



# Travis County Commissioners Court Agenda Request

**Meeting Date:** July 3, 2012

**Prepared By:** Michael Hettenhausen **Phone #:** 854-7563

**Division Director/Manager:** Anna Bowlin, Division Director, Development Services

**Department Head/Title:** Steven M. Manilla, P.E., County Executive-TNR

**Sponsoring Court Member:** Commissioner Eckhardt, Precinct Two

## **AGENDA LANGUAGE:**

Consider and take appropriate action on the following requests:

- A) A plat for recording: Raceway Single Family Subdivision Section Two Final Plat (A Small Lot Subdivision)(Resubdivision of Lots 16, 17, 24, and 25 Northridge Acres Number Two Subdivision - 69 lots - Travesia Way - City of Austin ETJ); and
- B) A Travis County Subdivision Construction Agreement in Precinct Two.

## **BACKGROUND/SUMMARY OF REQUEST:**

A) This resubdivision final plat consists of 69 single family on 10.576 acres. The proposed plat's boundaries are located within the previously-platted Northridge Acres No. 2 subdivision, and the applicant proposes to resubdivide lots 16, 17, 24, and 25 of the Northridge Acres Number Two subdivision into the Raceway Single Family Subdivision Section Two Final Plat. There are 2,229 linear feet of public streets proposed with this final plat, water and wastewater service will be provided by the City of Austin, and parkland fees in lieu of dedication have been paid to the City of Austin in the amount of \$28,082.54.

The applicant is currently utilizing the county's alternative fiscal agreement and the plat is being held in abeyance until the remaining fiscal has been posted. Fiscal surety in the amount of \$239,189.00 was previously posted with the City of Austin and recently \$283,346.00 has been posted with Travis County. In addition to the street and drainage facilities the developer has constructed on the site, the full fiscal amount of \$522,535.00 has been satisfied.

B) The applicant, Pulte Homes of Texas, wishes to enter into a standard subdivision construction agreement with Travis County.

## **STAFF RECOMMENDATIONS:**

As this plat was approved on December 6, 2011, by the City of Austin Zoning and Platting Commission and approved on January 10, 2012, for alternative fiscal by the Commissioners Court, staff recommends approval of the resubdivision final plat and the subdivision construction agreement.



**ISSUES AND OPPORTUNITIES:**

Public hearings were held on December 6, 2011, at the Zoning and Platting Commission as well as on January 10, 2012, at Commissioners Court; no speakers attended either hearing.

**FISCAL IMPACT AND SOURCE OF FUNDING:**

N/A

**EXHIBITS/ATTACHMENTS:**

Location map  
Precinct map  
Existing final plat  
Proposed final plat  
Subdivision Construction Agreement

**REQUIRED AUTHORIZATIONS:**

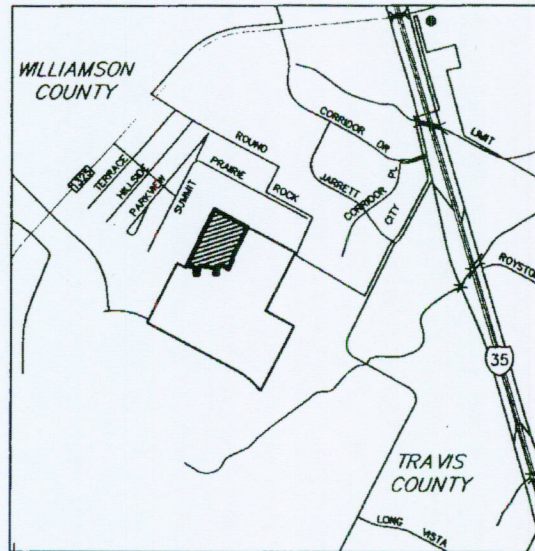
Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429

CC:


SM:AB:mh

1101 - Development Svs- Raceway Section Two Final Plat





RACEWAY CROSSING SECTION 2

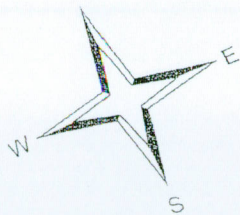
### VICINITY MAP

**J.C. JONES & CARTER, INC.**  
ENGINEERS • PLANNERS • SURVEYORS  
Texas Board of Professional Engineers Registration No. P-125  
1701 Directors Blvd., Suite 400 Austin, Texas 78744 (512) 441-4483

