

AFTER RECORDING, RETURN TO:

City Secretary
City of McKinney
P.O. Box 517
222 N. Tennessee Street
McKinney, Texas 75069

**ANNEXATION AGREEMENT
BETWEEN
THE CITY OF MCKINNEY, TEXAS
AND
REA CAPITAL, LP
AND
MCKINNEY PARTNERS 306, LP
FOR
WILLOW WOOD PHASE 8**

THIS ANNEXATION AGREEMENT ("Agreement"), is entered into pursuant to Chapter 43 and Section 212.172 of the Texas Local Government Code and Chapter 142 of the Code of Ordinances, City of McKinney, Texas ("McKinney Code"), effective the ___ day of _____, 2021,¹ by and between the **CITY OF MCKINNEY**, a Texas municipal corporation and home-rule city ("CITY"), and **REA CAPITAL, LP**, a Texas limited partnership, whose address is 2752 County Road 338, McKinney, Texas 75071-0314, and **MCKINNEY PARTNERS 306, LP**, a Delaware limited partnership, whose address is 5055 Keller Springs Road, Suite 500, Addison, Texas 75001-6220 (hereinafter collectively referred to as "OWNER" whether one or more) (the CITY and the OWNER may be referred to collectively as the "PARTIES"), concerning the annexation and development of the "Property" described herein-below and by metes and bounds in Exhibit "A" hereto, witnesseth that:

WHEREAS, OWNER is the owner of the approximately 20.24 acres of land in the Polly A. Boone Survey, Abstract Number A1048, Tract 52, that is located in the extraterritorial jurisdiction of the City of McKinney, Collin County, Texas ("ETJ") (the "Property"); and

WHEREAS, this Agreement is entered into pursuant to Chapter 43 and Section 212.172 of the Texas Local Government Code, in order to address the desires of the OWNER and the CITY and the procedures of the CITY; and

WHEREAS, the Parties have the authority to enter into this Agreement pursuant to Section 212.171, *et seq.*, of the Texas Local Government Code; and

WHEREAS, the OWNER and the CITY acknowledge that this Agreement is binding upon the CITY and the OWNER and their respective successors and assigns for the term of this Agreement, as defined herein below; and

¹ If this date is omitted, the effective date shall be the date the Agreement is executed by the City.

WHEREAS, the Subdivision Regulations of the City of McKinney, Texas contained in Chapter 142 of the McKinney Code (the "Subdivision Regulations") establish procedures and standards for the development and subdivision of real estate and for the surveying and platting thereof, requiring the installation of adequate public facilities to serve the subject property and providing penalties for violations, among other things; and

WHEREAS, OWNER understands that prior to record platting the Property, the CITY's Subdivision Regulations require the OWNER to fund and construct the roadway and utility improvements that are necessitated by the development of the Property; and

WHEREAS, the Subdivision Regulations also prohibit recording the Final Plat of a subdivision within the incorporated area of the City until the OWNER has completed all of the public facilities required to serve the property being developed that must be dedicated to the City ("Public Improvements") or has entered into a Facilities Agreement and guaranteed to the satisfaction of the CITY such improvements will be installed; and

WHEREAS, OWNER and CITY have agreed to enter into this Annexation Agreement to provide OWNER with greater certainty to begin platting and developing the Property as **Willow Wood Phase 8**.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the CITY and the OWNER do mutually contract and agree as follows, to-wit:

A. INCORPORATION OF RECITALS

The Recitals set forth above, are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

B. PROPERTY

This Agreement is for Property located in the extraterritorial jurisdiction of the City of McKinney, in an area located on the south side of County Road 278 in an area west of County Road 338 (Fannin Road) and generally east of Parkdale Drive in the ETJ of the City of McKinney, Collin County, Texas, containing approximately 20.24 acres of land, more fully described and depicted in Exhibit "A" attached hereto and fully incorporated herein by reference (the "Property").

C. ANNEXATION

It is specifically understood and agreed that the Property is outside the CITY's corporate limits and that the CITY has not identified the Property in its Annexation Plan. It is also specifically understood and agreed that but for the OWNER's petition requesting the Property be annexed into the CITY's corporate limits the

Property would remain outside the CITY's corporate limits and within the CITY's extra-territorial jurisdiction. It is further understood and agreed that the CITY does not currently have public improvements in place to serve the Property. It is also understood and agreed that the CITY does not have any plans to improve or construct the roadways, extend the water, sanitary sewer and storm sewer lines, and construct the parks necessary to serve the Property. Neither does the CITY have the funds budgeted or otherwise available or projects and bonds approved by the voters to provide the public improvements necessary to serve the Property. **The OWNER acknowledges that the Property is within the CITY's extra-territorial jurisdiction and represents to the CITY that the OWNER has not engaged in any discussions or negotiations with any other city or town seeking to have the Property annexed into the extra-territorial jurisdiction or corporate limits of any municipality or town save and except the CITY. The OWNER specifically understands and agrees that the CITY shall have no obligation to design, extend, construct and provide the public improvements necessary to serve the Property and that should OWNER desire to develop the Property prior to the time that adequate public improvements are on or adjacent to the Property, it shall be the OWNER'S responsibility and obligation to design, extend and construct such public improvements. The OWNER does hereby, in exchange for the annexation of the Property, waive and hold harmless and agree to indemnify the CITY from and against any and all claims or demands that the CITY design, extend, construct and provide the public improvements necessary to serve the Property. In addition, OWNER hereby waives any vested rights they may otherwise have under Section 43.002(a) (2), Section 212.172(g), and Chapter 245 of the Texas Local Government Code to develop the Property in whole or in part in any manner that conflicts with the "Governing Regulations," defined hereinbelow.**

D. ZONING & PLATTING

The Property shall be zoned and platted, if required by applicable ordinance or state law, in accordance with the CITY's Zoning Ordinance and Subdivision Ordinance, then in force, before any Development Permit or Building Permit will be issued for the development of the Property.

