

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A JOINT FUNDING AGREEMENT BETWEEN THE TOWN OF ADDISON AND VPDEV2, LLC FOR FUNDING FOR THE DESIGN AND CONSTRUCTION OF THE ALPHA ROAD CONNECTOR PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on September 22, 2020 by Resolution No. R20-073, the Town of Addison, Texas approved an Interlocal Agreement with the City of Farmers Branch, Texas and the Dallas County Community College District n/k/a Dallas College in the construction of the Alpha Road Connector and a Detention Pond and their future maintenance, operation and public safety oversight; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

**SECTION 1.** The recitals set forth above are true and correct and are incorporated as if fully set forth herein.

**SECTION 2.** The Joint Funding Agreement between the Town of Addison and VPDEV 2, LLC for funding for the design and construction of the Alpha Road Connector Project, attached as **Exhibit A** and incorporated herein, is hereby approved and the City Manager is authorized to execute the agreement.

**SECTION 3.** This Resolution shall take effect from and after its date of adoption.

**DULY RESOLVED AND ADOPTED** by the City Council of the Town of Addison, Texas, on this the **13<sup>th</sup>** day of **OCTOBER 2020.**

**TOWN OF ADDISON, TEXAS**

\_\_\_\_\_  
Joe Chow, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Irma Parker, City Secretary

\_\_\_\_\_  
Brenda N. McDonald, City Attorney

**JOINT FUNDING AGREEMENT**  
Bella Lane Extension

This Joint Funding Agreement (“Agreement”) is made and entered into as of \_\_\_\_\_, 2020 (the “Effective Date”) by and among the Town of Addison, Texas (“Town”) and VPDEV 2 LLC, a Delaware limited liability company, developer of the Vitruvian Park™ community (“VPDEV”). The Town and VPDEV are sometimes referred in this Agreement together as the “Parties” and individually as a “Party.”

Recitals

1. The Town has, or will, enter into an Interlocal Cooperation Agreement for Alpha Road Connector Project (the “Alpha Road Agreement”) with the City of Farmers Branch (“Farmers Branch”) and the Dallas County Community College District (“DCCCD”) to establish the funding, procedures, ownership and operation of the construction of an extension of Bella Lane from the Vitruvian Park™ development, through Brookhaven Community College, to Alpha Road in Farmers Branch, including construction of a detention pond (the “Project”).

2. In the Alpha Road Agreement, Addison, with VPDEV’s contribution, has committed to the design and construction of the Project.

3. The Project is important to the success of Vitruvian Park and VPDEV has made commitments as set forth in this Agreement to participate with Addison to fund the Project costs.

**NOW, THEREFORE**, for and in consideration of the above and foregoing Recitals, the mutual benefits and obligations set forth herein, and other good and valuable consideration, the Parties agree as follows:

**Section 1.** The total financial commitment of both Parties to fund the Alpha Road Project is approximately \$3.6 million to be funded equally between the Parties. VPDEV will pay to Addison, its share of the Project cost within 30 days of written request of Addison following the award of a contract for design, construction, or other support service necessary for the Project. Within ten (10) days following the end of each calendar quarter, Addison will deliver VPDEV a written report setting forth all bills paid in the previous quarter in connection with the Project. In addition, within sixty (60) days of the start of Project construction VPDEV will pay Cambridge Crossing Association \$75,000.00 as previously agreed upon in the letter attached as **Exhibit A**.

**Section 2.** VPDEV will dedicate to Town the right-of-way for the extension of Alpha Road necessary for the Project to the extent within VPDEV’s property as generally shown in **Exhibit B** (“Land Dedication”) and to be finalized and approved by the parties, in their reasonable discretion during the design of the Project. No consideration shall be payable by Town for such dedication. VPDEV will convey the Land Dedication to the Town by quit claim deed following completion of the design and within 15 days of the request by the Town.

**Section 3.** Addison has included language in Section 3.D.(2) of the Alpha Road Agreement to make it as clear as possible that VPDEV will have no future obligation for stormwater and drainage that flows from Vitruvian Park into Farmers Branch, which language

provides that the construction of the detention pond will “fully and completely satisfy any past, present, and future obligations for Addison’s and VPDEV’s drainage impact on the Farmers Branch drainage area relating to the development of Vitruvian Park[™].” Addison’s design and construction of the Detention Pond as provided in the Alpha Road Agreement is intended to fully and completely satisfy any past, present and future obligations for Addison’s and VPDEV’s drainage impact on the Farmers Branch drainage area relating to development of Vitruvian Park for the design parameters based on the maximum development of Vitruvian Park as set forth in Ordinance O16-17 as approved by the Addison City Council on May 24, 2016. The Parties agree and acknowledge that VPDEV will follow applicable design guidelines pertinent to the Planned Development District approved by Ordinance No. 007-034 and with all other applicable ordinances, standards, rules and regulations of the City (and as the same may be hereafter amended or superseded).

