

**PRE-ANNEXATION AGREEMENT
BETWEEN THE CITY OF FORT WORTH, TEXAS
AND
PARKS OF VILLAGE CREEK, LLC**

THIS **PRE-ANNEXATION AGREEMENT** ("Agreement") is made and entered by and between the City of Fort Worth, Texas, a home rule municipal corporation ("City") situated in portions of Tarrant, Denton, Johnson, Parker, and Wise Counties, acting by and through its duly authorized Assistant City Manager, and Parks of Village Creek, LLC, a Texas limited liability company ("Owner"), (the City and Owner each a "party," and collectively the "parties") effective upon execution by both parties (the "Effective Date").

RECITALS

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

WHEREAS, Owner is the sole owner of certain land situated in Tarrant County, Texas, which consists of approximately 101.692 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in **Exhibit A** attached and incorporated herein by reference ("Property"); and

WHEREAS, the Property is located within Bethesda Water Supply Corporation's certificate of convenience and necessity ("CCN") for water service and is not located within a CCN for wastewater service; and

WHEREAS, the Property is not presently contiguous to the City; and

WHEREAS, Owner intends to develop the Property for residential purposes and has requested that the City provide retail water and sewer service to the Property; and

WHEREAS, pursuant to the City's annexation policy, all property to receive such services must be within the corporate limits of the City or the Owner must agree to be annexed into the corporate limits of the City when the Property becomes contiguous to the City; and

WHEREAS, Owner desires to petition the City to annex the property into the City, pursuant to Subchapter C-3, Chapter 43 of the Texas Local Government, at the time certain conditions are met in accordance with Section 3; and

WHEREAS, the parties have the authority to enter into this Agreement under state law, including but not limited to Sections 43.0672 and 212.172 of the Local Government Code; and

WHEREAS, the annexation and execution of this Agreement are subject to approval by the Fort Worth City Council; and

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

1. PROPERTY. This Agreement is only applicable to the Property, which is more particularly described and set forth in Exhibit A.

2. INTENT. It is the intent of the City and Owner that this Agreement shall allow for the City to provide retail water and sewer services to the Property for development of all uses allowed in the "C" Multifamily District, in accordance with the City's annexation policy and state law. As a condition of said provision of water and sewer services, the City and Owner agree that final plats for any portion of the Property shall not be recorded in the Tarrant County plat records except in accordance with Section 3.

3. ANNEXATION. At any point prior to recording a final plat with Tarrant County for any portion of the Property, Owner shall submit a petition to the City requesting full purpose annexation of the land subject to such final plat. The parties agree to cooperate in good faith toward the annexation of the Property, including, without limitation, the execution by Owner and the City of such further documents or instruments as may be reasonably necessary to legally effectuate such annexation. The City shall, in accordance with applicable statutory requirements, take all steps necessary to complete the annexation of the Property substantially contemporaneously with the zoning of the Property in accordance with Section 7. Owner shall not record a final plat for any portion of the Property unless the City annexes the land subject to such final plat; provided, however, if Owner complies with this Section 3 and the City Council does not adopt an ordinance annexing such property within ninety (90) days after Owner submits the annexation petition to the City, Owner is authorized to record the final plat and to develop and use such property in accordance with this Agreement.

4. CERTIFICATE OF CONVENIENCE AND NECESSITY. Owner shall submit a request to the Public Utility Commission of Texas for release of the Property from Bethesda Water Supply Corporation's water CCN and shall diligently pursue such release, at Owner's sole expense. Once the PUC decertifies the Property from Bethesda Water Supply Corporation's CCN and the PUC judge has approved the notice of approval making a determination on compensation, the City shall begin the process to expand its water CCN service area to include the Property and shall diligently pursue such expansion. Owner shall cooperate with the City to include the Property in the City's water CCN. The City agrees to provide retail water and sewer service to the Property in accordance with this Agreement while pursuing expansion of the City's water CCN to include the Property.