E. TERM OF AGREEMENT

The term of this Agreement (the "Term") is Ten (10) years from the Effective Date of this Agreement.

F. PUBLIC IMPROVEMENTS

All public improvements, including utilities, drainage structures and easements, roadways, sidewalks, hike and bike trails, street lighting, street signage, rights-of-ways, parkland dedication and all other required improvements and dedications

shall be constructed and provided to the CITY by the OWNER, at no cost to the CITY, in accordance with the CITY's Ordinances which are then in effect. The following provides a general description of the minimum construction requirements for roadways and utilities which, under current conditions, would be required by OWNER as a condition to development of the Property (subject to the City's approval of phases or partial development):

1. Intentionally Omitted.
2. Off-site Roadway Level of Service. The OWNER of the Property must maintain the greater of the then current Level of Service ("LOS") on the roadway system serving the Property or Level of Service "D" on the roadways between the Property and the nearest major roadway based on the anticipated traffic routes from/to the Property as approved by the CITY Engineer. A major roadway is defined as an improved 4 lane divided roadway ("Arterial Roadway" classification as defined by CITY), TxDOT maintained roadway, or US Highway (i.e., US 75 and US 380).
 - (a) The OWNER will be required to obtain and dedicate to the CITY, at no cost to the CITY, all rights-of-way and easements as may be necessary to construct any off-site roadway improvements identified on the TIA as being necessary to serve the OWNER's proposed development of the Property.
 - (b) The OWNER will also be required to construct, at no cost to the CITY, any off-site roadway improvements that are identified on the TIA as being necessary to serve the OWNER's proposed development of the Property in accordance with the CITY's Street Design Standards, then in effect, or as may be otherwise agreed by the CITY.
 - (c) The CITY may, in its sole discretion, enter into a separate agreement with the OWNER that will allow the OWNER to fulfill its obligations under this Paragraph No. F(2) and also allow the CITY to make any additional roadway improvements that the CITY determines should be made in coordination with the OWNER's off-site roadway improvements and which additional CITY roadway improvements are not identified in the TIA as being necessary to or required by the development of the Property.
 - (d) The OWNER must provide all appropriate documentation regarding the necessary rights-of-way and off-site roadway construction to the CITY Engineer for approval.
3. Right-of Way Dedication. The OWNER shall dedicate to the CITY, at no cost to the CITY, that amount of right-of-way along perimeter roadways adjacent to the Property which will yield at least one-half (1/2) of the ultimate

right-of-way width that is not already dedicated by plat or legal instrument as road right-of-way, at such time as development occurs. If a Master Plan roadway is situated on or across the Property the OWNER shall dedicate to the CITY the full right-of-way for such Master Plan roadway at such time as development occurs. The CITY will compensate the OWNER for that portion of the Master Plan roadway right-of-way that is so dedicated and which is not roughly proportionate to the impact the development of the Property will have on the CITY's roadway system. The OWNER shall dedicate all right-of-way for the interior streets serving the Property at the time of development. The OWNER shall also dedicate all easements necessary for construction and safety purposes for roadways on the Property and perimeter roadways adjacent to the Property as required herein-above. The final alignment of right-of-way dedications shall be consistent with the CITY's Thoroughfare Development Plan and as approved by the CITY Engineer.

4. Roadway Plan Approval. All roadway construction plans shall be approved by the CITY's Engineer or his agent prior to approval of a Development Permit for any portion of the Property.
5. Roadway Construction. The OWNER shall construct, at no cost to the CITY, all required roadway improvements in accordance with the CITY's Subdivision Ordinance and Street Design Standards, then in effect. In addition to complying with the CITY's ordinance and standards, the OWNER shall also comply with TxDOT's standards and specifications when the roadway improvements are being made on along, about or to TxDOT roadways. In the event of a conflict between the CITY's requirements and TxDOT's requirements the OWNER shall comply with the more stringent of those requirements.
 - (a) Gravel and seal coat roadways are not acceptable.
 - (b) Roadways along the anticipated traffic routes must be reinforced concrete pavement with appropriate subgrade treatment all of which items must be approved by the CITY Engineer. The pavement on all such roadways must be designed for a minimum service life of twenty (20) years without the need for any major maintenance overhauls.
 - (c) A pavement analysis shall be performed by the OWNER, at no cost to the CITY, to determine the adequacy of the current pavement structure to handle the OWNER's projected traffic along with existing traffic volumes and recommendations by the OWNER must be made based upon the analysis for roadway improvements as needed. The OWNER shall create a pavement design to handle the expected traffic volumes and other criteria as determined by the circumstances

surrounding the development of the Property and as approved by the CITY Engineer.

