

THE STATE OF TEXAS

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DEVELOPMENT AGREEMENT

COUNTY OF COLLIN

OFF-SITE WATER LINE

This agreement (the "Agreement") is made by and between the City of Lucas, Texas ("City"), and LakeView Development LLC, a California Limited Liability Company which will serve as the general partner of a Texas limited partnership, ("Owner"), (collectively the "Parties") acting by and through their duly authorized representatives.

RECITALS:

WHEREAS, the Owner is the owner of the real property described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, the City adopted water impact fees pursuant to Chapter 395, TEX. LOC. GOV'T CODE ("Impact Fees"); and

WHEREAS, the Owner intends to develop the Property consistent with the Final Plat and has agreed to install, or cause to have installed, an off-site eight inch (8") water line extension as generally depicted in Exhibit "B", attached hereto; and

WHEREAS, the Owner is willing to install the water line improvements, which will connect at the most southern point of the existing City four inch (4") water line on the west side of Sterling-Brown Lane and will extend south to a point, crossing Snider Lane; thence, west adjacent to and parallel to the paved surfaces of Snider Lane and within the prescriptive right-of-way for Snider Lane to point of connection with the three inch (3") City water line extending south on the east side of Shady Lane and the four inch (4") City water line extending west along the south side of Snider Lane from Winningkoff, in all a distance of approximately 6,500 linear feet, as depicted in Exhibit "B" ("Water Line Improvements") attached hereto.

NOW, THEREFORE, and in consideration of ten dollars (\$10.00), the mutual covenants and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

**Article I
Term**

This Agreement shall commence on the last date all the parties have executed the Agreement ("Effective Date") and shall terminate on the date ("Expiration Date") that is the later date of: (1) the expiration of ten (10) years after City acceptance of the Water Line Improvements; or (2) the date the Owner has fully satisfied all of the terms and conditions herein; or, (3) unless sooner terminated herein.

**Article II
Definitions**

For the purposes of this Agreement, each of the following shall have the meanings set

forth herein unless the context clearly requires otherwise:

2.1 “Approved Plans” means the plans and specifications for the Water Line Improvements approved by the City Administrator of the City of Lucas, or designee.

2.2 “City Administrator” means the City Administrator of the City of Lucas, or designee.

2.3 “Commencement of Construction” means cumulatively (i) preparation and approval of the Approved Plans, (ii) issuance by all applicable governmental authorities of necessary permits for the construction of the Water Line Improvements, (iii) commencement of grading for the Water Line Improvements pursuant to Approved Plans, (iv) commencement of construction of the Water Line Improvements pursuant to Approved Plans, and (v) issuance by all applicable governmental authorities of necessary permits for construction of the Water Line Improvements pursuant to Approved Plans.

2.4 “Completion of Construction” means that (i) the Water Line Improvements have been substantially completed in accordance with the Approved Plans, (ii) a certificate of substantial completion has been issued by the general contractor(s) and engineer(s)/architect(s) for the Water Line Improvements, and a copy of such certificate has been delivered to the City, and (iii) the Water Line Improvements and Agreed Cost of the Water Line Improvements have been accepted in writing by the City, which the City agrees to do within ten (10) days after receipt of request therefore, if the Water Line Improvements have been constructed substantially in accordance with the Approved Plans.

2.5 “Effective Date” shall mean the last date of execution of this Agreement.

2.6 “Event of Bankruptcy or Insolvency” shall mean insolvency, appointment of receiver for any part of Owner’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Owner and such proceeding is not dismissed within ninety (90) days after filing thereof.

2.7 “Force Majeure” shall mean any contingency or cause beyond the reasonable control of Owner, as applicable, including, without limitation, acts of God or the public enemy, war riot, civil commotion, insurrection, adverse weather, government or de facto governmental action or inaction (unless caused by negligence or omissions of Owner), fires, explosions or floods, strikes, slowdowns or work stoppages, shortage of materials and labor, or delays by the City.

2.8 “Impact Fees” shall mean water impact fees.

