

## DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into as of this \_\_\_ day of October, 2022 (the “Effective Date”) by and between **SFW 75, LLC**, a Texas limited liability corporation, (the “Developer”) and **CITY OF EVERMAN**, an incorporated political subdivision of the State of Texas, (“Everman”).

### RECITALS

**A.** The Developer is under contract to purchase and develop certain real property (the “Property”) described on Exhibit “A” attached hereto and made a part hereof for all purposes, on which the Developer intends to develop phase II of the Catamount manufactured housing master planned community.

**B.** With the property being fully located within the Fort Worth City limits, the Developer submitted an application to the City of Fort Worth for a zoning change to allow for the proposed use.

**C.** Everman passed Resolution No. 2022-07-01 two days prior to the July Zoning Commission hearing which outlines the city’s protest to the change.

**D.** A meeting between the Developer and Everman took place on August 9, 2022 to discuss an overview of the request and Everman’s concerns.

**E.** The Fort Worth Zoning Commission, along with a Staff Recommendation of approval, unanimously voted to recommend approval to the Fort Worth City Council on August 10, 2022.

**F.** On September 13, 2022, the Fort Worth City Council passed a motion to hold the zoning case for an additional 30 days to allow for continued dialogue between the Developer and Everman.

**G.** On September 28, 2022, an in-person meeting was hosted at Fort Worth City Hall by Councilmember Nettles and attended by the Developer, Everman, Tarrant County Commissioner staff, and Fort Worth City Staff for the purpose of understanding the concerns and working toward a solution. The result of this meeting led to additional conversations with Everman’s Civil Engineer and this Agreement is the result.

### AGREEMENTS

**NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein, and Ten Dollars (\$10.00) and other good and valuable consideration received by the parties hereto, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby commit as follows:

1. **Screening.** Developer agrees to provide a minimum six-foot screen wall along the western property line of the Property adjacent to Everman city limits. The northern limits of the screen wall shall terminate at the 100 year FEMA floodplain line or at any easements or setbacks from the FEMA 100 year floodplain line as required by design and permitting. Screen wall must be a solid masonry or solid wood cedar fence with brick masonry columns at intervals at no greater than ten feet on center. Developer will make commercially reasonable efforts to preserve the existing tree line along the property line to aid in screening as well as provide one tree planted for every 50 linear feet of screen wall along the limits of the screen wall. Provided trees may be clustered as necessary to avoid obstruction of safe traffic visibility, pedestrian access and circulation, or drainage or utility lines.

2. **Regional Flood Study Cooperation.** Developer agrees to share information throughout the City of Fort Worth drainage study process with the City of Everman. This information shall include existing topography data, proposed grading data, and drainage modeling information for the Property. The study boundaries and parameters shall be prepared as dictated by the City of Fort Worth Storm Water Manual. The information shared is only for the purposes of external review and awareness of the studied information to compliment the efforts of the Regional Flood Study. In June 2022, the City of Everman, Tarrant County, and the North Central Texas Council of Governments (NCTCOG) drafted a detailed “Scope of Work” related to the (“**Regional Flood Study**”), which was published for the purposes of procurement by Tarrant County. This Scope of Work is attached hereto as “**Exhibit C**”. The study is being completed by Teague, Nall, & Perkins, Inc (TNP) and is anticipated to be completed by December 2023. Developer is not responsible or liable for the information’s use in other studies outside of those studies prepared by Developer. Everman also agrees to share all data associated with, or as a result of, the Regional Flood Study with the Developer for consideration.
3. **Project Manager.** Developer agrees to designate a project manager as a single point of contact (“**Project Manager**”) to facilitate communication of materials, construction, and property management between the two parties. Everman’s point of contact shall be the City Manager. Contact information for current Project Manager and City Manager shall be as depicted in Exhibit “B”. Any change in Project Manager contact information or City Manager contact information must be provided in writing at least thirty days prior to the change.
4. **Revocation of Zoning Protest.** Everman agrees to formally rescind the filed opposition to the zoning request (ZC-22-102) with the Fort Worth City Secretary and Fort Worth Zoning Staff prior to the October 11, 2022 City Council hearing. Additionally, Everman agrees to remain neutral or speak in favor of the zoning request at any public hearing.
5. **Enforcement of Rights.** In the event any party hereto fails to discharge its respective obligations hereunder, any other party shall have the right to enforce this Agreement by an action in law or in equity (including a suit for specific performance) without thereby waiving the right to also recover in an action for damages any sums expended by such other party at its discretion in performing such obligations. In the event that any party hereto institutes a legal proceeding against any other party to enforce the obligations arising hereunder, the prevailing party in any such legal proceeding shall be additionally entitled to recover court costs and reasonable attorney’s fees from the non-prevailing party.
6. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts electronically in PDF format, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
7. **Termination.** This Agreement shall automatically terminate (a) if the zoning change request for the Property is not approved by the Fort Worth City Council or (b) upon completion of the screening wall installation or the completion of the Regional Flood Study, whichever is occurs later.
8. **Governing Law.** The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Agreement.

