



# Travis County Commissioners Court Agenda Request

**Meeting Date:** September 24, 2013

**Prepared By:** Sarah Sumner, Planner **Phone #:** (512) 854-7687

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

**Department Head/Title:** 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 requests in Precinct One:

- A) A plat for recording: Village at Northtown Section Two, Phase Two Final Plat (Long Form Final Plat – 32 total lots – 6.01 acres – Harris Ridge Boulevard – City of Austin ETJ) ; and
- B) A Subdivision Construction Agreement between Travis County and Village at Northtown, Ltd.

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

A) This long form final plat consists of 32 total lots (31 single family attached lots and one condo lot) on 6.01 acres. There are 763 linear feet of public streets (Shannon Elise Lane and Jefferson Craig Lane) proposed with this final plat. Parkland fees dedication and fees in lieu of dedication have been satisfied with the Northtown Municipal Utility District (MUD). Water and wastewater service to be provided by Northtown MUD. Fiscal will be posted with the City of Austin, Single Office, prior to the court hearing.

B) The applicant proposes to enter into a subdivision Construction Agreement between Travis County and Village at Northtown, Ltd. to outline construction of the subdivision's infrastructure improvements.

## **STAFF RECOMMENDATIONS:**

This final plat is recommended for approval by the City of Austin Zoning and Platting Commission on September 17, 2013, and meets all City of Austin/Travis County subdivision standards; Single Office staff recommends approval of the final plat.

## **ISSUES AND OPPORTUNITIES:**

Staff has not received any inquiries from adjacent property owners or other regarding this subdivision.

**FISCAL IMPACT AND SOURCE OF FUNDING:**

None.

**EXHIBITS/ATTACHMENTS:**

- Precinct map
- Location map
- Proposed final plat
- Copy of Subdivision Construction Agreement

**REQUIRED AUTHORIZATIONS:**

Cynthia McDonald	Financial Manager	TNR	(512) 854-4239
Steven M. Manilla	County Executive	TNR	(512) 854-9429
Anna Bowlin	Division Director of Development and Long Range Planning	TNR	(512) 854-7561