SCALE: 1" = 2000'  
DATE: 6/14/2011  
JOB NO: A598-003



TRAVIS  
COUNTY  
PRECINCT  
MAP



City of  
**Round  
Rock**

RACEWAY  
SECTION  
TWO  
PRECINCT  
TWO

City of  
**Pflugerville**

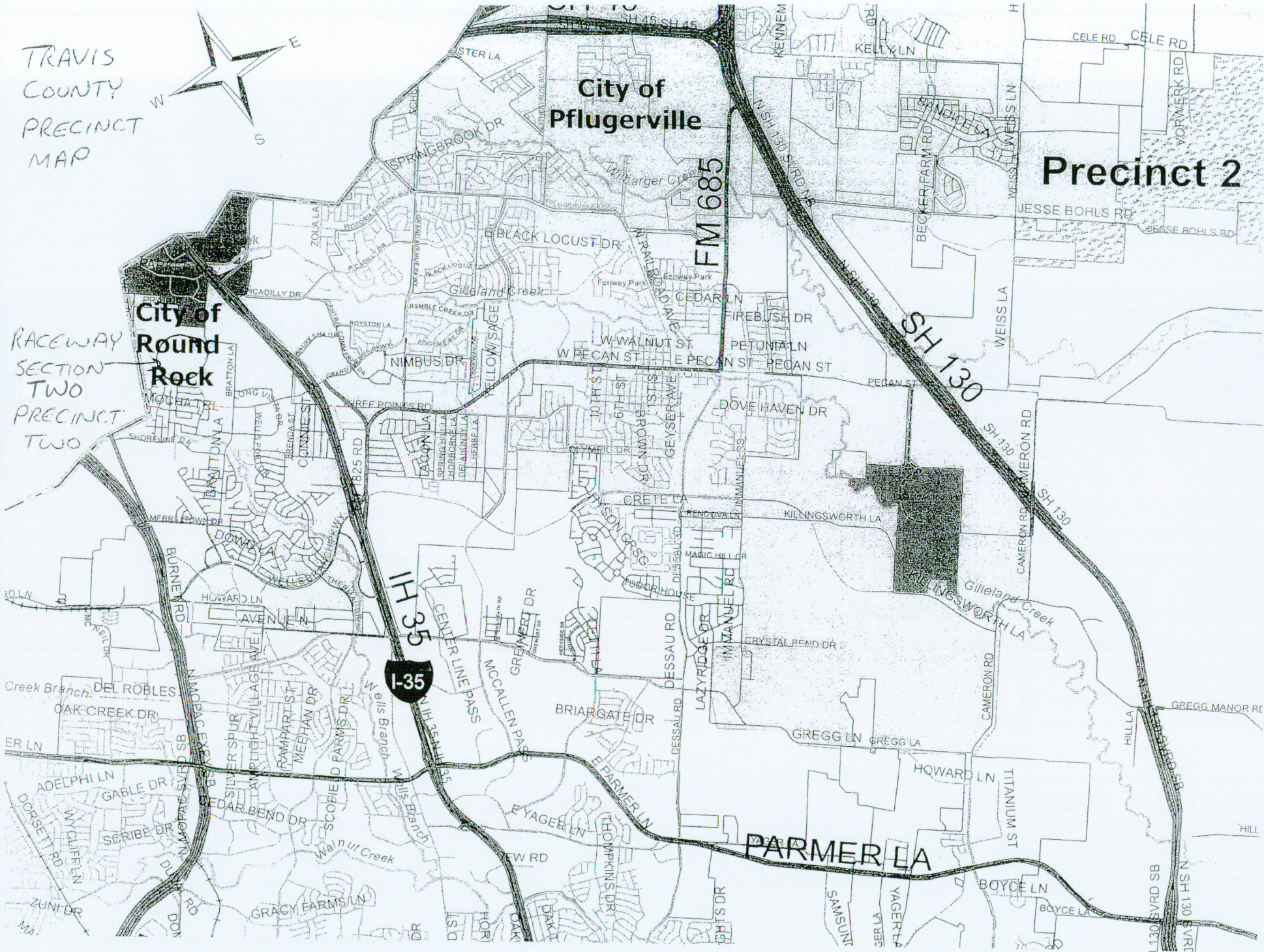
**Precinct 2**

FM 685

SH 130

IH 35  
I-35

PARMER LA





[illegible]

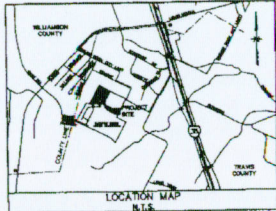
2. Mollie Lightner, County Court of Travis County, Texas, to receive  
 custody on the 1st day of ~~January~~ 1960, the Commissioner  
 of Travis County, Texas, issued an order authorizing the filing for  
 record of this plan and that said order has been duly entered in the  
 minutes of said Court in Book 11 page 148.  
 Witness my hand and seal of the County Court of Travis County, Texas,  
 this 16 day of ~~January~~ 1960.

Emilio Lombardi  
Belle Glade, Fla. County Clerk  
Frank Corio, Texas  
27 L. Claes  
Seymour

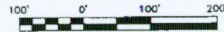


# PROPOSED PLAT

## RACEWAY SINGLE FAMILY SUBDIVISION SECTION TWO (A SMALL LOT SUBDIVISION) TRAVIS COUNTY, TEXAS



- LEGEND**
- 1/2" IRON ROD FOUND (UNLESS NOTED)
  - ▲ P-C NAIL FOUND IN FENCE POST
  - 1/2" IRON ROD SET BY CAP
  - STAMPED "TERRA TERRA"
  - ( ) CONCRETE MONUMENT SET
  - RECORDED INFORMATION
  - ..... SIDEWALK

