1C and 1D Sewer Facilities, City shall retain all rights to the easements granted by Owner for such facilities and Owner shall be entitled to purchase water from City in quantities contemplated by paragraph 3(h) at prevailing rates.

(d) **Prior Donations.** Within 30 days after the date hereof, City shall convey back to Owner, free and clear of all encumbrances and restrictions, (i) the 1.43 acre site donated by F. Howard Walsh and Mary D. Walsh to the City as identified on Exhibit B to Exhibit F attached hereto, and (ii) the 0.52-acre site donated by F. Howard Walsh and Mary D. Walsh to the City as identified on Exhibit C to Exhibit F, which were donated to City in accordance with the 1983 Agreement.

6. OTHER CITY SERVICES AND OBLIGATIONS

(a) **Solid Waste.** Upon full purpose annexation of any portion of the Property, City shall provide solid waste disposal services to the annexed property in accordance with state law. Solid waste disposal service shall be provided in accordance with the same policies and ordinances in effect for all City sanitation customers within the City limits. Recycling services, if provided, shall be provided in the same manner as provided to other residents within the City limits. Solid waste disposal service rates shall be the same as those rates applicable to other similarly classified City sanitation customers within the City limits. Owner reserves the right to provide private solid waste management disposal services as authorized by state law.

(b) **Fire Stations, Police Stations and Other Services.** Upon full purpose annexation of any portion of the Property, City shall provide police, fire, emergency medical response and other municipal services to the annexed property, in accordance with state law. City shall construct, operate and maintain fire stations and police stations in proximity to the Project as necessary to meet or exceed the minimum response times required by state law. Owner shall work with City to determine locations for such facilities within or in proximity to the Project so as to allow such responses. In addition, City shall provide or cause to be provided emergency medical response and ambulance services as necessary to meet the response-time guidelines required by state law. The design and materials for each such facility shall be subject to Owner's review and approval.

(c) **Support and Review.** In addition to City's various promises and covenants set forth in Section 5 of this Agreement, City agrees to the following duties and obligations:

- (i) City will promptly and diligently review, comment and take action as appropriate to assure that Owner may meet its various duties and obligations under the other sections of this Agreement.
- (ii) City will support Owner's efforts in obtaining approval from the Texas Department of Transportation and other state and federal agencies relating to access to the Project from the interstate highway system and will agree to serve as sponsor or co-sponsor, as appropriate, in any formal request by Owner to facilitate such access.

7. MINERAL EXPLORATION AND PRODUCTION

Owner shall retain and be vested with the right to drill for and otherwise explore, produce, and transport all oil, gas and other minerals, of every kind and character within the Project, so long as (i) all surface activity relating to such drilling, exploration or production is confined to the "Designated Exploration Sites" shown on the Concept Plan (as same may be amended, supplemented, or modified) and (ii) all such activities comply with federal and state law. Prior to full purpose annexation and platting for use, Owner shall have the right, in its discretion, to relocate, add, or reconfigure Designated Exploration Sites within the limited purpose annexed and/or unplatted portions of the Project. In addition, until full purpose annexation and platting for use is approved by City as to a particular portion of the Project, Owner shall remain vested with all drilling, exploration, production, and transportation rights as are held by Owner or its affiliates with respect to the property on the date hereof and such rights shall survive the imposition of additional rules, regulations or other restrictions subsequent to the date hereof, provided, however, Owner shall not drill or allow any other party to drill for oil, gas, or other minerals within 300 feet of a residential dwelling, church or school, unless City's prevailing drilling regulations are less restrictive. After City approves a portion of the Project for full purpose annexation and platting, that portion will comply with and be subject to the City's prevailing drilling and production regulations. In addition, after full purpose annexation and platting for use, Owner may increase the number, size and configuration of Designated Exploration Sites so long as the sites and the uses thereof conform to City's prevailing drilling and production regulations.