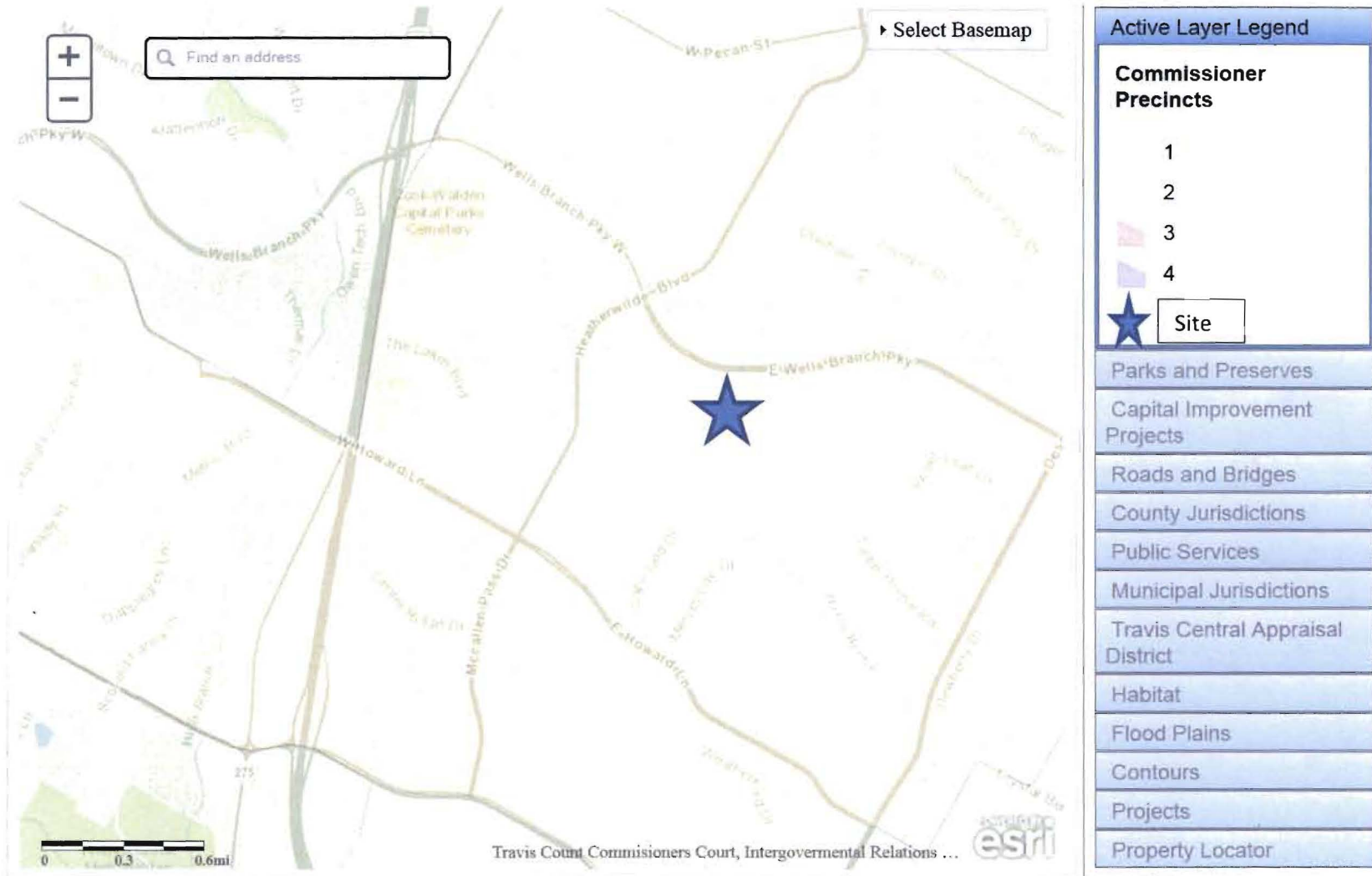
**CC:**

Sarah Sumner	Planner	TNR	(512) 854-7687

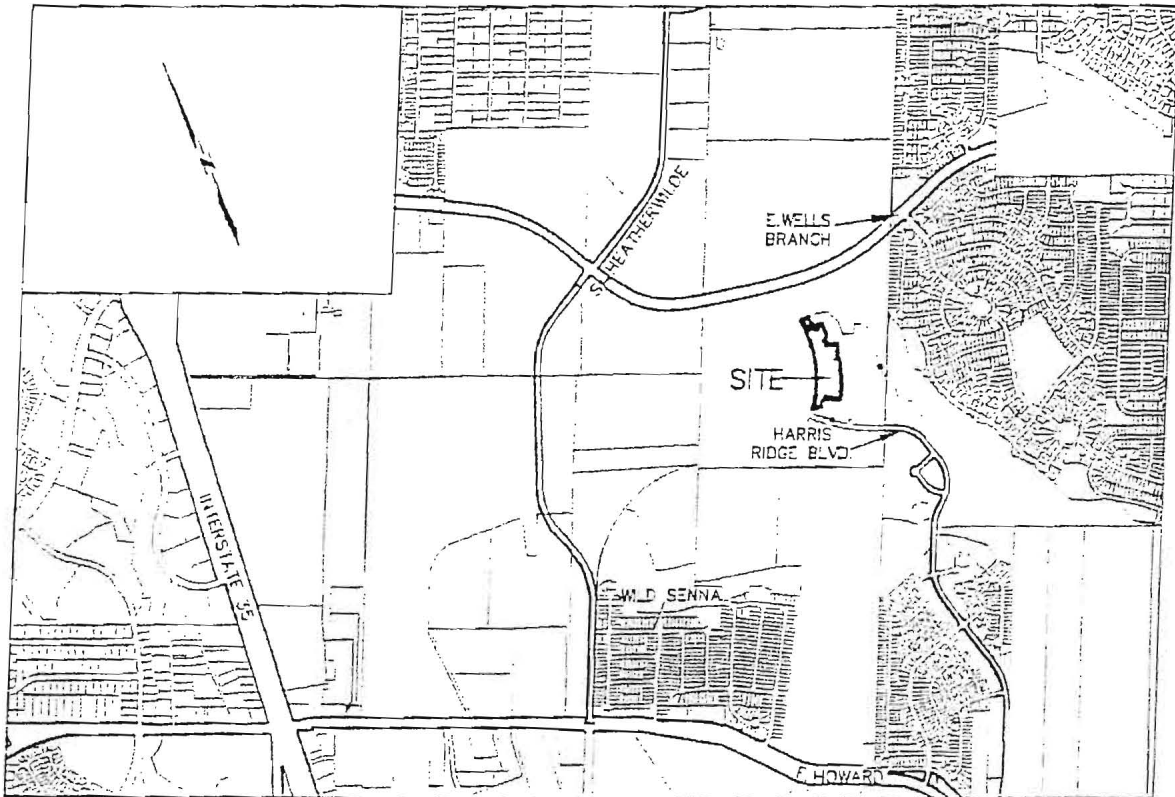
SM:AB:ss

1101 - Development Services Long Range Planning- Village at Northtown Section Two,  
Phase 2 Final Plat

# Village at Northtown Section Two Phase Two Precinct Map



VILLAGE AT NORTHTOWN  
SECTION 2, PHASE 2  
FINAL PLAT

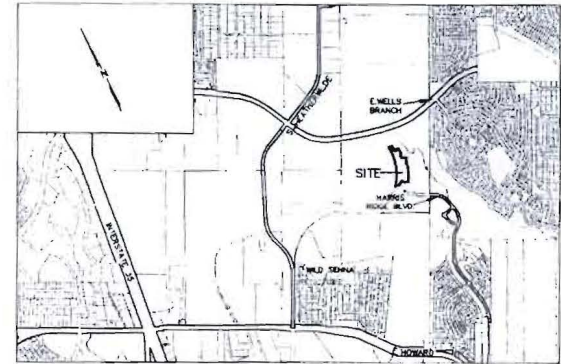


VICINITY MAP (NOT TO SCALE)



