

PURCHASE AND SALE AGREEMENT

This **Purchase and Sale Agreement** ("Agreement") to buy and sell real property is entered between Seller and Purchaser as identified below and is effective on the date set forth in Section 16(e) ("**Effective Date**"). Seller and Purchaser are referred to herein collectively as "the Parties" and sometimes separately as "Party."

Seller: City of Farmers Branch, a Texas home rule municipality

Seller's Address: Attn: Charles S. Cox, City Manager
City of Farmers Branch
13000 William Dodson Parkway
Farmers Branch, Texas 75234

Phone: (972) 919-2515
Facsimile: (972) 247-4836
E-mail: charles.cox@farmersbranchtx.gov

Seller's Attorney: Peter G. Smith
Kevin B. Laughlin
Nichols, Jackson, Dillard, Hager & Smith, LLP
500 N. Akard, Suite 1800
Dallas, Texas 75201

Phone: (214) 965-9900
Facsimile: (214) 965-0010
E-mail: psmith@njdhs.com
klaughlin@njdhs.com

Seller's Broker: Core Location Advisors, LLC
Attn: Jason Claunch, Manager
4719 Cole Avenue, Suite 404
Dallas, Texas 75205

Facsimile: () _____
Phone: (972) 999-0081 Ext. 101
E-mail: jason@catalystcommercial.net

Purchaser: TCCI Land Company, LLC, a Texas limited liability company

Purchaser's Address: Attn: Tommy N. Cansler
3930 Glade Road, Suite 108
Colleyville, Texas 76034

Facsimile: () _____
Phone: (469) 688-8224
E-mail: dave@tccitx.com

Purchaser's Attorney N/A

**Purchaser's
Broker/Agent:** Dave Barnes
3706 Laurel Bay Loop
Round Rock, Texas 78681

Facsimile: () _____
Phone: (512) 470-2615
E-mail: dbarnes1000@gmail.com

Property: The real property described as 43,845.29 feet (1.0065± acres) out of the Noah Good Survey, Abstract No. 520, City of Farmers Branch, Dallas County, Texas, more particularly described in Exhibit "A," attached hereto and incorporated herein by reference; together with all improvements, fixtures, and personal property located thereon, and all (i) strips and gores between said tract and abutting properties, (ii) land lying in or under the bed of adjacent streets, alleys, roads or rights of way, (iii) easements or rights of way appurtenant to or otherwise benefitting said tract, (iv) utility capacities, commitments, reservations and other rights and capacities (including but not limited to stormwater detention rights) related to said tract, (v) all permits and approvals relating to said tract, (vi) all development rights relating to said tract, (vii) all rights to credits, refunds and reimbursements associated with said tract, (viii) all water and drainage rights associated with said tract, (ix) all reversionary rights related to said tract, and (x) all other rights and appurtenances of any kind related to said tract, but subject to the Permitted Exceptions.

**Restriction
Agreement:** That certain Restriction Agreement by and between Seller and Purchaser attached hereto as Exhibit "B", subject, however, to such modifications as may be reasonably requested by any lender providing financing with respect to the Property, provided such modifications do not require the Seller to subordinate its rights under the Restriction Agreement to such lender.

Title Company: Republic Title of Texas, Inc.
Attn: Tammie Cooper, Vice President
2626 Howell Street, 10th Floor
Dallas, Texas 75204

Phone: (214) 855-8886
Fax: (214). 516-2507
E-Mail: tcooper@republictitle.com

Inspection Period: The period commencing on the Effective Date and ending the latter of (i) thirty (30) days after Purchaser's receipt from Seller and/or Title Company of Seller's survey, environmental reports, and the Title Commitment as provided in Section 2(a), below, and (ii) the sixtieth (60th) day after the Effective Date.

**Entitlement
Period:** The period commencing on the first day after the end of the Inspection Period and ending on the 60th day thereafter, subject to extension as provided in Section 8(h).

Earnest Money: \$8,950.00, to be delivered to the Title Company not later than the fifth (5th) business day after the Effective Date, \$500.00 of which shall constitute the Option Fee.

Option Fee: \$500.00, which amount shall be the non-refundable portion of the Earnest Money (except as may be otherwise expressly provided in this Agreement) and will be distributed to Seller upon any termination of this Agreement as independent consideration for Seller's performance under this Agreement, and which shall be applied as a credit to the Purchase Price if Closing occurs.

Closing Date: The thirtieth (30th) day after the expiration of the Entitlement Period, or such earlier date as agreed by the Parties.

Purchase Price: **EIGHT HUNDRED NINETY-FIVE THOUSAND AND NO/100 DOLLARS (\$895,000.00)** paid in CASH

NOW, THEREFORE, in consideration of the sum of the payment of the Purchase Price and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Seller and Purchaser agree as follows:

1. **Sale and Purchase.** Seller agrees to sell, and Purchaser agrees to purchase the Property as provided in this Purchase and Sale Agreement ("Agreement") for the Purchase Price and subject to additional consideration set forth in this Agreement.

2. **Title, Survey, and Environmental Reports.**

(a) Not later than fifteen (15) days after the Effective Date, Seller shall, at Seller's expense, deliver to Purchaser:

(i) a current commitment for an Owner's Policy of Title Insurance for the Property from the Title Company issued to Purchaser in the amount of the Purchase Price, setting forth the state of title to the Property together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title (the "**Title Commitment**");

(ii) legible copies of all documents referenced in the Title Commitment;

(iii) any environmental or geotechnical studies or reports that Seller may have in its possession or that is available to Seller as of the Effective Date with respect to the Property, which Seller represents, and Purchaser acknowledges, have already been delivered to Purchaser as of the Effective Date;

(iv) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years;

(v) the most recent survey and plat of the Property that Seller has in its possession or that may be available to Seller, which Seller represents, and Purchaser acknowledges, has already been delivered to Purchaser as of the Effective Date. Seller shall not be required to obtain a new survey of the Property at Seller's expense;

(vi) notices or other documents regarding any uncured violation of applicable laws, rules, regulations, codes or ordinances regarding the Property, or relating to any actual or claimed existence, release or disposal of any toxic or hazardous substance or waste in, upon or affecting the Property, or relating to any pending or threatened litigation affecting the Property; and

(vii) any other documents or information in Seller's possession relating to the Property which may be reasonably requested by Purchaser.

(b) Not later than thirty (30) calendar days after the Effective Date, Purchaser may, at Purchaser's expense and option, update the existing survey (the "Survey") of the Property prepared by a duly licensed Texas Registered Public Land Surveyor. The Survey shall be staked on the ground, and the survey plat shall show the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to the Property, if any, and shall contain the surveyor's certification that there are no encroachments on the Property other than what are listed on the Title Commitment and shall set forth a metes and bounds description of the Property. If different than the description of the Property attached as Exhibit "A" hereto, the legal description contained in said Survey shall be used by the Parties as the legal description contained in the Special Warranty Deed unless, at the time of Closing, the Property has been subdivided into one or more separately platted lots, in which case the Property shall be conveyed by the platted lot description.