9. **Authority.** The persons executing this Amendment on behalf of the developer and Everman hereby represent to the other parties executing this Agreement: (a) each party to this Agreement has the full right and authority to execute, deliver and perform this Amendment; and (b) the person executing this Agreement on behalf of each party to this Agreement is authorized to do so.

This Agreement becomes effective only if signed by all the parties hereunder. Effective as of the date first set forth above.

**SFW 75, LLC,**  
a Texas limited liability corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY OF EVERMAN,**  
an incorporated political subdivision of the State of Texas

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT "A"**

**Legal Description of the Property**

**EXHIBIT "B"**

**Project Manager Information**

**Mr. Kyle Vrla**  
Land Development Manager  
First Step Homes

Phone: 214-546-1295

Email: [kvrla243@gmail.com](mailto:kvrla243@gmail.com)

Address: 940 W. FM 544, Unit# 2590, Wylie, TX 75098.

**Everman City Manager Information**

**Mr. C. W. Spencer**  
City Manager  
City of Everman

Phone: 817-293-0525 ext. 316

Email: [cspencer@evermantx.net](mailto:cspencer@evermantx.net)

Address: 212 N. Race Street, Everman, TX 76140

## **“EXHIBIT C”**

### Regional Flood Study Scope of Work

#### **PROJECT UNDERSTANDING**

The following scope of work for this project includes the development of a drainage and flood study in the City of Everman, Texas where growth and development have exacerbated flood losses in recent years. The parameters of this study consist of identifying the areas where a high flood risk exists or has the potential to exist within the floodplain of Chambers Creek and its tributaries. To determine design flows, the study area will also include the watershed of the creek and tributaries. The work will be completed in two phases: first, an assessment of the current, or known, flooding hazards within the area will be identified and cataloged; second, an analysis of the floodplain in the creeks for current and future conditions will be completed and utilized to confirm existing flood prone areas and to identify potential areas of concern. Upon compilation of the flood areas and completion of the hydraulic study, a prioritized list of projects within the City of Everman whose intent is to mitigate, if not eliminate the flood hazards that will be presented. Additionally, the data collected during this planning project will be included in the next update of the Tarrant County Mitigation Plan.

#### **DETAILED SCOPE OF WORK**

1. **Project Administration** – This task includes management of the team assigned to the project as follows; project kick-off, communication between owner and review agencies, QC/QA, reports, invoicing, and project startup & close-out functions.
  
2. **Topographic Survey** – It is assumed a horizontal/vertical survey of Chambers Creek and its tributaries will be necessary to complete this work. This survey, to the extent that it may be necessary, will be used to augment the aerial and contour information obtained from the North Central Council of Governments and/or other available sources. It is further understood all survey vertical datum will be referenced to North American Vertical Datum of 1988 (DAVD88). In addition, horizontal datum will conform to NAD83 and be referenced to the State Plane Coordinates. It is also assumed the City of Everman (City) authorizes the surveyor to enter any property necessary to conduct the survey. If the City is not the owner of the property where the survey is being conducted, it is assumed the City will obtain written authorization from the affected property owner and provide it to the surveyor with the written notice to proceed. The following is a work necessary to complete this task:
  - a. **Provide Vertical/Horizontal Survey for Cross sections:**  
For this project, a maximum of 40 sections located along Chambers Creek and its tributary as needed to confirm and/or augment the available contour/elevations. Typically, these sections will likely be located near the areas where flooding is known, or likely to exist.
  