# VILLAGE AT NORTHTOWN SECTION 2, PHASE 2, FINAL PLAT

## CONSUMER PROTECTION NOTICE FOR HOMEBUYERS



VICINITY MAP (NOT TO SCALE)

IF YOU ARE BUYING A LOT IN THIS SUBDIVISION, YOU SHOULD DETERMINE WHETHER THE SUBDIVISION AND THE LAND AROUND IT ARE INSIDE OR OUTSIDE THE CITY LIMITS. THIS CAN AFFECT THE ENJOYMENT AND VALUE OF YOUR HOME. DEPENDING ON STATE LAW AND OTHER FACTORS, LAND OUTSIDE THE CITY LIMITS MAY BE SUBJECT TO FEWER LOCAL GOVERNMENT CONTROLS OVER THE DEVELOPMENT AND USE OF LAND THAN INSIDE THE CITY LIMITS. THE SUBDIVISION'S RESTRICTIVE COVENANTS MAY CREATE PRIVATELY ENFORCEABLE RESTRICTIONS AGAINST INCOMPATIBLE LAND USES WITHIN THE SUBDIVISION, WHETHER IT IS INSIDE OR OUTSIDE THE CITY LIMITS. DEPENDING ON STATE LAW AND OTHER FACTORS, HOWEVER, OUTSIDE THE CITY LIMITS NEITHER PRIVATE NOR GOVERNMENTAL RESTRICTIONS MAY BE AVAILABLE TO (1) RESTRICT EITHER THE NATURE OR EXTENT OF DEVELOPMENT NEAR THE SUBDIVISION, OR (2) PROHIBIT LAND USES NEAR THE SUBDIVISION THAT ARE INCOMPATIBLE WITH A RESIDENTIAL NEIGHBORHOOD.

CBJ-2010-0062.4A  
SUBMITTAL DATE: MAY 8, 2013

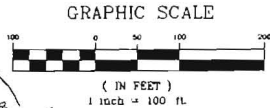
TBPLS FIRM REG. NO. 10000900	
<b>CA</b> CunninghamAllen Engineers - Surveyors	3103 Bee Cave Road, Suite 202 Tel.: (512) 327-2946 Austin, Texas 78746-6819 Fax: (512) 327-2973 www.cunningham-allen.com
	TBPE REG. NO. F.234
DATE: 04-02-13	PROJECT NO.: 4218105
DRAWN BY: DED	SHEET 1 OF 3







# VILLAGE AT NORTHTOWN SECTION 2, PHASE 2, FINAL PLAT



VERTICAL REFERENCE:  
VERTICAL POSITIONS WERE DETERMINED USING GPS STATIC SURVEY METHODS AND ARE REFERENCED TO NORTH AMERICAN VERTICAL DATUM (NAVD) 08, USING GRID 03

BENCHMARKS  
TBM 5  
"X" CUT ON TOP OF CURB IN FRONT OF A FIRE HYDRANT ON THE SOUTHSIDE OF HARRIS RIDGE BLVD WHERE IT MEETS NORTH PARK'S EAST PROPERTY LINE.  
ELEVATION = 726.88

### LEGEND

- 1/2" IRON REBAR FOUND W/ CAP STAMPED "CUNNINGHAM-ALLEN, INC." (UNLESS NOTED)
- 1/2" IRON REBAR SET W/CAP STAMPED "CUNNINGHAM ALLEN INC."
- 1/2" IRON REBAR SET W/CAP STAMPED "CUNNINGHAM ALLEN INC." IN CONCRETE
- P.U.E. PUBLIC UTILITY EASEMENT
- E.E. ELECTRIC EASEMENT
- R.O.W. RIGHT OF WAY
- R.P.R.T.C.T. REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS
- O.P.R.T.C.T. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS
- PROPOSED SIDEWALKS
- SET CONCRETE MONUMENT WITH ALUMINUM CAP STAMPED "CUNNINGHAM ALLEN INC."
- BENCHMARK
- NO. NUMBER

LAND-USE TABLE			
USE	LOTS	NO. LOTS	ACREAGE
SINGLE FAMILY ATTACHED	F 10-22 G 2-12 D 7-13,36	13 11 8	
NO. OF LOTS		32	
NO. OF BLOCKS		3	0.156 AC
STREETS			0.852 AC

LINE	BEARING	DISTANCE
L1	S74°51'27"E	103.85'
L2	S66°42'04"E	93.01'
L3	S63°37'48"E	80.00'
L4	S66°16'48"E	40.04'
L5		
L6		
L7		
L8	N17°22'22"E	99.98'
L9	N76°07'15"W	37.39'
L10	S76°07'15"E	33.88'
L11	N63°37'38"W	90.33'
L12	S17°24'22"W	93.84'
L13	N01°57'42"W	89.33'
L14	N84°12'27"W	38.23'
L15	S01°47'33"W	30.00'
L16	S88°12'27"E	23.00'
L17	S01°47'33"W	23.00'
L18	S88°12'27"E	30.00'
L19	N01°47'33"E	23.00'
L20	S88°12'27"E	82.58'
L21	S88°12'27"E	18.38'
L22	S60°09'47"W	58.00'
L23	S29°01'3"E	27.82'
L24	S43°12'58"W	38.71'
L25	S88°47'04"E	15.00'
L26	N34°03'48"E	111.33'
L27	N55°56'12"W	50.00'
L28	S34°03'48"W	19.81'
L29	S63°37'38"E	20.43'