(c) Purchaser shall, not later than ten (10) days after Purchaser's receipt of the last of (i) the Title Commitment, (ii) legible copies, to the extent available, of all instruments referred to in the Commitment, and (iii) the Survey, (or after the expiration of the period for obtaining the Survey, if a Survey is not obtained) approve or provide written objections to the aforementioned items above. If there are objections by Purchaser, Seller shall in good faith attempt to satisfy them prior to Closing, but Seller shall not be required to incur any cost to do so. If Seller delivers written notice to Purchaser not later than the fifth (5th) calendar day after Seller's receipt of Purchaser's objections that Seller is unable to satisfy such objections, Purchaser may either (i) waive such objections and accept title as Seller is able to convey or terminate this Agreement by written notice to Seller and the Title Company prior to the expiration of the Inspection Period or (ii) elect to extend the Closing Date, not to exceed an additional sixty (60) days, in order to provide Seller additional time to cure the objections. If Purchaser elects to extend the Closing Date pursuant to (ii) in the previous sentence, and Seller fails to cure the objection with such period, Purchaser may either waive the objection and proceed to Closing or terminate this Agreement and receive a refund of the Earnest Money (less the Option Fee) without further liability to either Party.

3. Inspection Period.

(a) During the Inspection Period, Purchaser and its agents, contractors, representatives, consultants or employees shall have the right to enter upon the Property during regular business hours upon reasonable notice and conduct such inspections, tests and studies as they may deem necessary. If for any reason Purchaser determines not to purchase the Property, Purchaser may terminate this Agreement by notifying Seller and Title Company in writing prior to the expiration of the Inspection Period. In such event, neither Party shall have any further claim against the other under this Agreement, and Purchaser shall be entitled to a refund of the Earnest Money, but not the Option Fee. If Purchaser does not timely terminate this Agreement under this Section 3, it shall have no further right to do so under this Section 3; and Purchaser shall have waived its right to terminate this Agreement within the Inspection Period.

(b) Purchaser may enter the Property to conduct its inspection but shall be solely responsible for any damages caused thereby. **Purchaser shall repair any damage to the Property it causes or that is caused by its agents, contractors, representatives, consultants or employees, and shall indemnify**

and defend Seller and hold Seller harmless from and against any and all claims, liabilities or damages to the Property or against Seller caused by the intentional or negligent acts or omissions of Purchaser and/or Purchaser's authorized agents, contractors, representatives, consultants or employees during the Inspection Period or as a result of any inspection of the Property by such parties; provided, that no indemnity shall be required for Purchaser's discovery of any violations of any applicable law, statute, rule, regulation, code or ordinance during such inspection, or discovery of any preexisting conditions present at the Property.

(c) During the Inspection Period, Purchaser may review and conduct any studies relating to engineering and environmental matters associated with the Property; provided, however, no invasive testing (such as a Phase II ESA) shall be permitted without Seller's prior written consent, given in Seller's sole and absolute discretion. Notwithstanding the foregoing to the contrary, if a Phase I Environmental Site Assessment (a "**Phase I ESA**") is performed on behalf of Purchaser by a reputable and licensed environmental engineer or professional engineering firm (as applicable, "**Purchaser's Environmental Engineer**"), and, in the reasonable opinion of Purchaser's Environmental Engineer and/or Purchaser's lender, the findings of such Phase I ESA discloses materials and/or conditions affecting the Property such that the performance of a Phase II Environmental Site Assessment (a "**Phase II ESA**") is recommended in order to fully assess same, then Seller agrees to not unreasonably withhold its consent to the performance of a Phase II ESA at the Property on conditions, in locations and with a scope approved in advance in writing by Seller. Upon completion of any Phase I ESA and/or Phase II ESA, Purchaser shall promptly provide a copy of same to Seller. No Phase II ESA shall commence prior to the delivery of the Phase I ESA to Seller.

(d) The provisions of this Section 3 shall expressly survive any termination of this Agreement or the Closing for a period of six (6) months.

4. **Closing Date.** The closing of the sale of the Property (the "**Closing**") shall occur on the Closing Date through escrow arrangements with the Title Company, or at such other time as may be agreeable to the Parties.

5. **Closing Deliverables.**

(a) At the Closing, Seller shall deliver to Purchaser through the Title Company:

(i) a special warranty deed (the "**Special Warranty Deed**") in form and substance reasonably acceptable to Seller and Purchaser, conveying good and indefeasible title to the Property to Purchaser, free and clear of any and all encumbrances except the Permitted Exceptions, excluding the mineral rights, such mineral rights being reserved by Seller;

(ii) the documents required to be executed as a condition of closing as set forth in Section 8, below;

(iii) possession of the Property, free of parties in possession; and

(iv) such documents as may be reasonably required by the Title Company in order to cause the Title Company to issue a Texas Owner's Policy of Title Insurance (or equivalent) in the amount of the Purchase Price, insuring such title to the Purchaser, at Seller's expense (the "**Title Policy**"), as well as such other documents as may be required by the Title Company to close the contemplated transaction.

(b) At the Closing, Purchaser shall deliver to Seller through the Title Company:

- (i) the Purchase Price;
- (ii) the documents required to be executed as a condition of closing as set forth in Section 8, below; and
- (iii) such other documents as may be reasonably required by Title Company to close the contemplated transaction.

6. **Taxes.** Purchaser understands and acknowledges that the Property is presently exempt from the assessment of ad valorem taxes, which status will change upon conveyance of the Property to Purchaser. Seller shall not be responsible for payment of property taxes assessed against the Property for periods after the date of Closing, if any become due and payable.

7. **Closing Costs.**

(a) Seller hereby agrees to pay and be responsible for the following closing costs:

- (i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;

- (ii) one-half (1/2) of the Title Company's escrow fees;

- (iii) the basic premium for the Owner's Policy of Title Insurance;

- (iv) all costs and expenses incurred by or on behalf of Seller, including Seller's attorney's fees; and

- (v) such other incidental costs and fees customarily paid by sellers of real property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

(b) Purchaser hereby agrees to pay and be responsible for the following closing costs:

- (i) all fees and costs for the Survey;

- (ii) one-half (1/2) of the Title Company's escrow fees;

- (iii) all costs and expenses incurred by or on behalf of Purchaser, including Purchaser's attorneys' fees;

- (iv) all premiums and fees for optional endorsements, deletions and amendments to the Basic Owner's Title Policy and all costs related to issuance of any Mortgagee's Title Policy, and/or Interim Construction Lender Endorsement, if any;

- (v) Recording fees for the Special Warranty Deed, the Restriction Agreement, and any other documents that are required to be recorded granting any liens or security interests in the Property and/or any improvements constructed thereon; and

- (vi) such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

8. **Conditions to Closing.** Closing on the sale of the Property shall be conditioned upon and subject to the following:

(a) Purchaser and Seller having duly executed the Restriction Agreement in recordable form.

