



## City of Elgin Office of the City Manager

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City Hall • 310 North Main Street • P.O. Box 591  
Elgin, Texas 78621

January 4, 2019

Adam B. Boenig, Vice President  
Clayton Properties Group, Inc., dba Brohn Homes  
6720 Vaught Ranch Road, Suite 200  
Austin, Texas 78730

Re: Letter of Intent – Altessa Development

Dear Mr. Boenig,

This correspondence is provided as documentation of our continuing dialogue relative to a project being contemplated by Clayton Properties Group, Inc. dba Brohn Homes (“Developer”) in cooperation with the City of Elgin (the “City”). Based on our most recent discussions, we believe that we now concur on the primary issues and an acceptable general framework for an overall agreement that will make this project a reality in our community.

This Letter of Intent is being provided to formally clarify for the record the general terms of a Development and Consent Agreement with the City in support of the master-planned residential community currently known as “Altessa” (the “Project”) proposed by Clayton Properties Group dba Brohn Homes. **Clayton Properties Group dba Brohn Homes and the City expressly acknowledge that this Letter of Intent is non-binding and merely an expression of interest by the parties in consummating the partnership described herein.**

Based on our most recent discussions, following is a list of the pertinent elements that would be included in a Development and Consent Agreement:

### **The Project**

Developer owns or controls approximately 283.115 acres of land located within the extraterritorial jurisdiction of the City (the “Land”) adjacent to County Line Road, including 48.827 acres to be purchased by Developer, to be included in the MUD (defined below). The Project referenced above will be developed on the Land. The Land and its boundaries are generally depicted on the concept plan attached as Exhibit A (the “Concept Plan”).

Developer intends that the Project will include park and recreational facilities to serve the community, and a public safety services site (i.e., emergency services station site). Because the Land constitutes a substantial area that will be constructed in phases under a development plan, Developer and the City wish to enter into a Development and Consent Agreement, which will provide an alternative to the City’s typical regulatory process for development, encourage innovative and comprehensive master-planning of the Land, provide certainty of regulatory requirements throughout the term of the Development and Consent Agreement, and result in a high-quality development for the benefit of the present and future residents of both the City and the Project.

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Although there remain many details to be identified, sufficient preliminary data has been provided now as to the overall size and scope of the Project, with the primary components of same being:

- a) Developer will construct a single-family residential development that is currently projected to include approximately one thousand one hundred and seventy-one (1,171) single-family residential units with varying lot sizes.
- b) The Project will also include: (i) approximately seven (7) acres of public parkland; (ii) approximately thirty-eight (38) acres of open space located within the 100-year flood plain; (iii) approximately twenty-six (26) acres of open space located outside the 100-year flood plain; (iv) approximately six (6) acres of private amenity space for residents thereof; and (v) approximately two (2) acres for the public safety services site.
- c) For future residents, the Project will create and maintain comprehensive deed restrictions and high-end amenities similar to attributes found in many master-planned residential communities. The amenity improvements are expected to include trails, a water feature for paddle boarding/fishing, a pool with slides, a weight room facility, and dog parks.

While acknowledging the non-specific nature of the development plans at this time, it is important to note that the City's support for the Project is wholly predicated on the Concept Plan and presentation to date. Any significant change in the Project as described may adversely affect support for this project by the City of Elgin.

#### **Creation of a Municipal Utility District**

The City acknowledges Developer's desire to create a municipal utility district ("MUD"), as defined by the Texas Water Code and Texas Local Government Code in support of the Project. In consideration of the various attributes of the Project as defined herein, the City will consent to the creation of the MUD within its extraterritorial jurisdiction. Such consent is predicated on the Development and Consent Agreement prohibiting the MUD from expanding its boundaries or annexing any land outside of the boundaries of the Project without the prior written approval of the City.