CURVE	RADIUS	LENGTH	DELTA	CHORD BRG.	CHORD
C3	1339.00'	1024.40'	435°02"	N19°57'19"E	999.60'
C5	60.00'	81.34'	77°40'28"	S49°03'46"W	75.25'
C6	25.39'	23.85'	57°50'19"	S50°58'53"W	23.89'
C7	795.00'	231.99'	16°41'28"	N22°43'05"E	250.77'
C8	20.00'	30.26'	86°41'58"	N22°38'37"W	27.46'
C9	432.21'	91.22'	6°47'39"	N72°43'29"W	51.22'
C10	15.00'	22.45'	89°44'39"	S89°28'19"W	20.42'
C11	1339.00'	79.20'	3°23'20"	N16°24'13"E	79.19'
C12	15.00'	23.78'	90°48'47"	S30°42'21"E	21.37'
C13	482.21'	105.88'	12°34'50"	S69°48'49"E	105.67'
C14	15.00'	26.82'	97°00'50"	S65°52'22"W	27.81'
C15	845.00'	248.15'	16°41'28"	S29°43'05"W	249.28'
C16					
C17					
C18					
C19					
C20					
C21	1339.00'	79.24'	3°23'27"	N47°10'36"E	79.23'
C22	1339.00'	40.00'	1°42'54"	N37°37'28"E	40.08'
C23	1339.00'	40.02'	1°42'45"	N35°54'36"E	40.02'
C24	1339.00'	40.00'	1°42'42"	N34°11'53"E	40.00'
C25	1339.00'	40.02'	1°42'44"	N32°28'10"E	40.02'
C26	1339.00'	40.00'	1°42'42"	N30°48'28"E	40.00'
C27	1339.00'	40.00'	1°42'42"	N29°03'44"E	40.00'
C28	1339.00'	40.00'	1°42'42"	N27°19'02"E	40.00'
C29	1339.00'	40.00'	1°42'48"	N25°38'17"E	40.04'
C30	1339.00'	38.84'	1°42'33"	N23°58'38"E	38.84'
C31	1339.00'	40.00'	1°42'42"	N22°12'58"E	40.00'
C32	1339.00'	40.66'	1°44'24"	N20°28'28"E	40.66'
C33	1339.16'	35.58'	1°31'21"	N18°51'34"E	35.58'
C34	1339.00'	104.84'	4°28'10"	N12°27'57"E	104.81'
C35	1339.00'	284.75'	12°11'05"	N04°07'50"W	284.22'
C36					
C37					
C38					
C39					
C40	80.00'	33.43'	31°53'27"	S28°11'18"W	33.00'
C41	80.00'	47.91'	49°44'59"	S89°01'28"W	46.85'
C42	795.00'	24.42'	1°45'36"	N33°11'00"E	24.42'
C43	795.00'	47.82'	3°27'12"	N30°34'38"E	47.81'
C44	795.00'	47.86'	3°27'24"	N27°07'18"E	47.86'
C45	795.00'	47.82'	3°27'16"	N23°38'58"E	47.83'
C46	795.00'	47.59'	3°25'49"	N20°17'27"E	47.59'
C47	795.00'	15.24'	1°08'09"	N17°54'10"E	15.78'
C48	482.21'	3.87'	0°26'09"	N15°54'10"W	3.87'
C49	482.21'	38.42'	4°33'53"	N12°54'09"W	38.41'
C50	482.21'	38.42'	4°33'53"	N8°50'17"W	38.41'
C51	482.21'	25.38'	3°00'56"	N6°02'52"W	25.38'
C52	845.00'	26.80'	2°28'43"	N33°44'49"E	83.31'
C53	845.00'	26.80'	2°42'45"	N31°13'28"E	40.00'
C54	845.00'	40.00'	2°42'45"	N23°58'13"E	40.00'
C55	845.00'	40.00'	2°42'45"	N26°38'58"E	40.00'
C56	845.00'	40.00'	2°42'45"	N22°21'43"E	40.00'
C57	845.00'	40.00'	2°42'45"	N32°04'28"E	40.00'
C58	845.00'	8.33'	0°37'58"	N33°44'49"E	8.33'
C59	23.50'	38.91'	90°00'00"	S43°22'02"E	34.323'
C80	23.50'	12.50'	30°28'02"	N17°02'03"E	12.38'

OWNERS  
VILLAGE @ NORTHTOWN, LTD.,  
A TEXAS LIMITED PARTNERSHIP  
#2 LAS BRASAS  
AUSTIN, TEXAS 78748

ENGINEER  
CUNNINGHAM ALLEN INC  
BEE CAVE RD., SUITE 202  
AUSTIN, TEXAS 78748  
(512) 327-2946

SURVEYOR  
CUNNINGHAM ALLEN INC.  
BEE CAVE RD., SUITE 202  
AUSTIN, TEXAS 78748  
(512) 327-2948

JURISDICTION  
NORTHOWN MUNICIPAL UTILITY DISTRICT  
CITY OF AUSTIN 2-MILE E.T.J.

