

INTERLOCAL AND FUNDING AGREEMENT FOR THE MAINTENANCE OF ROADS

THE STATE OF TEXAS §
COUNTY OF BRAZOS §

THIS INTERLOCAL AND FUNDING AGREEMENT FOR THE MAINTENANCE OF ROADS (the "Agreement") is made and entered into by and among BRAZOS COUNTY, a political subdivision of the State of Texas (the "County"), BRAZOS COUNTY MUNICIPAL UTILITY DISTRICT NO. 1, a political subdivision of the State of Texas operating as a municipal utility district (the "District"), and Southern Pointe LLC, a Texas limited liability company (the "Developer"). The County, the District and the Developer may hereinafter collectively be referred to as the parties.

RECITALS

WHEREAS, the District lies within Brazos County, Texas;

WHEREAS, the Developer is developing land within the District;

WHEREAS, the District will be a mixed use community, primarily residential, in the unincorporated area of the County, with roads constructed to the standards of the City of College Station;

WHEREAS, the County owns or will own all public roads within the boundaries of the District (the "Roads");

WHEREAS, in consideration of the County's acceptance of all public roads within the District for ownership, operation, and maintenance, the County, Developer and the District desire to enter into an interlocal and funding agreement providing for the care and maintenance by the District and/or the Developer of the County's roads lying within the District's boundaries.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing premises and mutual covenants and agreements expressed herein, the parties hereby agree as follows:

ARTICLE ONE OWNERSHIP AND MAINTENANCE OF THE ROADS

1.1 Construction, Ownership and Control. The District and/or the Developer shall construct or improve new or existing roads to serve the District pursuant to a traffic impact analysis prepared by a qualified engineer, and in proportion to such traffic

generated by the District, as required by agreements with the City of College Station (the "City"). The District and/or Developer will work with the County so that roads adjacent to and servicing the District are improved to accommodate development generated by the District in accordance with their current traffic impact analysis. The Developer agrees to enter into any road development agreements with the County as might be necessary to accomplish the improvement of said roads adjacent to and servicing the District in accordance with such traffic impact analysis. The District and/or Developer shall construct such Roads to standards required by agreements with the City. Subject to such standards, the County accepts or will accept the Roads covered by this Agreement into the County's system of roads. The County will accept the Roads after submission by the District engineer of a certificate of completion of construction of the Road which will include an affidavit of all bills paid, assignment of all warranties, and a contractor's performance and maintenance bond. After acceptance, the Roads will be public roads, and the general public will have the same access as other County roadways.

1.2. Maintenance. The Parties agree that the Developer and/or District shall perform all maintenance (the "Maintenance") on the Roads at least to a standard of similar types of roads in the City. The District and/or Developer will follow all standard District procedures and state law, including competitive bidding requirements, if any, in performing all necessary repairs and maintenance on the Roads.

1.3. Payment of Maintenance Costs. The Developer and/or District will be responsible for all costs of Maintenance of the Roads and pay such Maintenance costs either through advances by the Developer or through other legally available revenues. The Developer and/or District agrees to include in the construction contract of any Road a maintenance bond from a surety that is licensed to do business in Texas, meets all applicable regulatory criteria and in which the surety guarantees the contractual Road maintenance obligations of the Developer and/or District to the County as compensation if the District and/or Developer does not fulfill its obligations. The Developer and/or District agrees to keep in place a maintenance bond in a commercially reasonable amount or some other form of guarantee generally accepted by the County until the earlier of such time as (1) said Road or portion of the Road has been annexed into the City of College Station or (2) the District maintains a segregated District account from legally available funds (including bond proceeds) for road maintenance of said Roads (the "Road Maintenance Fund") in an amount that is generally accepted and reasonable for similar types of roads in the Brazos County area for annual maintenance costs of the Roads. If the District elects to create a Road Maintenance Fund in lieu of a maintenance bond pursuant to this Section 1.3, the District will enter into an escrow agreement substantially in the form attached hereto as Exhibit "A". The terms of the escrow agreement will provide that the County may access the Road Maintenance Fund in the event that the District

does not perform Maintenance on the Roads pursuant to this Agreement and only after the County has given the District notice and opportunity to cure pursuant to Section 2.6 below. The District agrees to provide the County auditor an accounting of the Road Maintenance Fund on an annual basis or any time upon request.