8. CHAPTER 380 AUTHORIZATION

In the event City provides to Owner any loan or grant of public money authorized by Chapter 380 of the Local Government Code, specifically including without limitation local matching funds for a federal program pursuant to Section 380.003 of the Local Government Code, City and Owner agree to execute documentation required by Chapter 380.

9. MISCELLANEOUS

(a) **Actions Performable.** City and Owner agree that all actions to be performed under this Agreement are performable in Tarrant and Parker Counties, Texas. Venue for any action concerning this Agreement shall be proper in Tarrant County, Texas.

(b) **Governing Law.** City and Owner agree that this Agreement has been made under the laws of the State of Texas, and that any interpretation of this Agreement at a future date shall be made under the laws of the State of Texas.

(c) **Non-Severability.** In the event that any material provision of this Agreement regarding the land use and development approvals granted to Owner or the commitment for utility services and costs for facilities to be provided is subsequently determined to be unenforceable or otherwise materially altered by a court of competent jurisdiction, then Owner shall have the right to terminate the remainder of this Agreement. If a court of competent jurisdiction or any other governmental entity with appropriate jurisdiction determines that any material portion of this Agreement is beyond the scope or authority of applicable Texas law, then, subject to the immediately preceding sentence, City and Owner agree to immediately amend this Agreement so as to conform to such ruling or decision in such a manner that is most consistent with the original intent of this Agreement as legally possible.

(d) **Successors and Assigns.** This Agreement is for the benefit of City and Owner, its successors and assigns. City may not assign its rights or obligations hereunder. City expressly agrees that Owner may assign all or part of its rights and obligations under this Agreement to one or more Homeowners Associations or a similar non-profit entity owned either by residents of the Project (the "Homeowners Association") or by Owner and following receipt of notice of such assignment City shall look only to such assignee(s) with respect to such assigned rights or obligations. Owner may convey title to all or any portion of the Property or Westside Property, provided that all such purchasers shall be bound by all terms of this Agreement and shall be bound to perform Owner's obligations hereunder with respect to any parcel purchased by them, which shall run with the land; the benefits of this Agreement shall, likewise, inure to such purchasers and such purchasers shall be entitled to enforce the terms hereof with respect to the parcel(s) purchased by them. Owner warrants and agrees that Owner will require purchasers of any portion of the Property or the Westside Property to acknowledge receipt of a copy of this Agreement and to execute an assumption of all of Owner's obligations hereunder with respect to such parcel as part of such conveyance.

(e) **Exhibits.** All exhibits attached to this Agreement are incorporated by reference and expressly made part of this Agreement as if copied verbatim.

(f) **Complete Agreement.** This Agreement represents a complete agreement of the parties and supersedes all prior written and oral matters related to this Agreement other than the agreements referred to in paragraphs 5(a), 5(b) and 5(c) hereof. Any amendment to this Agreement must be signed by both parties.

(g) **County Approvals.** City agrees to cooperate with Owner in seeking necessary approvals or waivers from Parker County and Tarrant County in an expedited manner and agrees to exercise its best efforts to assure that City and each county cooperate with each other in coordinating and expediting the approvals required by Owner.

(h) Request to Include Additional Lands Within Project. If Owner files an application for a Concept Plan or preliminary plat approval for additional lands ("Additional Lands") to be included within the Project (an "Additional Lands Concept Plan"), then Owner shall endeavor to reasonably integrate the Additional Lands Concept Plan with the previously approved Concept Plan (the "January 2002 Concept Plan") and shall provide City with a map depicting both the January 2002 Concept Plan and the proposed Additional Lands. Any application to include or plat additional lands shall be considered by City in accordance with the development regulations, ordinances and fee requirements of City applicable pursuant to paragraph 1(d), provided that in no event shall the application for or approval of the Additional Lands Concept Plan require re-approval of the January 2002 Concept Plan or otherwise alter or affect the terms of the January 2002 Concept Plan, except as provided in the immediately succeeding sentence. This paragraph will apply to any property designated by Owner as "Additional Lands" if same is located within two (2) miles of any portion of the Property or if such property is served by any of the water or sewer infrastructure constructed or to be constructed pursuant hereto.