- (d) Additional roadway improvements may be required to maintain safe roadway conditions. The determination regarding what additional improvements may be necessary shall be based upon the engineering judgment of the CITY Engineer and good engineering practices criteria.
 - (e) If the CITY has a project to construct any of the roadways for which the OWNER is responsible, in whole or in part, the CITY and the OWNER may enter into a separate agreement whereby the OWNER is allowed, in the sole discretion of the CITY, to provide the CITY a cash escrow in an amount that will cover the OWNER's roughly proportionate obligation for construction of such roadway(s) in lieu of constructing said roadway improvements.
6. Utility Easement Dedication. The OWNER shall dedicate to the CITY, at no cost to CITY, that amount of easement across the Property as deemed necessary by the CITY Engineer to facilitate the construction of water and wastewater utilities as shown on the CITY's Master Plans for Water and Wastewater (hereafter referred to collectively as the "Master Plans") and as approved by the CITY Engineer. The final alignment of easement dedications shall be consistent with the City's Master Plans and as approved by the City Engineer.
7. Utility Plan Approval. All utility plans and improvements are subject to the approval of the CITY Engineer, and all utility lines shall be constructed of materials of a quality and grade meeting at least the minimum standards specified by the CITY's Engineering Department. Upon approval of all utility construction plans for the Property by the CITY Engineer, or his designee, the OWNER may develop in accordance with such approved plans.
8. Utility Construction. The OWNER shall construct, at his sole cost, all necessary utility lines up to twelve inches (12") in diameter to provide service to the Property in accordance with the CITY's standards or as required by the Master Plans, at such time as demand on the Property requires or concurrent with the development of the Property, as determined by the CITY. The OWNER shall also construct, at no cost to the CITY, all necessary utility lines to serve the interior of the Property; said lines shall be at least eight inches (8") in diameter or larger as demand of the development on the Property requires. In addition to the requirements stated herein, the OWNER shall construct any necessary off-site and/or oversize utility improvements up to the sizes shown on Master Plans and as per City of McKinney standards. In the event the proposed development of the Property requires utility improvements in excess of the CITY's

minimum standards and Master Plans the OWNER shall construct any off-site and oversized utility improvements as may be required to serve the Property. No septic systems shall be permitted.

9. Intentionally Omitted.

G. PARKLAND

The OWNER shall dedicate required parkland, if any, concurrent with platting and development of the Property to provide for the recreational needs created by the development of the Property in accordance with the Subdivision Ordinance then in effect, or such other ordinance as may hereafter be adopted by the CITY regarding parkland dedication, and as determined by the CITY's Parks Department. The following provides a general description of the minimum requirements for parkland dedication which, under current conditions, would be required by OWNER as a condition to development of the Property (subject to the City's approval of phases or partial development):

1. Any parkland that the OWNER of the Property is required to dedicate to the CITY shall be shown on the plat of the Property as a fee simple conveyance to the CITY and shall be conveyed to the CITY by General Warranty Deed free of all liens and encumbrances, save and except the encumbrances affecting the Property at the time of the OWNER's acquisition thereof, and at no cost to the CITY. The OWNER shall also provide the CITY with an owner's title policy of insurance in an amount equal to the value of the land conveyed, which amount shall be determined by the CITY.
2. Subject to any waivers the CITY Council may grant for the conveyance of an amount of land in excess of the minimum park land dedication requirements, the OWNER shall also be responsible for, and pay the costs of, providing convenient access by improved streets and sidewalks, and providing adequate drainage improvements so that the parkland site is suitable for the purpose intended, and shall provide water, sewer and electrical utilities to the parkland site in accordance with the procedures applicable to other public improvements as specified in the Subdivision Ordinance of the CITY.
3. In the alternative and subject to the determination of the Director of the CITY's Parks Department all or part of the OWNER's parkland dedication requirements may be satisfied by the payment of money in lieu of land. The amount of cash to be paid in lieu of parkland dedication shall be determined based upon the Collin Central Appraisal District's most recent appraisal of all or part of the Property at the time the fees are paid for any future phase of development and shall be computed under the current ordinance requirement of one (1) acre of parkland dedication, outside of any floodplain on the Property, for each fifty (50) single-family residential lots.

4. If the CITY allows the Property to be developed in phases and approves the dedication of the parkland or cash in lieu of dedication in conjunction with the phasing of the Property's development, the OWNER shall dedicate parkland as the residential lots or school sites, if any, adjacent to the particular parkland areas are platted, unless requested by the Director of Parks and Recreation prior to such time in order to serve the development of the Property. The OWNER's payment of cash in lieu of dedication, if approved, shall be made in proportion to the number of residential lots being platted at the time each such phase is platted. In any event, all required parkland shall be dedicated or cash in lieu of dedication shall be paid to the CITY by the OWNER prior to the platting of the last phase of development of the Property. The OWNER shall not be allowed to file the plat for the last phase of the Property until the parkland dedication or cash payment is satisfied.
5. Any parkland the OWNER designates for dedication or dedicates to the CITY shall be left in its natural state unless previously agreed otherwise in writing by the CITY's Director of Parks and Recreation. In addition, such parkland shall not be used to provide topsoil for the development of the Property. Further, said parkland shall not be used for construction staging and/or storage or the operation and parking of vehicles. The parkland so designated for dedication or dedicated to the CITY shall not be used for the relocation of dirt from the Property or for fill unless the site must be altered for health and safety concerns and the placement of fill on the parkland is previously agreed to in writing by the CITY's Director of Parks and Recreation.

H. AVAILABILITY OF WATER AND WASTEWATER SERVICE IN THE FUTURE

The CITY makes no guarantee that water supply or wastewater treatment capacity will be available at any particular time or place, it being fully understood by both parties hereto that the ability of the CITY to supply water and wastewater services is subject to its contract with the North Texas Municipal Water District, a governmental agency and body politic and corporate, hereinafter referred to as "N.T.M.W.D.", and that this Agreement will only allow utilization of the CITY's water and wastewater system capacity when and if capacity is present and available from the N.T.M.W.D. Notwithstanding the foregoing, the CITY will supply the development on the Property with water supply and wastewater treatment capacity if such capacity is present and available from N.T.M.W.D. The CITY shall be the sole judge of the availability of such capacity of water supply and/or wastewater services, provided, however, that the CITY will attempt to insure that said water supply and wastewater treatment capacity is available.

I. CITY DEVELOPMENT ORDINANCES

OWNER shall develop the Property in accordance with the standards as set forth in City of McKinney zoning, subdivision and land development ordinances, including but not limited to provisions as to drainage, erosion control, pro rata payments, storm water, tree preservation, park land dedication, hike and bike trails, impact fees as provided herein, Street Design Standards, Public Improvements Policy and construction standards. The OWNER expressly acknowledges that by entering into this Agreement, the OWNER, its successors, assigns, vendors, grantees, and/or trustees, shall not construe any language contained herein or in any exhibits attached hereto as waiving any of the requirements of the CITY's Zoning Ordinance or Subdivision Ordinance or any other ordinance of the CITY, as applicable.

