

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("MOU") is made by and between the City of Tomball, Texas, a municipal corporation situated in Harris County, Texas (the "City"), and FLS Development, LLC, a Texas company ("FLS").

### **RECITALS**

**WHEREAS**, FLS has approximately 43.149 acres of land (the "Property") located along Hufsmith-Kohrville Road, at the intersection of Medical Complex Drive, and located in the Jesse Pruitt Survey, Abstract Number 629, Harris County, Texas. Being that certain called 31.994 acres of land described in deed recorded in the Official Public Records of Property of Harris County, Texas, under County Clerk's File Number RP-2023-170674, a portion of that certain called 17.307 acres of land described in deed recorded in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Number RP-2023-17132, as further described in provided Metes and Bounds Description; and

**WHEREAS**, approximately 10.487 acres of the Property is presently located in the City limits and approximately 38.814 acres of the Property is presently located in the City's extraterritorial jurisdiction for total property area of 49.301 acres; and

**WHEREAS**, FLS and the City desire to work together to facilitate the development of a residential project (the "Project") to be annexed into the City and creation of a Public Improvement District ("PID") consisting of a mixed-use development of commercial and residential with approximately 89 single family lots and amenities, and general retail spaces in accordance with the terms and conditions outlined in the PID Petition and pending Planned Development.

**NOW THEREFORE**, the City and FLS agree as follows:

**Section 1. Purpose.** The purpose of this MOU is to establish the framework for the documentation and approval of the parties' agreement relating to the Project.

**Section 2. Requirements.** The Property upon which the Project is to be located is generally described and depicted in Exhibit A – Survey attached to and made a part of this MOU. The Property is owned by FLS. The basic development plan for the Property is attached as Exhibit B – Concept Plan. As currently proposed, the Developer and City will complete the following items:

- a. Developer will voluntarily annex all property within the development.
- b. Developer will secure a Certificate of Convenience and Necessity (CCN) transfer from Aqua Services to the City of Tomball for water and sewer infrastructure.
- c. Developer will extend the water, wastewater, and natural gas service to all commercial and residential lots.

- d. Developer will dedicate required right-of-way for the future expansion of Medical Complex Drive through their entire property to the eastern property boundary.
- e. Developer will construct a full boulevard, four lanes divided by a median, from the intersection of Medical Complex Drive and Hufsmith-Kohrville Road to a cul-de-sac at the eastern edge of the area designated for residential development.
- f. Developer will design the detention for full capacity of the development.
- g. Developer will design and construct a loop system for the required water line with two connection points along Hufsmith-Kohrville Road.
- h. Developer, and future Homeowners Association, will be responsible for all right-of-way grass and landscaped areas and detention pond and amenity maintenance for the life of the development.
- i. Developer and City will explore the option to have a connection to the neighboring development, Country Club Green, for emergency access only, as permitted by law.
- j. City agrees to create a debt PID with a single issuance bond to be sold when the LTV is at 3:1 with an approved assessment of \$0.95 for a 30-year term, not to exceed \$8,000,000.

**Section 3. Annexation.** FLS agrees to petition the City for voluntary annexation prior to the development of the Project. The annexation process and schedule will be provided by the City, and final annexation will be dependent upon the Certificate of Convenience and Necessity (CCN) transfer.

**Section 4. Development and Financing of the Project.** The Project is to be developed and financed as outlined in this Section.

- a. Construction and Ownership. FLS will be responsible for the construction of all infrastructure and lots. FLS is responsible for the financing of all improvements. FLS will retain ownership of the lots but will convey the public infrastructure to City, (the detention ponds are not public).
- b. Public Improvement District. FLS desires the creation of a Public Improvement District, and the City agrees to the creation, levy of assessments against identified property within the Development, and the sale of bonds as needed for reimbursement of PID eligible expenses.
- c. Maintenance of Improvements. The City will be responsible for the ongoing maintenance of the completed public infrastructure to include streets, water mains, sewer collection mains, natural mains gas, and public drainage facilities (storm sewer). The amenities, right-of-way grass and landscaped areas, and detention ponds are to be maintained by the Developer and future homeowner association.
- d. Development Agreement. FLS and the City will enter into a development agreement ("Agreement") that will set forth in detail the obligations of the various parties. The Agreement will include detailed budgets for Project construction, the platting process for the Property, voluntary annexation into the city limits, CCN transfer, zoning and planned



development process, description of the infrastructure to be completed, construction timelines and milestones, and the timing and mechanisms for conveyances of infrastructure to the City. All improvements to be conveyed to the City must be designed and constructed per the City's engineering specifications and pursuant to both state law applicable to the City and to the City's ordinances and codes.

**Section 5. Legal Effect of MOU.** The City and FLS understand and agree that this MOU consists only an expression of intent and shall have no legal or binding effect on the parties. This MOU is not intended to be all inclusive of requirements for the development. All development review processes shall be required.

**Section 6. Term.** The term of this MOU will commence on the execution date hereof and shall terminate on the earliest to occur of fifteen days following written notice by either party or the execution of the Development Agreement.

**Section 7. Relationship of Parties.** The parties shall not be deemed in a relationship of partners or joint ventures by virtue of this MOU, nor shall either party be an agent, representative, trustee or fiduciary of the other. Neither party shall have any authority to bind the other to any agreement. This MOU is not assignable or transferable by either party without the other party's written consent.

**Section 8. Amendments.** The parties reserve the right to amend this MOU. Any amendment of this MOU must be in writing, signed by both parties, and approved by City Council.

**CITY OF TOMBALL, TEXAS**

By: \_\_\_\_\_  
Name: David Esquivel, PE, City Manager

**ATTEST:**

By: \_\_\_\_\_  
Name: Thomas Harris III, City Secretary

**FLS Development, LLC**

By:  \_\_\_\_\_  
Name: Shawn Speer, Manager