#### **Water Services to the Municipal Utility District**

The Land is currently located within the Certificate of Convenience and Necessity ("CCN") for retail water services owned by Aqua Water Supply Corporation ("WSC") and as established by the Public Utility Commission. As CCN holder, Aqua WSC retains exclusive rights to provide water services to the Project. The Developers assume full responsibility for securing all water services necessary to support the Project; and the MUD, as described herein (or Developer, on behalf of the MUD), will be fully responsible for all design, construction, and funding of any and all infrastructure necessary to provide water services to the Project.

#### **Wastewater Services to the Municipal Utility District**

The City will provide residential wastewater services to the Project in compliance with all city rules, regulations, and policies. The MUD as described herein will be fully responsible for all permitting, design, construction, and funding of any and all infrastructure necessary to provide wastewater services to the Project including an off-site wastewater extension. Based on the current Concept Plan, the City's wastewater treatment plant ("WWTP") capacity must be increased and expanded in order to serve the Project. Developer and/or MUD will pay a pro-rated share of all costs associated with the construction/expansion of said wastewater treatment plant. The WWTP expansion will be designed based on the Project impacts as agreed to by the Developer and City. Based on the current Concept Plan, city staff estimates that the average dry weather flow of

wastewater generated by the Project will exceed 150 gallons per minute; which will require at least a ten-inch (10") main collector trunk line at minimum slope.

In addition:

- Developer will provide the City a Utility Plan for its review and approval showing the preliminary routing and sizing of the facilities to be constructed to extend wastewater services to the Project prior to the commencement of any construction or development as part of the preliminary plat application.
- All offsite facilities constructed in support of the Project will be conveyed to the City for ownership, operation and maintenance. The City will accept these offsite facilities for operation and maintenance upon completion of construction and delivery of the required one-year maintenance bonds. All internal facilities within the Project will be conveyed to the MUD for ownership, operation and maintenance.
- At its sole discretion, the City may cost participate in the construction of any major offsite utility infrastructure it deems warranted and appropriate.
- Developer will diligently attempt to obtain the donation of all easements necessary for the construction of the major offsite utility infrastructure shown on the approved Utility Plan. If the Developer is unable to obtain all required offsite easements, the City will acquire, with the prior written consent of the Developer, the easements, utilizing its power of eminent domain, if necessary, at Developer's expense. Developer will be responsible for construction of the offsite facilities as growth within the Project requires these facilities

### **County Line Road Improvements**

In conjunction with and as part of the submission of the first subdivision plat for the Project, Developer will also provide a Traffic Impact Analysis (TIA) providing information on the projected traffic associated with the Project, particularly as it relates to County Line Road. The TIA will identify any potential traffic operational problems or concerns and recommend appropriate actions to address such problems or concerns. The TIA will also consider the potential traffic to be generated by other undeveloped land in the area; and shall be consistent with city code requirements and the TxDOT Access Management Manual.

It is anticipated, and hereby acknowledged by both the City and Developer, that significant improvements and/or upgrades to County Line Road will be required in support of the Project. The Developer will provide funding at least equal to 50% of the cost for all such improvements along the entire frontage of the Land/Project as determined by the TIA and City.

### **Park and Recreational Facilities**

The Concept Plan anticipates the construction of an amenity center (open pavilion/bathrooms/conditioned work-out space and meeting room), a swimming pool (with separate splash pool and large loop slide), a water feature/pond incorporated into the amenity center, a play-scape, a paddle board pond, hike and bike trails, open space/ball fields, and pocket parks with open space throughout the Project. Collectively, the total land area devoted to parks and open space is approximately 71 acres, approximately 46% of which will be located outside of the 100-year floodplain. Other than the public parkland dedicated by Developer to the City, which will be open to the public, other common areas including open space and amenity space will be private for use by residents of the Project/MUD. In addition, the Concept Plan calls for approximately 4 miles of hike/bike trails to be located within public parkland, right-of-way and

open space. Developer agrees to either pay the City's parkland dedication fee of \$500 per single-family lot, or dedicate parkland to the City in lieu of such fee, or a combination of both. .