J. TREE ORDINANCE

OWNER expressly acknowledges the McKinney Tree Preservation Ordinance and the duty to develop the Property in accordance with the standards contained therein and any amendments to those standards.

K. STORMWATER

DEVELOPER agrees to abide by all terms of the McKinney Storm Water Ordinance set out in Article IV, "Stormwater Management," of Chapter 130, "Land Development Regulations," of the Code of Ordinances, City of McKinney, Texas, as amended.

L. PRO-RATA FEES

Off-site water and sewer facilities may be subject to either pro rata payments paid to third parties or reimbursements collected from third parties in accordance with City Ordinances. For any applicable off-site facilities in place as of the date of OWNER's development of the Property, the OWNER shall be responsible to pay applicable pro-rata fees in the amount of one-half (1/2) of the actual construction and engineering costs of up to a twelve-inch (12") diameter pipe if off-site facilities have been constructed adjacent to the Property by the CITY or any other party prior to the date hereof and the OWNER utilizes such facilities for the Property. If, however, the water or sewer facilities are bounded on both sides by the Property then the OWNER shall be responsible to pay applicable pro-rata fees in the full amount of the actual construction and engineering costs of up to a twelve-inch (12") diameter pipe if the OWNER utilizes such facilities. Should the OWNER construct off-site water and sewer facilities such that pro-rata fees are due to the OWNER, the CITY agrees to collect any fees due to the OWNER related to the construction of the line(s) as those properties utilizing such facilities are developed during the period of ten (10) years after OWNER's installation of such off-site water and sewer facilities. The OWNER shall submit final construction costs to the CITY

for approval prior to final acceptance of the improvements for use in determining pro-rata fees to be collected on behalf of the OWNER.

The OWNER shall not be required to pay pro-rata fees for any major transmission line(s) that may be constructed upon, through, under, across or adjacent to the Property that merely transport(s) water or wastewater to or from a treatment facility and to which line(s) OWNER is not permitted any right to tap or tie in to.

M. PROPORTIONALITY FEE

The OWNER, or the OWNER's successor(s)-in-interest (including a builder-owner), shall pay to the CITY a Proportionality Fee ("Fee") for development of the approximately 20.24 acres of the Property that is currently situated in the CITY's extraterritorial jurisdiction, which Fee represents a roughly proportional amount necessary to offset the roadway infrastructure capacity needs of the Property. The Fee shall be the equivalent of the roadway impact fee assessed in the adjacent (abutting) roadway impact fee service area (or that service area nearest to the Property if not adjacent) in effect at the time of building permit and shall be paid at the time of issuance of any building permits for any improvements on the Property. The OWNER, or the OWNER's successor(s)-in-interest (including a builder-owner), shall also pay (at the time of building permit issuance) to the CITY a water and wastewater proportionality fee in an amount equivalent to the then existing fee charged for a particular use in accordance with the CITY's utility impact fee ordinance.

In accordance with the methodology and provisions of the CITY's roadway impact fee ordinance, the OWNER shall receive credits for excess vehicle miles contributed by the OWNER (as such compare to the amount of vehicle miles of demand the entire Property creates) for right-of-way dedication and construction of on-site and adjacent roadways required by this Agreement. Such credits shall be issued to the OWNER only for construction of impact fee eligible system roadways, or roadways which become impact fee eligible system roadways, completed to CITY standards and accepted by the CITY. Upon completion by the OWNER and acceptance by the CITY of such on-site and adjacent roadways, the CITY shall issue credits to a credit pool in the OWNER's name that may be drawn down to pay Fees and roadway impact fees. Said credits shall not include the OWNER's individual costs for eminent domain, if any.

N. IMPACT FEES

If the CITY's Impact Fee Capital Improvement Plan is updated and the Property is designated as falling within a specific roadway service area and/or a specific utility service area before the Property is developed, the OWNER shall pay roadway impact fees and/or utility impact fees on the proposed development of the Property rather than paying the roadway proportionality fee and/or the water and wastewater proportionality fee discussed in Paragraph M, herein above. In such

event, Impact fees for the Property shall be charged in accordance with Ordinance No. 2020-12-091 (Roadway) and Ordinance No. 2020-12-092 (Utility), and as these ordinances may be amended in the future. These fees shall be due upon the time established by these Ordinances save and except only to the extent any waiver of or variance from said Ordinances is granted by the CITY and is contained in a separate agreement between OWNER and CITY which agreement shall supersede and control.

O. NO WAIVER

OWNER expressly acknowledges that by entering into this Agreement, OWNER, its successors, assigns, vendors, grantees, and/or trustees, shall not construe any language contained herein or in any Exhibits as waiving any of the requirements of the Zoning Ordinance or Subdivision Ordinance or any other ordinance of the CITY except as herein specifically agreed.

P. VARIANCES

It is expressly acknowledged that only those variances to the Zoning Ordinance and Subdivision Ordinance or other applicable CITY ordinances stipulated in attached Exhibit "C", if any, are granted by CITY for this subdivision and/or development. If no variances are granted, Exhibit "C" shall state "No variances for this Property are granted and none shall be allowed."