5. MUNICIPAL SERVICES. Pursuant to Section 43.0672, Texas Local Government Code, this Agreement shall constitute an agreement for the provision of services to the Property. Unless otherwise provided herein, the City shall, immediately upon the effective date of annexation of all or any part of the Property, make available to and provide such property with all such municipal services currently offered within the City, including sanitary sewer service and those which may be offered in the future, without discrimination. This Agreement shall not be interpreted or construed to bind the City to provide any City services to the Property prior to annexation.

6. DEVELOPMENT PROCESS.

(a) Plat Approval. Subdivision of the Property or any portion thereof shall require approval of plats by the City's Plan Commission in accordance with the City's Subdivision Ordinance.

(b) Water and Sewer Infrastructure. Owner shall design and construct, or cause the design and construction of, water and sewer infrastructure to serve the Property in accordance with City standards as amended. The Infrastructure Plan Review Center is not obligated to accept plans for construction of water and sewer infrastructure for review until the Public Utility Commission approves Owner's decertification requested and approval of compensation for the CCN release as submitted in accordance with Section 3. Construction of water and sewer infrastructure shall not commence until (i) the plans and specifications have been reviewed and approved for compliance with City standards as amended; (ii) the applicable standard plan review fees and CFA related fees have been paid; and (iii) a Community Facilities Agreement ("CFA") has been executed in accordance with the City's Community Facilities Agreement Ordinance as amended and (iv) a pre-construction conference has been held by the contractor hired to construct such infrastructure and representatives of the City's Water Department;

(c) Infrastructure in TXDOT ROW: Owner has the option to construct a portion of the water and sewer infrastructure in the FM 1187 right-of-way provided that the Owner obtains permission from the Texas Department of Transportation. When such infrastructure is planned to be constructed in the TXDOT ROW, the developer agreed to provide \$115,280 to Fort Worth Water Department to pay toward any possible future relocation and/or looping of the infrastructure. If the relocation and/or looping cost is higher than \$115,280 then the developer will not be responsible for any cost higher than \$115,280. The remaining cost will be the responsibilities of the City. Additionally, there is no refund to the developer on the \$115,280. The developer will provide this fund at the time of CFA execution. This fund will need to be either in check or bank transfer and cannot be in bond or letter of credit.

(d) Dedication of Water and Sewer Infrastructure to the City. After receiving City's final acceptance of water infrastructure or sewer infrastructure, the City shall have full ownership, control and maintenance obligations for such infrastructure.

(e) Roads and Stormwater Infrastructure. Roads and appurtenant stormwater infrastructure constructed within the Property shall be constructed in accordance with City standards as amended and dedicated to the City. Owner will dedicate right-of-way for FM 1187 in connection with platting the Property. Owner shall have no obligation to construct improvements to FM 1187, unless otherwise required by the Texas Department of Transportation.

(f) Oversizing of Water and Sewer Infrastructure. If requested by the City, Owner shall oversize water or sewer infrastructure to exceed the capacity needed to serve the Property, provided the City reimburse its pro rata portion of all costs for such infrastructure.

(g) Backflow Permits; Inspections. Domestic or irrigation backflow should be obtained through City's permitting software for domestic and/or irrigation backflow installation due to the City providing water to these lots. Each property owner of the subject property will

need to comply with the City's annual backflow testing requirements (See Fort Worth City Code Sec. 12.5-532, Testing of Assemblies).

(h) Pre-treatment Permits; Inspections. If there is any change in the uses allowed by Section 7 and such use triggers City's pre-treatment's requirements, the Owner shall go through City's pretreatment permitting process and process due to the City is providing sewer to these lots.

7. PERMITTED USES; ZONING

(a) Owner is authorized to develop the Property with all uses permitted in the "C" Multifamily District in accordance with applicable City regulations. The Property may be developed with a combination of the uses permitted in the "C" Multifamily District, to be determined at Owner's discretion.