(b) On or before the end of the Entitlement Period, the zoning of the Property being amended, if necessary, such that Purchaser may develop and use the Property for the Required Use as defined in the Restriction Agreement. If the Property is not zoned for such use as of the Effective Date, Seller agrees that Purchaser shall have the right to file an application with Seller to seek an amendment to the zoning regulations affecting the Property (the "**Zoning Regulations**") to allow the Property to be used for the Required Use. The application for rezoning the Property shall be made in the name of Purchaser, prosecuted at the expense of Purchaser, and filed with Seller on or before the last day of the Inspection Period. Nothing in this Agreement and, specifically, this Section 8(b), shall be construed as contractually obligating Seller to grant any amendment to the Zoning Regulations or otherwise waive its legislative discretion to amend the Zoning Regulations in any manner; provided, however, if Seller denies an application to amend the Zoning Regulations in a manner that allows the Property to be used for the Required Use, Purchaser shall have the right, as Purchaser's sole and exclusive remedy, to terminate this Agreement and be paid the Earnest Money (inclusive of the Option Fee), and, thereafter, neither Party shall have any further claim against the other under this Agreement.

(c) On or before the end of the Entitlement Period, the Property being platted so that it constitutes one or more defined, platted lots as determined in accordance with this paragraph (c), applicable provisions of the City of Farmers Branch Subdivision Ordinance, as amended, and state law. Purchaser understands and acknowledges that, as of the Effective Date, the Property is a single unplatted parcel and must be platted into separate platted lots in order for the Property to be developed for the Required Use (the "**Plat**"). Seller agrees to reasonably cooperate in the prosecution of the application for the Plat. With the consent of Seller, the application for the Plat shall be made in the name of Purchaser as required under governing law, prosecuted at the expense of Purchaser, and filed with Seller on or before the last day of the Inspection Period. Nothing in this Agreement and, specifically, this Section 8(c), shall be construed as contractually obligating Seller to approve the Plat or otherwise waive any legislative discretion that Seller may have with respect to approving the Plat; provided, however, if Seller unconditionally denies an application to approve the Plat, Purchaser shall have the right, as Purchaser's sole and exclusive remedy, to terminate this Agreement and be paid the Earnest Money (inclusive of the Option Fee), and, thereafter, neither Party shall have any further claim against the other under this Agreement.

(d) Each of the representations and warranties made by Seller in this Agreement will be true and complete in all material respects on the Closing Date as if made on and as of such date.

(e) Seller will not have failed to materially perform or comply with any of Seller's agreements, covenants or obligations in the manner and within the periods provided herein.

(f) The Title Company will have irrevocably committed to issue the Title Policy.

(g) On the Closing Date, there will be no third party injunction, writ, preliminary restraining order or any order of any nature issued or threatened by a court of competent jurisdiction directing that the transaction contemplated by this Agreement not be consummated, as herein provided.

(h) If the conditions set forth in Paragraphs (b) or (c), above, have not been satisfied on or before the scheduled expiration of the Entitlement Period and Purchaser has made best efforts to obtain such approvals, then the Entitlement Period shall be automatically extended for a period of thirty (30)

days. If the conditions set forth in Paragraphs (b) and/or (c) have still not been approved by the end of said thirty (30) day period, Purchaser may either (i) extend the Entitlement Period for an additional thirty (30) day period, (ii) waive the condition and proceed to Closing, or (iii) terminate this Agreement as Purchaser's sole remedy and receive a refund of the Earnest Money (inclusive of the Option Fee). Purchaser shall file with Seller the required applications for rezoning and the Plat on or before the expiration of the Inspection Period, failing which Seller shall have the option to terminate this Agreement and, as its sole and exclusive remedy, Seller shall be paid the Earnest Money, and thereafter neither Party shall have any further claim against the other under this Agreement.

9. **Permitted Exceptions.**

(a) Purchaser acknowledges and agrees that the Property will be conveyed by Seller at closing subject to the Restriction Agreement, and that the Special Warranty Deed shall contain reference to same. The (i) lien for current taxes not yet due and payable, (ii) the Restriction Agreement, and (iii) other appropriate matters appearing on Schedule B of the Title Commitment that were not cured and to which Purchaser failed to object or otherwise waived objection, shall be deemed to be Permitted Exceptions. Notwithstanding anything to the contrary herein, as a condition of Closing, Seller must resolve at Seller's sole cost the items that are listed on Schedule C of the Title Commitment which are by their nature Seller's responsibility, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this Agreement, and use due diligence to cure the title and survey objections that Seller has agreed to cure.

(b) Purchaser understands, acknowledges, and agrees that all rights-of-ways and easements dedicated to Seller on behalf of the public and which appear on the Plat of the Property or which may affect the Property and which were originally dedicated to Seller by separate instrument prior to the Effective Date, including, but not limited to, any rights-of-way or easements that existed prior to Seller acquiring title to the Property, may be reserved by Seller prior to Closing for itself, its successors and assigns, and the public, which reservations shall constitute Permitted Exceptions at Closing to the extent they affect the Property.

10. **Representations and Covenants.**

Seller represents and covenants that: (a) it has authority to enter into this Agreement, and that this Agreement represents the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms; (b) no other person has any interests in or claims against the Property (other than as reflected by the Title Commitment); (c) it has no knowledge of any uncured violation of applicable laws, rules, regulations, codes or ordinances with respect to the Property, nor of any existence, release or disposal of any toxic or hazardous substance or waste upon or affecting the Property, nor of any pending or threatened litigation affecting the Property; and (d) it will not hereafter encumber the Property, or take any other action with respect to the Property which Seller knows will materially adversely affect the development, lease or other transactions contemplated by this Agreement. Purchaser represents that it has authority to enter into this Agreement and that this Agreement represents the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms. The only representations made by any Party concerning the Property and this Agreement are as set out in this Section 10. The representations set forth in this Section 10 shall survive Closing.

11. **Property Sold As Is.**

(a) Purchaser hereby acknowledges and agrees that the sale of the Property hereunder is and will be made on an "as is, where is and with all faults" basis. The occurrence of Closing shall constitute an acknowledgment by Purchaser that the Property was accepted without representation or warranty.

express or implied (except as otherwise specifically set forth herein and except for the special warranties of title set forth in the Special Warranty Deed).