ARTICLE TWO
GENERAL PROVISIONS

- 2.1. Cooperation. The parties agree with each other in good faith at all times to effectuate the purposes and intent of this Agreement.
- 2.2. Other Instruments, Actions. The parties hereto agree that they will take such other and further actions and execute such other and further consents, authorizations, instruments or documents as are necessary or incidental to effectuate the purposes of this Agreement.
- 2.3. Payment from Current Revenues. A governmental entity required to make payment hereunder shall provide for payment of same from current revenues or other funds of said party lawfully available for this purpose.
- 2.4. Term; Annexation. This Agreement shall remain in effect for so long as the District remains in existence and shall terminate at such time as the City of College Station, Texas, annexes the District.
- 2.5. Notice. Any notice required or permitted to be delivered under this Agreement shall be deemed received on the earlier of (i) actual receipt by mail, Federal Express or other overnight delivery service, telecopy, or hand delivery, or (ii) three business days after being sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to the County or the District.

Addresses for notice shall be as follows:

County: Brazos County
300 E. 26th Street, Suite 325
Bryan, Texas 77803
Attn: County Judge
With copy to: County Attorney

District: Brazos County Municipal Utility District No. 1
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, TX 77027
Attn: Steve Robinson

District's Bookkeeper: F. Matuska Inc.
4600 Highway 6 North, Suite 315
Houston, TX 77084
Attn: Rose Montalbano

Developer: Southern Pointe, LLC,
17777 Texas Highway 6 South
College Station, TX 77845
Attn: William R. Mather

- 2.6. Remedies; Notice of Default. Default by a party shall occur if the party fails to perform or observe any of the terms and conditions of this Agreement required to be performed or observed by that party. The party alleging the default will give the other party written notice of the default. If the party in default fails to cure the default within sixty (60) business days of the date of the notice (and an additional reasonable time after such receipt if (A) such failure cannot be cured within such sixty (60) business day period, and (B) the party in default commences curing such failure within such sixty (60) business day period and thereafter diligently pursues the curing of such failures), the party giving the notice may pursue any remedies permitted by law including filing suit in a court of competent jurisdiction in Brazos County, Texas, and seeking specific performance of the terms of the Agreement. In addition to any other remedies permitted by law, in the event of a failure of the District or Developer to perform Maintenance of the Roads as required by this Agreement, and after the requisite notice and opportunity to cure, the County may present a demand for funds for Road Maintenance to the Escrow Agent pursuant to the terms of the Escrow Agreement, the form of which is attached hereto as "Exhibit A".
- 2.7. Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes all prior and contemporaneous understandings or representations, whether oral or written, respecting the subject matter hereof.
- 2.8. Amendments. Any amendment to the Agreement must be writing and signed by the authorized representatives of all parties.
- 2.9. Interpretation and Authority. The parties acknowledge that this Agreement is entered into pursuant to the authority of Texas law, including, without limitation, the authority conferred in V.T.C.A. Govt Code, Chapter 791, et. seq., V.T.C.A. Water Code, Section 49.213. In the event of any conflict between the provisions of this Agreement and the provisions of any other agreement entered into by and between the parties, the provisions of this Agreement shall prevail with respect to the subject matter hereof. Except as set forth above, this Agreement shall not be construed so as to modify,

supplement or otherwise alter the provisions of any other agreement entered into by and between the County, the Developer and the District.

- 2.10. Assignment. No party may assign its rights and obligations under the Agreement either in whole or in part without written consent by all parties.
- 2.11. No Third Party Beneficiaries. Except as expressly provided above, nothing herein shall be construed to confer upon any person other than the parties hereto any rights, benefits or remedies under or by reason of this Agreement.
- 2.12. No Joint Venture, Partnership, Agency. This Agreement shall not be construed in any form or manner to establish a partnership, joint venture or agency, express or implied, or any employer-employee or borrowed servant relationship by and among the parties hereto.
- 2.13. Responsibilities for Manner and Means of Performance. The District is performing all its duties to this Agreement as an independent contractor. The District shall have the exclusive authority and responsibility for determining the manner and means of performance under this Agreement and for selecting and supervising the persons who perform the work. The County shall only have the authority to approve or reject the outcome of the District's efforts. Accordingly, the County shall not have any liability for intentional or negligent torts committed by the District or its agents in connection with the work contemplated by this Agreement.
- 2.14. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- 2.15. Venue. Venue for any suit arising under this Agreement shall be Brazos County, Texas.
- 2.16. Duplicate Originals. This Agreement may be executed in one or more duplicate originals, each of equal dignity.
- 2.17. Effective Date. This Agreement shall be effective on the later of the dates this Agreement is executed by the authorized representative of both parties.
- 2.18. Warranty. By execution of this Agreement, the County, the Developer and the District warrant that the duties accorded herein are within their respective powers and authority.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

EXECUTED as of this 27th day of December, 2016, by the COUNTY.