Q. RELATIONSHIP TO ROADWAY AND SEWER/WATER IMPACT FEES AND WAIVER OF CLAIMS.

The OWNER has been represented by legal counsel in the negotiation of this Agreement and been advised, or has had the opportunity to have legal counsel review this Agreement and advise the OWNER, regarding the OWNER's rights under Texas and federal law. The OWNER hereby waives any requirement that the CITY retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the CITY as a condition of approval for the development of this Property are roughly proportional or roughly proportionate to the proposed development's anticipated impact. (These exactions may include but are not limited to the making of dedications or reservations of land, the payment of fees, the construction of facilities, and the payment of construction costs for public facilities.) The OWNER specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with Tex. Loc. Gov't Code § 212.904. However, notwithstanding the foregoing, the OWNER hereby releases the City from any and all liability under Tex. Loc. Gov't Code § 212.904 regarding or related to the cost of those municipal infrastructure improvements required for the development of the Property.

It is the intent of this Agreement that the provision for roadway and utility improvements made herein constitutes a proportional financial allocation of the OWNER's responsibility for roadway and utility improvements for its Property and that the financial contribution, including the proportionality fee and in-kind construction of improvements made by the OWNER pursuant to this Agreement, are necessary and attributable to development of the Property. The financial obligation of the DEVELOPER herein set forth shall relieve the OWNER of any obligation for roadway and water/sewer impact fees for the Property unless impact fees are applicable to this Property, or as otherwise provided herein above. The OWNER further waives any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 of the Tex. Loc. Gov't. Code, any federal constitutional claims, and any claims for reimbursement under any existing or future impact fee ordinances of the City of McKinney to the extent such claims are based on the OWNER's dedication, construction, or payment obligations under this Agreement. The OWNER further releases the CITY from any and all claims based on excessive or illegal exactions; it being agreed that the amount of the OWNER's infrastructure contribution proportionality fee (after receiving all contractual offsets, credits and reimbursements) is roughly proportional to the demand that is placed on the CITY's roadway and utility systems by OWNER's development. The OWNER further acknowledges that the benefits of annexation, zoning and platting have been accepted with full knowledge of potential claims and causes of action which may be raised now and in the future, and the OWNER acknowledges the receipt of good and valuable consideration for the release and waiver of such claims. The OWNER shall indemnify and hold harmless the CITY from and against any claims and suits of any third parties, including but not limited to OWNER's successors, assigns, grantees, vendors, trustees or representatives, brought solely pursuant to this Agreement and/or asserting the claims or types of claims described in this paragraph.

R. **REVOCAION**

In the event OWNER fails to comply with any of the provisions of this Agreement following thirty (30) days' written notice and opportunity to cure, CITY shall be authorized to revoke any and all Certificates of Occupancy that may have been previously issued in relation to the subdivision and/or development of Property; and CITY shall be further authorized to file this instrument in the records of Collin County as a Mechanic's Lien against OWNER'S property; and in the alternative, CITY shall be authorized to levy an assessment against OWNER'S property for public improvements to be held as a tax lien against the Property by CITY.

S. CONTINUITY

This Agreement shall be a covenant running with the land, and be binding upon OWNER, its successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

T. NOTICES

All Notices shall be in writing, shall be signed by or on behalf of the PARTY giving the Notice, and shall be effective as follows: (a) on or after the 3rd business day after being deposited with the United States mail service, Certified Mail, Return Receipt Requested with a confirming copy sent by FAX; (b) on the day delivered by a private delivery or private messenger service (such as FedEx or UPS) as evidenced by a receipt signed by any person at the delivery address (whether or not such person is the person to whom the Notice is addressed); or (c) otherwise on the day actually received by the person to whom the Notice is addressed, including, but not limited to, delivery in person and delivery by regular mail or by E-mail (with a confirming copy sent by FAX). All Notices given pursuant to this section shall be addressed as follows:

To OWNER: McKinney Partners 306, LP
 Attn: John D. Hutchinson
 5055 Keller Springs Road
 Suite 500
 Addison, Texas 75001

REA Capital, LP
Attn: Wendy Howard
2752 County Road 338
McKinney, Texas 75071

To the CITY: City of McKinney
 Attn: City Manager
 P.O. Box 517
 222 N. Tennessee Street
 McKinney, Texas 75069

The PARTIES will have the right from time to time to change their respective addresses upon written notice to the other PARTY given as provided above. If any date or notice period described in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period for calculating the Notice will be extended to the first business day following such Saturday, Sunday or legal holiday.

U. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the PARTIES relative to the subject matter hereof. There have not been and are no agreements, covenants, representations or warranties among the PARTIES, either oral or written, relative to such subject matter other than those expressly stated or provided for herein.

V. PARTIES BOUND/PROPERTY BENEFITED

This Agreement shall be binding upon and inure to the benefit of the authorized successors and/or assigns of the PARTIES. The PARTIES hereto acknowledge that each has entered into this Agreement willingly and that each PARTY has equal bargaining powers. Neither PARTY has been coerced or has acted under duress.

W. ASSIGNABILITY

This Agreement is specific to the Owners identified on Page 1, above, and shall not be assignable by OWNER without the prior written consent of the CITY, and such consent shall not be unreasonably withheld, conditioned or delayed.

X. TERMINATION AND RELEASE

Upon satisfactory completion by OWNER and final acceptance by CITY of all requirements of this Agreement, this Agreement shall terminate and CITY will execute a release of covenant to OWNER, its heirs, successors, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future. This Agreement shall not terminate until the requirements of all parties have been fulfilled.

Y. APPLICABLE LAW; VENUE

This Agreement is entered into pursuant to, and is to be construed and enforced in accordance with, the laws of the State of Texas, and all obligations of the PARTIES are performable in Collin County. Exclusive venue for any action to enforce or construe this Agreement shall be in the Collin County District Court.

Z. COUNTERPART ORIGINALS

This Agreement may be executed in multiple counterpart originals, each of which shall have equal dignity and effect.

