

**SOUTHLAKE TOWN SQUARE
BLOCK 23
COMMERCIAL DEVELOPER'S AGREEMENT**

An agreement between the City of Southlake, Texas, hereinafter referred to as the "City", and the undersigned Developer, hereinafter referred to as the "Developer", of **SOUTHLAKE TOWN SQUARE, BLOCK 23**, hereinafter referred to as "Addition" to the City of Southlake, Tarrant County, Texas, for the installation of certain community facilities located therein, and to provide city services thereto. It is understood by and between the parties that this Agreement is applicable to the Addition (a commercial development) and to the off-site improvements necessary to support the Addition.

I. GENERAL REQUIREMENTS

A. It is agreed and understood by the parties hereto that the Developer shall employ a civil engineer licensed to practice in the State of Texas for the design and preparation of the plans and specifications for the construction of all facilities covered by this Agreement.

B. The Developer will present to the City either a cash escrow, Letter of Credit, performance bond and payment bond acceptable to the City guaranteeing and agreeing to pay an amount equal to 100% of the value of the construction cost of all the public facilities to be constructed by the Developer, and providing for payment to the City of such amounts, up to the total remaining amounts required for the completion of the Addition if the Developer fails to complete the work within two (2) years of the signing of this Agreement between the City and Developer. All bonds shall be issued by a Best-rated bonding company. All letters of credit must meet the Requirements for Irrevocable Letter of Credit attached hereto and incorporated herein.

The value of the performance bond, letter of credit or cash escrow will reduce at a rate consistent with the amount of work that has been completed by the Developer and accepted by the City. Performance and payment bond, letter of credit or cash escrow from the prime contractor(s) or other entity reasonably acceptable to the City, hereinafter referred to as Contractor, will be acceptable in lieu of Developer's obligations specified above.

C. The Developer agrees to furnish to the City maintenance bonds, letter of credit and cash escrow amounting to 100% of the cost of construction of underground public utilities and 100% for the paving. These maintenance bonds, letter of credit or cash escrow will be for a period of two (2) years and will be issued prior to the final City acceptance of the Addition. The maintenance bonds, letter of credit or cash escrow will be supplied to the

City by the contractors performing the work, and the City will be named as the beneficiary if the contractors fail to perform any required maintenance.

- D. It is further agreed and understood by the parties hereto that upon acceptance by the City, title to all facilities and improvements mentioned herein above which are intended to be public facilities shall be vested in the City, and Developer hereby relinquishes any right, title, or interest in and to said facilities or any part thereof. It is further understood and agreed that until the City accepts such improvements, the City shall have no liability or responsibility in connection with any such facilities. Acceptance of the facilities for this provision and for the entire Agreement shall occur at such time that the City, through its City Manager or his duly appointed representative, provides Developer with a written acknowledgement that all facilities are complete, have been inspected and approved, and are being accepted by the City.
- E. On all public facilities included in this Agreement for which the Developer awards his own construction contract, Developer agrees to the following procedure:
1. Developer agrees to pay the following:
 - a. Inspection fees equal to three percent (3%) of the cost of the water , street, drainage and sanitary sewer facilities, on all facilities included in this agreement for which Developer awards his or her own construction contract, to be paid prior to construction of each phase and based on actual bid construction cost;
 - b. Administrative Processing Fee equal to two percent (2%) of the cost of water, street, drainage and sanitary sewer facilities, on all facilities included in this Agreement for which Developer awards his or her own construction contract, to be paid prior to construction of each phase and based on actual bid construction cost;
 - c. Trench testing (95% Standard);
 - d. The additional charge for inspections during Saturday, Sunday, holidays, and after normal working hours;
 - e. Any charges for retesting as a result of failed tests;
 - f. All gradation tests required to insure proper cement and/or lime stabilization.

2. The City agrees to bear the expense of:
 - a. All nuclear density tests on the roadway subgrade (95% Standard);
 - b. Technicians time for preparing concrete cylinders; and
 - c. Concrete cylinder tests and concrete coring samples.

The City can delay connection of buildings to service lines or water mains constructed under this Agreement until said water mains and service lines have been completed to the satisfaction of and acceptance by the City.

- F. The Developer will be responsible for mowing all grass and weeds and otherwise reasonably maintaining the aesthetics of all land and lots in said Addition which have not been sold to third parties. After fifteen (15) days written notice, should the Developer fail in this responsibility, the City may contract for this service and bill the Developer for reasonable costs. Such amount shall become a lien upon all real property of the Addition so maintained by the City, and not previously conveyed to other third parties, 120 days after Developer has notice of costs.
- G. Any guarantee of payment instrument (Performance Bond, Letter of Credit, etc.) submitted by the Developer or Contractor on a form other than the one which has been previously approved by the City as "acceptable" shall be submitted to the City Attorney and this Agreement shall not be considered in effect until such City Attorney has approved the instrument. Approval by the City shall not be unreasonably withheld or delayed.
- H. Any surety company through which a bond is written shall be a surety company duly authorized to do business in the State of Texas, provided that the City, through the City Manager, shall retain the right to reject any surety company as a surety for any work under this or any other Developer's Agreement within the City regardless of such company's authorization to do business in Texas. Approval by the City shall not be unreasonably withheld or delayed.
- I. The Developer agrees to fully comply with the terms and conditions of all other applicable development regulations and ordinances of the City.
- J. The Developer agrees that the completed project will be constructed in conformance with the Development Site Plan, Construction Plans and other permits or regulatory authorizations granted by the City during the development review process.

