



Item 4

Travis County Commissioners Court Agenda Request

Meeting Date: April 23, 2013

Prepared By: Sue Welch **Phone #:** 854-7637

Division Director/Manager: Anna Bowlin, Division Director, Development Services and Long Range Planning

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

Sponsoring Court Member: Commissioner Davis, Precinct One

AGENDA LANGUAGE: Consider and take appropriate action on the following in Precinct One: Approval of revised Phasing Agreement for Bellingham Meadows, Preliminary Plan Phases I & II, between Travis County and First Continental Investments Co., Ltd.

BACKGROUND/SUMMARY OF REQUEST:

The applicant proposed a minor revision to the preliminary plan to reduce the number lots. The revised preliminary plan now consists of 624 single family lots, 16 easement lots, two park lots and approximately 25,808 linear feet of right-of-way. The minor revision of the preliminary plan meets all Single Office standards and was approved by the City of Austin and Travis County staff.

The proposed revision to the Phasing Agreement includes updating the current owners' name and revisions to the language for developer's and the County's obligations. As part of the phasing agreement, the owners have agreed to upgrade Bellingham Drive between Boyce Lane and Parmer Lane to a four-lane, two-way street. Prior to the recordation of a subdivision plat for the first section of Bellingham Meadows, the Developer will post fiscal with Travis County for the costs of the improvements in the Phasing Agreement.

STAFF RECOMMENDATIONS:

As this request has been reviewed by Travis County TNR staff, and finds this use of the subject agreement meets all Travis County standards, staff recommends approval.

ISSUES AND OPPORTUNITIES:

At this time, staff has not received any inquires from adjacent owners.

FISCAL IMPACT AND SOURCE OF FUNDING:

None.

ATTACHMENTS/EXHIBITS:

Revised Preliminary Plan
Location Map
Precinct Map
Revised Phasing Agreement

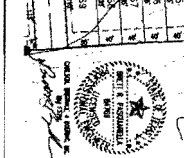
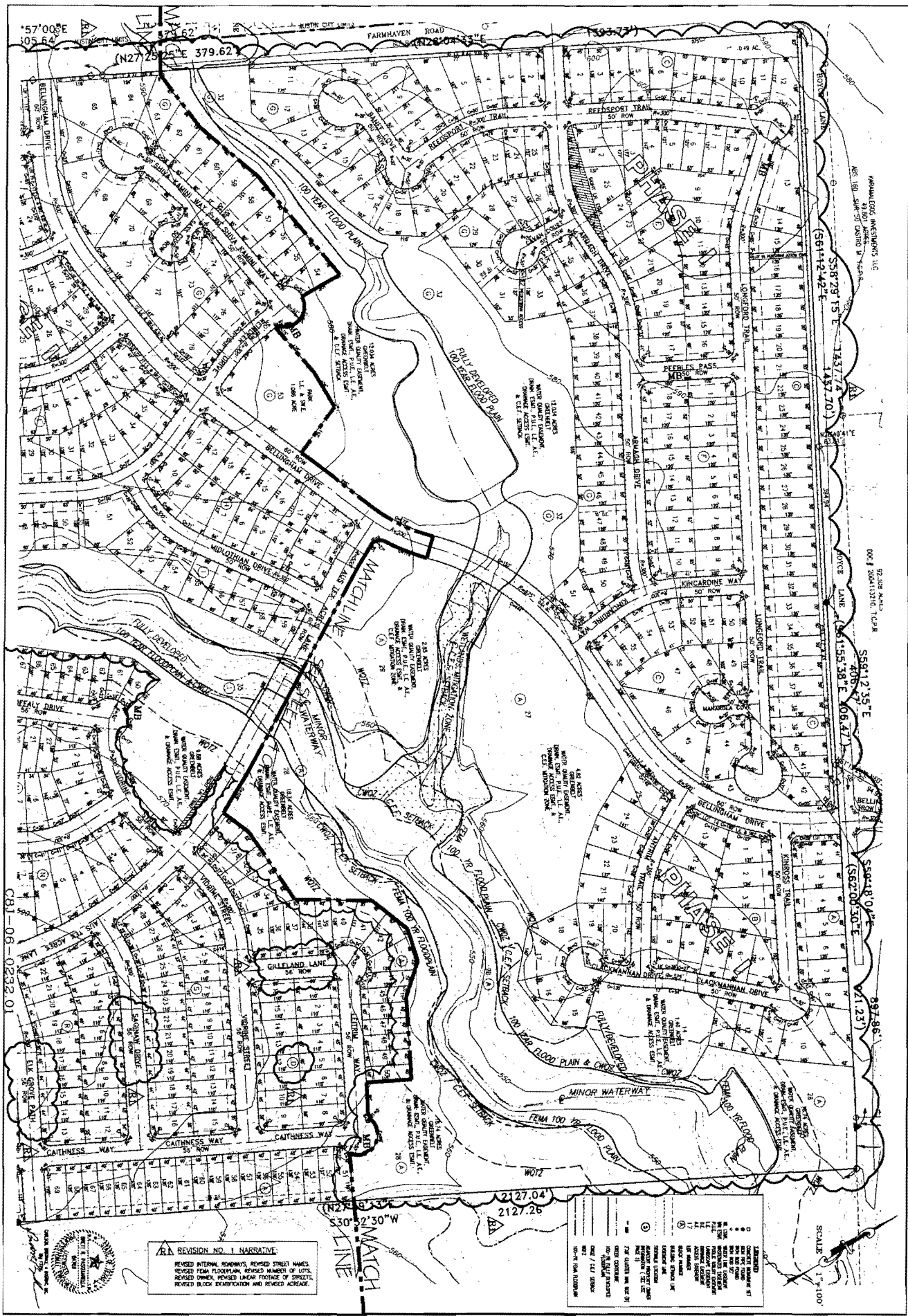
REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429
Anna Bowlin	Division Director	TNR	854-7561

CC:

SM:SB:sw

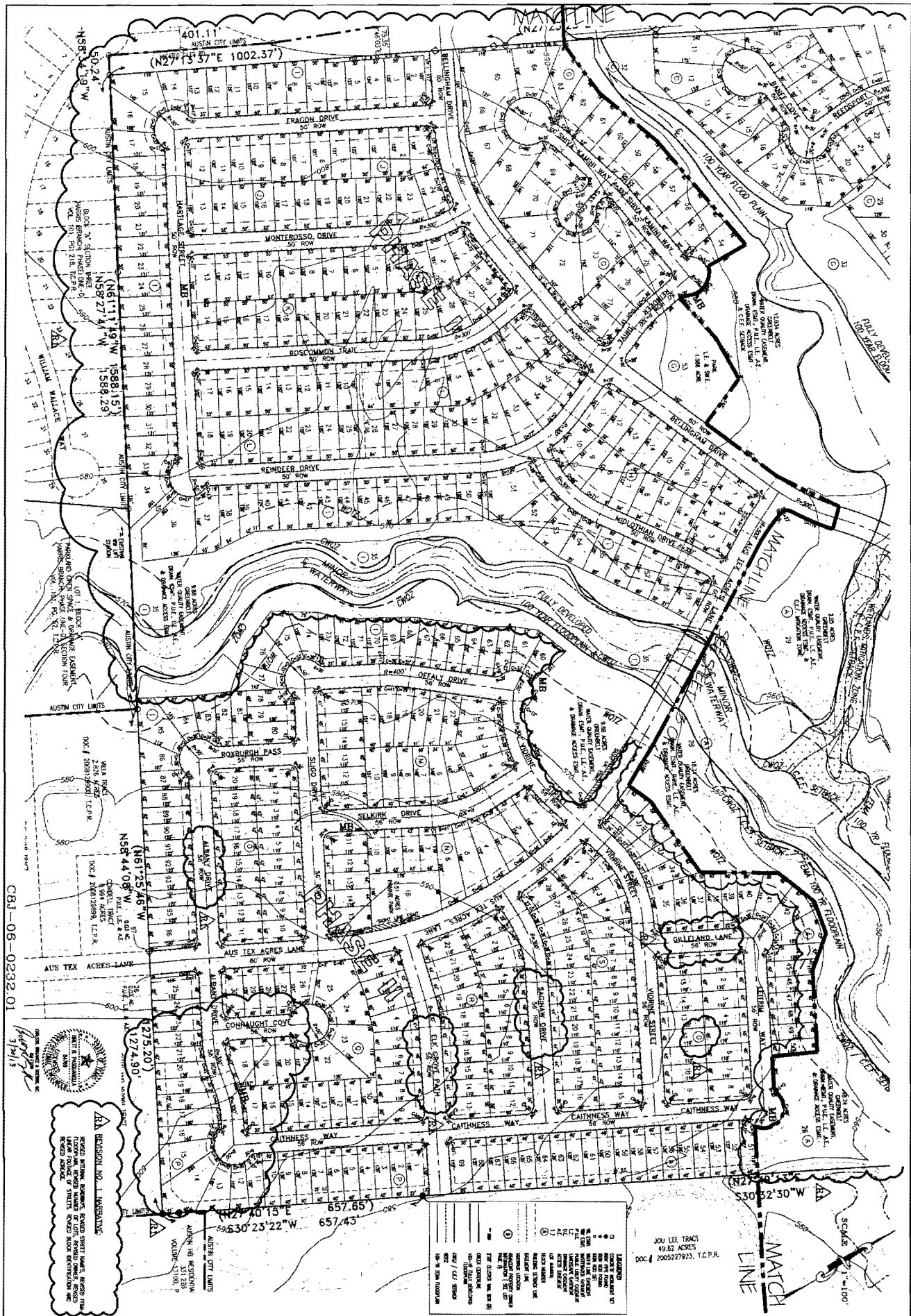
0101 - Administrative - Development Services - Revised Phasing Agreement for Bellingham Meadows



REVISION NO. 1 NARRATIVE:
 REVISED INTERNAL ROWWAYS, REVISED STREET NAMES,
 REVISED FEMA FLOODPLAIN, REVISED NUMBER OF LOTS,
 REVISED OWNER, REVISED LAYOUT, PROPOSED OF STREETS,
 REVISED BLOCK IDENTIFICATION AND REVISED ACRES.

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JOB NAME BELLINGHAM MEADOWS	SHEET REVISED CONCEPT PLAN SH 1	DESIGNED BY DP	DRAWN BY SMARTIN	DATE SEPTEMBER 2012	Castron, Bregance & Doying, Inc. Civil Engineering & Surveying 520 West 10th Street Phone No. 912.265.1160 Fax No. 912.265.1165