COUNTY OF BRAZOS

By: [Signature]
Name: Diane Peters
Title: County Judge

ATTEST:

By: [Signature]
Name: Karen McQueen
Title: County Clerk

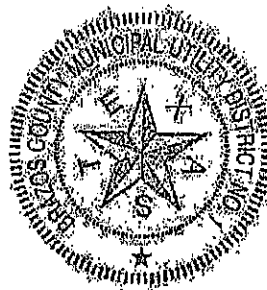
EXECUTED as of this ___ day of _____, 2016, by the DISTRICT,

BRAZOS COUNTY MUNICIPAL UTILITY
DISTRICT NO. 1

By: [Signature]
Name: Kyle Davis
Title: Asst. Sec.

ATTEST:

By: [Signature]
Name: Charles Morrison
Title: Vice President



EXECUTED as of this 23 day of November, 2016, by the DEVELOPER.

Southern Pointe, LLC
By: Grid, Inc. It's Sole Member

By: [Signature]
Name: William L. MATTHEW
Title: President

EXHIBIT A
FORM OF ESCROW AGREEMENT

This Escrow Agreement is entered into as of _____ of _____, 20____, by and between BRAZOS COUNTY MUNICIPAL UTILITY DISTRICT NUMBER 1, a conservation and reclamation district and a political subdivision of the State of Texas (hereinafter called "District"), and _____ (the "Escrow Agent").

The District and Brazos County (the "County") entered into an Interlocal Agreement For the Maintenance of Roads dated December _____, 2016 (the "Agreement") for the purposes of providing for the ownership, operation and maintenance of roads within the District; and

The County agreed to accept all public roads within the District into the County road system and the District agreed to pay for the cost of maintaining such roads; and

The Agreement requires that the District may either keep a maintenance bond in place or maintain a segregated District account from legally available funds referred to in the Agreement as the Road Maintenance Fund to fulfill its obligations under the Agreement; and

To carry out the directives of the Agreement, the Road Maintenance Fund is hereby placed by the District in escrow (the "Escrowed Funds"), and the Escrow Agent is only authorized to release the Escrowed Funds as herein directed; Now, Therefore,

FOR AND IN CONSIDERATION OF THE PREMISES, the District and the Escrow Agent agree as follows:

Section 1: The District will deposit into the Escrowed Funds such amounts as described in the Agreement to be placed into escrow by the Escrow Agent into a segregated account (the "Escrow Account");

Section 2: The Escrowed Funds, excluding any interest earnings thereon, shall be held by the Escrow Agent in escrow and released as follows:

- (1) Upon presentation by the District's bookkeeper of a construction contract, pay estimate or work proposal for maintenance or repair of roads within the District; or

- (2) Upon presentation by the County's auditor of a construction contract, pay estimate or work proposal for maintenance or repair of roads within the District; or
- (3) Upon presentation of a District resolution with acknowledgement by the County auditor that funds in the Road Maintenance Fund are no longer required to be escrowed and may be released to the District for any public purpose.

Section 3: The Escrowed Funds shall be held by the Escrow Agent in investments authorized and secured in accordance with the District's investment policy and state law.

Section 4: The Escrow Agent will keep complete and correct books of records and accounts relating to the receipts, disbursements, allocations and application of the money deposited to the Escrow Account, and investments of the Escrow Account and all proceeds thereof. The records shall be available for inspection at reasonable hours and under reasonable conditions by the District and the County.

Section 5: This Agreement shall be governed exclusively by the applicable laws of the State of Texas. Venue for disputes shall be in Brazos County, Texas.

Section 6: No modification or amendment of this Agreement shall be valid unless the same is in writing and is signed by the District and County and consented to by the Escrow Agent.

Section 7: If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

Section 8: The Escrow Agent shall be entitled to compensation for its services as stated in the fee schedule agreed to by the Escrow Agent and the District from time to time, which compensation shall be paid by the District but may not be paid directly from the Escrow Account.

Section 9: The Escrow Agent shall be authorized to accept and rely upon the certifications and documents furnished to the Escrow Agent by the District or the County and shall not be liable for the payment of any funds made in reliance in good faith upon such certifications or other documents or approvals, as herein recited.

Section 10. This Escrow Agreement shall expire upon final transfer of the funds in the Escrow Account to the District or upon annexation of the District by the City of Collège Station.

IN WITNESS WHEREOF the parties have executed this Escrow Agreement as of the date and year first written in this Escrow Agreement.

BRAZOS COUNTY MUNICIPAL
UTILITY DISTRICT NUMBER 1

President, Board of Directors

ATTEST:

Secretary, Board of Directors

(SEAL)

ESCROW AGENT

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

Title: _____