(i) Notice. All notices, requests or other communications required or permitted by this Agreement shall be in writing and shall be sent by (i) telecopy, with the original delivered by hand or overnight carrier, (ii) overnight courier or hand delivery, or (iii) certified mail, postage prepaid, return receipt requested, and addressed to the parties at the following addresses:

City:

City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102
Attn: City Manager
Fax: 817-871-6134

With a required copy to:

City of Fort Worth
1000 Throckmorton
Fort Worth, Texas 76102
Attn: City Attorney
Fax: 817-871-8359

Owner:

Walsh Ranches Limited Partnership
F. Howard Walsh, Jr.
Walsh Children's Trusts
Walsh Grandchildren's Trusts

500 West Seventh St., Ste. 1007, Unit 27
Fort Worth, Texas 76102-4773
Attn: G. Malcolm Louden
Fax: (817)338-4844

with a required copy to:

Grogan & Brawner P.C.
2808 Fairmount
Suite 150, LB 5
Dallas, Texas 75201
Attn: R. J. Grogan, Jr.
Fax: (214) 979-1110

Either party may make changes in the information set out above by sending notice to the other party using one of the methods described above.

(j) **Force Majeure.** Owner and City agree that the obligations of each party shall be subject to force majeure events such as natural calamity, fire or strike.

(k) **Resident Security.** City agrees that Owner, or its successors or assigns, may assist in the formation and operation of a volunteer or paid professional security patrol operated by the residents of the Project.

(l) **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this Agreement, City and Owner each shall designate and appoint a representative to act as a liaison between City and its various departments and Owner. The initial representative for City (the "City Representative") shall be the City Manager, and the representative for Owner shall be as identified by Owner from time to time (the "Owner Representative"). Owner's initial Owner Representative is G. Malcolm Louden. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Property pursuant to the Concept Plan.

(m) **Coordination of City Reviews.** The implementation of the Concept Plan shall be in accordance with City's development review process, as set forth in this Agreement. City and Owner acknowledge that Owner may wish to proceed rapidly with the development of the Property and that, accordingly, City will comply with the timelines for review set forth in its ordinances governing development reviews. For building permit reviews, City's existing standard is to conduct its review within two weeks of submittal of all required information to City's Building Inspection Department,

and City will use its best efforts to maintain its existing standard of service. In addition, the parties agree that if at any time Owner believes that an impasse has been reached with City staff on any issue affecting the Property, despite reasonable good faith efforts to resolve such an impasse, Owner shall have the right to immediately appeal to the City Manager for a decision pursuant to this paragraph.

(n) **Appropriation of Funds.** City's obligations pursuant to this Agreement are subject to appropriation of funds by the City Council. In the event sufficient funds to design Phase I Water Facilities and Phase IA, IB, IC and ID Sewer Facilities are not appropriated on or before September 1, 2003, Owner may terminate this Agreement. Thereafter, in the event sufficient funds are not appropriated by City and City, as a result, is unable to fulfill any of its duties or obligations pursuant to this Agreement, Owner may terminate the Agreement as to the portions of the Property and/or the Westside Property that have not been annexed for full purposes and seek disannexation to release such property from limited purpose annexation status, which disannexation will not be opposed by City.

(o) **Grants.** City agrees to support and cooperate with Owner in efforts to obtain grants and/or other special funding from public or private sources.

(p) **Term.** This Agreement shall be effective as of the date of execution by both parties and shall remain in full force and effect until the earlier of (i) the date as of which all phases of the Project have been fully developed and completed and City has fully performed all of its obligations hereunder; (ii) the date as of which this Agreement is terminated in accordance with its provisions; or (iii) fifty (50) years from the date of execution by both parties.