AA. NO THIRD-PARTY BENEFICIARIES

This Agreement only inures to the benefit of, and may only be enforced by, the PARTIES. No other person or entity shall have any right, title, or interest under this

Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

BB. CONFLICT OF INTEREST

OWNER covenants and agrees that OWNER and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Agreement. All activities, investigations and other efforts made by OWNER pursuant to this Agreement will be conducted by employees, associates or subcontractors of OWNER.

OWNER shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics Commission (“Commission”) at the time OWNER submits this signed Agreement to CITY, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. The OWNER must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the OWNER must sign the printed copy of the form and complete the “unsworn declaration” which includes, among other things, the date of birth and address of the authorized representative signing the form. The completed Form 1295 with the certification of filing must be filed with the CITY.

The CITY must notify the Commission, using the Commission’s filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Agreement binds all parties to the Agreement. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the CITY.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

CC. GENERAL PROVISIONS

1. OWNER hereby relieves CITY of any responsibilities for any inadequacies in the preliminary plans, exhibits and cost estimate supplied for the purpose of this Agreement, and further agrees that OWNER will comply with CITY’S

Subdivision Regulations, Street Design Standards, Public Improvements Policy and any other applicable policies, rules, regulations and ordinances of CITY regarding development of the Property.

2. OWNER agrees that construction shall not begin on any proposed improvements to the Property prior to City Council approval of this Agreement.
3. OWNER agrees that all coordination required with public and/or private utility agencies to eliminate conflicts with proposed street grades or underground improvements shall be the responsibility of OWNER. Likewise, coordination with agencies requiring special conditions (i.e., railroads and the Texas Department of Transportation) shall be the responsibility of OWNER.
4. It is understood that any obligation on the part of the CITY to make any refunds with respect to infrastructure improvements constructed within the Property shall cease, with respect to such improvements, on the tenth (10th) anniversary after the improvements are completed, inspected, and accepted by the CITY. Such 10-year period may be extended for good cause and agreed to in writing by the CITY and the OWNER.
5. This Agreement does not constitute a "permit" under Chapter 245 of the Texas Local Government Code and no "rights" are vested by this Agreement; however, nothing in this Agreement shall constitute a waiver by OWNER of any rights of OWNER under said Chapter 245 to the extent only that such rights may vest through some other application not related to the annexation of the Property.
6. CITY agrees to record said Plat at such time as the Plat complies with the requirements set forth by the Subdivision Regulations of CITY, and has been approved in the manner described therein.

[Signature Page to Follow]

CITY OF MCKINNEY

By: _____
PAUL G. GRIMES
City Manager

Date Signed: _____

ATTEST:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney

THE STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared PAUL G. GRIMES, City Manager of the **CITY OF MCKINNEY**, a Texas Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on CITY's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____
DAY OF _____, 2021.

Notary Public _____ County, Texas
My commission expires _____

McKINNEY PARTNERS 306, LP,
a Delaware limited partnership

By: TA GP, LLC
a Delaware limited liability company
its general partner

By: [Signature]
Name: John D. Hutchinson
Title: President

Date Signed: 10/20/21

REA CAPITAL, LP,
a Texas limited partnership

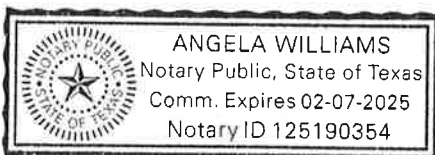
By: _____
Wendy Howard
Title: _____

Date Signed: _____

THE STATE OF TEXAS,
COUNTY OF Dallas

This instrument was acknowledged before me on the 20th day of October, 2021, by John D. Hutchinson, in his capacity as President of TAGP, LLC, a limited liability company known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that John D. Hutchinson is the President of TAGP, LLC, a limited liability company and that he executed the same on behalf of and as the act of the Limited Partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 20th DAY OF October, 2021.



[Signature]
Notary Public Dallas County, Texas
My commission expires 2-7-2025

THE STATE OF TEXAS,
COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 2021, by _____, in his capacity as _____ of _____, a _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that _____, is the _____ of _____, a _____, and that he executed the same on behalf of and as the act of the Limited Partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____, 2021.

Notary Public _____ County, Texas
My commission expires _____

McKINNEY PARTNERS 306, LP,
a Delaware limited partnership

By: TA GP, LLC
a Delaware limited liability company
its general partner

By: [Signature]
Name: John D. Hutchinson
Title: President

Date Signed: 10/20/21

REA CAPITAL, LP,
a Texas limited partnership

By: Windom Farms Management, LLC, a Texas
limited liability company, its general partner
By: Wendy Howard
Wendy Howard, Manager

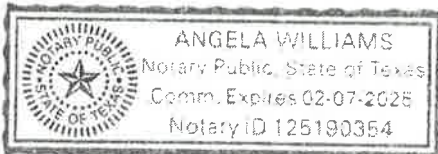
Title: Manager

Date Signed: 10/26/2021

THE STATE OF TEXAS,
COUNTY OF Dallas

This instrument was acknowledged before me on the 20th day of October, 2021, by John D. Hutchinson, in his capacity as President of TA GP, LLC, a limited liability company known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that John D. Hutchinson, is the President of TA GP, LLC, a limited liability company and that he executed the same on behalf of and as the act of the Limited Partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 20th DAY OF October, 2021.



Angela Williams
Notary Public Dallas County, Texas
My commission expires 2-7-2025

THE STATE OF TEXAS,
COUNTY OF Collin

This instrument was acknowledged before me on the 26th day of October, 2021, by Wendy Howard in his capacity as Manager of Windom Farms Management, Texas limited liability company known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that Wendy Howard is the Manager of Tera Windom Farms Management, LLC, a limited liability company, and that he executed the same on behalf of and as the act of the Limited Partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF 26th October, 2021.


