

§§§

DEVELOPMENT AGREEMENT CR 133 ROAD IMPROVEMENTS

This Development Agreement (this “Agreement”) is entered into as of the Effective Date (as defined below), by and between Williamson County, Texas, a political subdivision, (“County”) and Hutto 525 Development Partners, a Delaware limited partnership (“Owner”). The County and Owner are each sometimes individually referred to herein as a “Party” and they are sometimes collectively referred to herein as the “Parties”.

RECITALS

A. Owner is developing land located adjacent to CR 133 south of FM 1660 in the extraterritorial jurisdiction (“ETJ”) of the city of Hutto in Williamson County, Texas (the “Land”).

B. Owner desires to construct a residential community on the Land and, in connection therewith, is seeking the County's support and assurances regarding the Owner's ability to construct certain road improvements within the County's portion of the CR 133 right-of-way.

C. Owner and the County desire to enter into this Agreement to set forth the terms and conditions upon which Owner will construct the aforementioned road improvements.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the promises and mutual agreements of the Parties set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The foregoing recitals are incorporated herein for all purposes.
2. Certain Definitions. As used in this Agreement, the following terms have the following respective meanings:
 - a. “Effective Date” means the date on which this Agreement becomes signed by both Parties, as established by reference to the latest of the dates set forth in the acknowledgments of the Parties, below.
 - b. “Project” means the Flora development, a residential community consisting of approximately 2,700 units,

c. “Property” means the Land, together with all minerals, improvements and personal property located in, on, under or at the Land, whether such minerals, improvements or personal property are owned, leased or possessed by Owner.

d. “Road Project” means the construction and widening of CR 133 to include a turning and deceleration lane to facilitate left turns into the Project by vehicles heading southbound on CR 133 at the proposed Flora Blvd. A location map generally depicting the Road Project is attached as Exhibit “A” and made a part hereof for all purposes. A drawing generally depicting the Road Project located within County’s and City’s portions of the CR 133 right-of-way is attached hereto as Exhibit “B” and made a part hereof for all purposes.

e. “Road Project Improvements” means the completed widening of, and improvements to, CR 133 located within the County’s portion of the existing CR 133 right-of-way, to be constructed during the Road Project, as shown generally on Exhibit “B” attached hereto.

3. County Consideration. In return for Owner’s construction of the Road Project Improvements and subsequent dedication of such improvements to the County, County agrees to allow Owner to utilize the County’s portion of the CR 133 right-of-way for access to the Project. Upon completion of the Road Project Improvements and passing all inspections, the Road Project Improvements within the County’s portion of the CR 133 right-of-way, will be owned, operated, and maintained by the County, until such time as another political entity is obligated to take over maintenance.

4. Term and Termination.

a. This Agreement shall be effective for a term (the “Term”) commencing on the Effective Date and expiring upon completion of the Road Project and the County’s acknowledgment of completion of the Road Project Improvements, unless terminated earlier in accordance with the terms of this Agreement. In any event, however, the Owner will commence the construction of the Road Improvement Project after the execution of this Agreement by both parties, and shall complete construction of the Road Improvement Project by December 31, 2024 unless an extension of the Term is granted pursuant to the terms set out herein.

b. The County understands and acknowledges that Owner will not commence construction of the Road Project unless and until Owner has obtained all requisite licenses, permits, consents, approvals and authorizations from the appropriate governmental authorities necessary for the lawful construction of the Road Project (collectively, the “Governmental Authorizations”). Notwithstanding anything to the contrary in this Agreement, Owner shall have the right to terminate this Agreement by written notice to the County if Owner has not obtained all Governmental Authorizations by July 1, 2024. Upon any termination of this Agreement by either Party, this Agreement shall become null and void and neither Party shall have any further rights or obligations hereunder.

c. The Term of this Agreement may be extended for an additional period or periods of time upon mutual written agreement of the Parties hereto.

5. Development Standards. Owner agrees to design and construct the Road Project in full compliance with the plans and specifications as prepared by BGE, Inc. on March 7, 2024 and April 11, 2024 (the “Plans and Specs”), which such Plans and Specs are incorporated herein by reference. Owner agrees to submit all final design plans (the “Final Design Plans”) to County prior to commencement of construction of the Road Project and the construction of the Road Project Improvements will be subject to County inspection and testing in accordance with the County’s normal subdivision inspection policies and procedures.