II. FACILITIES

A. ON-SITE WATER

The Developer hereby agrees to install water facilities to service lots as shown on the final plat of the Addition. Water facilities will be installed in accordance with plans and specifications to be prepared by the Developer's engineer and released by the City. Further, the Developer agrees to complete this installation in accordance with Ordinance No. 170 and shall be responsible for all construction costs, materials and engineering. In the event that certain water lines are to be oversized because of City requirements, the City will reimburse the Developer for the oversize cost greater than the cost of an 8" line. Additionally, the City agrees to provide temporary water service at Developer's request and expense, for construction, testing and irrigation purposes only, to individual lots during the construction of buildings, even though sanitary sewer service may not be available to the buildings.

B. DRAINAGE

Developer hereby agrees to construct the necessary drainage facilities within the Addition, in conformance with the approved Development Site Plan. These facilities shall be in accordance with the plans and specifications to be prepared by Developer's engineers, released by the Director of Public Works, the City, and made part of the final plat as approved by the Planning and Zoning Commission. The Developer hereby agrees to fully comply with all EPA and TNRCC requirements relating to the planning, permitting and management of storm water which may be in force at the time that development proposals are being presented for approval by the City.

C. STREETS

The street construction in the Addition will be installed in accordance with plans and specifications to be prepared by the Developer's engineer and released by the Director of Public Works.

1. The Developer will be responsible for:
 - a) Installation and two year operation of street lights, which is payable to the City prior to final acceptance of the Addition; or an agreement with utility provider stating that no charge will be made for street lights for the two-year duration.

- b) Installation of all street signs designating the names of the streets inside the Addition, said signs to be of a type, size, color and design standard generally employed by the Developer and approved by the City in accordance with City ordinances;
 - c) Installation of all regulatory signs recommended based upon the Manual on Uniform Traffic Control Devices as prepared by the Developer's engineer by an engineering study or direction of the Director of Public Works. It is understood that Developer may put in signage having unique architectural features, however, should the signs be moved or destroyed by any means, the City is only responsible for replacement of standard signage.
2. All street improvements will be subject to inspection and approval by the City. No work will begin on any street included herein prior to complying with the requirements contained elsewhere in this Agreement. All water, sanitary sewer, and storm drainage utilities which are anticipated to be installed within the street or within the street right-of-way will be completed prior to the commencement of street construction on the specific section of street in which the utility improvements have been placed or for which they are programmed. It is understood by and between the Developer and the City that this requirement is aimed at substantial compliance with the majority of the pre-planned facilities.

It is understood that in every construction project a decision later may be made to realign a line or service which may occur after construction has commenced. The Developer has agreed to advise the City Director of Public Works as quickly as possible when such a need has been identified and to work cooperatively with the City to make such utility change in a manner that will be least disruptive to street construction or stability.

D. ON-SITE SANITARY SEWER FACILITIES

The Developer hereby agrees to install sanitary sewage collection facilities to service lots as shown on the final plat of the Addition. Sanitary sewer facilities will be installed in accordance with the plans and specifications to be prepared by the Developer's engineer and released by the City. Further, the Developer agrees to complete this installation in compliance with all applicable city ordinances, regulations and codes and shall be responsible for all construction costs, materials, engineering, permits and Impact Fees. In the event that certain sewer lines are to be oversized

because of City requirements, the City will reimburse the Developer for the oversize cost greater than the cost of an 8" line.

E. EROSION CONTROL

During construction of the Addition and after the streets have been installed, the Developer agrees to keep the streets free from soil build-up. The Developer agrees to use soil control measures, such as those included in NCTCOG STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, DIVISION 1000 EROSION AND SEDIMENT CONTROL, to prevent soil erosion. It will be the Developer's responsibility to present to the Director of Public Works a soil control development plan that will be implemented for this Addition. When in the opinion of the Director of Public Works there is sufficient soil build-up on the streets or other drainage areas and notification has been given to the Developer, the Developer will have seventy-two (72) hours to clear the soil from the affected areas. If the Developer does not remove the soil within 72 hours, the City may cause the soil to be removed either by contract or City forces and place the soil within the Addition at the contractor's expense. All fees owed to the City will be collected prior to acceptance of the Addition.

After construction of the Addition and prior to acceptance by the City, the Developer agrees to have a permanent erosion control plan prepared and approved by the Director of Public Works and have the plan installed and working, effectively, in the opinion of the Director of Public Works. This erosion control will prevent soil erosion from the newly created lot/lots from washing into street rights of way, drainage ways or other private property.