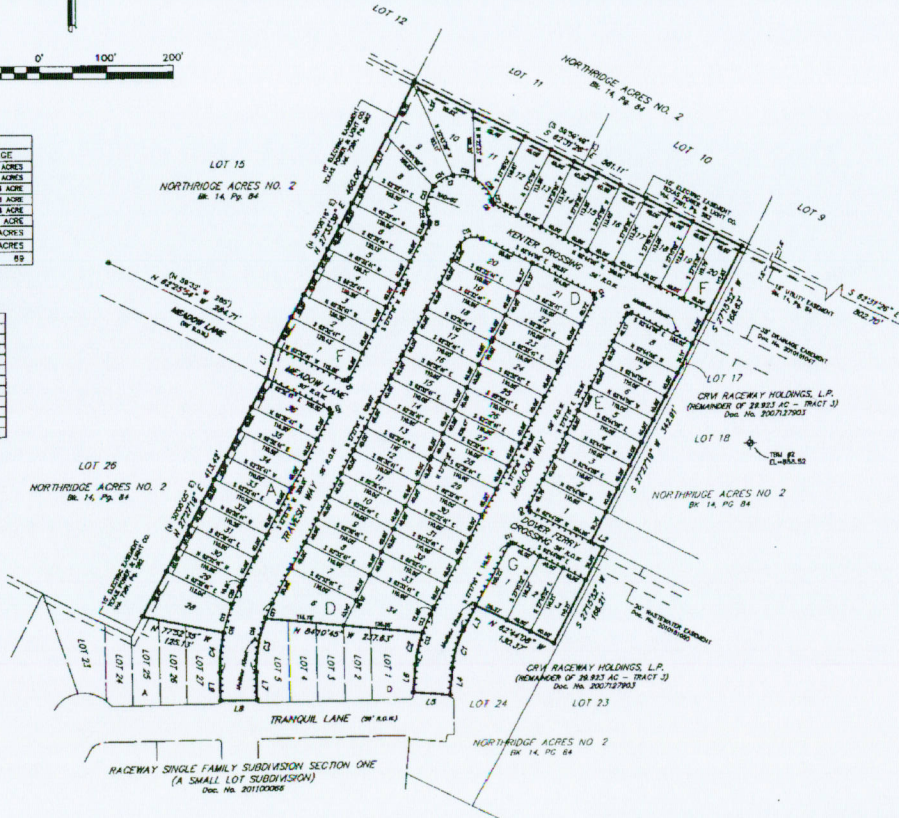


STREET NAMES	R.O.W. WIDTH	CENTERLINE LENGTH
WALKER WAY	56 FT.	830 FT.
MEADOW LANE	50 FT.	143 FT.
KENTLEY CROSSING	56 FT.	403 FT.
WALKER WAY	56 FT.	883 FT.
DOVER FERRY CROSSING	56 FT.	158 FT.
TOTAL		2,229 FT.

DESCRIPTION	ACREAGE
SINGLE FAMILY LOTS	2.744 ACRES
WALKER WAY	1.381 ACRES
MEADOW LANE	0.133 ACRES
KENTLEY CROSSING	0.413 ACRES
WALKER WAY	0.688 ACRES
DOVER FERRY CROSSING	0.167 ACRES
TOTAL RIGHT-OF-WAY	2.832 ACRES
TOTAL AREA	10.576 ACRES
TOTAL NO. OF LOTS	69

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	152.00'	29.02'	26.12'	S 181°17' E
C2	208.00'	56.24'	50.12'	N 11°58'52" E
C3	222.00'	84.82'	84.31'	S 08°58'20" W
C4	278.00'	82.45'	82.35'	N 02°47'00" E
C5	1.00'	7.85'	7.07'	S 72°27'19" W
C6	5.00'	4.84'	4.47'	S 00°53'25" W
C7	30.00'	17.10'	28.02'	S 72°27'19" W
C8	5.00'	4.84'	4.47'	N 38°10'14" W
C9	5.00'	7.84'	7.08'	S 72°27'19" W
C10	5.00'	7.87'	7.08'	S 17°26'00" E
C11	5.00'	7.84'	7.08'	N 72°27'19" E
C12	208.00'	81.42'	80.80'	S 181°47' W
C13	208.00'	31.18'	31.18'	S 23°38'57" W
C14	5.00'	7.87'	7.08'	N 17°38'25" W
C15	25.00'	38.18'	35.30'	S 72°27'19" W
C16	222.00'	110.15'	108.02'	S 13°44'51" W
C17	222.00'	29.33'	26.32'	S 24°11'12" W
C18	278.00'	127.84'	126.53'	S 13°44'51" W
C19	278.00'	46.21'	46.18'	S 19°26'50" W
C20	278.00'	29.24'	26.33'	S 24°26'50" W
C21	5.00'	7.85'	7.07'	S 17°26'00" E
C22	60.00'	22.84'	22.44'	S 12°42'25" E
C23	50.00'	35.00'	34.20'	S 20°18'51" E
C24	50.00'	35.00'	34.20'	S 60°29'17" W
C25	50.00'	35.00'	34.20'	N 72°28'18" W
C26	50.00'	41.69'	40.50'	N 39°21'47" W
C27	50.00'	1.78'	1.78'	N 10°37'42" W