(b) Except as otherwise specifically set forth in this Agreement and except for the special warranties of title set forth in the Special Warranty Deed, Seller hereby specifically negates and disclaims any representations, warranties or guaranties of any kind or character, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Property, including without limitation (i) the nature and condition of the Property and the suitability thereof for any and all activities and uses which Purchaser may elect to conduct thereon, (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition or any other matter relating in any way to the Property, (iii) the compliance of the Property or its operation with any laws, ordinances or regulations of any government or other authority or body, (iv) the existence of any toxic or hazardous substance or waste in, on, under the surface of or about the Property, (v) geological conditions, including, without limitation, subsidence, subsurface conditions, water table, underground water reservoirs, limitations regarding the withdrawal of water and faulting, (vi) whether or not and to the extent to which the Property or any portion thereof is affected by any stream (surface or underground), body of water, flood prone area, floodplain, floodway or special flood hazard, (vii) drainage, (viii) zoning or land use restrictions rules and regulations to which the Property or any portion thereof may be subject, (ix) the availability of any utilities to the Property or any portion thereof including, without limitation, water, sewage, gas and electric and including the utility availability capacities allocated to the Property by the relevant governmental or regulatory authority, (x) usages of adjoining property, (xi) access to the Property or any portion thereof, (xii) the value, compliance with the plans and specifications, size, location, age, use, design, quality, description, durability, structural integrity, operation, leasing, title to, or physical or financial condition of the Property or any portion thereof, or any income, expenses, charges, liens, encumbrances, rights or claims on or affecting or pertaining to the Property or any part thereof, (xiii) the potential for further development of the Property, or (xiv) the merchantability of the Property or fitness of the Property for any particular purpose (Purchaser affirming that Purchaser has not relied on Seller's skill or judgment to select or furnish the Property for any particular purpose, and that Seller makes no warranty that the Property is fit for any particular purpose).

(c) Purchaser agrees that, prior to the expiration of the Inspection Period, it will have the opportunity to examine and investigate the Property and that, in purchasing the Property, Purchaser will rely solely upon its independent examination, study, inspection and knowledge of the Property, and Purchaser is relying solely upon its own examination, study, inspection, and, except for representations and warranties specifically set forth herein and, except for the special warranties of title set forth in the special warranty deed, and in the bill of sale and assignment, knowledge of the Property and Purchaser's determination of the value of the Property and uses to which the Property may be put, and not on any information provided or to be provided by Seller.

(d) Except as otherwise agrees in Section 11(e), below, Purchaser agrees that Purchaser shall be solely responsible for remediation, and all costs related thereto, of any toxic or hazardous waste or materials determined to exist on the Property that is required under applicable federal or state laws and/or regulations, whether known before Closing or discovered after Closing, to allow the Property to be used for residential purposes and agrees to release and hold Seller harmless from any and all such costs and liability.

(e) Notwithstanding Section 11(d) to the contrary, Seller agrees to reimburse Purchaser an amount not to exceed \$23,000.00 (the "Reimbursement Payment") for costs incurred by Purchaser relating to the remediation and/or removal of any hazardous materials existing on the Property as of Closing, including but not limited to, the removal of asbestos containing materials from the Property. Seller agrees to pay the Reimbursement Payment to Purchaser not later than thirty (30) days after receipt

from Purchaser of copies of receipts, invoices, and/or other documents evidencing Purchaser's payment of costs relating to remediation and/or removal of such hazardous materials from the Property.

(f) The provisions of this Section 11 shall survive the termination of this Agreement and the Closing.

12. **Reservation of Minerals; Waiver of Surface Rights.** Purchaser agrees that Seller, for itself and its successors and assigns, as their interests may appear, reserves from this conveyance unto Seller all oil, gas and other minerals owned by Seller located in and under and that may be produced from the Property to the extent not reserved by prior grantors. The following language regarding Seller's reservation of minerals and waiver of surface rights shall be included in substance in the special warranty deed:

"There is hereby reserved for Grantor and Grantor's successors and assigns, all of Grantor's interest in the oil and gas minerals that are in, on and under the Property and that may be produced from it ("**Grantor's Mineral Interest**"). Grantor hereby agrees that no wells will be drilled on the surface of the Property, and no facilities of any kind (including, but not limited to, roads, pipelines, flow lines, electric power lines, tank batteries or treaters) will be placed on the surface of the Property by Grantor or by any other third party acting pursuant to Grantor's consent or authority; provided, that such facilities are permitted at levels below 500 feet below the surface of the Property to the extent that such facilities do not, in any manner whatsoever, interfere with the surface or subsurface support of the surface of the Property, including any improvements thereon. Grantor further hereby agrees that Grantor shall not have the right to use the surface of the Property and Grantor hereby waives all rights to use the surface of the Property for any purpose, including, but not limited to the right of ingress and egress upon, across and over the surface of any of the Property for the purpose of mining, drilling, accessing, exploring, operating, treating, transporting or developing the Grantor's Mineral Interest or performing seismic or other testing on the Property; provided, however, nothing herein contained shall be construed as waiving or preventing Grantor from exploring for, developing or producing the Grantor's Mineral Interest or lands pooled or unitized therewith, by pooling, by directional or horizontal drilling (including, without limitation, fracturing and other completion techniques) under the Property from surface sites located on tracts other than the Property or by any other method that does not require ingress, egress or use of the surface of the Property; provided further, however, that the well bore for any oil or gas well or any other equipment that enters the subsurface of the Property shall be and remain at a depth of at least 500 feet below the surface of the Property; provided, however, that those operations shall in no manner interfere with the surface or subsurface support of the Property, including any improvements thereon."

13. **Remedies.** If Purchaser defaults, Seller's sole remedy shall be to terminate this Agreement and receive the Earnest Money as liquidated damages, thereby releasing both of the Parties from this Agreement. If Seller defaults, Purchaser's sole remedies shall be (i) to terminate this Agreement and receive a refund of the Earnest Money and the Option Fee, thereby releasing both of the Parties from this Agreement, or (ii) specific performance. No termination shall occur pursuant to a default until the non-defaulting Party has provided written notice of default not less than ten (10) days prior to the proposed date of termination and the defaulting Party has failed to cure the default; provided, however, if all of the Parties have fully performed and all conditions to Closing have been satisfied other than the signing of documents and closing on the sale of the Property and one party fails to perform such necessary acts to deliver funds and execute documents required for Closing on the date of Closing, then this Agreement shall terminate one (1) business day after demand is made to the non-performing party

and the party continues to fail to close on the transaction. Notwithstanding anything herein to the contrary, the failure of Seller to succeed in satisfying the conditions to Closing set forth in Section 8(b) and/or Section 8(c) shall not constitute a default of this Agreement; provided, however, failure of Seller to satisfy said conditions prior to the date of Closing shall entitle Purchaser to the sole remedy of terminating this Agreement and receiving a refund of the Earnest Money and the Option Fee.