F. AMENITIES

It is understood by and between the City and Developer that the Addition may incorporate a number of unique amenities and aesthetic improvements such as ponds, aesthetic lakes, unique landscaping, walls, and may incorporate specialty signage and accessory facilities. The Developer agrees to accept responsibility for the construction and maintenance of all such aesthetic or specialty items such as walls, vegetation, signage, landscaping, street furniture, pond and lake improvements until such responsibility is turned over to a property owner other than the developer.

G. USE OF PUBLIC RIGHT-OF-WAY

1. It is understood by and between the City and Developer that the Developer may provide unique amenities within public right-of-way, such as landscaping, irrigation, lighting, etc., for the enhancement

of the Addition. The Developer agrees to maintain these amenities until such responsibility is turned over to a property owner other than the developer. The Developer understands that the City shall not be responsible for the replacement amenities under any circumstances and further agrees to indemnify and hold harmless the City from any and all damages, loss or liability of any kind whatsoever by reason of injury to property or third person occasioned by its use of the public right-of-way with regard to improvements and the Developer shall, at his own cost and expense, defend and protect the City against all such claims and demands.

2. City shall permit building projections into public easements and street right-of-way consistent with the approved Development Site Plan. Developer shall maintain all such projections in a safe and non-injurious manner and agrees to indemnify and hold harmless City from any and all damages, loss or liability of any kind whatsoever by reason of injury to property or third persons occasioned by its use of the public right-of-way with regard to such projections and Developer shall, at its own cost and expense, defend and protect City against all such claims and demands. Developer (or City approved assignees) shall provide annual evidence of liability insurance to City. City shall be informed by the insurance company of any lapse or cancellation of such liability insurance.
3. City will maintain all public streets, sidewalks, utilities, public parks and other public facilities from and after the date of dedication of and acceptance by City of such improvements.

H. START OF CONSTRUCTION

Before the construction of the water, sewer, streets or drainage facilities can begin, the following must take place:

1. Approved payment and performance bonds must be submitted to the City in the name of the City prior to commencement of any work.
2. At least six (6) sets of construction plans to be stamped "Released for Construction" by the Director of Public Works must be submitted.
3. All fees required to be paid to the City.

4. Developer Agreement must be executed.
5. The Developer, or Contractor, shall furnish to the City a policy of general liability insurance, naming the City as co-insured, prior to commencement of any work. All insurance must meet the Requirement of Contractor's Insurance attached hereto and incorporated herein.
6. A Pre-Construction Meeting to be held with all Contractors, major Sub-Contractors, Utilities and appropriate Government Agencies.

GENERAL PROVISIONS

A. INDEMNIFICATION

DEVELOPER COVENANTS AND AGREES TO INDEMNIFY AND DOES HEREBY INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND OTHER CONSULTANTS), ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THE CONSTRUCTION, MAINTENANCE, OCCUPANCY, USE, EXISTENCE OR LOCATION OF SAID IMPROVEMENT OR IMPROVEMENTS, AND SHALL FURTHER BE LIABLE FOR INJURY OR DAMAGE TO CITY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL ACTS OR OMISSIONS OF DEVELOPER, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, INVITEES OR TRESPASSERS.

DEVELOPER AGREES TO INDEMNIFY THE CITY, ITS OFFICERS AND EMPLOYEES FOR ANY DAMAGES, CLAIMS OR LIABILITIES ARISING FROM THE NEGLIGENT ACT OR OMISSION, OR OF THE CONCURRENT NEGLIGENT ACT OR OMISSION, OF THE CITY, ITS OFFICERS AND EMPLOYEES.

- B. Venue of any action brought hereunder shall be in Fort Worth, Tarrant County, Texas.
- C. Approval by the Director of Public Works or other City employee of any plans, designs or specifications submitted by the Developer pursuant to this Agreement shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, his engineer, employees, officers or agents for the accuracy and competency of their design and specifications. Such approval shall not be deemed to be an assumption of such responsibility and liability by the City for any defect in the design and specifications prepared by the consulting engineer, his officers, agents, servants or employees, it being the intent of the parties that approval by the Director of Public Works signifies the City's approval on only the general design concept of the improvements to be constructed. In this connection, the Developer shall for a period of two (2) years after the acceptance by the City of the completed construction project, indemnify and hold harmless the City, its officers, agents, servants and employees, from any loss, damage, liability or expense on account of damage to

property and injuries, including death, to any and all persons which may arise out of any defect, deficiency or negligence of the engineer's designs and specifications incorporated into any improvements constructed in accordance therewith, and the Developer shall defend at his own expense any suits or other proceedings brought against the City, its officers, agents, servants or employees, or any of them, on account thereof, to pay all expenses and satisfy all judgements which may be incurred by or rendered against them or any of them in connection with herewith.

- D. This Agreement or any part herein, or any interest herein, shall not be assigned by the Developer without the express written consent of the City Manager, which shall not be unreasonably withheld or delayed.
- E. On all facilities included in this Agreement for which the Developer awards his or her own construction contract, the Developer agrees to employ a construction contractor who is approved by the City, and whose approval shall not be unreasonably withheld or delayed, said contractor to meet City and statutory requirements for being insured, licensed and bonded to do work in public projects and to be qualified in all respects to bid on public projects and to be qualified in all respects to bid on public projects of a similar nature.