**Section 4.** VPDEV shall have no maintenance responsibilities for the Bella Lane extension, and Addison and Farmers Branch shall be responsible for such maintenance.

**Section 5.** VPDEV shall have no maintenance responsibility for the detention pond to be constructed within Farmers Branch, such obligation belonging solely to Farmers Branch pursuant to the Alpha Road Agreement.

**Section 6.** Miscellaneous Provisions.

- a. Authority to Execute. The undersigned specifically represent that they are authorized to execute this Agreement by the respective Parties and that the Parties have the rights and capacities to perform the acts and grant the rights contemplated by this Agreement.
- b. Assignment. Any assignment of this Agreement must be approved in writing by both Parties.
- c. Notice. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or sent by telecopy, national overnight mail delivery service, or United States mail, first class, registered or certified, return receipt requested, with proper postage prepaid, in each case addressed as follows:

If to Addison:

Town of Addison  
5300 Belt Line Road  
Dallas, Texas 75254  
Attention: City Manager

With copy to:

Brenda N. McDonald  
Messer Fort & McDonald  
6371 Preston Road  
Suite 200  
Frisco, Texas 75034

If to VPDEV 2 LLC:

Robert McCullough  
Senior Vice President  
UDR, Inc.  
1745 Shea Center Drive, Suite 200  
Highlands Ranch, CO, 80129  
(720) 857-250-0674  
[rmccullough@udr.com](mailto:rmccullough@udr.com)

With copy to:

Kenneth A. Balcerzak  
Vice President – Legal Operations and Corporate Counsel  
UDR, Inc.  
1745 Shea Center Drive, Suite 200  
Highlands Ranch, CO, 80129  
(720) 922-6033  
[kbalcerzak@udr.com](mailto:kbalcerzak@udr.com)

d. Mutual Drafting. The Parties acknowledge this Agreement correctly sets forth each Party's understanding of the provisions, agreements, and obligations contained herein and that it shall be deemed drafted equally by all Parties such that any presumption of principle that the language herein is to be construed against any Party shall not apply.

e. Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of all Parties.

f. Waiver of Breach. A Party's failure to insist on strict performance of this Agreement or to exercise any right or remedy upon the other Party's breach of this Agreement will not constitute a waiver of the performance, right, or remedy. A Party's waiver of the other Party's breach of any provision in this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in writing and signed by the waiving Party.

g. 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

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for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, or holiday, then the end of such period shall be extended to the next day that is not a Saturday, Sunday, or holiday.

h. 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.

i. Entire Agreement. This Agreement constitutes the entire agreement among the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement among the Parties that in any manner relates to the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) regarding the subject matter of this Agreement. Each Party has relied on its own judgment in entering into this Agreement.

j. Governing Law. The Agreement shall be governed by the laws of the State of Texas; and venue for any action between any of the Parties or among all of the Parties arising out of or related to 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.

k. Amendment. This Agreement may be amended only by the mutual written agreement of the Parties.

l. Time of Essence. Time is of the essence of this Agreement.

m. Recitals. The recitals to this Agreement are incorporated herein.

n. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all the counterparts shall constitute one and the same instrument. Signatures delivered by facsimile, including PDF, constitute originals.

TWO SIGNATURE PAGES FOLLOW

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**SIGNED AND AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

TOWN OF ADDISON

By: \_\_\_\_\_  
Wesley S. Pierson, City Manager

ATTEST:

\_\_\_\_\_  
Irma Parker, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Brenda N. McDonald, City Attorney

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SIGNED AND AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

VPDEV 2 LLC  
a Delaware limited liability company

By: DCO Realty, Inc.  
a Delaware corporation  
Its Managing Member

By:  \_\_\_\_\_

Name Printed: Harry G. Alcock

Title: Authorized Agent

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EXHIBIT A



Opening doors to the future™

January 16, 2015

Mr. Andy Gillies  
Director of Planning  
City of Farmers Branch  
13000 William Dodson Parkway  
Farmers Branch, TX 75234

Dear Mr. Gillies,

Pursuant to an agreement (the "Master Facilities Agreement") between the Town of Addison ("Addison") and UDR, Inc. and certain of its affiliated entities (collectively, "UDR"), Addison has agreed to fund the costs of certain public improvements related to the development of the Vitruvian Park project. One phase of the Vitruvian Park project is the proposed Bella Lane extension connecting Bella Lane to Alpha Road and Brookhaven College (the "Bella Lane Project"). The location of the Bella Lane Project is within the City of Farmers Branch, Texas ("Farmers Branch") and, as a condition to Farmers Branch's approval of the Bella Lane Project, Farmers Branch requested this letter confirming UDR's and Addison's agreement to fund the Project.