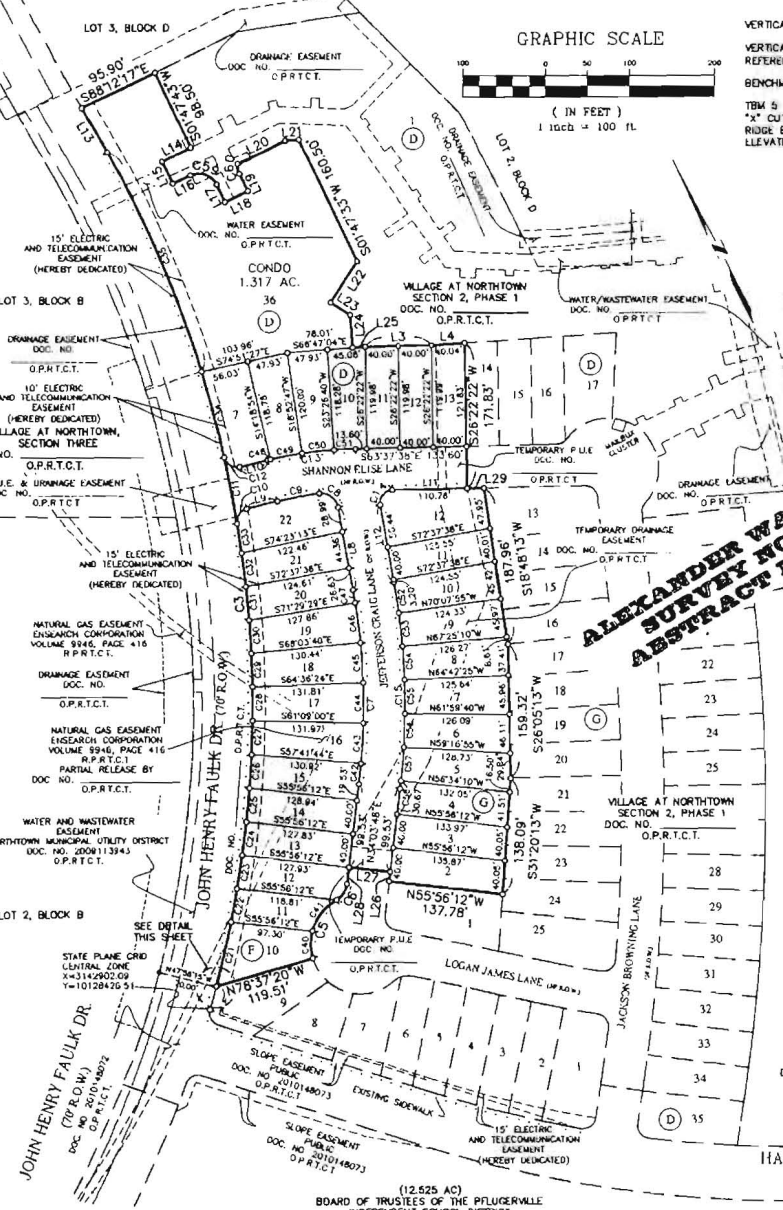
WATERSHED  
HARRIS BRANCH  
SUBURBAN

LEGAL DESCRIPTION  
6.008 ACRES OF LAND OUT OF THE ALEXANDER WALTERS SURVEY NO. 87

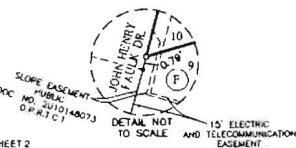
BEARING REFERENCE:  
GRID NORTH, TEXAS COORDINATE SYSTEM OF 1983 CENTRAL ZONE (COORS88), AS DERIVED FROM AN OPUS SOLUTION DATED APRIL 06, 2007. DISTANCES SHOWN HEREON ARE SURFACE USING A SURFACE ADJUSTMENT FACTOR OF 1.00000981.  
(GRID = SURFACE SURFACE ADJUSTMENT FACTOR)



**ALEXANDER WALTERS SURVEY NO. 87 ABSTRACT NO. 791**



PUBLIC STREET SUMMARY				
STREET NAME	CLASSIFICATION	ROW WIDTH	LENGTH (LF)	
SHANNON ELISE LANE	LOCAL	50'	284'	
JEFFERSON CRAIG LANE	LOCAL	50'	478'	
	TOTAL		763'	



**CA**  
CunninghamAllen  
Engineers - Surveyors

3103 Bee Cave Road, Suite 202 Tel: (512) 327-2946  
Austin, Texas 78746-6819 Fax: (512) 327-2973  
www.cunningham-allen.com  
TBM# R.O.W. NO. F-284