6. Road Project Improvements and Warranty. Upon completion of the Road Project in accordance with the Plans and Specs and Final Design Plans, and passing all inspections, County will own, operate, and maintain the Road Project Improvements, unless and until another political entity is obligated to take over maintenance. Owner shall cause the contractor constructing the Road Project (the “Contractor”) to provide to the County, upon completion of the Road Project, a maintenance bond, in the amount of 10% of the cost of the Road Project Improvements. This security must be payable to the County Judge, or his successors in office, of Williamson County, Texas. The maintenance bond shall be valid for two years from the date of completion of the Road Project. The Contractor will be notified of any deficiencies and given the opportunity to repair such deficiencies. If the Contractor does not provide repairs within 90 days, the bond will be used by the County to repair these deficiencies.

8. Default. Should either Party default in any of its obligations hereunder, the non-defaulting party shall provide the defaulting party notice of the default within thirty (30) days of discovery of the default. The defaulting party shall have thirty (30) days after receipt of written notice thereof from the non-defaulting Party to cure such default. If the defaulting party does not cure the default within such 30-day period, then the non-defaulting Party shall be entitled to terminate this Agreement by written notice to the other Party and pursue any other remedies that may be available to the non-defaulting Party at law or in equity (including suit for specific performance or other equitable relief, if appropriate); provided, however, that with respect to any default other than failure to pay any sum when due hereunder, if such default is susceptible of cure but cannot reasonably be cured with the aforesaid 30-day period, and if the defaulting Party has commenced to cure such default within said 30-day period and is diligently prosecuting such cure, then the defaulting Party shall be afforded an additional reasonable period of time (not to exceed ninety (90) additional days) to effect such cure. The provisions of this Section 8 are in addition to, and not in lieu of, any other rights and remedies expressly set forth elsewhere in this Agreement.

9. Insurance and Indemnification.

a. Insurance. Owner shall cause the Contractor to obtain and maintain throughout the construction of the Road Project the insurance coverages stated in this Section. Prior to commencement of construction on the Road Project, Owner shall cause the Contractor to provide an insurance certificate acceptable to the County reflecting such insurance policies. Contractor shall not cause or permit any insurance policy to lapse or be cancelled prior to or during the Road Project and shall pay all premiums, deductibles and

self-insured retentions, if any, stated in the policies. The County, its officials, employees and agents shall be named as additional insureds on all coverages required by this Section. Owner shall cause the Contractor to obtain and maintain the following insurance coverages:

(i) Commercial general liability insurance with a minimum combined single limit of \$1,000,000 per occurrence and a minimum \$1,000,000 aggregate including products and completed operations and contractual liability coverage.

(ii) Comprehensive business automobile liability insurance with a minimum combined single limit of \$500,000 including coverage for all owned, non-owned and hired autos.

Only insurance written by a company with an AM Best rating of no less than a B+ VII and in good standing with the Texas State Board of Insurance shall be acceptable to the County.

b. Indemnity. Owner shall cause the Contractor to indemnify, and hold the County, its officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the negligence or willful misconduct of Contractor, or its agents, employees or subcontractors, or any participant or attendee of the Road Project arising from, associated with, or otherwise relating to the construction of the Road Project, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of County (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim. Maintenance of the insurance required hereunder shall not limit Contractor's obligations under this paragraph.

10. Miscellaneous Provisions.

a. Successors and Assigns.

i. Owner shall not be entitled to assign this Agreement or any of Owner's rights or obligations hereunder to any other person or entity without the prior written consent of the County, which consent shall not be unreasonably conditioned, withheld or delayed; provided that Owner shall have the right (with notice to, but without having to obtain the consent of, the County) to assign its rights and obligations under this Agreement to any Affiliate of Owner to whom Owner transfers title to all, but not less than all, of the Owner's Property thereon. As used in the immediately preceding sentence, the term "Affiliate" means any entity that controls, is controlled by or is under common control with Owner, where the term "control" and its derivatives means the power to direct the overall management and policies of an entity, whether through the ownership of a voting majority of the ownership interests in such entity, by contract, or otherwise.

b. Force Majeure.