### **Conveyance of Land for Public Safety**

Developer and the City will work together to determine the location of the approximately 2 acre public safety services site within the Project, which the parties will endeavor to locate in an early phase of the Project. Within 30 business days after the City approves the construction plans for the subdivision improvements required for the first subdivision plat for the Project, Developer will convey to the City full and final ownership of all such public safety services site.

### **Annexation**

The City will not annex any part of the MUD until: (1) all public infrastructure facilities have been completed to serve 100% of the developable acreage within the MUD; and (2) Developer has been fully reimbursed by the MUD for same.

### **Additional Amenities**

The Concept Plan also anticipates the construction of main boulevard plantings, ornamental street lighting, a separate entry feature and plantings at the County Line Road main entrance, and an architectural culvert/bridge crossing the floodplain area; all of which will be constructed and funded entirely by Developer and/or the MUD (or Developer, on behalf of the MUD).

### **Other Public Infrastructure**

The MUD as described herein will be fully responsible for **all permitting, design, engineering, construction, and funding of any and all additional infrastructure improvements in support of the Project**, including but not limited to streets and roadways, street lighting, water & wastewater services, public and private parkland facilities, stormwater drainage facilities, retention walls, public landscaping/irrigation, and related engineering and design.

### **Other Clayton Properties, Inc, dba Brohn Homes Commitments to the City**

- ***Master Development Fee*** - As consideration for this partnership, Developer will pay the City a Master Development Fee of \$1,873,600 out of proceeds from the issuance of bonds in support of the Project, which based on the current Concept Plan would amount to \$1,600 per housing unit. Except for the advances set forth below, this Master Development Fee will be paid in an amount equal to 10% of each bond reimbursement received by Developer for construction, geotechnical and engineering expenditures advanced by Developer for public infrastructure improvements within the Land up to the total amount of the Master Development Fee.
- ***Advances of Master Development Fee*** – Developer agrees to advance to the City up to \$300,000 of the total Master Development Fee in three annual cash installments of \$100,000 each. The first installment will be payable within 30 business days after the City approves the construction plans for the subdivision improvements required for the first subdivision plat submitted by Developer for approval and subsequent annual payments will be due and payable on the annual anniversary of such first payment in each of the next succeeding two years thereafter. The remainder of the Master Development Fee will be paid out of proceeds from the issuance of bonds by the MUD, at the time that such bonds.
- ***Support for Elgin Public Schools\**** – Developer has requested a meeting with the ISD Superintendent for the purpose of identifying an approximately 12 acre site within the Project for a future elementary school. Developer shall have the option, in Developer's

discretion, either to dedicate such elementary school site to the ISD or to pay to the ISD a fee of \$200 per single-family lot within the Project, payable as to each phase of the Project as a condition of City approval of the final plat for such phase of the Project.

- Developer and/or the MUD will donate, free of charge and without further compensation, all necessary public right-of-way from property owned by Developer, required by the City in support of the public infrastructure improvements for the Project. Both parties will work in good faith to identify the appropriate location and size of the rights of way.
- If requested, Developer will provide complete copies of its latest, financial statements prior to execution of the Development Agreement with the City.

Pending the full execution and formal approval of this Letter, we are now prepared to move forward with the preparation of a formal Development Agreement and to initiate preliminary development plans for the Project at your earliest convenience. With your acknowledgement below, I will proceed immediately to the Mayor and City Council to secure their endorsement of this proposal and direction to prepare a Development Agreement for their formal consideration.

Thank you for your interest in the City of Elgin.

Sincerely,

Thomas L. Mattis  
City Manager

**AGREE AND ACCEPT:**  
Clayton Properties Group, Inc.,  
doing business as Brohn Homes

Adam B. Boenig  
Vice President  
Date :