This letter confirms that under the Master Facilities Agreement, Addison has agreed to fund the Bella Lane Project up to \$1,775,577 (the "Projected Amount"). In the event the total costs and expenses needed to complete the Bella Lane Project exceed the Projected Amount, UDR and Addison may agree to reallocate funds from other phases of the Vitruvian Park project to pay such additional costs and expenses; provided, however, that UDR will be responsible for the payment of any costs or expenses in the event such costs or expenses exceed Addison's funding commitment.

Further, in exchange for Farmers Branch's approval of the Bella Lane Project, UDR has agreed to pay \$75,000 (the "Association Payment") to the Cambridge Crossing Home Owners Association to be used at the discretion of its Board of Directors. The Association Payment will be made within sixty (60) days after construction of the Bella Lane Project has commenced. In the event that the Bella Lane Project is not approved by Farmers Branch or construction does not commence, UDR shall have no obligation to pay the Association Payment.

Sincerely,

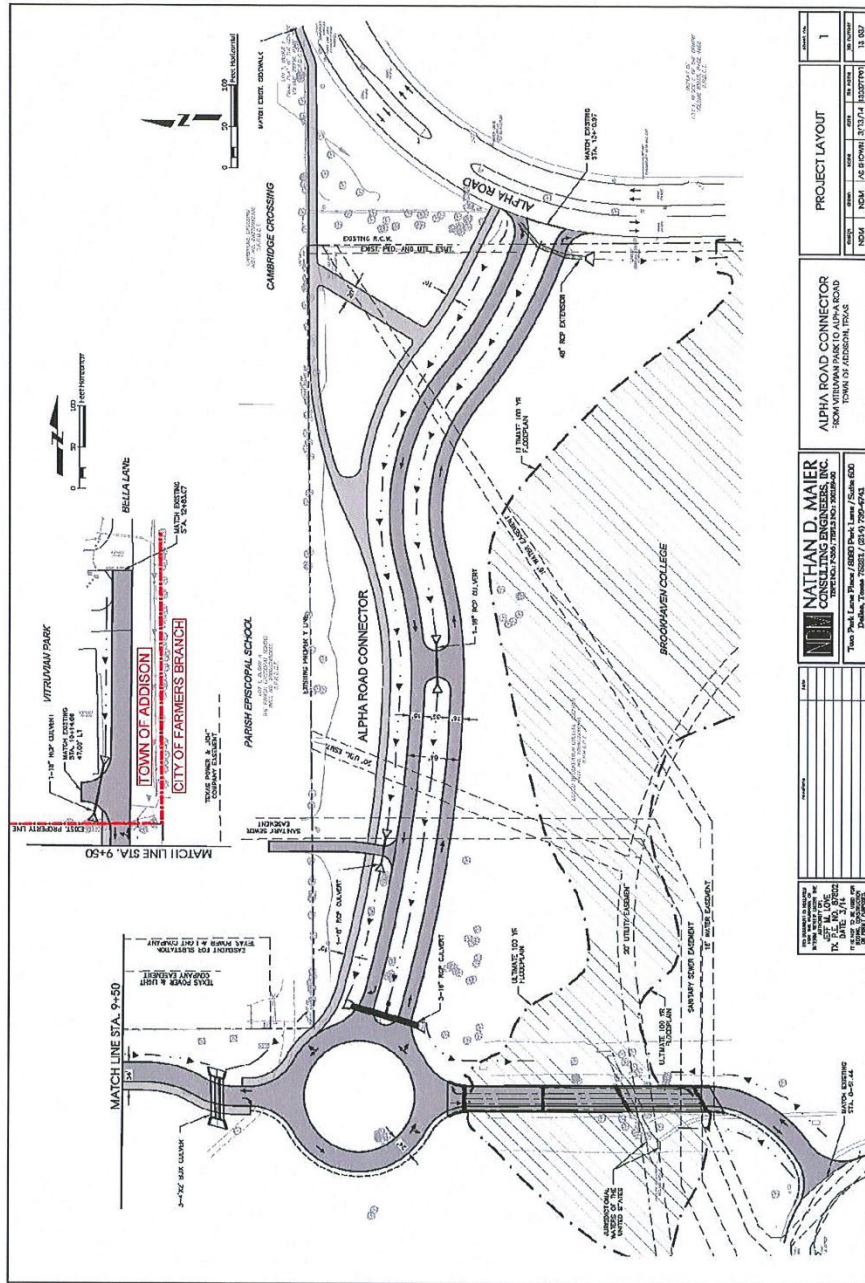
A handwritten signature in black ink, appearing to read "Warren L. Troupe".

Warren L. Troupe  
Senior Executive Vice President

UDR  
13000 William Dodson Parkway  
Farmers Branch, TX 75234  
Tel: 972.258.0120  
Fax: 972.258.0151  
www.udr.com



**EXHIBIT B**



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