Notary Public Collin County, Texas
My commission expires 03/30/25



Exhibit "A"
Description and Depiction of Property
(Containing Approximately 20.24 Acres of Land)

LEGAL DESCRIPTION WILLOW WOOD PHASE 8

ALL of that tract of land situated in the POLLY A. BOONE SURVEY, ABSTRACT NUMBER 1048, in the Collin County, Texas, being the 20.24 acre tract described in a deed Special Warranty Deed to REA CAPITAL, LP, a Texas limited partnership, as filed for record in Clerk's File Number 20141119001261410 of the Land Records of Collin County, Texas, and as affected in the Correction Instrument to said REA CAPITAL, LP, as filed for record in Clerk's File Number 20150330000345130 of the Land Records of Collin County, Texas, being the EXHIBIT H - TATE 20 ACRES tract therein, and being more particularly described as follows:

BEGIN at a PK Nail in Disc (PETSCHKE) found for corner at the northwest corner of said EXHIBIT H - TATE 20 ACRES tract, also being the northeast corner of the land described in Donation Deed to MELISSA INDEPENDENT SCHOOL DISTRICT, as filed for record in Clerk's File Number 20181206001489700 of the Land Records of Collin County, Texas, same being in the center of County Road 278;

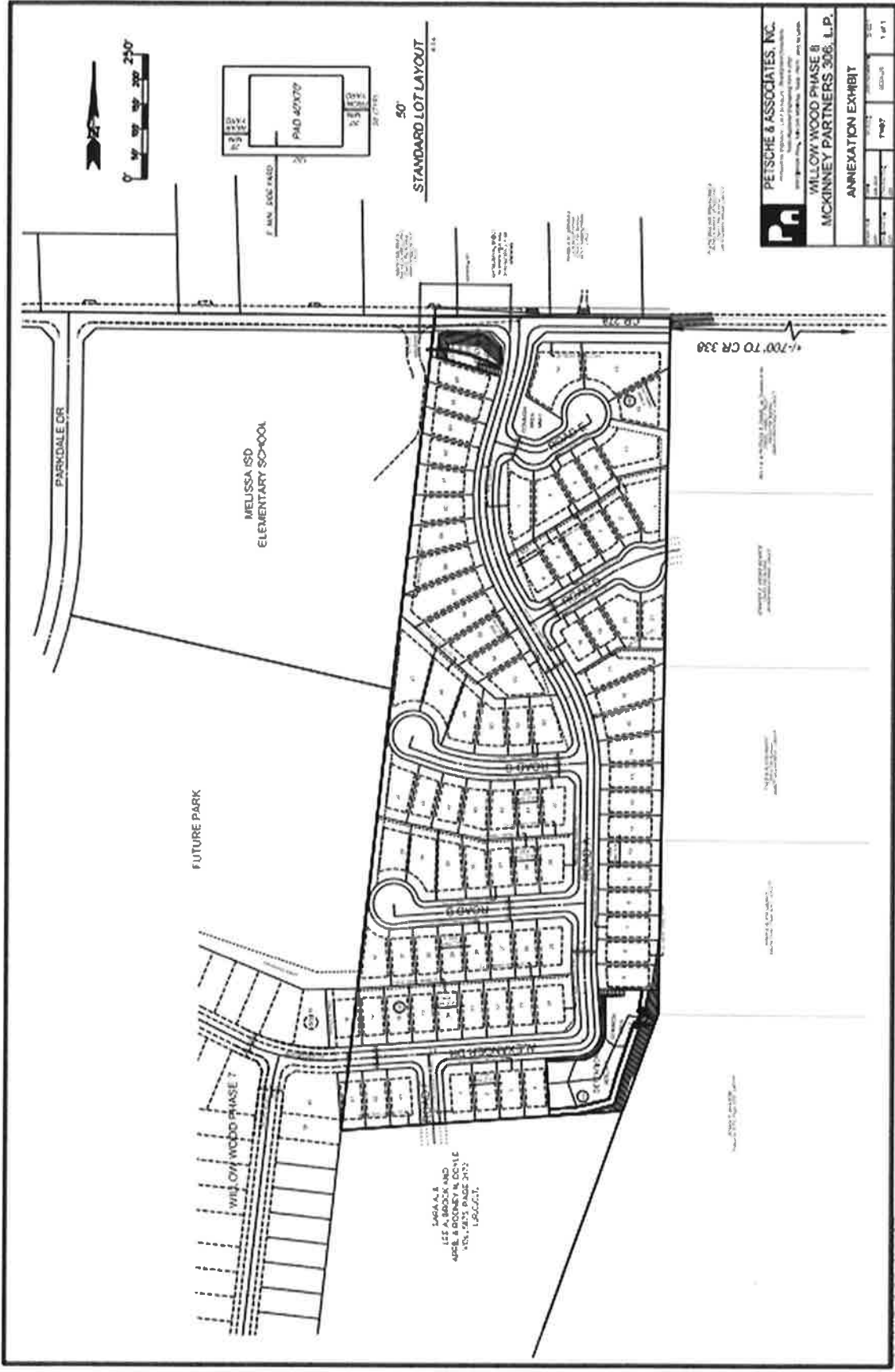
THENCE S 89°39'36" E, along the north line of said EXHIBIT H - TATE 20 ACRES tract and the centerline of said County Road 278, a distance of 474.37 feet (called 474.14 feet) to a PK Nail in Disc (PETSCHKE) set for corner at the northeast corner of said EXHIBIT H - TATE 20 ACRES tract, also being the northwest corner of the land described in a Warranty Deed to BILLY A. DANIEL and PATRICIA R. DANIEL, as Trustees of the DANIEL FAMILY TRUST, as filed for record in Clerk's File Number 20091218001516270 of the Land Records of Collin County, Texas, from which a 1/2" capped iron rod #5992 found for witness corner bears S 0°47'29" W, a distance of 30.00 feet;