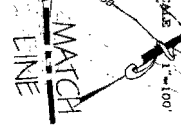
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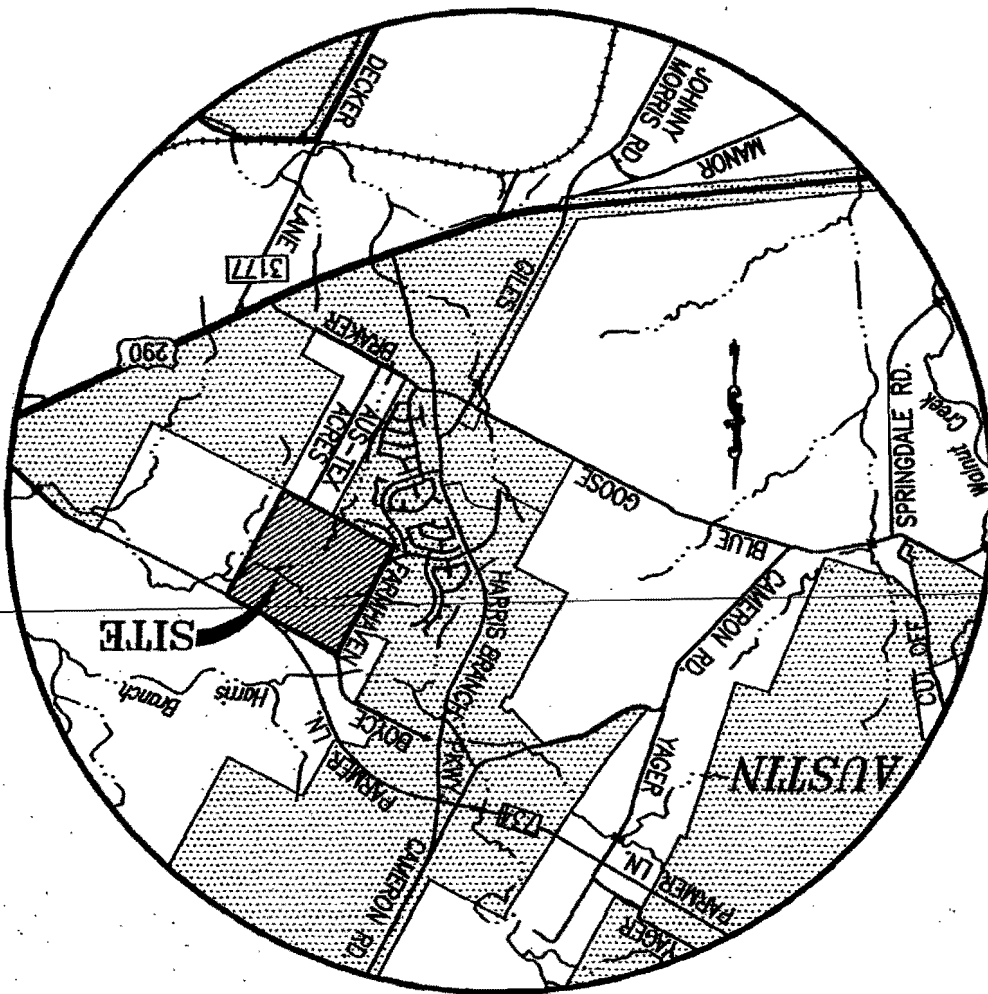
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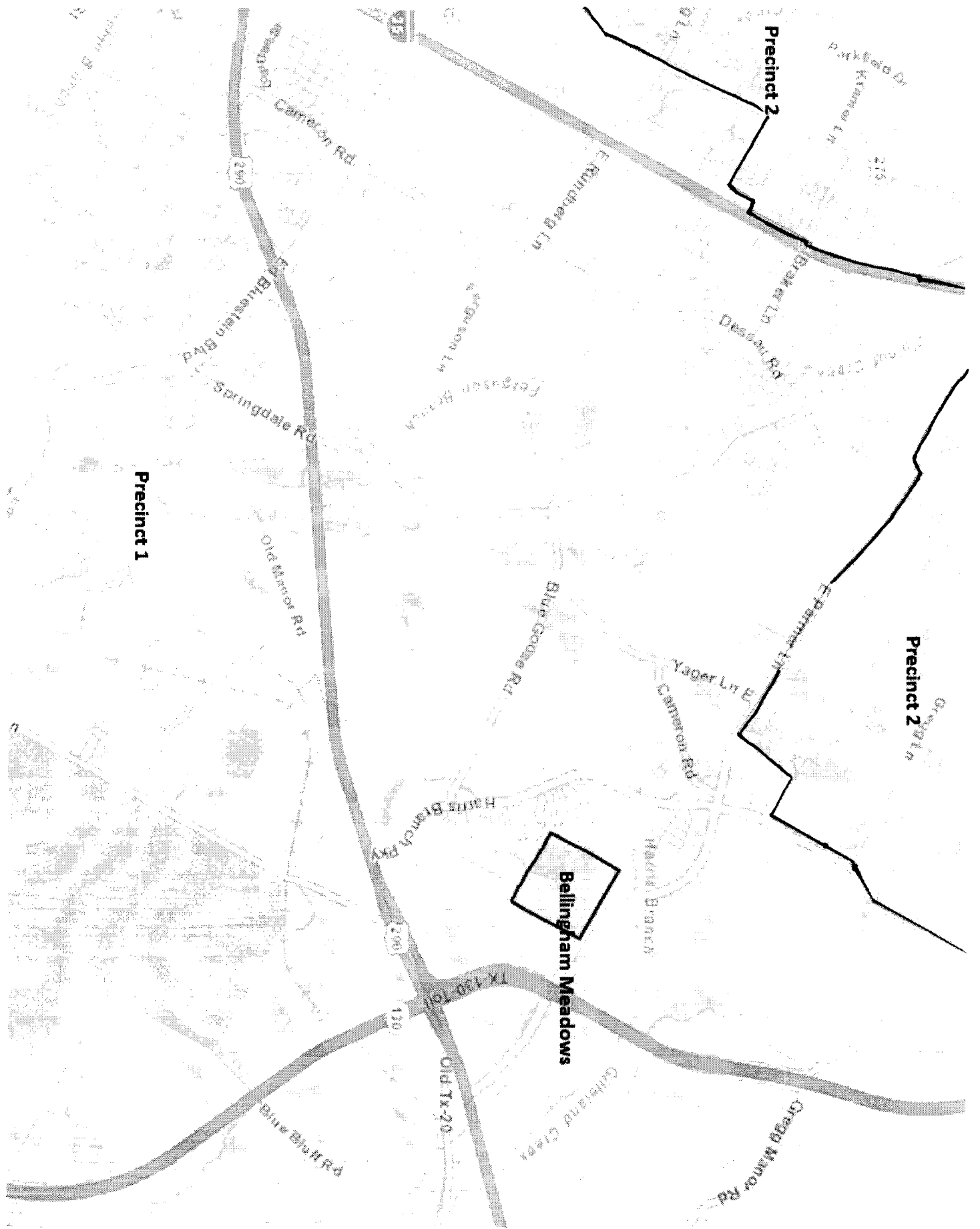
SYMBOL	DESCRIPTION
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(Circle with cross)	PROPOSED UTILITY
(Circle with slash)	UTILITY CROSSING
(Circle with X)	UTILITY CROSSING UNDER
(Circle with dot and slash)	UTILITY CROSSING OVER
(Circle with X and slash)	UTILITY CROSSING UNDER OVER
(Circle with dot and X)	UTILITY CROSSING OVER UNDER
(Circle with X and dot)	UTILITY CROSSING UNDER UNDER
(Circle with dot and X and slash)	UTILITY CROSSING UNDER OVER UNDER
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43.62 ACRES
DOC # 200522923, T.C.P.R.