In addition, the Developer, or Contractor shall furnish the payment and performance bonds in the name of the City prior to the commencement of any work hereunder and shall also furnish to the City a policy of general liability insurance.

- F. Work performed under the Agreement shall be completed within two (2) years from the date thereof. In the event the work is not completed within the two (2) year period, the City may, at its election, draw down on the performance bond, letter of credit or other security provided by Developer and complete such work at Developer's expense; provided, however, that if the construction under this Agreement shall have started within the two (2) year period, the City may agree to renew the Agreement with such renewed Agreement to be in compliance with the City policies in effect at that time.
- G. Prior to final acceptance of the Addition, the Developer shall provide to the City three (3) copies of Record Drawings of the Addition, showing the facilities as actually constructed.
- H. Such drawings will be stamped and signed by a registered professional civil engineer. In addition, the Developer shall provide electronic files showing the grading plan and drainage area map; the plan and profile of the sanitary sewer, storm drain, roadway and waterline; all lot lines, and tie in to the state Plane Coordinate System.

III. OTHER ISSUES

A. OFF-SITE DRAINAGE:

Developer has agreed to design on-site and off-site (on property owned by affiliates of Developer) storm water systems within the capacity of the downstream drainage facilities, and consistent with the approved Development Site Plan.

B. OFF-SITE SEWER AND WATER FEES:

There are no off-site sewer, off-site drainage, or off-site water structures required for Block 23 except as shown on the approved Development Site Plan and/or plans and specifications approved by the City.

C. PARK FEES:

Park dedication requirements applicable to Block 23 are 0.07 acres. Developer has carried forward a 0.74 acre credit from Phases 1 and 2, and is entitled to apply such credit to Block 23 park dedication requirements. Developer shall be allowed to carry forward a 0.67 acre credit to future phases of development after the application of such credit.

D. TREE PRESERVATION ORDINANCE:

All construction activities shall meet the requirements of the Tree Preservation Ordinance No. 585-A (and any amended versions).

E. CITY'S PURCHASE OF LAND AND RIGHT-OF-WAY:

In connection with the development of Southlake Town Square, the City has created a Tax Increment Reinvestment Zone No. 1 (the "TIRZ") to promote the development of a "downtown" area of the City and to provide for funding in connection with the construction and purchase of certain public facilities. Because Southlake Town Square will serve as the City's "downtown" area, the City deems it necessary to obtain fee simple title to all street rights-of-way and real property upon which public facilities will be constructed. Developer will convey the above property located within Block 23 to the City by general warranty deed. In consideration for such conveyance, City agrees to pay Developer, subject to the conditions and limitations set forth in Section IV.F. below, (i) forty percent (40%) of the cost of all public streets, sidewalks, landscaping and associated streetscape improvements identified on Exhibit E; and (ii) one hundred percent (100%) of the cost of all public park improvements, including sidewalks, landscaping and associated park improvements identified as

eligible costs on Exhibit E. The City's reimbursement to Developer shall not exceed \$165,000. Any improvements over the \$165,000 reimbursement provided to Developer by the City shall be at Developer's sole cost and expense.

F. PAYMENTS TO DEVELOPER:

1. City's payment obligations under Section IV.E. are expressly contingent upon:
 - a. the dedication by Developer and acceptance by City of all public facilities;
 - b. completion by Developer and/or third parties purchasing or ground leasing property in Block 23 and not less than two (2) of the initial three (3) buildings in Block 23, containing not less than 10,000 gross square feet of building area;
 - c. the issuance of certificates of occupancy for not less than 8,000 square feet of retail users; and
 - d. the availability of (non-interest bearing funds) funds from:
 - i) incremental real property tax revenues for Block 23 within the TIRZ (the "TIRZ" tax revenues);
 - ii) incremental business personal property city tax revenues generated within Block 23 (the "personal property tax revenues"); and
 - iii) incremental 1% City General Fund sales tax revenues generated within Block 23 sufficient to meet obligation as described below.
2. The City's payments to Developer for the rights-of-way and real property described above shall be met from available TIRZ, personal, property and sales tax revenues commencing with the tax year beginning January 1, 2004 (fiscal year ending September 30, 2004).
3. If an initial certificate of occupancy is not issued for Block 23 within two (2) years from the date of execution of this agreement, City's obligation

will be null and void and City should be released from any obligation to make the payments provided above.

G. CHANGE IN USE:

Unless public safety and welfare is compromised, in the event that City determines to change the use of any real property in Block 23 which is purchased pursuant to this agreement for street rights-of-way, any design of structures shall be subject to the review and approval of the Subdivision's Architectural Review Committee ("ARC") pursuant to the Southlake Town Square Covenants, Restrictions and Easements.

SIGNED AND EFFECTIVE on the date last set forth below.

DEVELOPER: SOUTHLAKE VENTURE EAST, L.P.