i. In the event either party is rendered unable by force majeure to carry out any of its obligations under this Agreement, in whole or in part, then the obligations of that party, to the extent affected by the force majeure will be suspended during the continuance of the inability, provided however, that due diligence is exercised to resume performance at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the party whose contractual obligations are affected thereby must give notice and full particulars of the force majeure to the other party. The cause, as far as possible, must be remedied with all reasonable diligence.

ii. The term “force majeure” includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, restraints of government and civil disturbances, explosions, breakage or accidents to equipment, pipelines or canals, partial or complete failure of water supply, and any other incapacities of either party, whether similar to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts is entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch will not require the settlement of strikes and lockouts by acceding to the demands of the opposing party if the settlement is unfavorable in the judgment of the party having the difficulty.

c. Entirety. This Agreement comprises the entire agreement between the County and Owner and there are no conversations, understandings, agreements, conditions or representations, express or implied with reference to the subject matter hereof that are not merged herein or superseded hereby.

d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to conflicts of laws, rules or principles as applied in Texas. Venue for any action brought under or in connection with this Agreement shall lie exclusively in the courts of competent jurisdiction of Williamson County, Texas, and any appellate courts with jurisdiction over matters brought in such courts.

e. Amendment. This Agreement cannot be amended or modified, nor can any provision hereof be waived, except by a written instrument duly executed by both Parties (in the case of an amendment or modification) or by the Party to be charged (in the case of a waiver).

f. Non-waiver. Failure of either Party to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on and to enforce by any appropriate remedy, strict compliance with any other obligation

hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

g. Notices. All notices required or permitted under this Agreement shall be given by (i) prepaid first-class mail, registered or certified, return receipt requested, or (ii) recognized overnight courier with tracking capability. All notices hereunder shall be addressed as follows:

If to the County:

County Judge
710 Main Street, Suite 101
Georgetown, Texas 78626

If to Owner:

Hutto 525 Development Partners LP
10235 West Little York, Suite 300
Houston, Texas 77040
Attention: Matthew Janke, Vice President

Notices made by registered or certified mail shall be deemed given two (2) days (excluding Saturdays, Sundays and postal holidays) after deposit with the U.S. Postal Service, properly addressed and prepaid. Notices given by recognized overnight delivery service shall be deemed given when delivery actually occurs. Either Party may change its address for notice by providing the other Party notice thereof in accordance herewith.

h. Authority. Each Party represents and warrants that the person executing this Agreement on behalf of such Party has been duly authorized to do so by all requisite actions on the part of such Party (and in the case of the County, in full compliance with all applicable County ordinances), and in so doing shall bind such Party to all of the provisions hereof.

i. Construction. Each Party is sophisticated in the matters covered by this Agreement and was represented by counsel of such Party's choosing in connection with the drafting and negotiation of this Agreement. As such, each Party waives any rule of construction or interpretation that would require any provision of this Agreement to be construed in favor of or against either Party on the basis of which Party drafted such provision.

j. Savings Clause. In the event any provision herein shall be judicially interpreted or held to be invalid, illegal or otherwise unenforceable by reason of any rule of law or public policy, then (i) the other provisions of this Agreement shall remain in full force and effect, and (ii) the provision held to be invalid, illegal or unenforceable shall, to the fullest extent permitted by law, be reformed to the minimum extent necessary to render such provision valid, legal and enforceable and in such a manner as to preserve to the fullest extent possible the original economic and legal intent of the Parties.

k. Rules of Construction. The following rules of construction shall apply to this Agreement: (i) words in the singular shall include the plural, and vice versa; (ii) the words “include”, “includes” and “including” are not limiting; (iii) references herein to a “Section” shall mean the corresponding section of this Agreement and are included for convenience of reference only and not to enlarge or limit the scope or meaning of any sections; (iv) the words “hereof”, “herein” and “hereunder” and words of similar import shall refer to this Agreement as a whole, and not to any particular provision of this Agreement; and (v) the “\$” sign refers to currency of the United States of America.

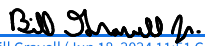
l. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall constitute but one and the same instrument.

m. Time. Time is of material importance to this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

n. No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture among the Parties. The County, its past, present and future officers, elected officials, employees and agents of the County, do not assume any responsibilities or liabilities to any third party in connection with the construction of the Road Project Improvements.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates set forth in the acknowledgments of the Parties below, to be effective, however, as of the Effective Date.