2.9 “Water Line Improvements” or “Project” shall mean an eight inch (8”) offsite water line contemplated to connect with the most southern point of the existing City four inch (4”) water line on the west side of Sterling-Brown Lane and will extend south to a point, crossing Snider Lane; thence, west adjacent to and parallel to the paved surfaces of Snider Lane and

within the prescriptive right-of-way for Snider Lane to point of connection with the three inch (3") City water line extending south on the east side of Shady Lane and the four inch (4") City water line extending west along the south side of Snider Lane from Winningkoff, as depicted in Exhibit "B".

Article III Water Line Improvements

3.1 **Construction of Water Line Improvements.** Owner agrees to design and install the Water Line Improvements in accordance with the applicable standards, ordinances and regulations adopted by the City ("City Standards"). The Owner shall submit plans for the alignment, design and construction ("Plans") of the Water Line Improvements to the City for review and approval by the City Administrator. The Plans shall include the estimated cost of design and installation cost of the Water Line Improvements. Subject to extension for delays caused by events of Force Majeure and to the City's approval of the estimated cost and the Approved Plans, Owner agrees to construct the Water Line Improvements. The Owner agrees to commence the Water Line Improvements when all necessary and required easements or right-of-way have been acquired and the Owner has received Approved Plans. Owner agrees to use best efforts to complete construction within 120 days of construction commencement.

3.2 **Cost Participation/Surveying and Design Fees.** The City agrees to reimburse Owner for all costs of the Project with Impact fees imposed and collected as provided herein. The City's participation in the cost of the Project shall be for an amount not to exceed the actual costs incurred by Owner, which shall include any and all costs associated with the acquisition of right-of-way ("Costs") as described in Section 3.3 herein.

3.3 **Right-of-Way Acquisition and Eminent Domain.** Owner agrees to negotiate in good faith and offer fair market value to any property owner from which a property interest must be acquired for right-of-way, or temporary or permanent easements necessary or required for the Water Line Improvements. If no agreement can be reached with a property owner for acquisition of the property interests necessary for the Water Line Improvements, the City agrees to, by Council action, to authorize and take all legal actions, including the exercise of its eminent domain authority, pursuant to Chapters 251 or 402 TEX. LOCAL GOV'T CODE, to acquire the necessary easements, temporary or permanent, or right-of-way required for the Water Line Improvements as specified in the Approved Plans. The Owner shall be further authorized to bring said legal action to acquire the necessary property interest, for and on behalf of the City, with City supervision of costs and counsel.

Article IV Impact Fee Reimbursements

4.1 The City shall amend its Capital Improvement Plan, by City Council action, within 90 days of execution of this Agreement to specifically include the Water Line Improvements as set forth herein, as an authorized and approved capital or facility expansion or improvement. Failure of the City to so act relieves any obligation of Owner herein.

4.2 City agrees to reimburse the Owner for the actual Costs of the design and construction of the Water Line Improvements through the payment of Impact Fees collected by the City during the period beginning upon the written acceptance by the City of the Water Line Improvements and ending ten (10) years thereafter. Said reimbursement shall not exceed the amounts set out in Section 3.2 above. Upon written acceptance by the City of the Water Line Improvements, the City agrees to pay to the Owner the amount equal to the Impact Fees to be imposed by the City against the Owner's Property and against the properties depicted in Exhibit B, within sixty (60) days after such Impact Fees are collected by the City. Parties further agree that the reimbursement to the Owner for the design and construction of the Water Line will not exceed the actual Costs of design and construction of the Water Line Improvements or the Impact Fees collected by the City during the above described period. In the event the Impact Fees collected by the City, during the above described period, are less than or insufficient to reimburse the Owner for the actual Costs of the design and construction of the Water Line Improvements, the parties agree that the City shall not be liable for any such deficit and that such deficit shall be the sole responsibility and obligation of the Owner.

Article V Miscellaneous

5.1 **Project Plans.** Except as otherwise provided, the Plans for the Project shall be submitted to the City Engineer for review and approval prior to Commencement of Construction. The Plans submitted shall be approved only in whole, that is, no portion of the Plans shall be approved and released for construction without approval of the complete Plans.

5.2 **NCTCOG Standards.** Except as otherwise provided in this Agreement, the construction of the Project by Owner shall be in accordance with the Standard Specifications for Public Works Construction published by the North Central Texas Council of Governments, as amended, and as modified by the City, and to the extent applicable are hereby incorporated by reference.