LINE	BEARING	DISTANCE
L1	N 18°57'11" E	31.12'
L2	S 87°44'08" E	13.81'
L3	S 27°27'19" W	44.29'
L4	S 05°07'35" W	43.27'
L5	N 84°46'55" E	28.00'
L6	N 02°50'30" E	43.17'
L7	S 00°58'22" E	43.80'
L8	S 84°01'35" W	28.00'
L9	N 00°58'22" E	43.80'



### BEARING BASIS NOTE:

HORIZONTAL DATUM BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, TEXAS CENTRAL ZONE. COORDINATES AND DISTANCES SHOWN ARE SURFACE VALUES. COMBINED SCALE FACTOR IS 1.0001183058.

### BENCHMARK NOTES:

BM #1 - TEMPORARY BENCHMARK FOR THIS SURVEY IS A COTTON GIN SPINDLE SET IN TOP BACK OF CURB AT EAST END OF MEADOW LANE ALONG THE CENTER OF SPANNE AVENUE PARKWAY NEAR THE SOUTHWEST CORNER OF RACEWAY SINGLE FAMILY SUBDIVISION SECTION ONE (A SMALL LOT SUBDIVISION), AS RECORDED IN DOC. NO. 201100006 (ELEVATION=875.90) (NAVD 88 DATUM)

BM #2 - TEMPORARY BENCHMARK FOR THIS SURVEY IS A COTTON GIN SPINDLE SET IN ASPHALT +/- 140' SOUTHEAST OF THE SHARED REAR PROPERTY CORNER OF LOTS 6 & 7, BLOCK E AND +/- 153' SOUTHEAST OF THE SHARED REAR PROPERTY CORNER OF LOTS 8 & 9, BLOCK E (ELEVATION=868.52) (NAVD 88 DATUM)

SURVEYOR:

**terra** LAND SURVEYING

1701 Directors Building, Suite 400, Austin, Texas 78744 817/288-9272 Fax 817/448-2386

ENGINEER:

**JC JONES & CARTER, INC.**  
ENGINEERS-PLANNERS-SURVEYORS  
Texas Board of Professional Engineers Registration No. T-439

1701 DIRECTORS BLVD., STE. 400  
AUSTIN, TEXAS 78744  
(512) 441-8403 (Phone)  
(512) 440-2386 (Fax)

SHEET 1 OF 2

FILE: J:\Projects\AS08\003\Survey\Drawing Files\Final Plat - Sec 2.dwg	
J:\Projects\AS08\003\Survey\Point Files\AS08B-Final Plat Sec. 2.crd	
JOB NO: 0408-003-00300	DRAWN BY: JSC
DATE: May 26, 2011	CHECKED BY: JSC
SCALE: 1"=100'	REVISED: October 25, 2011

**RACEWAY SINGLE FAMILY  
SUBDIVISION SECTION TWO  
(A SMALL LOT SUBDIVISION)**

COA CASE NO.: C&J-2010-0036.2A



STATE OF TEXAS X  
COUNTY OF TRAVIS X

## RACEWAY SINGLE FAMILY SUBDIVISION SECTION TWO (A SMALL LOT SUBDIVISION) TRAVIS COUNTY, TEXAS

That, Pulte Homes of Texas, L.P., a Texas limited partnership, acting herein by and through Pulte Nevada I LLC, a Delaware limited liability company, its General Partner, by Brent Baker, Vice President of Land, owner of 10.576 acres of land out of the George W. Spoor Survey No. 100, Travis County, Texas, as conveyed to it by special warranty deed recorded in Document No. 2011-014 of the Official Public Records of Travis County, Texas, does hereby subdivide said 10.576 acres, being a portion of Lots 16, 17, 24 and 25, Northridge Area No. 2, a subdivision as recorded in Book 14, Page 84 of the Plat Records of Travis County, Texas, together with a portion of Meadow Lane as vacated by order vacating a public road, as recorded in Volume 3175, Page 254 of the Deed Records of Travis County, Texas, said 10.576 acres having been approved for subdivision pursuant to Section 212.014 of the Texas Local Government Code, does hereby subdivide said 10.576 acres of land in accordance with the plat shown herein, to be known as RACEWAY SINGLE FAMILY SUBDIVISION SECTION TWO (A SMALL LOT SUBDIVISION), and does hereby dedicate to the public the use of the streets and easements shown herein subject to any easements, covenants or restrictions heretofore granted and not released.

WITNESS MY HAND, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D.

Pulte Homes of Texas, L.P., a Texas limited partnership  
1501 Sun City Blvd.  
Georgetown, TX 78633

By \_\_\_\_\_  
Brent Baker, Vice President of Land  
Pulte Nevada I, LLC, a Delaware limited liability company  
its General Partner

STATE OF TEXAS X  
COUNTY OF TRAVIS X

Before me, the undersigned authority on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and he acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

Notary Public, State of Texas

Print Notary's Name \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

I, Jonathan O. Nobles, am authorized under the laws of the State of Texas to practice the profession of surveying, and hereby certify that this plat complies with Title 30 of the Austin City Code as amended, is true and correct to the best of my ability, and was prepared from an actual survey of the property made under my supervision on the ground.

