DEVELOPMENT AGREEMENT (FOR VARIANCE)

STATE OF TEXAS	8
	8
COUNTY OF BRAZORIA	8

This Development Agreement executed as of the ____ day of _____, 2022, is by and between the City of Manvel, Texas, ("City") and Shea Homes Houston, LLC, a Delaware Limited Liability Company, property owner of certain hereinafter described property located within the City, (together known as "Developer"), all collectively referred to as the "Parties." This Agreement is in regard to the platting of 12.908 acres of land for single-family lots, new road construction, landscaping/open space, and an elevated storage tank located in Section 8 of the Del Bello Lakes Development.

WHEREAS, Developer received plat approval by the Planning, Development and Zoning Commission for thirty (30) single-family residential lots, seven (7) reserves, two (2) blocks, and roads for 12.908 acres of land located within the City Limits of the City of Manvel, said tract being located in Section 8 of the Del Bello Lakes Development; and,

WHEREAS, the Planning, Development and Zoning Commission plat approval is conditional upon an approved variance to Section 62-111 of The City Code for an unimproved 40-foot County Roadway; and

WHEREAS, Section 62-111 of The City Code requires all streets be constructed in accordance with the city's design criteria manual standards and the developer to be responsible for construction of improvements to one-half of all perimeter streets to pavement and curbing; and

WHEREAS, pursuant to Section 62-5 of The City Code, the Developer has applied for a variance to defer this abutting perimeter road construction requirement, said application is attached as Exhibit "A";

NOW THEREFORE, for and in consideration of the premises and mutual obligations, covenants, and benefits hereinafter set forth, if said variance is granted by the City Council, the Parties agree to the conditions, as follows:

1. PROJECT

- 1.01 Location. The property that is the subject of this agreement is all the property legally described as: being a subdivision of 12.908 acres of land situated in the A.C.H. & B.R.R. Company Survey, Section 90, also known as Kate R. Ehrmann Survey, Abstract 459, Brazoria County, Texas, (the "Property"). The Property is more fully described and depicted in the survey attached as Exhibit "A", attached hereto.
- 1.02 Project Description. This Agreement is in regard to a conditionally approved plat for Del Bello Section 8 for single-family lots, new road construction, landscaping/open space, and an elevated storage tank on the Property, owned by Developer.

1.03 The Property has a conditionally approved plat. The Planning, Development and Zoning Commission approved the Del Bello Lakes Section 8 Final Plat with two (2) conditions at their June 27, 2022 meeting. One condition is the City Council approve a subdivision variance to Section 62-111 for the unimproved 40-foot County Roadway, that permits no roadway construction and the second condition requires 10-foot right-of-way dedication for the unimproved 40-foot County Road.

2. CITY APPROVAL

- 2.01 Approval of variance. Pursuant to its authority under Section 62-5 of The City Code, the City agrees to allow the Developer to vary the requirements of Section 62-111 of the City's subdivision ordinance, for one-half of an unimproved 40-foot County Road located in Reserve D, of the Del Bello Lakes Section 8 development with conditions.
- 2.02 Conditions. The required conditions are as follows:
- (i) Developer and/or Brazoria County Municipal Utility District No. 43 shall satisfy the requirement to construct one-half of 233.63 linear feet for an unimproved 40-foot County Roadway located in Reserve D of the Del Bello Lakes Section 8 development by escrowing funds to the city in the amount of construction, based upon the cost of construction estimated by the city engineer at the time of tender of the escrow funds. The escrow funds shall be due to the City at the earlier of:
 - (a) upon complete construction of a northbound State Highway 288 feeder road;
 - (b) upon further subdivision of the Property by Developer or any successor in interest, (if no escrow has been tendered then one-half of the road will be constructed to city standards as per subdivision ordinance and design criteria manual):
 - (c) within 90 days of the city giving notice that it will construct the roadway; or
 - (d) upon the occurrence of the abutting property owners (along the unimproved 40-foot County Roadway) developing or redeveloping the abutting property. Upon such occurrence, Developer or any successor in interest may either escrow funds or join in construction of the roadway with the abutting property owners.
- (ii) City shall record this agreement with the Brazoria County Clerk and evidence the agreement on a "plat note" on the plat of said Property. Developer shall be responsible for the cost of recordation.

3. DEVELOPER COVENANTS

- 3.01 The Developer agrees to following:
- (i) Other than permits for the construction of infrastructure improvements, single-family buildings/structures, and accessory buildings/structures for Section 8 of the Del Bello Lakes Development, Developer agrees that the City shall not issue any other construction permit

or approve any further plat/re-plat of the Property until the Developer complies with 2.02 of this Agreement;

- (ii) Developer agrees to begin infrastructure improvement construction and diligently pursue to completion Section 8 of the Del Bello Lakes Development, within one-year of City Council approval; and
- (iii) Developer agrees to pay the cost of recordation of this Agreement within thirty (30) days of invoice by the City.
- 3.02 Developer acknowledges that the City's covenants are contingent upon the Developer constructing infrastructure improvements for Section 8 of the Del Bello Lakes Development. Failure of the Developer to begin to construct infrastructure improvements, and diligently pursue completion, within one-year of City Council approval shall constitute failure of this condition and the agreement shall automatically be null and void.