(q) **Changes in State or Federal Laws.** If state or federal laws change so as to make it impossible for City or Owner to perform its obligations under this Agreement, the parties will cooperate to amend the Agreement in such a manner that is most consistent with the original intent of the Agreement as legally possible. If the Agreement cannot be amended so as to achieve the parties' original intent, either party may terminate the Agreement on sixty (60) days written notice.

(r) **Default.** Except as provided by subsection (n), if either party should default with respect to any of its obligations hereunder and should fail, within thirty (30) days (or such longer period as may be reasonable under the circumstances not to exceed in any event six months from the date of such notice) after delivery of written notice of such default from the other party (the "Complaining Party") to cure such default, the Complaining Party, by action or proceeding at law or in equity, may be awarded its damages and/or specific performance for such default. If either party defaults because of change in state or federal laws make it impossible for the party to perform its obligations under this Agreement, paragraph 9(q) applies.

(s) **Mutual Assistance.** City and Owner shall do all things necessary or appropriate to carry out the objectives, terms and provisions of this Agreement and to aid and assist each other in carrying out such objectives, terms and provisions.

(t) **Representations and Warranties.** City represents and warrants to Owner that this Agreement is within the scope of its authority and the provisions of the charter and code of City and that it is duly authorized and empowered to enter into this Agreement. Owner represents and warrants to City that it has the requisite authority to enter into this Agreement.

(u) **Amendment.** This Agreement may only be amended, altered, or revoked by written instrument signed by City and Owner.

(v) **Interpretation.** Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

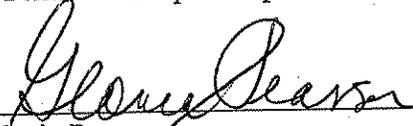
(w) **No Third Party Beneficiary.** This Agreement is solely for the benefit of Owner and City, and neither Owner nor City intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than Owner and City.

Executed as of the day and year first above written.

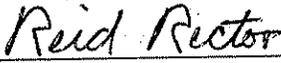
CITY:

CITY OF FORT WORTH

ATTEST
a Texas municipal corporation

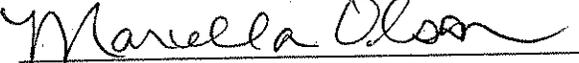


Gloria Pearson
City Secretary

By: 

Reid Rector, Assistant City Manager

APPROVED AS TO FORM AND
LEGALITY

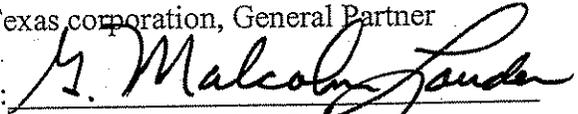


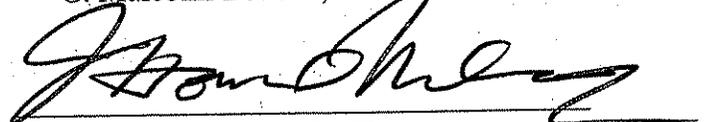
Deputy City Attorney

OWNER:

**WALSH RANCHES
LIMITED PARTNERSHIP,**
a Texas limited partnership

By: Walsh North Star Company,
a Texas corporation, General Partner

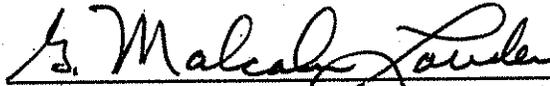
By: 
G. Malcolm Louden, President


F. HOWARD WALSH, JR.


G. MALCOLM LOUDEN, in his capacity
as agent and authorized representative of
JPMORGAN CHASE BANK,
in its capacity as trustee of
**THE AMY SUZANNE WALSH 1972
TRUST
THE ELLEN KING WALSH 1972 TRUST
THE ALLISON KAREN WALSH 1972
TRUST
THE TARA WINSTON WALSH 1972
TRUST
THE F. HOWARD WALSH, III 1972
TRUST**