By: SEE ATTACHED

Title: _____

Address: _____

SOUTHLAKE VENTURE EAST L.P.,
a Texas limited partnership,

By: **RIALTO SOUTHLAKE EAST, L.P.,**
a Texas limited partnership,
Its Authorized General Partner

By: **CS SOUTHLAKE, L.L.C.,**
a Texas limited liability company,
Its Authorized General Partner

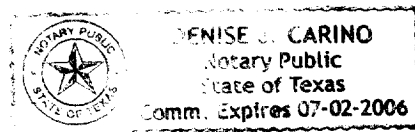
By: *B.R. Stebbins* FUB
Brian R. Stebbins,
Its Authorized Managing Member

Date of Signature: July 1, 2003

STATE OF TEXAS
COUNTY OF TARRANT

On July 1st, 2003, before me, Denise J. Carino, Notary Public, personally appeared Brian R. Stebbins, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

Denise J. Carino
WITNESS my hand and official seal.



see previous page
Notary Public

(SEAL)

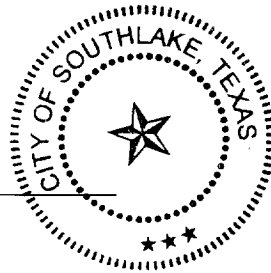
My commission expires: _____

CITY OF SOUTHLAKE, TEXAS

By: [Signature]
~~Rick Stacy, Mayor~~
Andy Wambsganss

ATTEST:

Lori A Farwell
Lori Farwell, City Secretary



Date: 8-4-03

REQUIREMENTS FOR IRREVOCABLE LETTER OF CREDIT

1. The Letter of Credit must have a duration of at least one year.
2. The Letter of Credit may be substituted for utility security deposits exceeding \$10,000.00. The City reserves the right to specify the face amount of the letter of credit.
3. The Letter of Credit must be issued by a FDIC insured bank in a form acceptable to the City of Southlake. The City reserves the right to approve/disapprove the bank issuing the Letter of Credit.
4. The Letter of Credit must be issued by a bank that has a minimum capital ratio of six (6%) percent, and has been profitable for each of the last two consecutive years.
5. The customer must provide the City with supporting financial information on the bank to allow the City to ascertain requirements are met. Suitable financial information would be the previous two (2) years December 31 Call Reports submitted to the FDIC and audited financial statements.
6. Partial drawings against Letters of Credit must be permitted.
7. The City must be able to draft on sight with proof of amount owed.
8. The customer pays any and all fees associated with obtaining Letter of Credit.
9. Expiring Letter of Credit must be replaced by substitute Letters of Credit at least 30 days prior to the expiration date on the Letter of Credit held by the City.

REQUIREMENTS FOR CONTRACTOR'S INSURANCE

Contractor's Insurance

1. Without limiting any of the other obligations or liabilities of the CONTRACTOR, during the term of the Contract, the CONTRACTOR shall purchase and maintain the following minimum insurance coverages with companies duly approved to do business in the State of Texas and satisfactory to the CITY. In this section "Project" shall mean the public facilities to be constructed by Developer or under Developer's contract with a CONTRACTOR. Coverages shall be of the following types and not less than the specified amounts:

- a. Workers' compensation as required by Texas law, with the policy endorsed to provide a waiver of subrogation as to the CITY; employer's liability insurance of not less than the minimum statutory amounts.
- b. Commercial general liability insurance, including premises- operations; independent CONTRACTOR's liability, completed operations and contractual liability covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring CONTRACTOR's (or Subcontractor's) liability for injury to or death of CITY's employees and third parties, extended to include personal injury liability coverage with damage to property of third parties, broad form property damage, with minimum limits as set forth below:

General Aggregate \$2,000,000

Bodily Injury \$1,000,000 Each Occurrence
Property Damage \$1,000,000 Each Occurrence

Products-Components/Operations Aggregate . \$1,000,000
Personal and Advertising Injury \$ 1,000,000
(With Employment Exclusion deleted)
Each Occurrence \$ 1,000,000
Contractual Liability:

Bodily Injury	\$1,000,000	Each occurrence
Property Damage	\$1,000,000	Each occurrence

The policy shall include coverage extended to apply to completed operations, asbestos hazards (if this project involves work with asbestos) and ECU (explosion, collapse and underground) hazards. The completed operations coverage must be maintained for a minimum of one year after final completion and acceptance of the work, with evidence of same filed with CITY.

- c. Comprehensive automobile and truck liability insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence; or separate limits of \$500,000 for bodily injury (per person), and \$500,000 for property damage. Such insurance shall include coverage for loading and unloading hazards.
- d. Property Insurance (Builder's All Risk)
 - (i) CONTRACTOR shall purchase and maintain, at all times during the term of its Contract with the Developer property insurance written on a builder's risk "all-

risk” or equivalent policy form in the amount of the initial contract price, plus value of subsequent contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made, or until no person or entity other than the CITY has an insurable interest in the property required by this paragraph to be covered, whichever is later. This insurance shall include interests of the CITY, the CONTRACTOR, Subcontractors and Sub-Subcontractors in the Project.