  - b. **Provide Vertical/Horizontal Survey for Existing Drainage Facilities:**  
This physical survey will also include the horizontal/vertical location of drainage structures and/or culverts along Chambers Creek and its tributaries. The data will

include the size and location of the culvert, width of the roadway, elevation of the embankment at the roadway culvert, and guardrails (if any) within the proposed study area. For this study, a minimum of 9 structures with a maximum of 12 will be surveyed.

3. Data Acquisition - This task includes the acquisition of available data necessary to complete the project. The work, to the extent that it may be necessary, includes consulting with appropriate governing agencies which will include, but is not necessarily limited to, the Federal Emergency Management Agency (FEMA), Tarrant County, City of Everman, City of Fort Worth, North Central Council of Governments (NCTCOG), and the USDA National Resource Conservation Service (i.e. the NRCS). The specific tasks necessary to complete this work is as follows:
  - a. Obtain Available Studies and Current Effective Models  
The current effective hydrologic and hydraulic models for Chambers Creek and its tributaries shall be obtained from the County, City of Fort Worth, United States Army Corps of Engineers (USACE) and/or FEMA itself. Additional hydrologic and hydraulic data from the Carter Park East development (private development within the City of Fort Worth), shall be obtained from the City of Fort Worth. It is assumed the available hydrologic model includes the entire drainage area upstream of the eastern city limits of Everman; It should be noted the hydrologic and hydraulic models from FEMA are in the legacy format, e.g. the hydrologic model will likely be in HEC-1 or NuDallas format while the hydraulic model will likely be in HEC-2 format.
  - b. Obtain Available GIS Data, e.g. Aerials, Contours, Soils, and Land Use  
This sub-task consists of the work necessary to obtain the available soils data from the NRCS which encompasses the drainage area of the unnamed tributary. This data includes but is not necessarily limited to the soil mapping units, hydrologic groups, and percent sand. In addition, the sub-task includes the acquisition of existing land use data for the study area from available sources which will include the City of Fort Worth, Tarrant County, City of Everman and/or pertinent governing authorities. Other data as required for the establishment of the flows, and/or hydraulic analysis, will be obtained from appropriate governmental and/or private entities. This task will also include the acquisition of rainfall data for those storms where known flooding events occurred as well as any available adjacent gauge data or high-water marks as obtained by others.
  - c. Obtain Repetitive Loss Data  
For the purposes of this project, a list of repetitive losses for the City of Everman will be compiled from available sources, such as NCTCOG, FEMA, NWS/NOAA, News Publications, Texas Water Development Board, and other governing authorities.
  - d. Consult with Local Emergency Personnel (i.e. Obtain Historical flooding locations)  
The work for this task will include the interviews with city personnel and review of available city records for the purpose of identifying those areas where rescues and/or other emergency measures and/or activities occurred. The data will include recent flooding events occurring over the past three years with emphasis on the storms occurring in the late summer, early fall of 2018.

4. Assessment of Current/Known Flooding Hazards - This study includes assessment of the known flooding hazards and will include an inventory of existing or known flooding areas, summary of property affected, and identification of areas where frequent or significant flooding or known to exist. This work, to the extent that it may be necessary, will include review of appropriate documents and records as well as consulting with the City of Everman Emergency Management personnel. In addition, a compilation of existing data related to repetitive losses within the City of Everman will be completed and reviewed. Upon completion of this work, a list of flood prone areas and repetitive losses will be created, prioritized, and presented to the county. The following tasks will be necessary to complete this work:
  - a. Establish Priorities for Assessment  
The work for this task includes the establishment of the criteria/policy necessary to rank or prioritize, the areas where flooding either exists or has the potential to exist. This work will include coordination with the City of Everman and Tarrant County. This task includes a minimum of three working meetings. The work will include, but may not be limited to, the establishment of known risks associated with the creek such as stream bank erosion, improving conveyance in frequent flood prone areas, and to a lesser extent, water quality.
  - b. Establish Known/Existing Flooding Issues  
The work includes review of available data including, but not limited to, areas where known flooding exists. The work necessary to complete this task includes:
    - i. Interviews and coordination with City of Everman staff and emergency management personnel.
    - ii. A maximum of three site visits to assess the Creek's current condition. Areas of excessive erosion and/or damage will be cataloged and compared to the information assessed and/or obtained from the personnel.
    - iii. The work associated with this task will include the establishment and/or identification of sources based on repetitive losses.
    - iv. The compilation of the repetitive losses, known sources of flooding, and assessment of the stream bank condition will be presented in the final report and used in conjunction with the calculated water surface elevations to identify potential or existing flooding issues associated with Chambers Creek.
  - c. Coordinate and Catalog Community Involvement  
This task includes the work required to establish, attend, and catalog results from community public hearings and/or stakeholders' meetings. This task assumes one meeting held within the project area or at the county offices.
5. Hydrologic/Hydraulic Analysis
  - a. Hydrologic Models  
For the purposes of this project, the selected consultant must determine peak flow rates at a minimum of five discharge points. These points include the flow in North and South Chambers Creek at their confluence, the combined flow at the confluence of the two