County
Williamson County, Texas

By: 
Bill Gravell (Jun 18, 2024 11:51 CDT)

Bill Gravell, Jr.
County Judge

Owner

HUTTO 525 DEVELOPMENT PARTNERS LP,
a Delaware limited partnership

By: Hutto 525 GP Texas LLC,
a Delaware limited liability company,
its general partner

By: ST. Seller
Name: Stephen T. Seller
Title: Authorized Signatory

Exhibit A
Location Map

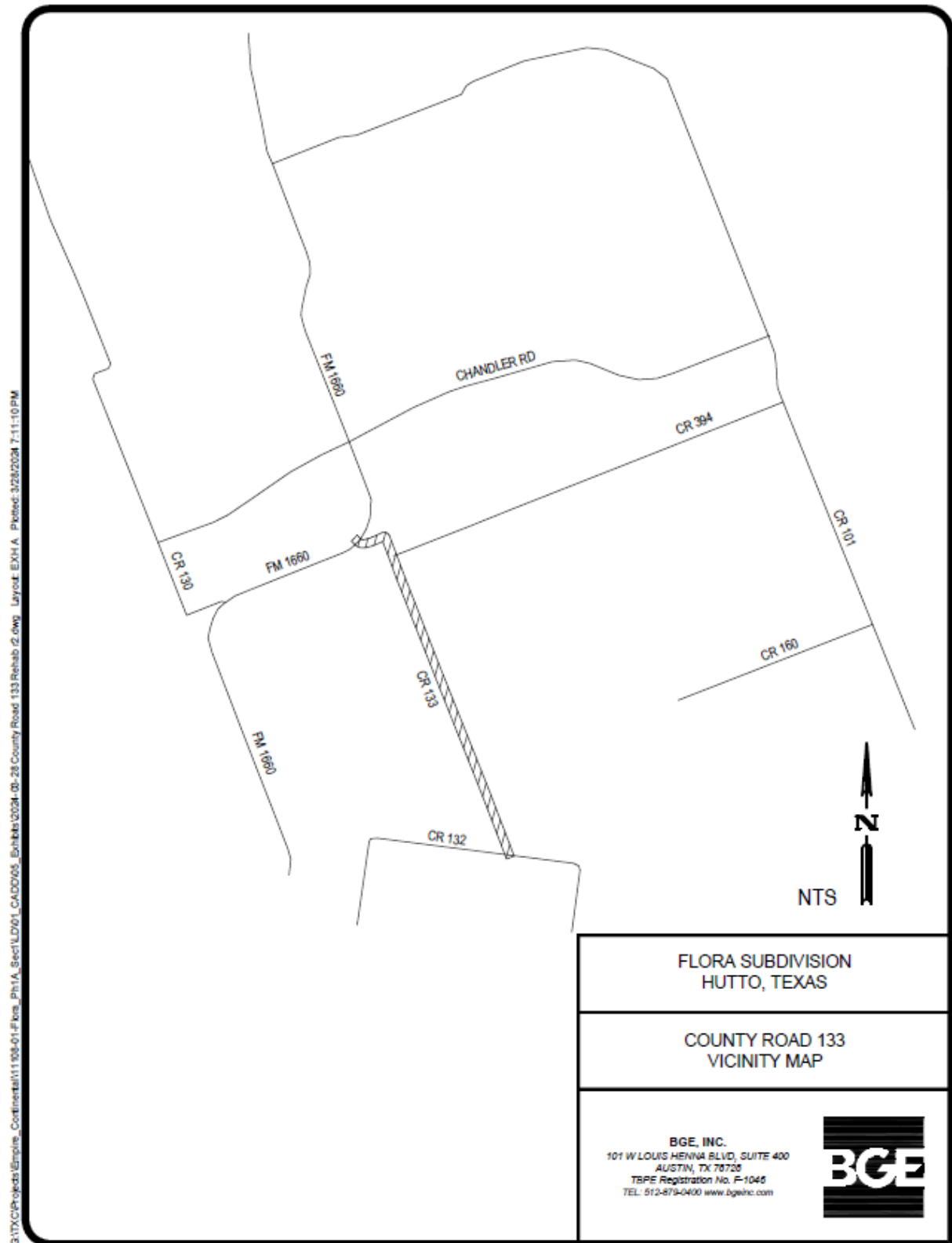


Exhibit B Road Project General Depiction