DATE: 04-02-13 PROJECT NO.: 4210105  
DRAWN BY: DED SHEET 2 OF 3

## EXHIBIT 82.401 (E) SUBDIVISION CONSTRUCTION AGREEMENT

STATE OF TEXAS  
COUNTY OF TRAVIS

This Agreement is made and entered into by and between Village @ Northtown, Ltd., (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 "Village at Northtown Section 2, Phase 2, Final Plat" (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 County Executive 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 County Executive notifies the Subdivider must be corrected, the County Executive 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 County Executive 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: Village @ Northtown, Ltd.  
Attn: Clifton E. Lind  
#2 Las Brisas  
Austin, Texas 78746

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

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

Village @ Northtown, Ltd.,  
a Texas limited partnership

Date: \_\_\_\_\_

By: Village @ Northtown General  
Partner, Inc., a Texas corporation,  
Its General Partner

By: \_\_\_\_\_  
Name: Clifton E. Lind  
Title: President  
Date: \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF TRAVIS

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, by Clifton E. Lind, the President of Village @ Northtown General Partner, Inc., a Texas corporation, acting as General Partner of Village @ Northtown, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership in the capacity stated herein.

\_\_\_\_\_  
Signature of Notary-State of Texas

After Recording Return to:

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

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY



DESCRIPTION

BEING 6.008 ACRES OF LAND SITUATED IN THE ALEXANDER WALTERS SURVEY NO. 67, ABSTRACT NO. 791, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF A 271.148 ACRE TRACT OF LAND DESCRIBED AS TRACT 1, CONVEYED TO VILLAGE @ NORTH TOWN, LTD., IN DEED RECORDED IN DOCUMENT NO. 2000156544, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a 1/2 inch iron rod with cap stamped "CUNNINGHAM ALLEN INC" in concrete (concrete monument) found for the beginning of a curve to the left in the southeasterly right-of-way line of John Henry Faulk Drive (70' R.O.W.) and the northeasterly right-of-way line of Harris Ridge Boulevard (64' R.O.W.), as described in that certain right-of-way dedication recorded in Document No. 2010148072, of the Official Public Records of Travis County, Texas;

THENCE with said curve to the left, having a radius of 1339.00 feet, an arc length of 27.21 feet, a delta angle of 01°09'51", and a chord which bears North 42°29'17" East, a distance of 27.21 feet to a 1/2 inch iron rod with cap stamped "CUNNINGHAM ALLEN INC" found for the easternmost corner of said John Henry Faulk Drive, from which a 1/2 inch iron rod with cap stamped "CUNNINGHAM ALLEN INC" found for the north corner of said John Henry Faulk Drive, bears North 47°56'15" West, a distance of 70.00 feet;

THENCE continuing with said curve to the left, having a radius of 1339.00 feet, an arc length of 0.79 feet, a delta angle of 00°02'02", and a chord which bears North 42°53'28" East, a distance of 0.79 feet to the POINT OF BEGINNING of the herein described tract;

THENCE over and across said 271.148 acre tract the following thirty-three (33) courses and distances:

- 1) Continuing with said curve to the left, having a radius of 1339.00 feet, an arc length of 1024.40 feet, a delta angle of 43°50'02", and a chord which bears North 19°57'19" East, a distance of 999.60 feet to a point;
2) North 01°57'42" West, a distance of 60.33 feet to a point;
3) South 88°12'17" East, a distance of 95.90 feet to a point;
4) South 01°47'43" West, a distance of 98.50 feet to a point;
5) North 88°12'27" West, a distance of 38.23 feet to a point;
6) South 01°47'33" West, a distance of 30.00 feet to a point;
7) South 88°12'27" East, a distance of 23.00 feet to a point at the beginning of a curve to the right;

MAK
22 June 2011

- 8) With said curve to the right, having a radius of 23.50 feet, an arc length of 36.91 feet, a delta angle of 90°00'00", and a chord which bears South 43°12'27" East, a distance of 33.23 feet to a point
9) South 01°47'33" West, a distance of 23.00 feet to a point;
10) South 88°12'27" East, a distance of 30.00 feet to a point;
11) North 01°47'33" East, a distance of 23.00 feet to a point at the beginning of a curve to the right;
12) With said curve to the right, having a radius of 23.50 feet, an arc length of 12.50 feet, a delta angle of 30°29'02", and a chord which bears North 17°02'03" East, a distance of 12.36 feet to a point
13) South 88°12'27" East, a distance of 62.58 feet to a point;
14) South 66°12'27" East, a distance of 16.36 feet to a point
15) South 01°47'33" West, a distance of 160.50 feet to a point;
16) South 60°09'47" West, a distance of 58.00 feet to a point;
17) South 29°50'13" East, a distance of 27.62 feet to a point;
18) South 23°12'56" West, a distance of 38.71 feet to a point;
19) South 66°47'04" East, a distance of 15.00 feet to a point;
20) South 63°37'49" East, a distance of 80.00 feet to a point;
21) South 66°15'48" East, a distance of 40.04 feet to a point;
22) South 26°22'22" West, a distance of 171.83 feet to a point;
23) South 63°37'38" East, a distance of 20.43 feet to a point;
24) South 18°48'13" West, a distance of 187.96 feet to a point;
25) South 26°05'13" West, a distance of 159.32 feet to a point;
26) South 31°20'13" West, a distance of 138.09 feet to a point;
27) North 55°56'12" West, a distance of 137.78 feet to a point;
28) North 34°03'48" East, a distance of 11.13 feet to a point;
29) North 55°56'12" West, a distance of 50.00 feet to a point;
30) South 34°03'48" West, a distance of 19.51 feet to a point at the beginning of a curve to the right;
31) With said curve to the right, having a radius of 25.39 feet, an arc length of 23.85 feet, a delta angle of 53°50'10", and a chord which bears South 60°58'53" West, a distance of 22.99 feet to a point at the beginning of a curve to the left;