tributaries, directly upstream of the Forest Hill bridge, and the flow at the eastern City Limits of Everman. Additional discharge points may be added as necessary to facilitate the analysis. In addition, comparison will be made between the calculated flows and the current effective flows as published by FEMA in the Federal Insurance Study report. The models will include the establishment of the peak 1, 10, 25, 50, 100 and 500-yr storms, as well as the future flows. The work necessary to complete this analysis is as follows:

i. Establish the current Effective Model using the legacy HEC-1 and/or NuDallas. This project assumes the current effective hydrologic model(s) for Chambers Creek and its tributaries upstream of the eastern city limit of Everman is (are) available and encompasses the entire contributing drainage area for the creek. It is assumed the current effective model(s) will be reproduced using its legacy computer program (assumed to be HEC1).

ii. Establish the duplicate Effective Model using HEC\_HMS  
Upon establishment of the current effective model, the legacy model(s) will be converted to the most recent versions of HEC-HMS and the flows duplicated within the limits as established in accordance with FEMA's standard procedures. It is understood the reproduction and/or revision to the model will be validated by comparing resulting peak discharges with current FEMA FIS.

iii. Establish the corrected Effective Models based on current (i.e. Existing) conditions.  
The established duplicate effective model(s) will be adjusted, revised, and/or combined into a single model as necessary to enhance the results of the study.

Where possible, the delineation of the existing drainage areas used to generate the effective model(s) will be validated and adopted. Additional discharge points (and associated drainage areas) will be added along the creek as deemed necessary by the engineer, including one at each culvert crossing. The flow rates as prescribed above will be provided within the corrected effective model at the discharge points as determined for the purposes of this project.

b. Hydraulic Models

This task will include the establishment of the base flood elevation, as well as the analysis necessary to identify, evaluate, and/or analyze the known and potential flood prone areas for Chambers Creek and its tributaries. The work will be in three parts; first, the current effective model will be obtained and re-run in its legacy format (i.e. HEC2); second, the legacy HEC2 will be converted to HEC-RAS platform. This truncated model will be revised as necessary to duplicate the output data from the legacy model duplicated; and lastly, the duplicated model will be revised to reflect the current (i.e. existing) conditions with the computed peak flowrates described above. The revised model will be designated as the corrected effective model. The suspected flood prone areas will then be confirmed based upon the results of the corrected model. Additional

areas of potential flood risk will also be identified. The following tasks will be necessary to complete this work:

- i. Establish the Current Effective Model using the legacy HEC-2:  
This project assumes the current effective hydraulic model(s) for Chambers Creek and its tributaries upstream of the eastern city limit of Everman is (are) available and encompasses the entire creek from the eastern city limit to the west. It is also assumed the current effective model(s) will be reproduced using its legacy computer program (assumed to be HEC2). It is understood, this work will consist of the validation of an existing hydraulic model (i.e. current effective model) for the site.
  - ii. Duplicate the Effective Hydraulic Model using HEC RAS  
Upon establishment of the current effective model, the legacy model(s) will be converted to the most recent versions of HEC-RAS and combined into one model. In addition, the combined model will be truncated, as appropriate within the study area. Adjustments to the model will be made in accordance with the documentation “HEC-RAS Procedures for HEC-2 Modelers” prepared by FEMA in April, 2002 to duplicate the current effective model water surface elevations.
  - iii. Establish correct Effective Hydraulic Model based on current (i.e. existing) Conditions  
For this task, the duplicated model will be revised to reflect both the contour information and physical survey. In addition, this corrected model will reflect the revised flows located at the prescribed locations as determined above. It is understood the corrected effected model will represent the current (or existing) conditions and will be utilized to identify existing as well as potential flood prone areas.
6. Application for a Letter of Map Revision – This Task will include the application for a letter of map revision based on the current, duplicated, and corrected hydrologic and hydraulic models. This task will include the work necessary to prepare the application forms, narrative, exhibits, work maps and required supporting data for the application. It also includes the coordination with FEMA necessary for the approval of the application. The work necessary for this Task is as follows:
- a. Preparation of Application Forms/Documents
  - b. Submittal/Coordination with FEMA
  - c. Comment response and review
7. Develop Mitigative Measures – The work necessary to complete this task includes the development of project alternatives and cost for mitigation of the flood prone areas as identified in the previous tasks. A minimum of two alternatives for each flood prone area will be determined. Each alternative will be evaluated as to cost, planned construction dates, and difficulties of the site. It is understood, the best alternative may be the “do nothing alternative”

(i.e. leave it as is), channel improvements, infrastructure improvements, a buy-out program, or a combination of these. In addition, a post-project HEC-RAS model will be used as appropriate to compare and/or determine the effectiveness of the alternative. The following will be necessary to complete the work:

- a. Compile list of Flood Prone Areas  
This task includes the work necessary to compile a list of flood prone areas as determined in previous tasks. As part of this task the flood prone areas will be rank in accordance with the criteria established in previous tasks.
  - b. Develop alternatives  
Upon the completion of compilation and ranking of the flood prone areas, alternative designs and/or proposed projects will be recommended. A minimum of one alternative and a maximum of three alternatives will be determined for each flood prone area. Alternatives may include the preservation of open space or consideration of land management opportunities. It should be noted the “do nothing alternative” may be considered.
  - c. Develop conceptual costs  
This task will include an opinion of probable design and construction cost (OPC) for each alternative.
  - d. Environmental Considerations  
Where deemed appropriate, an onsite environmental preliminary investigation will be conducted. This investigation will be conducted at project sites where waters of the US are known to exist, or suspected. The investigation for each site will include the appropriate site visit by the environmental staff and a report of the need, or lack thereof, of an environmental permit from the governing agencies. This project assumes a total of seven sites.
8. Presentation of Results – The work necessary to prepare and present a report detailing the findings of the assessment and analysis. The work will include a maximum of two meetings with the county. This scope of work assumes one public meeting.

The following will be necessary to complete the work:

- a. Report Preparation/Presentation  
This task will include the preparation of the report narrative, appropriate tables and graphs, exhibits, and appendices. The report will represent a compilation of the data obtained and/or produced as described in this project and will be presented to the county as well as the City of Everman for review and comments. Upon receipt of comments, the report will be revised, and the final report issued. For this project a total of two review cycles is assumed.
- b. Comment Review and Response/Final Report model(s)  
Upon receipt of comments, the report will be revised, and the final report issued.

For this project a total of two review cycles is assumed.

c. Public Meeting Support

As may be requested by Tarrant County staff, this task will include support for the public meeting, including the presentation of report findings, the provision of large-format maps and exhibits and documentation of the public meeting proceedings.

Assumption/Exceptions

- This project assumes the availability of hydrologic/hydraulic models for Chambers Creek and its tributaries upstream of the eastern city limits of Everman. Should the model(s) be deemed unacceptable, additional services will be required to establish the flows necessitating an amendment to this scope of work and additional fees.
- For this project, it is anticipated that the consultant will conduct two review cycles with the client relative to the report and two with FEMA for the LOMR. The submittal to FEMA will be made using the FEMA's online Letter of Map Change tool. This tool will allow electronic upload of all forms and documents for the LOMR including payment fees. The FEMA review and processing fee will be paid by the consultant.
- Two hard copies each of the report and its appendices will be presented to the county and City of Everman for their review and comment.
- An electronic copy of the hydrologic and hydraulic models provided to the county and City of Everman.