*Jonathan O. Nobles*  
Jonathan O. Nobles  
Registered Professional Land Surveyor No. 5777  
Date: 11/11/2011



TERRA FIRMA LAND SURVEYING  
1701 Directors Blvd., Suite 400  
Austin, Texas 78744

### FLOOD PLAIN NOTE:

No portion of this tract is within the designated flood hazard area as shown on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) #4453C0200K, Travis County, Texas, dated September 26, 2008, Community #481026.

I, Garmon N. Perry, am authorized under the laws of the State of Texas to practice the profession of engineering, and hereby certify that this plat is feasible from an engineering standpoint and complies with Title 30 of the Austin City Code as amended and is true and correct to the best of my knowledge.

*Garmon N. Perry*  
Garmon N. Perry  
Registered Professional Engineer No. 99300  
Date: 11/11/2011



JONES & CARTER, INC.  
1701 Directors Blvd., Suite 400  
Austin, Texas 78744

This subdivision is within the 2-mile extrajurisdictional jurisdiction of the City of Austin, Texas, as of this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D.

ACCEPTED AND AUTHORIZED FOR RECORD by the Director, Planning and Development Review Department, City of Austin, Travis County, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Greg Overmyer, Director  
Planning and Development Review Department

ACCEPTED AND AUTHORIZED FOR RECORD by the Zoning and Platting Commission of the City of Austin, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D.

Chairperson \_\_\_\_\_ Secretary \_\_\_\_\_

SURVEYOR

**terra firma** LAND SURVEYING

1701 Directors Boulevard, Suite 400 Austin, Texas 78744 812/228-8278 Fax 812/448-3388

ENGINEER

**JC JONES & CARTER, INC.**  
ENGINEERS • PLANNERS • SURVEYORS

Texas Board of Professional Engineers Registration No. F-439  
1701 DIRECTORS BLVD., STE. 400  
AUSTIN, TEXAS 78744  
(812) 441-8483 (Phone)  
(812) 440-2284 (Fax)

### NOTES (cont.):

- Endowed storm sewer pipes will be located in drainage easements a minimum of 15 feet wide. Easements for open channels shall be a minimum of 25 feet wide.
- Erosion/Sedimentation controls are required for all construction on each lot pursuant to Land Development Code, and the Environmental Criteria Manual. It shall be the responsibility of the lot owner/builder to install and maintain temporary erosion controls (silt fence), revegetation and tree protection for all disturbed areas during the period of construction until disturbed areas are adequately stabilized against erosion pursuant to the City of Austin Land Development Code.
- All disturbed areas within each phase of this project shall be revegetated and all permanent erosion/sedimentation controls completed prior to the issuance of occupancy permits for that phase. Temporary E/S controls shall be adjusted as needed prior to this release to ensure that subsequent phase disturbed areas are adequately covered. Additionally, any area within the limits of construction of the project which is not adequately revegetated shall be brought into compliance prior to the release of the final phase.
- The owner/developer of this subdivision/lot is responsible for providing the subdivision infrastructure, including water and wastewater improvements, offsets, mass extinctions, and system upgrades.
- Water and wastewater service shall be provided by the City of Austin. No lot in this subdivision shall be occupied until the building is connected to the City of Austin's water and wastewater systems.
- The water and wastewater utility system serving this subdivision must be in accordance with the city design criteria and standards. The water and wastewater utility plan must be reviewed and approved by the Austin water utility. The water and wastewater utility construction must be inspected by the city.
- Electric service will be provided by Oncor Electric Delivery. Telephone service will be provided by AT&T.
- This subdivision will be designed in accordance with 30-2-232 of the Land Development Code.
- All corner lots shall be a minimum 4,500 square feet.
- The owner of this subdivision, and his or her successors and assigns, assumes responsibility for plans for construction of subdivision improvements which comply with applicable codes and requirements of the City of Austin. The owner understands and acknowledges that just vacation or replating may be required, at the owner's sole expense, if plans to construct this subdivision do not comply with such codes and requirements.
- No construction or placement of structures including buildings, sheds, pools, landscaping or gardens is allowed within a critical environmental feature buffer zone per the City of Austin's Land Development Code.
- Maintenance of the water quality controls required above shall be according to City of Austin standards.
- Water quality controls are required for all development with impervious cover in excess of 20% of the Net Site Area of each lot pursuant to Land Development Code.
- Travis County Development Permit is required prior to site development.
- No objects, including but not limited to, buildings, fences or landscaping shall be allowed in a drainage easement except as approved by Travis County (and other appropriate jurisdictions).
- This subdivision will utilize offsets storm water conveyance, detention, and water quality controls. The offsets storm sewer line is within a drainage easement recorded in Document No. 2010151047 and water quality pond is within a drainage easement recorded by separate instrument Document No. 2010151046 of the Official Public Records of Travis County, Texas, and will be constructed with the subdivision infrastructure.
- By approving this plat, the City of Austin assumes no obligation to construct any infrastructure in connection with this subdivision. Any subdivision infrastructure required for the development of lots in this subdivision is the responsibility of the developer and/or owners of the lots being occupied. Failure to construct any required infrastructure to City standards may be just cause for the City to deny applications for certain development permits including building permits, site plan approvals, and/or certificates of occupancy.
- A ten foot (10') Public Utility Easement (PUE) is hereby dedicated adjacent to all right-of-way.
- Public sidewalks, built to City of Austin standards, are required along the following streets and as shown by a dotted line on the face of the plat: TRAVESIA WAY, MEADOW LANE, KENTER CROSSING, McALON WAY and DOVER FERRY CROSSING. These sidewalks shall be in place prior to the lot being occupied. Failure to construct the required sidewalks may result in the withholding of Certificates of Occupancy, building permits, or utility connections by the governing body or utility company.
- No construction on Raceway Single Family Subdivision Section Two shall commence until the water quality infrastructure per Raceway Single Family Subdivision Section One (08-2010-002618) has been constructed and accepted.
- It is declared that all of the property of the subdivision shall be held, sold and conveyed subject to the following restrictions, covenants and conditions contained in the deed restrictions on file in Document No. 2010151050 of the Official Public Records of Travis County, Texas.

