

Sheets & Crossfield, P.C.

ATTORNEYS AT LAW

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Pearson

April 21, 2010

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Bob Wunsch
Waterstone Development
3310 N. Capital of Texas Hwy., Suite 200
Austin, Texas 78746

Re: Development Agreement – Pearson Road District

Mr. Wunsch,

Enclosed is the original signed Development Agreement regarding Pearson Road District for your files. If you have any questions, don't hesitate to call our office at 512-255-8877.

Sincerely,



Michelle Pfeifer

DEVELOPMENT AGREEMENT
PEARSON ROAD DISTRICT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is by and among the undersigned **RDW Holdings, Inc., d/b/a Waterstone Development Group** ("RDW" and "Developer") and **Williamson County**, a political subdivision of the State of Texas (the "County"), on this 13 day of April, 2010.

RECITALS:

WHEREAS, RDW ("Developer") is the developer of the Property attached as **Exhibit A** planned to be developed as a master-planned community or other development (the "Development"); and

WHEREAS, the Developer and the County are interested in cooperating in the extension of Neenah Boulevard from the Davis Springs Subdivision to the Brushy Creek MUD (the "Neenah Project"), as depicted on **Exhibit B**, attached hereto and incorporated herein; and

WHEREAS, Developer, as part of this Agreement has asked the Commissioner's Court of Williamson County to create the **Pearson Place Road District No. 1** (the "District"); and

WHEREAS, as consideration for the creation of the District, Developer agrees to construct the Neenah Project, as described below;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the undersigned Developer covenants and agrees as follows:

1. **Dedication of Land/ Acquisition of Right-of-Way.** Developer has dedicated or will cause to be dedicated in fee simple to the County the necessary right-of-way, utility easements and other related easements for the Neenah Project through its Development.

1.1. *Road Design Standards.* The Neenah Project shall be designed to comply with the County road design standards. Neenah Boulevard shall be constructed as a four lane curbed and guttered road.

1.2. *Water Quality / Detention Ponds / Drainage Easements.* Developer agrees to dedicate all necessary easements for the construction and maintenance of water quality / detention ponds and drainage easements necessary to serve the Neenah Project.

2. **Road Districts.**

2.1. **The Neenah Project.** The Neenah Project shall consist of construction and extension of Neenah Boulevard to a four (4) lane curbed and guttered arterial from the existing terminus of Neenah Boulevard in the Davis Springs Subdivision eastward to the existing terminus of Neenah Boulevard in the Brushy Creek MUD as shown on Exhibit B (the "Road Improvement"). The Neenah Project includes all grading and paving improvements as well as irrigation, landscaping, fencing, walls, and drainage facilities, including detention and water quality ponds. The Neenah Project shall also include all engineering, mitigation, legal, and other costs related to the Neenah Project (including developer interest, capitalized interest on the bonds, and normal issuance costs) or other expenses incident to the construction of the road and associated work.

2.2. **Purpose.** The property that is to be included in the District is described in **Exhibit A**. The District shall be responsible for the levying of ad valorem taxes on the Property in accordance with Chapter 257 of the Texas Transportation Code, as amended, with the limitation that the purpose of the District is to issue bonds to reimburse Developer for all design and construction costs of the Neenah Project as further provided in the Order of the County creating the District to the extent mentioned therein.

2.3. **Time and Amount of Reimbursement.** The District agrees to use its best efforts to sell bonds for the improvements, but cannot guarantee the sale thereof and will not be obligated to offer the bonds for sale in contravention of any laws of the State of Texas. Within forty-five (45) days of the District's receipt of the proceeds of the bonds to finance the acquisition of the Road Improvements, the District shall reimburse Developer, as provided above. It is specifically understood and agreed by the parties that the issuance of bonds to acquire such Road Improvements will most likely be accomplished through a series of bond sales over time. The District's financial advisor shall advise the District as to the amount of bonds that can be prudently sold from time to time. No bonds shall be issued, when taken together with any other County debt issued pursuant to Article III, Section 52, in an amount exceeding 25% of the total assessed value of real property in the Districts.