5.3 **Compliance with Laws.** Owner shall fully comply with all local, state and federal laws, including all codes, ordinances and regulations applicable to this Agreement and the work to be done thereunder, which exist or which may be enacted later by governmental bodies having jurisdiction or authority for such enactment.

5.4 **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, affiliates, administrators, executors, and assigns of the respective parties.

5.5 **Limitation on Liability.** It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. It is understood and agreed between the parties that Owner, in satisfying the conditions of this Agreement, has acted independently, and City assumes no responsibilities or liabilities to third parties in connection with these actions. Owner agrees to indemnify and hold harmless the City from all such claims, suits, and causes of actions, liabilities and expenses, including reasonable attorney's fees, of any nature whatsoever arising out of the Owner's performance of the conditions under this Agreement.

5.6 **Authorization.** Each party represents that it has full capacity and authority to grant all rights and assume all obligations that is granted and assumed under this Agreement.

5.7 **Termination.** This Agreement shall terminate upon any one of the following:

- (a) the written agreement of the parties;
- (b) the Expiration Date;
- (c) the election by either party in the event the other party breaches any of the terms or conditions of this Agreement and such breach is not cured within thirty (30) days after written notice thereof to the breaching party;
- (d) the election by the City, if the Owner suffers an Event of Bankruptcy or Insolvency;
- (e) the election by the City, if any Impositions owed to the City or the State of Texas by the Owner shall become delinquent (provided, however the Owner retains the right to timely and properly protest and contest any such Impositions); and
- (f) the election by the City, if any subsequent Federal or State legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

5.8 **Bonds.** Owner agrees to execute a performance bond for the construction of the Project to ensure Completion of Construction in accordance with Chapter 2253 Texas Government Code, or to cause its contractors to provide such performance bonds, and payment bonds in forms reasonably satisfactory to the City for the construction of the Project to ensure Completion of Construction.

5.9 **Books and Records.** Owner to make its books and records relating to the construction of the Project available for inspection by the City, until Completion of Construction.

5.10 **Indemnification.** Owner hereby release, indemnify and hold harmless the City, its officers, agents, employees, and third party representatives (collectively referred to as "City") from any and all claims, damages, causes of action of any kind whatsoever, statutory or otherwise, personal injury (including death), property damage and lawsuits and judgments, including court cost, expenses and attorney's fees, and all other expenses arising directly or indirectly from the Owner's performance of this Agreement. The foregoing release and indemnity will survive termination of this Agreement and shall expire after the expiration of the last maintenance bond for the public infrastructure improvements constructed herein.

5.11 **Successors and Assigns.** This Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns. It is expressly acknowledged and agreed that LakeView Development, LLC may transfer all of its rights, including those under this Agreement, to a newly-formed Texas limited partnership, and serve as the general partner of that limited partnership, which limited partnership will be the Owner. Other than this transfer to the limited partnership, however,

this Agreement may not be assigned without the express written consent of the City, which shall not be unreasonably withheld in connection with the sale of the Property.

5.12 **Severability**. In the event any section, subsection, paragraph, sentence, phrase or word herein is held invalid, illegal or unconstitutional, the balance of this Agreement shall be enforceable and shall be enforced as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

5.13 **Governing Law**. The validity of this Agreement and any of its terms and provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in State District Court of Collin County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

5.14 **Entire Agreement**. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements between the parties and relating to the matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

5.15 **Recordation of Agreement**. A certified copy of this Agreement shall be recorded in the Deed Records of Collin County, Texas.

5.16 **Recitals**. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.

5.17 **Exhibits**. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

5.18 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

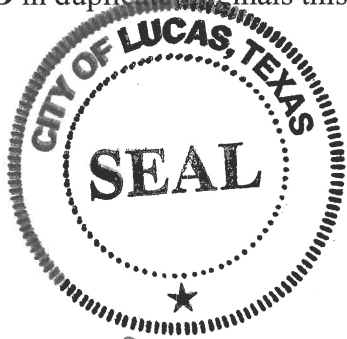
5.5 **Notice**. All notices and communications required or permitted to be given hereunder shall be in writing and hand delivered or mailed by certified or registered mail, postage prepaid, or by Federal Express, Airborne Express, or similar overnight delivery service, addressed as follows:

If to Owner:
Strasburger & Price. LLP
Rider Scott
2801 Network Boulevard, Suite 600
Frisco, TX 75034

If to City:
City of Lucas
151 Country Club Road
Lucas, TX 75002

EXECUTED in duplicate originals this the 27 day of April, 2006.