SHEET 2 OF 2

FILE	J:\Projects\A558\003\Survey\Drawing Files\Final Plot - Set 2.dwg	
	J:\Projects\A558\003\Survey\Print Files\A558-003-Final Plot Set 2.pdf	
DRAW NO.	0000-003-0000	DRAWN BY: JSC
DATE	May 26, 2011	CHECKED BY: JSC
SCALE	1"=100'	REVIEWED: August 16, 2011

**RACEWAY SINGLE FAMILY  
SUBDIVISION SECTION TWO  
(A SMALL LOT SUBDIVISION)**

COA CASE NO.: CBJ-2010-0036.2A



## EXHIBIT 82.401 (E) SUBDIVISION CONSTRUCTION AGREEMENT

STATE OF TEXAS  
COUNTY OF TRAVIS

This Agreement is made and entered into by and between Pulte Homes of Texas, L.P., (the "Subdivider") and Travis County, Texas, (the "County"), hereinafter collectively referred to as the "Parties".

WHEREAS, the Subdivider owns the tract of real property described in Exhibit "A", which is attached hereto and made a part hereof, (the "Property"); and

WHEREAS, the Subdivider desires to subdivide the Property, pursuant to the proposed final plat of "Raceway Single Family Subdivision Section Two" (the "Subdivision"); and

WHEREAS, the County desires to set forth the Subdivider's responsibility for the construction of the Subdivision's roads and drainage facilities (the "Improvements"); and

WHEREAS, the Subdivider desires to set forth the County's responsibility to accept the constructed Improvements for maintenance;

NOW, THEREFORE, the Parties agree as follows:

### I. Subdivider's Obligations

A. Improvements. The Subdivider shall construct the Improvements required to comply with the County's Standards for the Construction of Streets and Drainage in Subdivisions (the "Standards"). The Improvements will conform to the construction plans, permits, and specifications approved by the County prior to commencement of construction.

B. Security. To secure the Subdivider's obligations, the Subdivider will provide a financial guarantee of performance in the amount of the estimated cost of constructing the Improvements (the "Security"), which has been determined by a professional engineer and approved by the County's Transportation and Natural Resources Department ("TNR"). The Security must be in a form approved for use in the Standards or otherwise approved by the County Attorney's Office.

C. Alternative Fiscal. Notwithstanding any other provisions of this Agreement, the Subdivider may request the Commissioners Court to hold the administratively approved plat in abeyance until all streets, alleys, sidewalks, and drainage improvements in the Subdivision. The Subdivider must post fiscal security to secure restoration of disturbed areas should construction not be completed. Upon satisfactory completion, the submitted plat shall be forwarded to the Commissioners Court for approval and recording, provided adequate fiscal security has been posted to secure the one year Construction Performance Period described below.



D. Completion. The Improvements must be constructed no later than three (3) years after the effective date of this Agreement. This period may be extended by the delivery to the County at least forty five (45) days prior to the expiration of the Security of an extension of the Security in a form approved by the County. Upon completion of the Improvements, the Subdivider will provide the County with a complete set of construction plans for the Improvements, certified "as built" by the engineer responsible for preparing the approved construction plans and specifications.

E. Warranty. The Subdivider warrants the public Improvements will be free from defects for a period of one (1) year from the date the County accepts the construction of the public Improvements (the "Performance Period"). The Subdivider shall correct and repair any defects in materials or workmanship, including design inadequacies and damage to or deterioration of the public Improvements that occur before and during this Performance Period due to any cause. As a condition of the County's acceptance of dedication of any of the public Improvements, the Subdivider must post fiscal security in the form of cash, a performance bond, or other approved form and in the amount of ten percent (10%) of the cost of constructing the public Improvements, to secure the warranty established by this Agreement. It is expressly acknowledged that the public Improvements must meet County Standards at the end of the one year Construction Performance Period in order for the County to release the construction performance fiscal security.