14. **Notices.** Notices must be in writing and may be hand delivered and/or mailed by certified mail with return receipt requested, or sent by facsimile transmission, to the addresses stated above. Notice given by delivery service shall be effective upon receipt at the address of the addressee; notice given by mail shall be effective upon earlier of actual receipt or three (3) days after placing the notice in a receptacle of the United States Postal Service, postage prepaid and properly addressed, and notice sent by facsimile transmission shall be effective upon electronic confirmation of receipt. In addition, copies of notices shall be provided to the party's attorney at the addresses indicated above.

15. **Miscellaneous.** This Agreement is subject to the following additional provisions and conditions:

(a) *Entireties.* This Agreement contains the entire agreement of the Parties pertaining to the purchase, sale, and development of the Property.

(b) *Modifications.* This Agreement may only be modified by a written document signed by both Parties.

(c) *Assignment.* Purchaser may not assign its rights under this Agreement without the written consent of Seller, which may be withheld at Seller's sole discretion; provided, however, Purchaser may assign all of Purchaser's rights, title, and interest in this Agreement to an affiliate without the written consent of Seller if (i) such assignment is made in a writing in which the affiliate agrees to assume all of Purchaser's rights and obligations under this Agreement and (ii) written notice of such assignment is delivered to Seller and the Title Company not later than 15 days prior to the Closing Date. Upon any assignment of the Agreement by Purchaser, Purchaser will remain liable for all obligations of Purchaser hereunder, but such assignee will succeed to all of the rights and obligations of Purchaser hereunder and will, for the purposes hereof, be substituted as and be the Purchaser hereunder. For purposes of this paragraph (c), "**affiliate**" means any entity that owns or controls, is owned or controlled by, or is under common ownership or control with, Purchaser, or any entity the ownership of which is substantially the same as the ownership of Purchaser.

(d) *Time is of the Essence.* Time is of the essence with respect to the performance by the Parties of their respective obligations hereunder.

(e) *Effective Date.* The Effective Date of this Agreement shall be the last date on which the authorized representatives of all Parties have signed this Agreement, and the Title Company has acknowledged in writing its receipt of this Agreement as so signed.

(f) *Deadlines and Other Dates.* All deadlines in this Agreement expire at 5:00 p.m. Central Time on the day of such deadline. If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, federal holiday, or a day on which Seller's main offices are not open for regular business, then the end of such period shall be extended to the next day that is not one of the foregoing described days.

(g) *Brokers.* Seller represents that it has been represented by Seller's Broker/Agent in connection with this transaction and will pay a commission to Seller's Broker/Agent pursuant to a

separate agreement between Seller's Broker/Agent and Seller upon Closing and funding of the sale pursuant to this Agreement. Purchaser has been represented by Purchaser's Broker/Agent in connection with this transaction. Seller agrees to pay Purchaser's Broker/Agent from the sales proceeds a commission in the amount of \$26,850.00 upon Closing and funding of the sale pursuant to this Agreement. The Parties represent and warrant they worked with no other broker or agent than those identified in this Agreement relative to this transaction and that no brokerage commission is due and payable upon the Closing other than as provided in this Section 15(g). To the extent allowed by law, each Party shall indemnify each other from any claim for brokers' commissions relative to the sale of the Property and alleged to be due by, through or under the indemnifying Party.

(i) *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes and constitute one and the same instrument; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(j) *Legal Construction.* In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

(k) *Law Governing.* This Agreement shall be construed under and in accordance with the laws of the State of Texas; and venue for any action arising from this Agreement shall be in the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court in any such action.

(l) *Survival of Covenants.* Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive.

(m) *Headings.* Section headings are for convenience of reference only and do not modify or restrict any provisions hereof and shall not be used to construe any provisions.

(Signatures on Following Page)

SIGNED AND AGREED this the 7th day of September, 2021.

Seller: City of Farmers Branch, Texas

By: 
Charles S. Cox, City Manager

SIGNED AND AGREED this the 2 day of September, 2021.

Purchaser:

TCCI Land Company, LLC, a Texas limited liability company

By: TCCI Management Corp., a Texas corporation, its manager

By: 
Tommy N. Cansler, President

RECEIPT OF CONTRACT

Title Company acknowledges receipt of a copy of this Agreement executed by both Seller and Purchaser on the ____ day of _____, 2021.

By: _____

Name: _____

Title: _____

Exhibit "A"
Boundary Description of Property

BEING all of that certain lot, tract or parcel of land situated in the NOAH GOOD SURVEY, ABSTRACT NO. 520, Farmers Branch, Texas, and being all of that same tract of land described in deed to the City Of Farmers Branch, Texas, recorded in Volume 74063, Page 2159 of the Deed Records of Dallas County, Texas, and said tract being more particularly, described as follows:

BEGINNING at a cross cut at the northwest corner of said City of Farmers Branch, Texas tract and in the south R.O.W. line of Spring Valley Road (a 100-foot R.O.W.); said point being N 89° 58' 01" E, 64.70 feet from the northwest corner of Lot 1, Block A of THE VILLAS AT PARKSIDE PHASE 1, an addition to the City of Farmers Branch, Texas, recorded in Volume 95174, Page 4325 of the Deed Records of Dallas County, Texas:

THENCE N 89° 58' 01" E. 208.00 feet along the south line of Spring Valley Road to a 5/8 inch iron rod set at a northerly corner of Lot 1, Block A of said THE VILLAS AT PARKSIDE, PHASE 1 addition;

THENCE S 00° 25' 59" E, 210.80 feet along said Lot 1 and the east line of said City of Farmers Branch, Texas tract to a 3/4" iron rod found for corner;

THENCE S 89° 58' 01" W, 208.00 feet along said Lot 1 and the south line of said City of Farmers Branch, Texas tract to a 5/8 inch iron rod found for corner;

THENCE N 00° 25' 59" W, 210.80 feet along said Lot 1 and the west line of said City of Farmers Branch, Texas tract to the Point of Beginning and containing 43,845.29 square feet or 1.0065 acres of land.