4. MISCELLANEOUS

- 4.01 <u>Assignment</u>. This Agreement evidencing said variance, with conditions, shall run with the land and shall bind and benefit the respective Parties and their legal successors in interest.
- 4.02 <u>Amendment or Modification</u>. Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment, or modification only in writing, and by the signatures and mutual consent of the Parties.
- 4.03. <u>Parties in Interest</u>. This Agreement shall be for the sole and exclusive benefit of the Parties hereto and shall not be construed to confer any rights upon any third party. Developer shall not be a third-party beneficiary to any contract the City has with any other party for the engineering, design, or construction of said improvements.
- 4.04. <u>Remedies Not Exclusive</u>. The rights and remedies contained in this Agreement shall not be exclusive, but shall be cumulative of all rights and remedies now or hereinafter existing, by law or in equity.
- 4.05. <u>Waiver</u>. The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.
- 4.06. <u>Entire Agreement</u>. This Agreement constitutes the entire agreement between the Parties related to the subject matter of this Agreement and supersedes any and all prior agreements, whether oral or written, dealing with the subject matter of this Agreement.
- 4.07. <u>Venue</u>. This Agreement shall be performable and enforceable in Brazoria County, Texas, and shall be construed in accordance with the laws of the State of Texas.

- 4.08. <u>Severability</u>. If any term or provision of this Agreement is held to be invalid, void, or unenforceable by a court of competent jurisdiction, the remainder of the terms and provisions of this Agreement shall remain in full force and effect and shall not in any way be invalidated, impaired, or affected.
- 4.09. Notices. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above.

The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City: City of Manvel

ATTN: Kyle Jung, City Manager

20025 Morris Avenue Manvel, Texas 77578

If to Developer: Shea Homes Houston, LLC, a Delaware Limited Liability

Company

ATTN: Jim Zimmerman and Robert Santini 7906 N. Sam Houston Parkway W, Suite 250

Houston, Texas 77064

4.10 <u>Remedies</u>. In addition to any remedy provided by law, including but not limited to breach of contract, the Developer stipulates and agrees that, upon default by Developer, City may revoke/withhold issuance of a certificate of occupancy for the Property, and Developer agrees to hold City harmless for any liability from said revocation/fail to issue.

deemed an original, but all instrument.	of which when taken together	shall constitute one and the same
Executed on this the _	day of	, 2
	CITY OF MAN	VEL:
	Debra Davison, M	Mayor
ATTEST:		
Tammy Bell, City Secretary		
THE STATE OF TEXAS	§	
COUNTY OF BRAZORIA	§	
	acknowledged before me on the I, as Mayor of the City of Manve	e day of, el, Texas, on behalf of said City of
(NOTARY SEAL)	No	otary, State of Texas
()		

This Agreement may be executed in multiple counterparts, each of which shall be

Shea Homes Houston LLC:

		By: Name: Jim Zim	mermann, Assistant Secretary
THE STATE OF TEXAS	§		
COUNTY OF BRAZORIA	§		
This instrument was 20, by	_		the day of
(NOTARY SEAL)		7	Notary, State of Texas

Shea Homes Houston LLC:

	By:Name: Robert Santini, Authorized Agent
THE STATE OF TEXAS	§
COUNTY OF BRAZORIA	§
This instrument was 20, by	acknowledged before me on the day of, as property owner.
(NOTARY SEAL)	Notary, State of Texas

Exhibit A

Being a subdivision of 12.908 acres of land situated in the A.C.H. & B.R.R. Company Survey, Section 90, also known as Kate R. Ehrmann Survey, Abstract 459, Brazoria County, Texas.

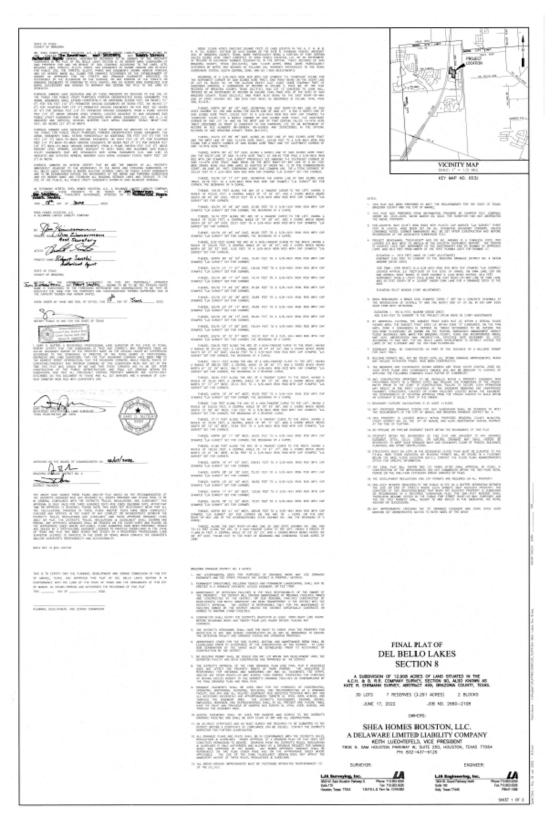


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