- (ii) Property insurance shall be on an “all-risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for CONTRACTOR’s services and expenses required as a result of such insured loss.
- (iii) If the insurance required by this paragraph requires deductibles, the CONTRACTOR shall pay costs not covered because of such deductibles.
- (iv) This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

d. OWNER’s Protective Liability Insurance:

- (i) CONTRACTOR shall obtain, pay for and maintain at all times during the prosecution of the work under the contract between the CONTRACTOR and the Developer, a CITY’s protective liability insurance policy naming the CITY as insured for property damage and bodily injury, which may arise in the prosecution of the work or CONTRACTOR’s operations under the contract.
- (ii) Coverage shall be on an “occurrence” basis, and the policy shall be issued by the same insurance company that carries the CONTRACTOR’s liability insurance with a combined bodily injury and property damage minimum limit of \$1,000,000 per occurrence.

e. “Umbrella” Liability Insurance:

The CONTRACTOR shall obtain, pay for and maintain umbrella liability insurance during the term of the Contract between the CONTRACTOR and the Developer, insuring CONTRACTOR for an amount of not less than **\$5,000,000 per occurrence combined** limit for bodily injury and property damage that follows form and applies in excess of the primary liability coverages required herein above. The policy shall provide “drop down” coverage where underlying primary insurance coverage limits are insufficient or exhausted.

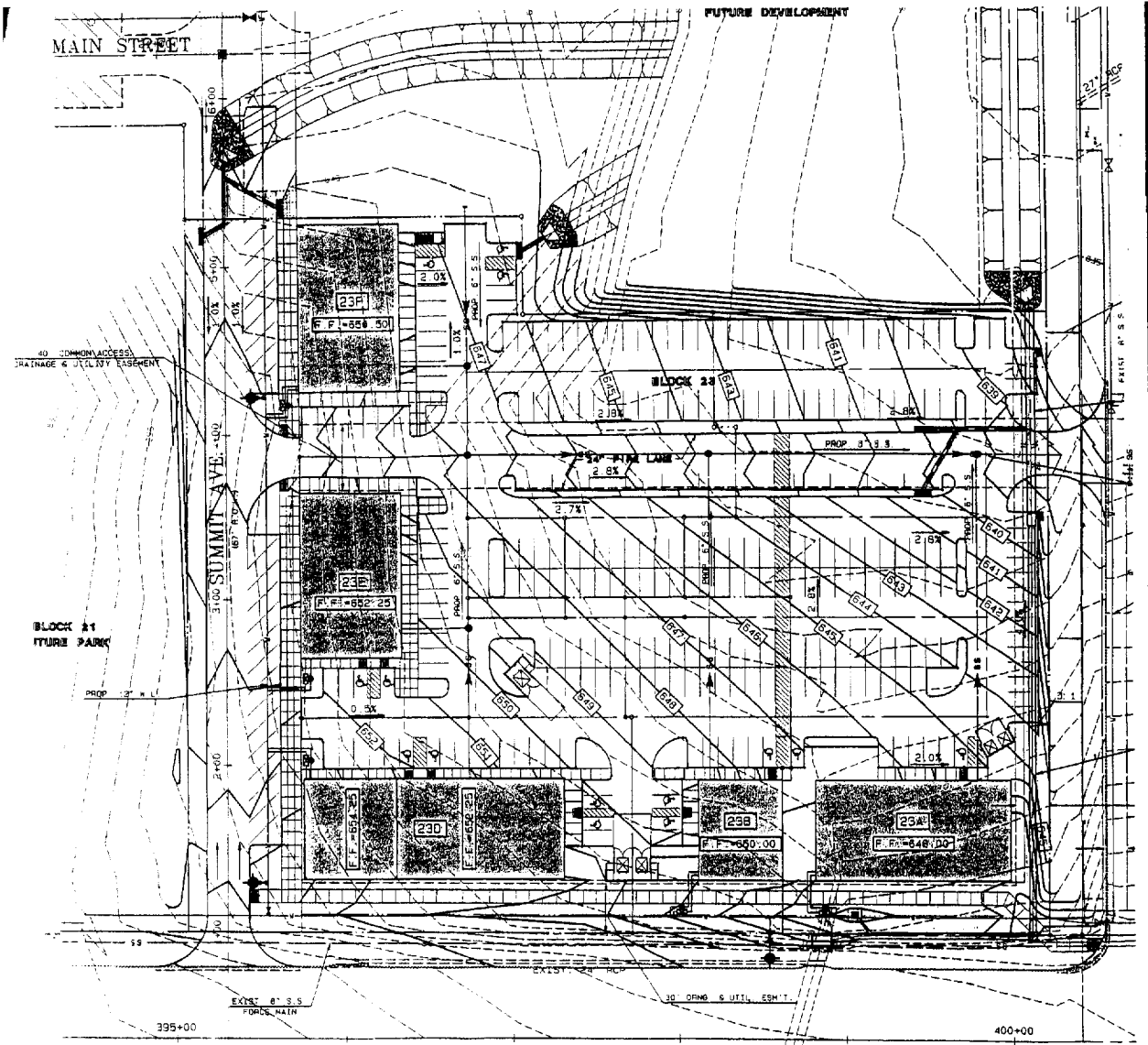
Policy Endorsements

1. Each insurance policy to be furnished by CONTRACTOR shall include the following conditions by endorsement to the policy:
 - a. name the CITY as an additional insured as to all applicable policies;
 - b. each policy shall require that 30 days prior to cancellation, non-renewal or any material change in coverage, a notice thereof shall be given to CITY by certified mail. If the policy is canceled for nonpayment of premium, only 10 days written notice to CITY is required;
 - c. the term "CITY" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of the CITY and individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of the CITY;
 - d. the policy phrase "other insurance" shall not apply to the CITY where the CITY is an additional insured on the policy.