LOCATION MAP
NOT TO SCALE





Precinct 2

Precinct 1

Precinct 2
Gregg

Bellingham Meadows

250

200

130

Old Tx-20

Cameron Rd.

E. Rautenberg Ln

Springdale Rd

Old Manor Rd

Blue Bluff Rd

E. Rautenberg Ln

Ferguson Branch
Ferguson Branch Ln

Blue Goose Rd

Harris Branch Pkwy

Yager Ln E

Cameron Rd

Harris Branch

Gathering Circle

Gregg Manor Rd

Desair Rd

Braker Ln

Kramer Ln
P. Kyle Dr

BELLINGHAM MEADOWS

PHASING AGREEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

THIS AGREEMENT is made and entered into by and between First Continental Investments Co., Ltd. (the “Developer”), and Travis County, Texas (the “County”), hereinafter collectively referred to as the “Parties”.

WHEREAS, the Developer is in the process of subdividing that certain tract of land (the “Property”) described in Exhibit “A”, which is attached hereto and made a part hereof, which Developer has designated as BELLINGHAM MEADOWS.

WHEREAS, the Developer desires to develop the Property in phases; and

WHEREAS, the Developer has currently submitted a revised Preliminary Plan for the entire project.

WHEREAS, it is contemplated that the Developer will subsequently submit for County approval final plats and construction plans for the streets, drainage, and other improvements for the duration of the Bellingham Meadows subdivision.

WHEREAS, the Parties desire to establish a process to coordinate the phased development and orderly extension of new streets in Bellingham Meadows subdivision.

NOW, THEREFORE, in consideration of these premises and the promises contained herein, the Parties agree as follows:

1. DEVELOPER OBLIGATIONS

- a. In the phased development of the property, the Developer will complete the construction of street and drainage improvements in each section of Bellingham Meadows to County Standards.
- b. As part of the first section of Bellingham Meadows, Bellingham Drive (currently known as Boyce Lane) between Boyce Lane and West Parmer Lane must be upgraded to a 4-lane, two-way street.
- c. Prior to the recordation of the first section of Bellingham Meadows, the developer will post fiscal with Travis County for the costs of the improvements listed above in Section 1b. “Developer Obligations” and enter an Indemnification Agreement, as applicable, with Travis County

d. The Developer must post and maintain fiscal security in a form and amount acceptable to the County for 100 % of the cost to construct the streets, drainage, and other improvements identified in the final plat for Bellingham Meadows Subdivision until such improvements have been completed and have been conditionally accepted by the City/County. After the one-year maintenance period, the fiscal is reduced to approximately 10% as outlined in Item 4. "Acceptance by County". This includes the improvements to the portion of Bellingham Run between Boyce Lane and Parmer Lane.

e. Per the Travis County Fire Marshal's office, after the development of the 30th residential lot, a secondary access point must be provided from the development to an existing public roadway.

2. COUNTY OBLIGATIONS

The County will:

a. upon the execution of this Agreement, approve the revised Preliminary Plan for Bellingham Meadows Subdivision; and

b. subject to compliance with applicable standards and the performance by the Developer of its obligations under this Agreement, approve acceptable subsequent final plats and subdivision construction plans for future sections of Bellingham Meadows Subdivision.

c. as applicable, enter into an Advanced Funding Agreement with the Texas Department of Transportation for the improvements listed above in 1b. "Developer Obligations".

3. CONSTRUCTION SECURITY POSTING

The Developer shall post the required fiscal security with the City of Austin simultaneously with final plat approval of each said phases. The Developer may post an equal amount with Travis County as a substitute if allowable by the City, and if the City will release the amount posted with it upon the substitute posting being received by the County.

4. ACCEPTANCE BY COUNTY

The Developer acknowledges that the public roadways and other improvements within the Bellingham Meadows Subdivision cannot be accepted by the County for maintenance until they connect to other infrastructure that has already been accepted by the County. The Developer agrees to leave its 10% fiscal security posted with the City of Austin or with Travis County until the improvements have been accepted for maintenance by the County or, in the event of annexation, by the City of Austin.

5. RELEASE AND INDEMNITY

The Developer agrees that the County and its officers, agents and employees shall not be liable or responsible for, and shall be held harmless by the Developer from, any claims, losses, damages, causes of action, suits, attorney fees, liability for injury to or death of any person or damage to any property arising out of or in connection with any actions or

omissions by the Developer under the terms of this Agreement, whether or wholly or partially the fault of the Developer.