THENCE S 0°47'29" W, along the east line of said EXHIBIT H - TATE 20 ACRES tract and the west line of said DANIEL tract, at 30.00 feet pass said 1/2" capped iron rod #5992 found for witness corner, at 347.51 feet (called 347.53 feet) pass a 1/2" capped iron rod #5992 found for corner at the southwest corner of said DANIEL tract also being the northwest corner of the land described in the Warranty Deed to JENNIFER S. WESKE-MONROE, as filed for record in Clerk's File Number 20140918001015980 of the Land Records of Collin County, Texas, at 697.60 feet (called 696.94 feet) pass a 1/2" capped iron rod #5992 found for corner at the southwest corner of said WESKE-MONROE tract also being the northwest corner of the land described in General Warranty Deed to FRED HAIGHT and ALICIA HAIGHT, as filed for record in Clerk's File Number 20080714000852910 of the Land Records of Collin County, Texas, at 1046.28 feet (called 1046.35 feet) pass a 1/2" capped iron rod #5992 found for corner at the southwest corner of said HAIGHT tract, also being the northwest corner of the land described in General Warranty Deed to FRED and ALICIA HAIGHT, as filed for record in Volume 5440, Page 6297 of the Land Records of Collin County, continuing in all a distance of 1395.06 feet (called 1394.72 feet) to a PK Nail found for corner in fence post at an angle point in the east boundary of said EXHIBIT H - TATE 20 ACRES tract, also being the southwest corner of said HAIGHT tract, also being the northwest corner of the land described in General Warranty Deed to EDWIN F. BRANOM, as filed for record in Volume 5375, Page 5200 of the Land Records of Collin County, Texas;

THENCE S 19°51'50" W, continuing along the east line of said EXHIBIT H - TATE 20 ACRES tract and the west line of said BRANOM tract, a distance of 205.23 feet (called 205.33 feet) to a 1/2" capped iron rod #5992 found for corner at the southeast corner of said EXHIBIT H - TATE 20 ACRES tract, said corner also being the norther they most northeast corner of the land described in the Warranty Deed With Vendor's Lien to HAMMACK HOLLOW, as filed for record in Clerk's File Number 20190311000251510 of the Land Records of Collin County, Texas;

THENCE S 85°54'44" W, along the south line of EXHIBIT H - TATE 20 ACRES tract and the north line of said HAMMACK HOLLOW tract, a distance of 597.94 feet (called 597.91 feet) to a 1/2" capped iron rod (illegible) found for corner at the southwest corner of said EXHIBIT H - TATE 20 ACRES tract being the northwest corner of said HAMMACK HOLLOW tract, said corner being on an east boundary of the remaining portion of the land described in Special Warranty Deed with Vendor's Lien to MCKINNEY PARTNERS 306, LP, as file for record in Clerk's File Number 20130829001227120 of the Land Records of Collin County, Texas;

THENCE N 6°20'12" E, along the west line of said EXHIBIT H - TATE 20 ACRES tract, also being an east line of said MCKINNEY PARTNERS tract, at 889.12 feet pass a 1/2" iron pipe at the southeast corner of the aforesaid MELLISA INDEPENDENT SCHOOL DISTRICT tract, at 1611.11 feet pass a 1/2" iron pipe found for witness corner, and continuing in all a distance of 1641.28 feet (called 1640.74 feet) back to the POINT OF BEGINNING and containing 20.246 Acres (called 20.24 Acres) (881,916 Square Feet) of land, MORE OR LESS.



Pa PETSCHKE & ASSOCIATES, INC.
 ARCHITECTS ENGINEERS LANDSCAPE ARCHITECTS
 10000 WILLOW WOOD DRIVE, SUITE 200, WILLOW WOOD, MO 64091
 TEL: 816.271.1100 FAX: 816.271.1101
 WWW.PETSCHKEANDASSOCIATES.COM

WILLOW WOOD PHASE 8
 MCKINNEY PARTNERS, 306, L.P.
 ANNEXATION EXHIBIT

DATE	DESCRIPTION	BY	CHKD
11/11/11	PRELIMINARY	PAUL	PAUL
11/11/11	FINAL	PAUL	PAUL

Exhibit "B"
Public Utility Improvements

OWNER is responsible for the construction of the required public utility improvements detailed below. However, the CITY has requested and the OWNER has concurred to deferring construction of the required public utility improvements detailed below. The CITY has also agreed to design and/or construct the facilities detailed below, or cause the same to be designed and/or constructed. OWNER has agreed to escrow with the CITY an amount equal to at least one hundred percent (100%) of the costs and expenses associated with such construction in satisfaction of OWNER'S obligation under the CITY'S Subdivision Regulations. In light of this Escrow Agreement, OWNER is relieved from constructing the facilities described below if OWNER otherwise fully complies with the provisions of this Agreement.

However, the list of required public utility improvements detailed below is not exhaustive of OWNER'S obligation under the CITY'S ordinances. Nothing contained herein is intended to relieve OWNER of its obligation to design and construct other improvements required by the CITY'S Subdivision Regulations and other development related ordinances.

Water: The following Required Improvements are being deferred by, the funds escrowed for, and designed and/or constructed through this Agreement:

- a. No water lines are being deferred by this Agreement.

Wastewater: The following Required Improvements are being deferred by, the funds escrowed for, and designed and/or constructed through this Agreement:

- a. No wastewater lines are being deferred by this Agreement.

Drainage Improvements: The following Required Improvements are being deferred by, the funds escrowed for, and designed and/or constructed through this Agreement:

- a. No drainage improvements are being deferred or escrowed by this Agreement.

Exhibit "C"
Variances

1. No variances for this Property are granted hereby and none shall be allowed by this Agreement.