2.4. **Conditions to Reimbursement.** The District's obligation to issue the bonds and to reimburse Developer for funds advanced for the Road Improvements shall be subject to the following:

- a. No bonds will be issued until the District receives the recommendation of their financial advisor that the sale and amount of each particular bond issue is feasible and prudent based upon a

number of considerations including the overlapping tax rate, tax collections history, percentage of collections, and assessed valuation to debt;

- b. Developer agrees not to request the issuance of indebtedness by the District until such time as the assessed value of the land in the Districts is such that the proposed debt amount (when aggregated with all other outstanding debt of the District is twelve and one-half percent (12.5%) or less of such assessed value of land and improvements in the Districts;
- c. Developer shall, at its expense, submit to the District for which the issuance of bonds is requested, a market study, in a form acceptable to the County, prepared by a recognized feasibility consultant illustrating the demand for and feasibility of the type of development contemplated and/or underway within such District unless the District merits its own investment grade or better bond rating;
- d. Construction of the Road Improvements will be carried out through the award of contracts in substantial conformity with the bid procedure applicable to the County, and performed in accordance with the road standards and rules of the City or the County, as the County deems appropriate;
- e. The construction contract for the Road Improvements will be approved by the Commissioner's Court of the County;
- f. Receipt of a bona fide bid or commitment to purchase the bonds;
- g. Approval of the bonds by the Attorney General of the State of Texas and registration of the bonds by the Comptroller of Public Accounts of the State of Texas;
- h. The Districts shall not be obligated to consider the issuance of bonds in an amount less than \$1,000,000.00; and
- i. Developer is current on all taxes, fees and obligations to the District and County and no additional District bonds will be issued if any outstanding bonds are in default or reserve funds have been drawn down and not replenished.
- j. NO DISTRICT DEBT SHALL BE ISSUED UNLESS AND UNTIL THE NEENAH PROJECT IS ACCEPTED BY THE

COUNTY AND OPEN TO THE PUBLIC WITHIN THREE (3) YEARS AFTER THE EXECUTION OF THIS AGREEMENT BY THE COUNTY. THE COUNTY, HOWEVER, RESERVES THE RIGHT TO CONSTRUCT THE NEENAH PROJECT IN LIEU OF DEVELOPER AND BE ENTITLED TO RECEIVE ALL DISTRICT REIMBURSEMENTS AND/OR BOND PROCEEDS TO PAY FOR CONSTRUCTION COSTS.

- k. ANY AND ALL DEBT ISSUED BY THE DISTRICT SHALL BE SOLELY A DEBT OF THE DISTRICT AND SHALL NOT BE AN OBLIGATION OF WILLIAMSON COUNTY.

The bonds shall be offered on terms and conditions generally accepted in the bond market for similar types of obligations and at a net effective interest rate, taking into consideration any discount or premium, not to exceed two percent above the highest average interest rate reported by the "Bond Buyers" Index of 20 Municipal Bonds during the one month preceding the bond sale. The District shall not be obligated to sell or issue any amount of bonds in excess of the amount then recommended by the District's financial advisor. Each bond issue will fund a reserve fund to the maximum extent permitted by federal and state tax law unless determined unnecessary by the financial advisor.

4. **Neenah Project Costs.** Project Costs shall include, but not be limited to, all costs of design, engineering and surveying, material, labor, grading, paving, drainage, erosion control, right-of-way acquisition costs, utility relocation costs and other costs related to the Neenah Project. (the "Project Costs").

5. **Project Costs to be Funded by the Developer.** Developer shall promptly pay the costs of the Road Improvements as the same become due, including, without limitation, all "soft" and "hard" costs of the design, engineering, permitting, and materials, labor, construction and inspection arising in connection with the Road Improvements; all payments arising under any contracts entered into for the construction of the Road Improvements; all costs incurred in connection with obtaining governmental approvals, certificates, permits, required as a part of the construction of the Road Improvements. Neither the District, nor Williamson County shall be liable to any contractor, engineer, attorney, materialman or other party employed or contracted with in connection with the construction of the Road Improvements, but shall only be obligated to reimburse Developer through the Districts in the manner and to the extent provided in this Agreement.

6. **Indemnity.** Developer shall indemnify and hold Williamson County and the District harmless from and against all losses, costs, damages, expenses and liabilities (herein collectively referred to as "*Losses*") of whatsoever nature, including, but not limited to, attorney's fees, costs of litigation, court costs, amounts paid in settlement and amounts paid to discharge judgments relating to any claim, lawsuit, cause of action or other legal action or proceeding brought against Williamson County or the District or to which Williamson County, or the District may be party, even if groundless, false or fraudulent, directly, or indirectly resulting from, arising out of or relating to the acquisition, purchase or construction of the Improvements. In the event of any actions brought against Williamson County or the District in which indemnification by Developer is applicable, Williamson County or the District shall promptly give written notice to Developer, and Developer shall assume the investigation and defense of such action, including the employment of counsel and the payment of all expenses. Williamson County or the District shall have the right, at its expense, to employ separate counsel and to participate in the investigation and defense of any such action. Developer shall not be liable for the settlement of any such action made by Williamson County or the District without the consent of Developer; provided, however, that in the event of any settlement entered into with the consent of Developer of any final judgment for a plaintiff in any such action, Developer shall indemnify and hold Williamson County or the District harmless from and against any losses incurred by reason of such settlement or judgment. The expiration of the terms of this Agreement shall not relieve Developer from any liability initiated hereunder arising prior to the expiration of this Agreement. Provided, however, this indemnification shall expire and terminate two (2) years after the later to occur of (i) the Improvements have been accepted for maintenance by the applicable governmental authority, or (ii) Developer shall have received final reimbursement from the District for the costs of Improvements.