(b) Concurrently with annexation of the Property by the City, Owner shall submit an application to zone the Property "C" Multifamily. Approval of ordinances annexing and zoning the Property shall be considered at the same City Council meeting.

(c) In the event of any conflict between this Agreement and any zoning ordinance adopted by the City Council relating to the Property, this Agreement will prevail except as expressly agreed in writing by the Owner of such Property.

8. WATER AND WASTEWATER SERVICES. Upon execution of this Agreement, and release of the Property from Bethesda's CCN the City will provide water and sewer services in accordance with this Agreement and in a manner that is consistent with its policies and procedures in effect and in compliance with Chapter 35 of the City Code. Owner will be responsible for all costs for the establishment and/or improvement of public service delivery systems to the Property in accordance with such policies and regulations and any other applicable law, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations, and policies as amended.

9. WATER CONSERVATION COMPLIANCE. Each lot should comply with City's water conservation plan and measures as amended that are generally applicable to the City's retail water customers as long as the water connection is to City's water system.

10. DEDICATION OF PARKLAND AND IMPROVEMENTS. Owner shall dedicate the westernmost approximately 20 contiguous acres along the creek located within the Property to the City for a public park. One acre shall be out of the floodplain and contiguous. The Owner shall construct park improvements, consisting of playground (City approved prototype), park picnic shelter (City approved prototype) and 6-foot-wide walking paths (minimum length: 2,000 linear feet). The improvements will have 600' linear feet of street frontage for maintenance and emergency access into the park space. No other park dedication requirements, fees in lieu of dedication, or park improvement fees shall apply to the Property.

11. AUTHORITY. City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of annexation of the Property is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.

12. SEVERABILITY. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.

13. INTERPRETATION. The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.

14. GOVERNING LAW AND VENUE. Venue shall be in the state courts located in Tarrant County, Texas, or the United States District Court for the Northern District of Texas, Fort Worth Division, and construed in accordance with the provisions of Texas Local Government Code Chapter 43 and Section 212,171, et seq.

15. NO WAIVER. The failure of either party to insist upon the performance by the other party of any provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver thereof, and that party shall have the right at any time thereafter to insist upon performance of any and all provisions of this Agreement or to exercise any such right on any future occasion.

16. GOVERNMENTAL POWERS. It is understood by execution of this Agreement; the City does not waive or surrender any of its governmental powers or immunities.

17. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed and original and constitute one and the same instrument.

18. CAPTIONS. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

19. AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND. This Agreement shall be duly recorded in the Public Records of the applicable county. This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.

20. Exhibits. The following Exhibits are attached hereto and incorporated herein for all purposes:

Exhibit A Property Description

21. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

Executed as of the Effective Date.

ATTEST:

CITY OF FORT WORTH

City Secretary

Dana Burghdoff, Assistant City Manager

Date: _____

APPROVED AS TO FORM AND
LEGALITY:

Assistant City Attorney

Approvals:

M & C _____

STATE OF TEXAS §

§

COUNTY OF TARRANT §

This instrument was acknowledged before me, on the ___ day of _____, 2021,
by Dana Burghdoff, Assistant City Manager of the City of Fort Worth, Texas on behalf of said
City.

Notary Public, State of Texas

Printed Name: _____

My Commission Expires: _____

OWNER

Parks of Village Creek, LLC

By: _____
Robert H. Barham, Manager

Date: _____

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me, on the __ day of _____, 2021,
by Robert H. Barham, Manager of Parks of Village Creek, LLC, on behalf of said limited
liability company.