2. *Special Conditions*

- a. Insurance furnished by the CONTRACTOR shall be in accordance with the following requirements:
 - i. any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by CONTRACTOR. The CITY's decision thereon shall be final;
 - ii. all policies are to be written through companies duly licensed to transact that class of insurance in the State of Texas; and
 - iii. all liability policies required herein shall be written with an "occurrence" basis coverage trigger.
- b. CONTRACTOR agrees to the following:
 - i. **CONTRACTOR hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against the CITY, it being the intention that the insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies;**
 - ii. companies issuing the insurance policies and CONTRACTOR shall have no recourse against the CITY for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the CONTRACTOR;
 - iii. approval, disapproval or failure to act by the CITY regarding any insurance supplied by the CONTRACTOR (or any Subcontractors) shall not relieve the CONTRACTOR of full responsibility or liability for damages and accidents as set forth in the Contract Documents or this Agreement. Neither shall be bankruptcy, insolvency or denial of liability by the insurance company exonerate the CONTRACTOR from liability;
 - v. deductible limits on insurance policies exceeding \$10,000 require approval of the CITY;

- vi. any of such insurance policies required under this paragraph may be written in combination with any of the others, where legally permitted, but none of the specified limits may be lowered thereby;
- vii. prior to commencement of operations pursuant to this Contract, the Developer or the Developer's CONTRACTOR shall furnish the CITY with satisfactory proof that he has provided adequate insurance coverage in amounts and by approved carriers as required by this Agreement;
- viii. CONTRACTOR shall provide notice of any actual or potential claim or litigation that would affect required insurance coverages to the CITY in a timely manner;
- ix. CONTRACTOR agrees to either require its Subcontractors to maintain the same insurance coverage and limits as specified for the CONTRACTOR or coverage of Subcontractors shall be provided by the Contract; and
- x. Prior to the effective date of cancellation, CONTRACTOR shall deliver to the CITY a replacement certificate of insurance or proof of reinstatement.



SOUTHLAKE BLVD. (F.M. 1709)

(130' R.O.W.)
EXIST. 24" RCB

EARNEST E. TAYLOR
VOL. 10986, PG. 2185
P. R. T. C.