7. **Continuing Securities Disclosures.** If requested by the County, Developer agrees to provide periodic information and notices of material events regarding Developer's development within the District in accordance with the Securities and Exchange Commission Rule 15c2-12.

8. **Notice of District.** DEVELOPER COVENANTS TO PROVIDE NOTICE TO ANYONE THAT PURCHASES LAND WITHIN THE DISTRICT OF ITS EXISTENCE AND ABILITY TO ISSUE BONDS (SIMILAR TO THE NOTICE GIVEN REGARDING THE EXISTENCE OF MUNICIPAL UTILITY DISTRICTS). SAID NOTICE SHALL BE GIVEN BOTH AT CONTRACT STAGE AND AT CLOSING BY A SEPARATE DOCUMENT IN A FORM APPROVED BY THE COUNTY.

9. **Violation of this Agreement.** In the event that Developer, or their respective successors or assigns fail to abide by the terms of this Agreement, a copy of this Agreement and evidence of violation of this Agreement shall be sufficient evidence and confession of judgment at an injunction hearing. Additionally, if Developer, or their respective successors or assigns fail

to substantially abide by the terms of this Agreement, the County reserves the option to terminate this Agreement, after providing to Developer, or their respective successors or assigns thirty (30) days prior written notice of the above-described failure and an opportunity to cure such failure within such 30 day period.

10. **Notice.** Except as otherwise provided to the contrary herein, any notice, request, demand, statement or consent give or made hereunder shall be in writing and shall be sent by registered or certified mail, return receipt requested and shall be deemed given when postmarked and addressed as follows:

If to the County: Williamson County
ATTN: County Judge
710 Main Street, Suite 210
Georgetown, Texas 78626

With copy to: Jana Duty
County Attorney
Williamson County
Georgetown, Texas, 78628
Phone: 512 / 943-1111

If to Developer: RDW Holdings, Inc.
Attn: Robert D. Wunsch
4314 W. Braker Lane, Suite 250
Austin, Texas 78759
512 / 381-1280

With copy to: J. Winston Chapman, Jr.
Rash Chapman Schreiber & Porter, LLP
2112 Rio Grande
Austin, Texas 78705
512 / 477-7543

Any party may designate a change of address by notice to the other parties, given at least fifteen (15) days before such change of address is to become effective. The foregoing notwithstanding any notice hereunder shall be effective when actually received by the party to whom such notice is being sent.

11. Miscellaneous.

(a) Texas Law to Apply. THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED BY THE CONTRACT ARE PERFORMABLE IN WILLIAMSON COUNTY, TEXAS.

(b) Assignment; Parties Bound. This Agreement may be assigned by Owner only with the prior written approval of the County, which approval will not be unreasonably withheld, conditioned, or delayed. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, executors, administrators, personal representatives, legal representatives, successors and assigns.

(c) Authority. The County represents and warrants to Developer that it is duly authorized and empowered to enter into this Agreement. The Developer represents and warrants to the County that it has the requisite authority to enter into this Agreement. Each signatory to this Agreement represents and warrants that he or she has the authority to execute this Agreement on behalf of the party for whom such person is signing.

(d) Force Majeure. Developer and the County agree that the obligations of each party shall be subject to events of force majeure such as natural calamity, strike, and acts of God.

(e) No Partnership. Developer and County are not partners or joint venturers. In no event will any of the parties hereto be liable or responsible for any contractual, tortuous, or other liability, obligation, or debt of any other party, whether a party to this Agreement or otherwise.

(f) Legal Construction. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, or unenforceability shall not affect any other provision in this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

(g) Gender. Words of any gender used in this Agreement shall be held to include the plural, and vice versa, unless the context requires otherwise.

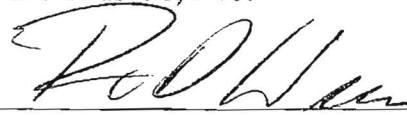
(h) Multiple Counterparts. This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

EXECUTED EFFECTIVE April 13, 2010.

Developer:

RDW HOLDINGS, INC.

By:




Robert D. Wunsch, President

County:

Williamson County, Texas

By:



(Print Name):

Don A. Gattis

(Title):

Williamson County Judge