G. MALCOLM LOUDEN, in his capacity
as agent and authorized representative of
BANC ONE N.A., in its capacity as trustee of
THE HOLLAND FLEMING WALSH 1972
TRUST
THE RICHARD FLEMING WALSH 1972
TRUST
THE MAUDI EUDORE WALSH ROE
1972 TRUST
THE GEORGE HOWARD PORTER 1972
TRUST
THE MICHAEL CLINTON PORTER
1972 TRUST
THE PARKER OTWELL ROE 1972
TRUST



G. MALCOLM LOUDEN, in his capacity
as agent and authorized representative of
FROST NATIONAL BANK,
in its capacity as trustee of
THE D'ANN ELISABETH WALSH
BONNELL 1972 TRUST
THE WILLIAM LLOYD WALSH 1972
TRUST
THE WILLIAM FREDERIC BONNELL,
JR. 1972 TRUST
THE LAURA ELISABETH BONNELL
1972 TRUST
THE JONATHAN RICHARD BONNELL
1972 TRUST
THE KAREN LINDSEY WALSH 1972
TRUST
THE CATHERINE L. WALSH 1972
TRUST
THE MARY ERIN WALSH 1972 TRUST

List of Exhibits and Schedules

Schedules

- 1A: Walsh Children's Trusts
- 1B: Walsh Grandchildren's Trusts

Exhibits

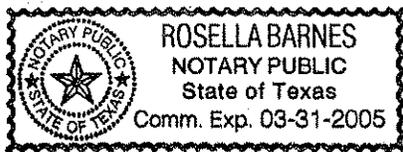
- A: Description of the 7,207-acre tract
- B: Description of the 379-acre tract (Westside Property)
- C: Concept Plan
- D: City Sewer Plan
- E: City Water Plan
- F: 1983 Agreement
- G: Form of Donation Deed

STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned Notary Public in and for said county and state, on this day personally appeared Reid Rector, Assistant City Manager of the City of Fort Worth, known to me as the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such person and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 6th day of May, 2003.



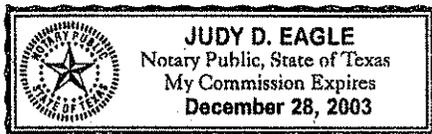
Rosella Barnes
Notary Public in and for the State of
My commission expires: 03-31-05

STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned Notary Public in and for said county and state, on this day personally appeared G. Malcolm Loudon, President of Walsh North Star Company, a Texas corporation, General Partner to Walsh Ranches Limited Partnership, a Texas limited partnership, known to me as the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such person and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of May, 2003.



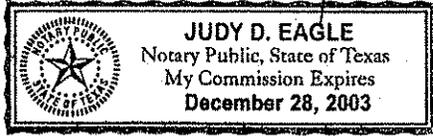
Judy D Eagle
Notary Public in and for the State of
My commission expires: 12-28-03

STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned Notary Public in and for said county and state, on this day personally appeared F. Howard Walsh, Jr., known to me as the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such person and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of May, 2003.



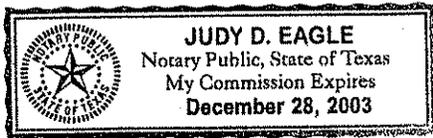
Judy D. Eagle
Notary Public in and for the State of
My commission expires: 12-28-03

STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned Notary Public in and for said county and state, on this day personally appeared G. Malcolm Loudon, in his capacity as agent and authorized representative of JPMORGAN CHASE BANK, in its capacity as trustee of THE AMY SUZANNE WALSH 1972 TRUST, THE ELLEN KING WALSH 1972 TRUST, THE ALLISON KAREN WALSH 1972 TRUST, THE TARA WINSTON WALSH 1972 TRUST, and THE F. HOWARD WALSH, III 1972 TRUST, known to me as the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such person and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of May, 2003.