Notary Public, State of Texas

Printed Name: _____

My Commission Expires: _____

EXHIBIT A
Legal description of property

Being a tract of land situated in the Hiram Little Survey, Abstract No. 903, City of Fort Worth, Tarrant County, Texas, being all of a certain called tract of land as described by deed to Will Kari and recorded in County Clerk's File No. (CC#) D202210259, Official Public Records, Tarrant County, Texas, (OPRTCT) and being all of a Boundary line agreement as described by deed and recorded in (CC#) D213071020, (OPRTCT) and being more particularly described by metes and bounds as follows (Basis of bearings reference to the Texas State Plane Coordinate System, North Central Zone, NAD83 via the Trimble VRS network for North Central Texas. All distances are surface distances.)

BEGINNING at 3-inch pipe fence corner found for the northwest corner of the said Kari tract, and being common with the northeast corner of a certain tract of land as described by deed to Intelli LLC and recorded in (CC#) D215064520, (OPRTCT), also being in the south right of way line of Farm to Market Highway No. 1187 (a 100 foot right of way);

THENCE South 89°54'00" East, with the north line of the said Kari tract and being common with the south right of way line of the said Farm to Market Highway No. 1187, a distance of 1798.22 feet to a fence post for the northeast corner of the said Kari tract, also being in the west right of way line of RedBird Lane (a variable width right of way);

THENCE South 00°24'51" East, with the northerly east line of the said Kari tract and being with the west right of way line of the said RedBird Lane, a distance of 2002.47 feet to a 5/8-inch capped iron rod set marked "Shield Engineering", for the easterly southeast corner of the said Kari tract, and being in the north right of way line of the said RedBird Lane;

THENCE South 89°26'29" West, with the easterly south line of the aforesaid Kari tract and being common with the north right of way line of the said RedBird Lane, a distance of 434.45 feet to a 5/8-inch capped iron rod set marked "Shield Engineering" for the reentrant corner of the aforementioned Kari tract;

THENCE South 01°32'31" East, with the southerly east line of the said Kari tract, a distance of 6.80 feet to a cross tie fence corner with a 60d nail found for the westerly southeast corner of the Kari tract, and being the northeast corner of a certain tract of land as described by deed to Steve Clingman and recorded in (CC#) D216061381, (OPRTCT), from which a 5/8-inch capped iron rod found for the northeast corner of a certain tract of land as described by deed to Gloria Steelman and recorded in (CC#) D216241063, (OPRTCT) bears South 00°55'39" East, a distance of 30.10 feet;

THENCE South 89°12'04" West, with the westerly south line of the said Kari tract and being common with the north line of the said Clingman tract, a distance of 1843.90 feet to a 1/2-inch iron rod found for the southwest corner of the said Kari tract and being common with the reentrant

corner of a certain tract of land as described by deed to Prater Energy & Development LLC and recorded in (CC#) D218135335, (OPRTCT);

THENCE northerly with the west line of the said Kari tract and being common with the east line of the said Prater tract, also being common with the east line of the said Intelli tract, the following courses and distances:

North 00°00'06" West, a distance of 717.95 feet to a 5/8-inch capped iron rod set marked "Shield Engineering" for a point for corner;

North 84°28'31" West, a distance of 103.73 feet to a 5/8-inch capped iron rod set marked "Shield Engineering" for a point for corner;

North 13°14'22" East, a distance of 661.82 feet to a 3-inch steel fence corner post found for the south corner of the said Boundary line agreement;

THENCE northerly with the west line of the said Boundary line agreement, the following courses and distances:

North 31°31'06" East, a distance of 182.66 feet to a 1/2-inch capped iron rod found marked "Coleman" for a point for corner;

North 40°52'40" East, a distance of 220.17 feet to a 1/2-inch capped iron rod found marked "Coleman" for a point for corner;

North 36°57'57" East, a distance of 84.08 feet to a 3-inch steel fence post found for the north corner of the said Boundary line agreement, being in the east line of the said Intelli tract and being common with the west line of the said Kari tract;

THENCE North 24°18'43" East, with the west line of the said Kari tract and being common with the east line of the Intelli tract, a distance of 308.09 feet to the POINT OF BEGINNING, containing 4,429,683 square feet or 101.692 acres of land more or less.