Exhibit "B"
Form of Restriction Agreement

WHEN RECORDED RETURN TO:

City of Farmers Branch, Texas
Attn: City Secretary
13000 William Dodson Parkway
Farmers Branch, Texas 75234

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

STATE OF TEXAS	§	RESTRICTION AGREEMENT
	§	(With Option to Repurchase and Right of First Refusal)
COUNTY OF DALLAS	§	

This **RESTRICTION AGREEMENT** ("Restriction Agreement") is made and entered into as of the Effective Date by and between the **City of Farmers Branch** ("City"), a Texas home rule municipality, and **TCCI Land Company, LLC**, ("Developer") a Texas (City and Developer sometimes hereafter collectively referred to as "Parties" or separately as "a Party" or "the Party")

RECITALS

WHEREAS, as of the Effective Date, pursuant to the Purchase Agreement, Developer has purchased the Land from City; and

WHEREAS, City has, as a condition of the conveyance of the Land to Developer, restricted the use of the Property and required Developer to develop the Property with the Improvements in accordance with the terms and conditions set forth herein;

WHEREAS, Developer desires to grant City (i) an option to repurchase the Land or portions thereof in the event Developer fails to cause Commencement of Construction or Completion of Construction (hereinafter defined) of the Improvements in accordance with this Restriction Agreement and (ii) a Right of First Refusal ("ROFR"), in each case subject to the terms and conditions hereafter set forth; and

NOW, THEREFORE, in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Article I
Land Subject to Declaration

The Land shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Developer and any subsequent owners of all or any part of the Land (as hereinafter defined) for the term specified in Section 6.2, subject to the terms of this Restriction Agreement.

Article II
Definitions

For purposes of this Restriction Agreement, the following words and phrases shall have the following meanings unless the context clearly indicates a different meaning:

“Commencement of Construction” means (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements, (ii) all necessary permits for the construction of the Improvements have been issued by the applicable governmental authorities and (iii) grading of the Land and construction of the building elements of the Improvements (whether located above or below ground) has commenced.

“Completion of Construction” means (i) substantial completion of the Improvements on the Land has occurred, and (ii) a certificate of occupancy has been issued by City for occupancy of the Improvements for the Required Use.

“Developer” means TCCI Land Company, LLC, a Texas limited liability company, and its successors and assigns.

“Effective Date” means the date this Restriction Agreement is signed by the Parties.

“Force Majeure” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, City delay of permits or other approvals, government or de facto governmental action (unless caused by acts of omissions of the Party), fires, explosions or floods, strikes, slowdowns or work stoppages, adverse weather conditions, transportation delays or difficulties, shortages of materials or labor, financial institution shutdowns, epidemic or pandemic, electronic funds transfer delays or difficulties, and economic disruptions.

“Improvements” means all water, sanitary sewer, electrical, landscaping, sidewalks, parking areas, driveways, fire lanes, and other improvements constructed and/or installed on the Land in association with the Required Use.

“Improvement Costs” means Developer’s actual cost incurred and paid for the design and construction of the Improvements, or portion thereof, constructed or installed on the Land, costs relating to demolition and removal of buildings and other improvements located on the Land prior to the Effective Date, relocation and/or removal of utilities existing on the Land prior to the Effective Date. “Improvement Costs” shall not include legal fees, permit fees, costs for the purchase of the Land or easements relating to the provision of access and/or utilities for the Required Use, or interest and other costs for financing the design and construction of the Improvements.

“Land” means the real property described in Exhibit “A” attached hereto [*insert platted lot description prior to Closing if the Plat has been approved and recorded*].

“Option Price” means an amount equal to:

- (a) Eight Hundred Ninety-Five Thousand and No/100 Dollars (\$895,000.00); plus
- (b) the Improvement Costs, if any, minus
- (c) an amount equal to all closing costs incurred by City pursuant to the Purchase Agreement, as applicable.

“Option Period” means that period of time commencing on *[insert date which is 180 days after the date of Closing]*, and ending on the earlier of (a) Completion of Construction of the Improvements or (b) *[Insert date that is one year following the deadline for Commencement of Construction of the Improvements]*.

“Property” collectively means the Land and any Improvements, or portion thereof, following construction thereof on the Land.

“Purchase Agreement” shall mean that certain ***Purchase and Sale Agreement***, as amended or assigned, by and between City and Developer, dated _____, 2021, relating to the sale of the Land by City to Developer.

“Required Use” means the use of the Land for (i) construction of the Improvements, (ii) construction of twenty-four (24) townhome units in accordance with applicable zoning regulations and ordinances, (iii) construction and occupancy of any improvements which are ancillary thereto, and (iv) any other additional compatible use which is approved by in writing by City.

Article III City Repurchase Options

3.1 Grant of Repurchase Options. In consideration of **TEN AND NO/100 DOLLARS (\$10.00)**, in hand paid by City to Developer and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Developer, and subject as hereinafter provided, Developer hereby grants to City an option to repurchase the Property (“**the Option**”).

3.2 Time for Exercising the Option. Subject to Section 3.3, below, the Option may be exercised by City in its sole discretion by providing written notice to Developer upon the occurrence of the following:

(a) any time on or after *[insert date which is 12 months after the date of Closing]*, if Developer has failed to cause Commencement of Construction of the Improvements to occur on or before said date, which date shall be reasonably extended if delays are due to Force Majeure, provided Commencement of Construction has in fact still not occurred on the date of the exercise of the Option;

(b) any time after *[insert date which is 36 months after the date of Closing]*, but before the end of the Option Period, if Commencement of Construction has occurred, but Developer has failed to cause Completion of Construction by *[insert date which is 36 months after the date of Closing]*, which date shall be reasonably extended if delays are due to Force Majeure, provided Completion of Construction of the Improvements has in fact still not occurred on the date of the exercise of the Option.

3.3 Force Majeure. In the event of Force Majeure, Developer shall have such additional time to cause Commencement of Construction or Completion of Construction, as the case may be, so long as Developer is diligently and faithfully pursuing the same. The commencement and termination dates of

the Option Period shall be extended for the same number of days that the performance of Developer with respect to Commencement of Construction or Completion of Construction is extended by Force Majeure.

3.4 Sole Remedy. City's sole and exclusive remedy for Developer's failure to comply with the deadlines for the Commencement of Construction and the Completion of Construction set forth herein shall be the exercise of the Option and repurchase of the Property or portion thereof in accordance with Article VI, below.

Article IV Right of First Refusal

4.1 Grant. Subject to the terms and conditions hereinabove and hereinafter set forth, Developer hereby agrees that City shall have, and hereby grants to City, during the period commencing upon the Effective Date and ending upon the Commencement of Construction ("**the ROFR Period**"), a right of first refusal (the "**ROFR**") to purchase the Land on the terms and conditions set forth herein.

4.2 Notice of Third-Party Offer. If (i) Developer receives a bona fide offer for the purchase of any portion of Land that it intends to accept, or (ii) Developer receives any offer to purchase the Land or any portion thereof from any governmental exercise of the power of eminent domain with respect to the Land, Developer shall give notice thereof in writing to City (the "**Third Party Notice**"). The Third Party Notice shall include a copy of any offer to be made or any offer received by Developer, the proposed purchaser, whether the purchase price is to be paid in cash, securities or evidenced by promissory notes, and the other material terms and conditions of such offer.