Handwritten signature and date: 22 June 2011

- 32) With said curve to the left, having a radius of 60.00 feet, an arc length of 81.34 feet, a delta angle of  $77^{\circ}40'26''$ , and a chord which bears South  $49^{\circ}03'46''$  West, a distance of 75.25 feet to a point;
- 33) North  $78^{\circ}37'20''$  West, a distance of 119.51 feet to the POINT OF BEGINNING, containing 6.008 acres, more or less, of land.

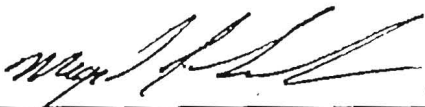
Reference is herein made to the sketch of this tract accompanying this metes and bounds description.

Subject tract shown hereon is for a Construction Agreement. No monumentation set for corners. Monuments will be set at time of platting.

BEARING BASIS: The Texas Coordinate System of 1983, Central Zone (NAD 83 (COR96)). All distances were adjusted to the surface using a surface adjustment factor of 1.00009981. (surface = grid \* surface adjustment factor)

I certify that this description was prepared from a survey made in April, 2011 on the ground under my supervision.

CUNNINGHAM-ALLEN, INC.

  
22 June 2011  
Miguel A. Escobar, RPLS, LSLs  
Texas Reg. No. 5630  
3103 Bee Caves Rd., Ste. 202  
Austin, TX 78746  
512.327.2946



REFERENCES

TCAD #: 0267310137  
AUSTIN GRID #: N35



# SKETCH TO ACCOMPANY DESCRIPTION

CONSTRUCTION AGREEMENT  
VILLAGE AT NORTHTOWN,  
SECTION 2, PHASE 2  
SHEET 1 OF 1

REFERENCE IS HEREON MADE TO THE METES AND BOUNDS DESCRIPTION OF THIS TRACT ACCOMPANYING THIS SKETCH.

SUBJECT TRACT SHOWN HEREON IS FOR A CONSTRUCTION AGREEMENT. NO MONUMENTATION SET FOR CORNERS. MONUMENTS WILL BE SET AT OF PLATTING.

BEARING BASIS: THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE (NAD 83 (CORS96)). ALL DISTANCES WERE ADJUSTED TO THE SURFACE USING A SURFACE ADJUSTMENT FACTOR OF 1.00009981. (SURFACE = GRID \* SURFACE ADJUSTMENT FACTOR)