F. Increase in Security. If the County determines the cost of constructing the Improvements exceeds the posted Security, within thirty (30) days after notice and demand, the Subdivider shall provide additional Security in an amount equal to the additional estimated cost.

G. Reduction in Security. During the construction of the Improvements, the Security may be reduced in accordance with the percentage of completion of the construction. The Executive Manager of TNR will execute Statements of Partial Reductions in the Amount of Security, when provided with the following documentation:

- 1) a professional engineer's certification of quantities of work completed;
- 2) a contractor's invoice for work completed; and
- 3) a TNR inspection report, indicating the completion of the portion of the work represented by the contractor's invoice.

After the approval and acceptance of the construction of the Improvements, the Security for the public Improvements may be reduced by ninety percent (90%) of the cost of the approved construction and held for the one-year Performance Period. After the approval of the construction of the private Improvements, the Security posted for the private Improvements will be fully released. In addition, the County agrees to release or reduce, as appropriate, the Security provided by the Subdivider, if the County accepts a substitute Security for all or any portion of the Improvements.



H. Covenant, Restriction, and Condition. In the event that the Improvements are not constructed to County Standards and the required Security has expired, the Subdivider shall not sell, transfer, or convey any of the lots in the Subdivision until sufficient Security has been posted with the County for the completion of the construction.

## II. County's Obligations

A. Inspection and Approval. The County will inspect the Improvements during and at the completion of construction. If the Improvements are completed in accordance with the Standards, the County will approve the Improvements and accept the public Improvements.

B. Notice of Defect. The County will notify the Subdivider, if an inspection reveals that any portion of the Improvements is not constructed in accordance with the Standards or is otherwise defective. However, the County is not responsible for the construction of the Improvements, the quality of the material, or the construction methods utilized. In addition, the County is not responsible for making continuous on-site inspections of the construction work and the County has no privity with or responsibility for the construction contractor or any subcontractors. The Subdivider will have thirty (30) days from such notice to cure the defect. It is an event of default under this Agreement, if the defect is not cured prior to the expiration of the time to cure.

C. Performance Period Security Release. Upon the expiration of the one-year Performance Period with no damages or defects which the Executive Manager notifies the Subdivider must be corrected, the Executive Manager will release the Performance Period Security.

D. Conditions to Draw on Security. The County may draw upon any Security posted under this Agreement upon the occurrence of one or more of the following events:

- a. The failure of the Subdivider to construct the Improvements to the applicable County Standards;
- b. The Subdivider's failure to renew or replace the Security at least forty-five (45) days prior to its expiration;
- c. The acquisition of the Property or a portion of the Property by the issuer of the Security or other creditor through foreclosure or an assignment or conveyance in lieu of foreclosure;
- d. The arrangement by the Commissioners Court for the completion of one or more of the Improvements; or
- e. The determination by the Commissioners Court that the completion of one or more of the public Improvements is in the public Interest.



E. Notice of Intent to Draw. The County shall provide ten (10) days written notice of the occurrence of such an event to the Subdivider with a copy provided to any fiscal surety, lender, or escrow agent. The notice will include a statement that the County intends to provide for the performance of some or all of Subdivider's obligations hereunder for the construction of the Improvements, if the failure is not cured. The County shall be entitled to draw the amount it considers necessary to perform the Subdivider's obligations under this Agreement up to the total amount allocated for the Improvements. In lieu of a drawing based on an event described in subparagraphs (b) or (c), above, the County may accept a substitute Security.

F. Use of Proceeds.

- 1) The County must utilize the proceeds of any posted security solely for the purpose of completing the Improvements to the County's Standards or to correct defects in or failures of the Improvements.
- 2) The County may in its sole discretion complete some or all of the unfinished Improvements at the time of default, regardless of the extent to which development has taken place in the Subdivision or whether development ever commenced, without incurring any obligation to complete any of the unfinished Improvements. If the County uses the proceeds to complete, repair, or reconstruct the Improvements, it will do so as a public trustee of the development process in order to protect purchasers and taxpayers from the adverse consequences of a subdivider default or to protect the public interest by completing the Improvements.
- 3) The County is not a private subdivision developer and its draft on the Security and utilization of the proceeds to complete, repair, or reconstruct the Improvements is not an acceptance of the dedication of the Improvements. The acceptance of the Improvements is specifically contingent upon the delivery to the County of Improvements, which have been constructed to County Standards or the express order of acceptance by the County's Commissioners Court.
- 4) The Subdivider has no claim or rights under this Agreement to funds drawn under the Security or any accrued interest earned on the funds to the extent the same are used by the County hereunder.
- 5) All funds obtained by the County pursuant to one or more draws under the Security shall be maintained by the County in an interest bearing account or accounts until such funds, together with accrued interest thereon (the "Escrowed Funds"), are disbursed by the County.
- 6) The County shall disperse all or portions of the Escrowed Funds as Improvements are completed by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of the Improvements.



7) Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with any interest accrued thereon, shall be paid by the County to the Issuer of the Security or, if the Security was originally in the form of cash, to the Subdivider, no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvements using Escrowed Funds, whichever date is earlier.

G. Releases. The Executive Manager will, subject to the performance of the Subdivider of its obligations under this agreement and the Travis County Standards for Construction of Streets & Drainage in Subdivisions, execute such releases of this Agreement as are necessary and reasonable upon the request of the Subdivider or a purchaser of a portion of the Property.

### III. MISCELLANEOUS

A. Covenants, Restrictions, and Conditions. These Covenants, Restrictions, and Conditions will operate as covenants running with the land and will be binding upon the Subdivider and the Subdivider's legal representatives, successors and assigns.

B. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the actual cost of completing the Improvements in conformance with the County's Standards, including without limitation its associated administrative expenses.

C. Remedies. The remedies available to the County and the Subdivider under this Agreement and the laws of Texas are cumulative in nature.

D. Third Party Rights. No non-party shall have any right of action under this Agreement, nor shall any such non-party, including without limitation a trustee in bankruptcy, have any interest in or claim to funds drawn on the posted Security and held in escrow by the County in accordance with this Agreement.

E. Indemnification. The Subdivider shall indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees, for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County, if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements.

F. No Waiver. The waiver of any provision of this Agreement will not constitute a waiver of any other provision, nor will it constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement. The County's failure to enforce any provision will not constitute a waiver or estoppel of the right to do so.



G. Attorney's Fees. The prevailing party in any litigation hereunder is entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs.

H. Successors and Assigns. This Agreement is binding on the Subdivider and the heirs, successors, and assigns of the Subdivider and on any person acquiring an ownership interest in the Property through the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the written approval of the County; provided the County's approval shall not be unreasonably withheld if the Subdivider's assignee expressly assumes all obligations of the Subdivider under this Agreement. An assignment shall not be construed as releasing the Subdivider from Subdivider's obligations under this Agreement and Subdivider's obligations hereunder shall continue notwithstanding any assignment approved pursuant to this Paragraph unless and until the County executes and delivers to the Subdivider a written release. The County agrees to release the Subdivider, if the Subdivider's assignee expressly assumes the Subdivider's obligations under this Agreement and has posted the Security required by this Agreement. The County in its sole discretion may assign some or all of its rights under this Agreement and any such assignment shall be effective upon notice to the Subdivider.

I. Expiration. This Agreement will terminate upon the vacation of the Subdivision by the Subdivider or the completion of the Subdivider's obligations under this Agreement, whichever occurs first.

J. Notice. Any notice under this Agreement must be in writing and will be effective when personally delivered or three (3) days after deposit in the U.S. Mail, postage prepaid, certified with return receipt requested, and addressed as follows:

Subdivider: Pulte Homes of Texas, L.P.  
12301 B Riata Trace Pkwy, Building 2  
Austin, TX 78727

County: Transportation & Natural Resources Department  
P.O. Box 1748  
Austin, Texas 78767  
Attn: Executive Manager

Copy to: Travis County Attorney's Office  
P.O. Box 1748  
Austin, Texas 78767

The parties may change their respective addresses for notice to any other location in the United States in accordance with the provisions of this Paragraph.



K. Severability. If any provision of this Agreement is held by a court to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability shall not affect the validity of any other provision and the rights of the parties will be construed as if such provision was never part of this Agreement.

L. Jurisdiction and Venue. This Agreement concerns real property located in Travis County, Texas, and shall be governed and construed under Texas law. Venue for any action arising under this Agreement shall be exclusively in Travis County, Texas.

M. Captions Immaterial. The captions or headings of the paragraphs of this Agreement are for convenience only and shall not be considered in construing this Agreement.

N. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. Any oral representations or modifications concerning this Agreement shall be of no force or effect, except a subsequent written modification executed by both parties. NO OFFICIAL, EMPLOYEE, OR AGENT OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, MODIFY, OR OTHERWISE CHANGE THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT.

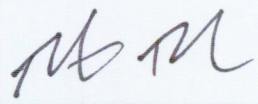
This Agreement is executed as of the dates set forth below and is effective upon approval by the County of the final plat for the Subdivision or upon approval of Alternative Fiscal in accordance with County regulations.

TRAVIS COUNTY, TEXAS

SUBDIVIDER:

\_\_\_\_\_  
County Judge

Date:

By:   
\_\_\_\_\_  
Name: Brent Baker  
Title: Vice President of Land  
Authorized Representative  
Date: June 19, 2012

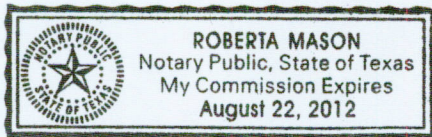


ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 19 day of June 2012, by Brent Baker, in the capacity stated herein.



*Roberta Mason*

Signature of Notary

After Recording Return to:

Executive Manager, Transportation and Natural Resources  
P.O. Box 1748  
Austin, Texas 78767