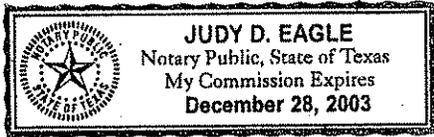
Judy D. Eagle
Notary Public in and for the State of
My commission expires: 12-28-03

STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned Notary Public in and for said county and state, on this day personally appeared G. Malcolm Louden, in his capacity as agent and authorized representative of BANC ONE N.A., in its capacity as trustee of THE HOLLAND FLEMING WALSH 1972 TRUST, THE RICHARD FLEMING WALSH 1972 TRUST, THE MAUDI EUDORE WALSH ROE 1972 TRUST, THE GEORGE HOWARD PORTER 1972 TRUST, THE MICHAEL CLINTON PORTER 1972 TRUST, and THE PARKER OTWELL ROE 1972 TRUST, known to me as the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such person and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of May, 2003.



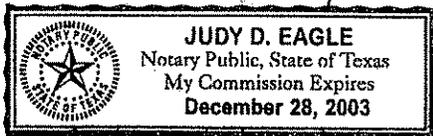
Judy D. Eagle
Notary Public in and for the State of
My commission expires: 12-28-03

STATE OF TEXAS

COUNTY OF TARRANT

BEFORE ME, the undersigned Notary Public in and for said county and state, on this day personally appeared G. Malcolm Louden, in his capacity as agent and authorized representative of FROST NATIONAL BANK, in its capacity as trustee of THE D'ANN ELISABETH WALSH BONNELL 1972 TRUST, THE WILLIAM LLOYD WALSH 1972 TRUST, THE WILLIAM FREDERIC BONNELL, JR. 1972 TRUST, THE LAURA ELISABETH BONNELL 1972 TRUST, THE JONATHAN RICHARD BONNELL 1972 TRUST, THE KAREN LINDSEY WALSH 1972 TRUST, THE CATHERINE L. WALSH 1972 TRUST, and THE MARY ERIN WALSH 1972 TRUST, known to me as the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of such person and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of May, 2003.



Judy D. Eagle
Notary Public in and for the State of
My commission expires: 12-28-03

After recording, return to:

City Attorney's Office
City of Fort Worth
1000 Throckmorton Street
Fort Worth, TX 76102
Attn: Marcella Olson

SCHEDULE 1A

WALSH CHILDREN'S TRUSTS

As used in the Agreement, the term "Walsh Children's Trusts" shall mean and refer to the following trusts created by Trust Agreement dated December 26, 1972 by and between Frank Howard Walsh and Mary D. Walsh, as "Trustors" and The First National Bank of Fort Worth, as the original Trustee:

The Richard Fleming Walsh 1972 Trust
The D'Ann Elisabeth Walsh Bonnell 1972 Trust
The Maudi Eudora Walsh Roe 1972 Trust
The William Lloyd Walsh 1972 Trust

SCHEDULE 1B

WALSH GRANDCHILDREN'S TRUSTS

As used herein, the term "Walsh Grandchildren's Trusts" shall mean and refer to the following trusts created by Trust Agreement dated December 26, 1972 by and between Frank Howard Walsh and Mary D. Walsh, as "Trustors" and The First National Bank of Fort Worth, as the original Trustee:

The Amy Suzanne Walsh 1972 Trust
The Ellen King Walsh 1972 Trust
The Holland Fleming Walsh 1972 Trust
The Allison Karen Walsh 1972 Trust
The Tara Winston Walsh 1972 Trust
The F. Howard Walsh, III 1972 Trust
The William Frederic Bonnell, Jr. 1972 Trust
The Laura Elisabeth Bonnell 1972 Trust
The Jonathan Richard Bonnell 1972 Trust
The George Howard Porter 1972 Trust
The Michael Clinton Porter 1972 Trust
The Parker Otwell Roe 1972 Trust
The Karen Lindsey Walsh 1972 Trust
The Catherine L. Walsh 1972 Trust
The Mary Erin Walsh 1972 Trust