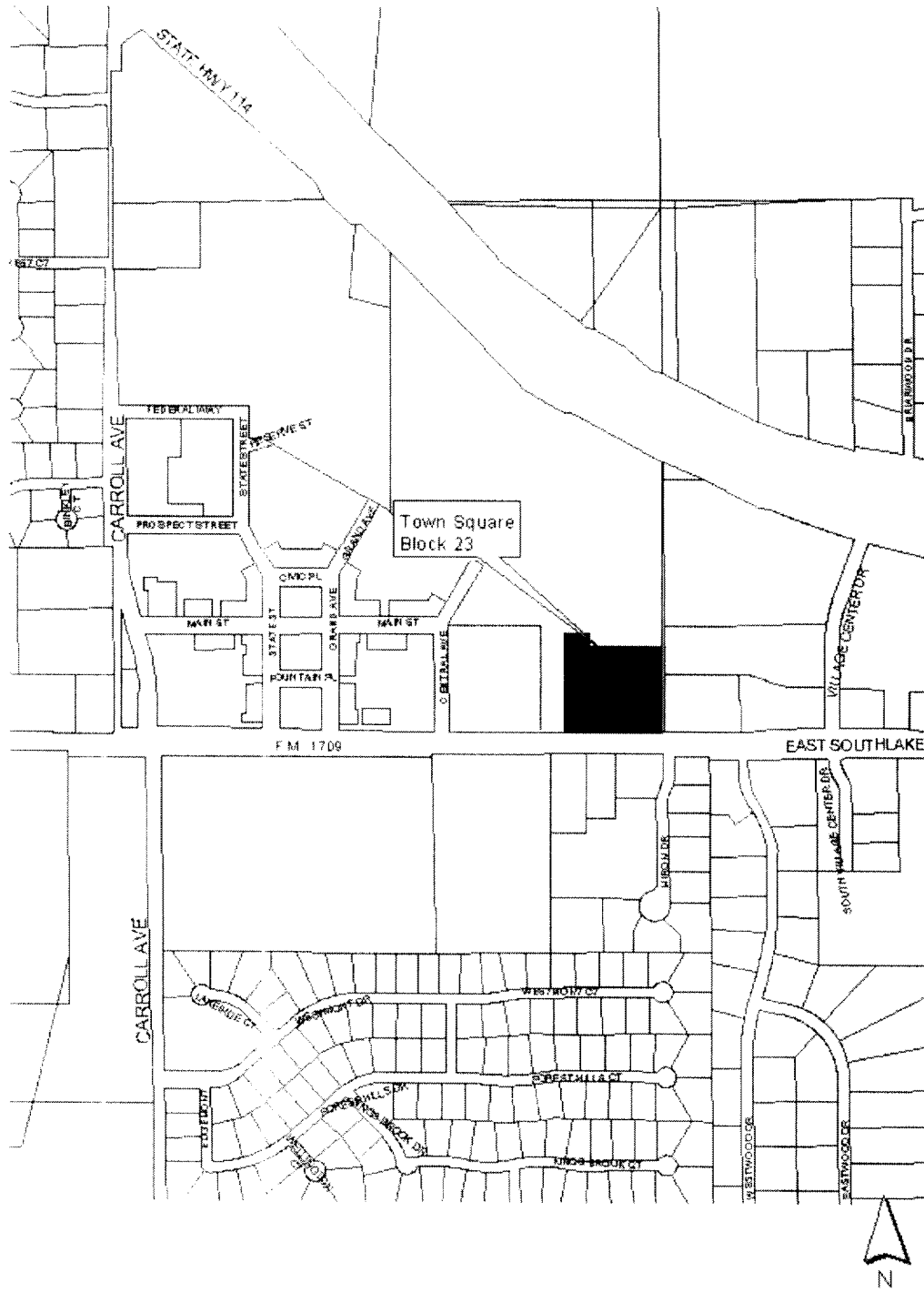
LOT 5, BLOCK 1
MARTIN W. SHELING

1100
1224

LOT 6, BLOCK 1
PAUL R. & DORREN BRUTON
VOL. 12263, PG. 2227

DRIVE

Southlake Town Square



Development Cost Schedule

Exhibit _____

Block _____

B. COST SCHEDULE

Development Name: **Southlake Town Square, Block 23**

	TOTAL PROJECT SUMMARY		Description / Notes
	Total Cost	Eligible Costs Infrastructure Parks	
Land			
Land			
Demolition			
Construction Cost - Site Work			
On Site Work			
On Site Imp - Water Facilities - Standard	18,791	18,791	
On Site Imp - Water Facilities - Oversized		0	
On Site Imp - Drainage	50,000	50,000	Includes drainage to HWY 114/Allowance
Off Site Imp - Drainage	0	0	Included Above
Off Site Improvements			
Other ¹		0	
Construction Hard Costs			
Streets - Improvements	58,387	58,387	
Streets - Street Lights	18,105	18,105	Antique Street Lights
Streets - Street Signs	3,630	3,630	Street Signage, 2 Stop Signs
Streets - Erosion Control	0	0	Included in Site Improvements
Sewer Facilities - Standard	45,000	45,000	Allowance
Sewer Facilities - Oversized		0	
Amenities - Ponds/Lakes		0	
Amenities - Landscaping	46,188	46,188	Allowance
Amenities - Walls		0	
Amenities - Other (Specify)	5,000	5,000	Benches/Trashcans (allowance)
Contractor Fees			
General Requirements (<6%)	23,628	23,628	9.64%
Contractor Overhead (<2%)	4,902	4,902	2.00%
Contractor Profit (<6%)	9,804	9,804	4.00%
Professional Fees			
Architect, Design	3,000	3,000	Landscape Architecture
Architect, Supervision		0	
Real Estate Attorney	5,000	5,000	Allowance for Diamond Shamrock Easements
Engineer/Survey	34,359	34,359	
Other ¹		0	
Construction Interim Costs			
Hazard Insurance	147	147	
Liability Insurance	601	601	
Payment Bond	7,353		
Performance Bond	7,353	7,353	
Credit Report			
Origination Fees	2,451	2,451	
Construction Loan Interest	6,747	6,747	assumes 12 month Construction period with avg interest of 4.5%
Bridge Loan Cost		0	
Discount Points		0	
Credit Enhancement Fees		0	
Inspection Fees	12,255	12,255	2% + 3% per Developer Agreement
Title & Recording	1,093	1,093	
Legal Fees	806	806	Allocated to Work
Real Estate Taxes	3,020	3,020	Construction Period Taxes

DRAFT

Permanent Construction Costs

Bond Premium		
Credit Report		
Discount Points		
Origination Fees		
Credit Enhancement		
Title & Recording		
Legal Fees		
Prepaid MIP		

Soft Costs

Consultant Fees		
Consultant Fees		

Other Development Costs

Market Study		0
Environmental Study		0
Property Appraisal		0
Other ¹		0

Syndication Costs

Organizational		
Tax Opinion		

Developer Fees (15% Maximum)

Developer Overhead	11,029	11,029
Developer Fee	11,029	11,029

3% Allowance

3% Fee

Development Reserves

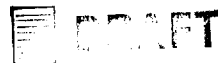
Operating Reserves		
Escrows		

Total Costs

Residential Costs:		
- Commercial Space Costs		
Development Costs	389,676	389,676

Reimbursement Percentage	40%	100%
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Owner's Requested Reimbursement	155,871	0
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