DATE OF LAST FIELDWORK: APRIL, 2011

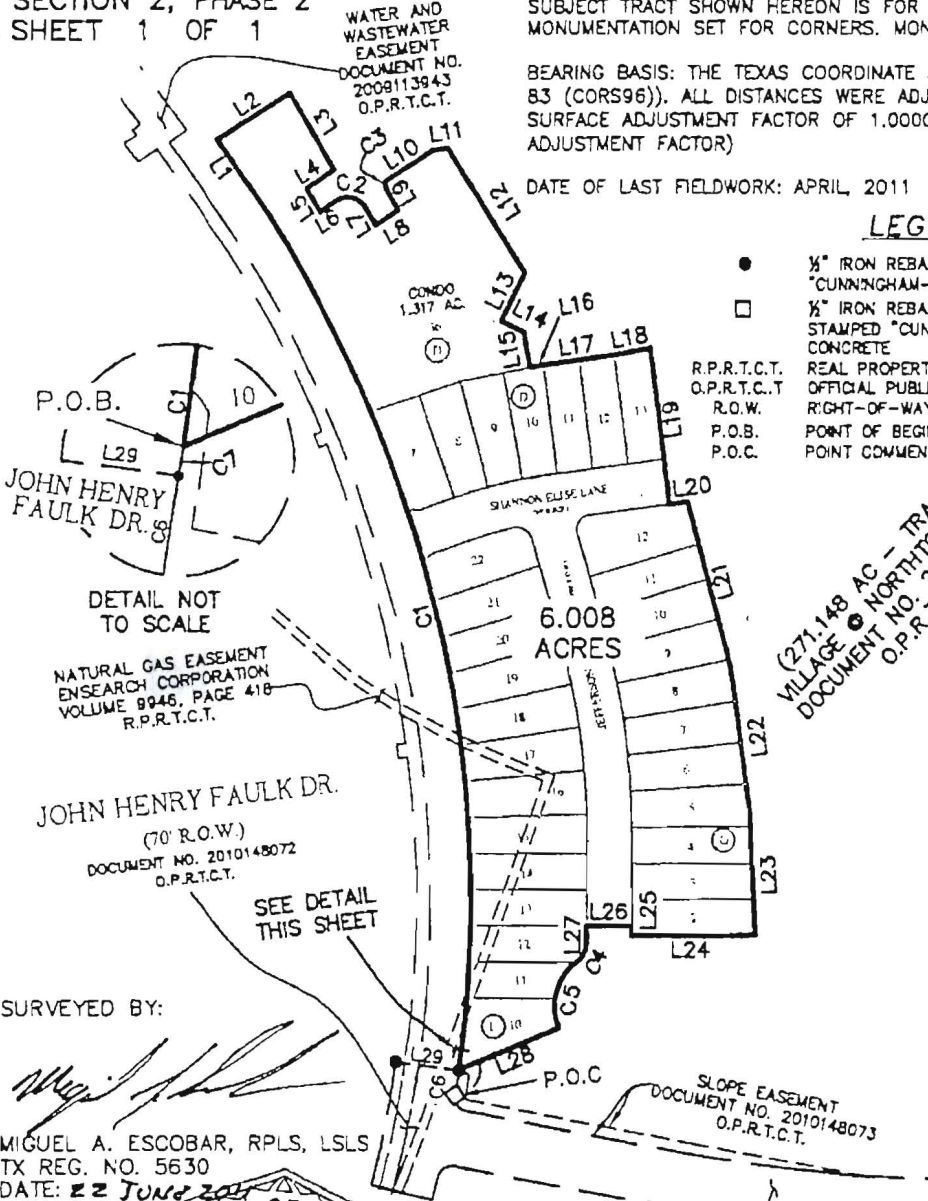
## LEGEND

- 1/2" IRON REBAR FOUND W/ CAP STAMPED "CUNNINGHAM-ALLEN, INC." (UNLESS STATED)
- 1/2" IRON REBAR FOUND W/CAP STAMPED "CUNNINGHAM ALLEN INC." IN CONCRETE
- R.P.R.T.C.T. REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS
- O.P.R.T.C.T. OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY TEXAS
- R.O.W. RIGHT-OF-WAY
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT COMMENCEMENT

## GRAPHIC SCALE



( IN FEET )  
1 inch = 200 ft.



(271.148 AC - TRACT 1)  
VILLAGE @ NORTHTOWN, LTD.  
DOCUMENT NO. 2000156544  
O.P.R.T.C.T.

LINE	BEARING	DISTANCE
L1	N01°57'42"W	60.33'
L2	S88°12'17"E	95.90'
L3	S01°47'43"W	98.50'
L4	N88°12'27"W	38.23'
L5	S01°47'33"W	30.00'
L6	S88°12'27"E	23.00'
L7	S01°47'33"W	23.00'
L8	S88°12'27"E	30.00'
L9	N01°47'33"E	23.00'
L10	S88°12'27"E	62.58'
L11	S66°12'27"E	16.36'
L12	S01°47'33"W	160.50'
L13	S60°09'47"W	58.00'
L14	S29°50'13"E	27.62'
L15	S23°12'56"W	38.71'
L16	S66°47'04"E	15.00'
L17	S63°37'49"E	80.00'
L18	S66°15'48"E	40.04'
L19	S26°22'22"W	171.83'
L20	S63°37'38"E	20.43'
L21	S18°48'13"W	187.96'
L22	S25°05'13"W	159.32'
L23	S31°20'13"W	138.09'
L24	N55°56'12"W	137.78'
L25	N34°03'48"E	11.13'
L26	N55°56'12"W	50.00'
L27	S34°03'48"W	19.51'
L28	N78°37'20"W	119.51'
L29	N47°56'15"W	70.00'

HARRIS RIDGE BLVD.  
(64' R.O.W.)  
DOCUMENT NO. 2010148072  
O.P.R.T.C.T.



**ALEXANDER WALTERS**  
**SURVEY NO. 67**  
**ABSTRACT NO. 791**

CURVE	RADIUS	LENGTH	DELTA	CHORD BRG.	CHORD
C1	1339.00'	1024.40'	43°50'02"	N19°57'19"E	999.60'
C2	23.50'	36.91'	90°00'00"	S43°12'27"E	33.23'
C3	23.50'	12.50'	30°29'02"	N17°02'03"E	12.36'
C4	25.39'	23.85'	53°50'10"	S60°58'53"W	22.99'
C5	60.00'	81.34'	77°40'26"	S49°03'46"W	75.25'
C6	1339.00'	27.21'	1°09'51"	N42°29'17"E	27.21'
C7	1339.00'	0.79'	0°02'02"	N41°53'28"E	0.79'



Cunningham | Allen  
Engineers • Surveyors

3103 Bee Cave Road, Suite 202

Austin, Texas 78746-6819

Tel.: (512) 327-2946

Fax: (512) 327-2973

S:\421005\_Drawings\421005\_CONST AGREEMENT\_PHASE 2.dwg 6/22/2011 2:34:01 PM CDT