6. MISCELLANEOUS

- a. Beneficiaries: This Agreement will bind and inure to the benefit of the parties hereto and their successors and assigns.
- b. Restrictive Covenant: This Agreement touches and concerns real property located in Travis County, Texas, and, if recorded, will constitute a covenant running with the land.
- c. Amendment to Agreement: Any revisions, modification or amendment of this Agreement will be effective only when reduced to writing and signed by both parties hereto. NO OFFICIAL, AGENT OR EMPLOYEE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESSED OR IMPLIED TO AMEND OR MODIFY THIS AGREEMENT EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE DELEGATED BY THE COMMISSIONER'S COURT.
- d. Assignment by the Developer: The rights, duties and responsibilities of the Developer may be assigned only with the consent of the County which consent will not be unreasonably withheld or unduly delayed by the County.
- e. Entire Agreement: This is the entire agreement between the parties with respect to the subject matter hereof. As of this date, there are no other agreements or representations, oral or written, between the parties in conflict with this Agreement.
- f. Notice: Any notices to be given by one party to another by this Agreement will be given in writing addressed to the party at the address set forth below for such party. (i) by delivering same in person, (ii) by depositing the same in the United States Mail, certified or registered, return receipt requested, postage pre-paid, addressed to the party to be notified, or (iii) by depositing the same with FedEx or other nationally recognized courier service guaranteeing "next-day delivery" addressed to the party to be notified, or (iv) by sending same by telefax with confirming copies sent by mail. Notice deposited in the United States mail in the manner hereinabove described will be deemed effective from and after the earlier of the date of actual receipt or three days after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For purposes of notice, the addresses shall, until changed as provided below, be as follows:

Developer:

First Continental Investments Co., Ltd
Mr. John Bonner

Travis County:

Steve M. Manilla,
County Executive, TNR
P.O. Box 1748
Austin, Texas 78767

With required copy to:

David Escamilla
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767
Attn: File No. 163.000

The parties shall have the right from time-to-time to change their respective addresses by written notice to the other party.

- g. Applicable Law and Venue: The construction and validity of this Agreement shall be governed by the laws of the State of Texas. This Agreement is wholly performable in Travis County, Texas and concerns real property located in Travis County.
- h. Incorporation of Exhibits and Other Documents by Reference: All exhibits and other documents attached to or referred to this Agreement are incorporated herein by reference for the purpose set forth in this Agreement.
- i. Severability: The provisions of this Agreement are severable, and if any words, phrases, clause, sentence, paragraph or other part of this Agreement, or the application thereof to any person or circumstances should ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such work, clause, sentence, paragraph or part of this Agreement to other persons or circumstances shall be construed as if such invalid or unconstitutional portion had never been contained herein.
- j. Number and gender and "Developer" entity status: Any number or gender used in this Agreement shall be construed to include any other number or gender as necessary to provide for the intention of the Parties and a reasonable interpretation of this Agreement. In addition, it is recognized that the term "Developer" is a nominal title and is not intended to confer rights on any party, who does not have such rights, but is instead intended to effect the joinder of all interested parties to the extent of any interest that they hold in the land which is the subject of this Agreement and any development of such land.
- k. When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use the Dispute Resolution Center of Austin, Texas, as the provided of mediators for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as

described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

EXECUTED to be effective as of the later date set forth below.

First Continental Investment Co., Ltd., a
Texas limited partnership

By: *John M. Bonner*
John M. Bonner, President

Date: MARCH 19, 2013

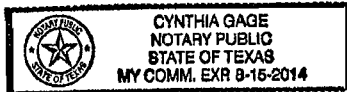
Travis County, Texas

By: _____

Date: _____

State of Texas
County of HARRIS

This instrument was acknowledged before me on the 19th of MARCH, 2013,
by John M. Bonner, on behalf of First Continental Investment Co., Ltd.



Cynthia Gage
Notary Public, State of Texas

State of Texas
County of Travis

This instrument was acknowledged before me on the _____ of _____, 2013,
by Samuel T. Biscoe, Travis County Judge.

Notary Public, State of Texas

Exhibit “A”