CITY:



CITY OF LUCAS, TEXAS

By: [Signature]
MAYOR

ATTEST:

By: [Signature]
CITY SECRETARY

APPROVED AS TO FORM:

By: [Signature]
Joe Gorfida, CITY ATTORNEY
(64776)

EXECUTED in duplicate originals this the 10th day of April, 2006.

OWNER:

LAKEVIEW DEVELOPMENT LLC
By: TRANS GLOBAL LAND
DEVELOPMENT, INC.

[Signature]

Steven Ness, CEO
[NAME] [TITLE]

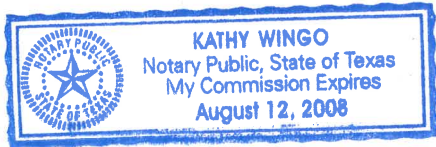
Acknowledgment
Attached to 7 page(s)
Date 4-10-06 *gr*

CITY'S ACKNOWLEDGEMENT

THE STATE OF TEXAS §

COUNTY OF COLLIN §

This instrument was acknowledged before me on the 27 day of April, 2006 by Robert Sandus Mayor of the City of Lucas, Texas, on behalf of said municipality.



Kathy Wingo
Notary Public, State of Texas

My Commission Expires:

8/12/08

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of LOS ANGELES

} ss.

On 10th April 2006,
Date

before me,

Sharon Butler, Notary Public,
Name and Title of Officer (e.g., "Jané Doe, Notary Public")

personally appeared

Steven Ness

Name(s) of Signer(s)

personally known to me

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Sharon Butler

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Development Agreement

Document Date: 10th April 2006

Number of Pages: 7

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): President
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Trans Global Land Development INC.

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

OWNER'S ACKNOWLEDGEMENT

THE STATE OF TEXAS §

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COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2006 by _____ of Trans Global Land Development Inc., a Texas corporation for LakeView Development, LLC.

Notary Public, State of Texas

My Commission Expires:

“EXHIBIT A”
Legal Description of the Property

PROPERTY DESCRIPTION

Being a 65.4629 tract of land situated in the Montgomery Birch Survey, Abstract No. 115 and being part of a tract of land described in deed recorded in Volume 1975, Page 744 of the Deed Records of Collin County, Texas and a 83.2327 acre parcel of land out of T. D. James Survey, Abstract No. 477, and being part of a tract of land described in deed recorded in Volume 480, Page 141 of the Deed Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at the Northeast of said 83.2327 acre tract for the **POINT OF BEGINNING**;
THENCE South 01°47'06" West, a distance of 1559.81 feet to an iron rod found;
THENCE South 88°18'53" East, a distance of 1158.69 feet to an iron rod found;
THENCE South 02°30'00" East, a distance of 1282.52 feet to an iron rod found;
THENCE North 60°35'42" East, a distance of 0.02 feet to an iron rod found;
THENCE South 26°03'44" East, a distance of 29.62 feet to an iron rod found;
THENCE South 49°46'37" West, a distance of 156.47 feet to an iron rod found;
THENCE South 39°22'18" West, a distance of 682.78 feet to an iron rod found;
THENCE North 87°39'20" West, a distance of 1535.59 feet to an iron rod found;
THENCE North 02°44'57" East, a distance of 805.91 feet to an iron rod found;
THENCE North 88°23'52" West, a distance of 568.39 feet to an iron rod found;
THENCE North 18°17'35" West, a distance of 651.22 feet to an iron rod found;
THENCE North 00°11'32" East, a distance of 604.85 feet to an iron rod found;
THENCE South 88°35'41" East, a distance of 390.20 feet to an iron rod found;
THENCE North 01°50'24" East, a distance of 1464.26 feet to an iron rod found;
THENCE South 88°31'45" East, a distance of 1203.50 feet to the **POINT OF BEGINNING**
and CONTAINING 6477178 square feet, 148.6956 acres of land, more or less.

“EXHIBIT B”
Water Line Improvements

Exhibit B