4.3 City's Exercise of ROFR. For a period of thirty (30) days after receipt by City of the Third Party Notice, City shall have the right to repurchase the Land, or so much of the Land that is subject to the Third Party Notice, upon the same terms and price as set forth in the Third Party Notice or for the Option Price, whichever is deemed by City to be more favorable to City (the "**ROFR Price**"). The ROFR may be exercised by City by providing written notice to Developer not later than thirty (30) days after City's receipt of the Third Party Notice. City's notice shall indicate acceptance of the terms set forth in the offer as recited in the Third Party Notice or the Option Price, as applicable.

4.4 City Fails to Exercise ROFR. If City does not elect to exercise the ROFR during the thirty (30) day period following its receipt of the Third Party Notice:

(a) Developer may sell the Land, or portion thereof, at the price and on the terms and conditions described in the Third Party Notice during the one hundred eighty (180) day period following the date of the Third Party Notice; and

(b) City shall execute and deliver an acknowledgement, in recordable form, evidencing its waiver of its ROFR with respect to such sale. Developer agrees not to sell the Land, or portion thereof, during the ROFR Period at any lower price, on any terms or conditions more favorable to the buyer than those set forth in the Third Party Notice, or at any time after expiration of the one hundred eighty (180) day period described above, without first giving City the opportunity to exercise the ROFR at such different price, on such altered terms and conditions, or at such later time; and

(c) The ROFR shall remain in full force and effect with respect to any portion of the Land that is not sold by Developer following City's failure to exercise the ROFR with respect to the portion of the Land described in the Third Party Notice.

4.5 No Release of Restrictions Required. City's failure to exercise the ROFR shall not constitute a release of the Option, City's rights to repurchase the Property pursuant to the Option, or the obligations of any subsequent owner of the Land or portion thereof to comply with the obligations of this Restriction Agreement.

Article V
Terms of Sale Upon Exercise of Right

5.1 Effect of Exercise of the Right. Upon any timely exercise of the Option or ROFR (collectively, "the Right") by City in accordance with the foregoing provisions, the conveyance of the Land or the Property, or portion thereof, as applicable to City shall be in accordance with the provisions in this Article V.

5.2. Title, Survey, and Environmental Reports.

(a) Not later than the fifteenth (15th) business day after the exercise of the Right, the Developer shall, at Developer's expense, deliver or cause to be delivered to City:

(i) a current commitment for an Owner's Policy of Title Insurance from the Title Company for the portion of the Property to be conveyed to City, setting forth the state of title to the Property or portion thereof together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment;

(iii) any environmental studies or reports that Developer may have in its possession with respect to the Property;

(iv) copies of all leases and rental agreements creating a leasehold interest in any portion of the Property; and

(v) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years.

(b) Upon any exercise of the Right, the City shall have the right, at its sole discretion, to cause a boundary or "as-built" survey of the Property to be made by a registered professional land surveyor selected by City. Such survey shall be made at the sole cost and expense of City.

(c) City shall, not later than twenty (20) days after City's receipt of the last of the Title Commitment and the Survey (if applicable), notify Developer and Title Company of any objections to the Survey or Title Commitment. If there are objections by City, Developer shall in good faith attempt to satisfy them prior to Closing, but Developer shall not be obligated to incur any cost in doing so. If Developer delivers written notice to City not later than the tenth (10th) calendar day after Developer's receipt of City's objections that Developer is unable to satisfy such objections, City may either waive such objections and accept title as Developer is able to convey or terminate the exercise of the Right by written notice to Developer and the Title Company.

5.3 Closing.

(a) The closing of the sale of the Property or portion thereof identified in the notice exercising the Right shall occur not later than forty-five (45) calendar days following the date of exercise of the Right unless otherwise extended by written agreement of Developer and City.

(b) At the closing, Developer shall deliver to City:

(i) a special warranty deed in form and substance substantially similar to the form used to convey the Land and related rights and appurtenances from City to Developer, conveying good and indefeasible fee title to the Property described in the notice exercising the Right and/or the survey obtained by City (whichever is the most accurate description) to City, free and clear of any and all encumbrances except the Permitted Exceptions (as defined in Section 5.6), save and except such oil, gas, and other minerals as may have been reserved by prior grantors; and

(ii) possession of the portion of the Property described in the notice of the exercise of the Right, free of parties in possession.

(c) At closing, City shall pay in cash or by certified or cashier's check the Option Price or the ROFR Price, whichever is applicable, out of which shall be paid all Closing Costs and other costs and expenses to be paid by Developer pursuant to this Article V.

5.4 Taxes. Developer shall pay at or before Closing all ad valorem taxes, plus any penalties, interest, court costs, and attorneys' fees, if any, due on delinquent amounts not paid, for tax years prior to the year in which Closing occurs assessed against the Property or portion thereof being repurchased. Developer will pay at Closing the pro-rated amount of ad valorem taxes for the Developer's Property for the calendar year of Closing in accordance with Texas Tax Code §26.11.

5.5 Closing Costs.

(a) Developer will pay and be responsible for the following closing cost:

(i) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;

(ii) all fees and premiums for Basic Owner's Title Policy, excluding any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;

(iii) one-half (½) of the Title Company's escrow fees;

(iv) all recording fees;

(v) all costs and expenses incurred by or on behalf of Developer, including Developer's attorney's fees;

(vi) all costs related to obtaining any releases of liens on the portion of the Property relating to any loans secured by a deed of trust lien on said property; and

(vii) such other incidental costs and fees customarily paid by sellers of real property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

- (b) City will pay and be responsible for the following closing cost:
- (i) all fees and premiums for the Survey;
 - (ii) one-half (½) of the Title Company's escrow fees;
 - (iii) all fees and premiums for any deletions from, or modifications of or endorsements, to the Basic Owner's Title Policy;
 - (iv) all costs and expenses incurred by or on behalf of City, including City's attorneys' fees; and
 - (v) such other incidental costs and fees customarily paid by purchasers of property in Dallas County, Texas, for transactions of a similar nature to the transaction contemplated herein.

5.6 Permitted Exceptions. City acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed by Developer at closing subject only to such easements, conditions and restrictions as have been approved or deemed approved by City, including; (i) utility easements granted by subdivision plat or instrument subsequent to the purchase of the Land by Developer; and (ii) such other matters as City may waive, or as Developer is not otherwise obligated to cure or remove.

5.7 Conveyance As Is. City acknowledges and agrees that the Property conveyed pursuant to this Article V will be conveyed "AS IS" with all faults and defects, whether patent or latent, existing as of the Closing. Except with respect to the quality of the title being conveyed by Developer as set forth in the Special Warranty Deed, City acknowledges and agrees that Developer will be making no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property, its condition, or any other matters whatsoever, made to or furnished to City by Developer or any employee or agent of Developer, except as specifically set forth in this Restriction Agreement.

Article VI Restrictions

6.1 Use of Property. No building or improvements shall be constructed, reconstructed, erected, altered, or placed on any portion of the Land other than the Improvements or structures that will be used in conformance with the Required Use. The Property and the Improvements shall be used for no purpose other than the Required Use.

6.2 Term of Restrictions. The restrictions set forth in Section 6.1, above, shall commence on the Effective Date and continue thereafter until the expiration of ten (10) years following the Completion of Construction of the Improvements.

Article VII Miscellaneous

7.1 Enforcement. City shall have the right, but not the obligation, to enforce this Restriction Agreement and any covenants and restrictions contained herein, as the same may be amended as herein provided. Subject to the limitation set forth in Section 6.1, above, enforcement of the provisions set forth in Section 6.1 contained herein may be exercised after failure of any person or persons violating or attempting to violate any covenants or restrictions to cure such violation or breach within two (2) thirty (30) day notice periods after receipt of written notice thereof, by proceeding at law or in equity, against any person or persons violating or attempting to violate any covenants or restrictions, to restrain violation or to recover damages, and failure to enforce any covenant, restriction or condition shall not be deemed a

waiver of the right of enforcement either with respect to the violation in question or any other violation. This Restriction Agreement is not intended to restrict the rights of the City Council of the City of Farmers Branch to exercise its legislative duties and powers insofar as the Property is concerned. For further remedy, Developer, for itself, its successors, and assigns agrees that City, as a third party beneficiary to this Restriction Agreement, may withhold building permits, development approvals, certificates of occupancy and/or final inspection necessary for the lawful use of any portion of the Property not then in compliance with the Required Use. City's right to repurchase the Property pursuant to the exercise of the Right as set forth in this Restriction Agreement constitutes City's sole and exclusive remedy for any failure by Developer to Commence Construction or Complete Construction of the Improvements on the Land in accordance with this Restriction Agreement. The rights of City under this Restriction Agreement may not be waived or released except pursuant to an amendment or termination approved in accordance with the provisions hereof, except by expiration of the Term.

7.2 Amendment. No amendment or termination of this Restriction Agreement shall be effective unless and until approved by Developer and City; provided, however, City may, without the consent of Developer, terminate and release the restrictions set forth in Section 6.1. In the event Developer, or subsequent owner of the Property desires to change, amend or alter the covenants, conditions or restrictions as set forth herein, Developer, or subsequent owner, as the case may be, shall file a written application for such change or amendment with City, which shall approve or deny such application in whole or in part within thirty (30) days after receipt of such application. Any change or amendment approved by City shall not be effective unless and until an instrument executed by City's Mayor or City Manager is recorded in the Official Public Records in the office of the Dallas County Clerk in accordance with this Section.

7.3 Notices. All notices, requests, demands or other communications required or permitted hereunder shall be in writing and shall be deemed to have been fully and completely made when given by hand, by confirmed facsimile transmission, by overnight delivery by Federal Express or other reliable courier or the mailing of such by registered or certified mail, addressed as follows:

If intended for City, to:

City Manager
City of Farmers Branch
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With a copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard, Suite 1800
Dallas, Texas 75201

If intended for Developer, to:

TCCI Land Company, LLC
Attn: Tommy N. Cansler
3930 Glade Road, Suite 108
Colleyville, Texas 76034

With a copy to:

Any Party may at any time and from time to time by notice in writing to the other Party hereto change the name or address of the person to whom notice is to be given as hereinbefore provided.

7.4 Successors and Assigns. This Restriction Agreement shall bind, and inure to the benefit of, the Parties and their respective successors and assigns.

7.5 Governing Law. This Restriction Agreement is entered into and is intended to be performed in the State of Texas, and the validity, enforceability, interpretation and construction hereof shall be determined and governed by the laws (other than conflict of laws provisions) of the State of Texas. Venue for any action under this Restriction Agreement shall be in the state district court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

7.6 Recording. The Parties agree that City may record this Restriction Agreement in the Official Public Records in the office of the Dallas County Clerk. City agrees to execute and file a release of this Restriction Agreement, or the Restriction, Option, ROFR or other applicable portion of this Restriction Agreement, as appropriate, in said records upon request of Developer after the expiration or termination of this Restriction Agreement, or the Restriction, Option, ROFR, or other applicable portion of this Restriction Agreement.

7.7 Covenants Run with the Property. This Restriction Agreement and the restrictions, covenants, and conditions set forth herein are for the purpose of protecting the value and desirability of the Property and accomplishing certain public purposes of the City of Farmers Branch and, consequently, shall run with the Property and be binding on Developer and all parties having all right, title, or interest in the Land, in whole or in part, and their heirs, successors and assigns. These covenants, conditions and restrictions shall be for the benefit of the City of Farmers Branch, Texas. This Restriction Agreement is binding upon Developer and each and every subsequent owner, tenant, subtenant, licensee, manager, and occupant of all or any portion of the Property, but only during the term of such party's ownership, tenancy, license, management or occupancy of the Property, for which such party shall remain liable and shall be binding upon and inure to the benefit of City and its successors and assigns. It is expressly understood and agreed that acceptance of title to all or a portion of the Property shall automatically, and without further acknowledgement or confirmation from the owner, constitute such owner's assumption of the obligations of Developer hereunder.

7.8 Severability. Invalidation of any one of these covenants, conditions, or restrictions by judgment or court order shall in no way affect any other provisions, and all other provisions shall remain in full force and effect.

7.9 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and no statement, promise, representation, or modification hereof by any person, if any, and whether oral or written, shall be binding upon any Party.

7.10 Counterparts. This Agreement may be executed by the Parties in separate counterparts; each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the Parties.

(Signatures on Following Page)

City's Signature Page

SIGNED AND AGREED on this _____ day of _____, 202__.

CITY OF FARMERS BRANCH, TEXAS

[EXHIBIT ONLY – DO NOT SIGN]

By: _____
Charles S. Cox, City Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Acknowledged before me, the undersigned authority, this _____ day of _____, 202__, by Charles S. Cox, City Manager of City of Farmers Branch, a Texas home rule municipality, on behalf of said corporation.

[EXHIBIT ONLY – DO NOT SIGN]

Notary Public, State of Texas

My Commission expires:

Developer's Signature Page

SIGNED AND AGREED on this _____ day of _____, 202__.

TCCI Land Company, LLC, a Texas limited liability company

By: TCCI Management Corp., a Texas corporation, its manager

[EXHIBIT ONLY – DO NOT SIGN]

By: _____
Tommy N. Cansler, President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 202__, by **Tommy N. Cansler**, President of TCCI Management Corp., a Texas corporation, manager of TCCI Land Company, LLC, a Texas limited liability company, for and on behalf of said company.

[EXHIBIT ONLY – DO NOT SIGN]

Notary Public, State of Texas

My Commission expires:

Exhibit "A"
Description of the Land

(to be inserted prior to Closing)